

Salisbury, North Carolina
September 3, 2002

REGULAR MEETING

PRESENT: Mayor, Susan W. Kluttz, Presiding; Mayor Pro Tem, Paul B. Woodson, Jr.; Councilman William (Bill) Burgin; Robert (Bob) Martin; City Manager, David W. Treme; City Attorney, F. Rivers Lawther, Jr.; and City Clerk, Swannetta B. Fink.

ABSENT: William (Pete) Kennedy

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Councilmember Burgin.

PLEDGE OF ALLEGIANCE

Mayor Kluttz led those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

CONSENT AGENDA

(a) Minutes

Minutes of the Regular meeting of August 20, 2002.

(b) Annexation - Oakview Commons, Phase III

Receive a Certificate of Sufficiency concerning annexation of Oakview Commons, Phase III, and adopt a resolution setting a public hearing for September 17, 2002.

RESOLUTION SETTING DATE OF PUBLIC HEARING ON QUESTION OF THE ANNEXATION OF OAKVIEW COMMONS PHASE III (55.582 ACRES) PURSUANT TO G. S. 160A-31 AS AMENDED.

(The above resolution is recorded in full in Resolution Book No. 10, under Chapter XII - Miscellaneous, at Page No. 167-168, and is known as Resolution No. 2002-30.)

Thereupon, Mr. Woodson made a **motion** to approve the Consent Agenda. Mr. Burgin seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

STREET CLOSING - 600 BLOCK OF VINE STREET

(a) Ms. Wendy Brindle, Traffic Engineer, reminded Council that on August 6, 2002, Council adopted a resolution of intent to close an unimproved right-of-way in the 600 block of Vine Street. She indicated that state statutes have been followed regarding this proposed closing.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider closing a portion of the 600 Block of Vine Street.

No one was present to speak **for** or **against** the above proposal. Mayor Kluttz closed the public hearing.

(c) Thereupon, Mr. Woodson made a **motion** to adopt a resolution to accept the street (portion of the 600 Block of Vine Street). Mr. Burgin seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

RESOLUTUION PERTAINING TO THE ACCEPTANCE OF AN OFFER OF DEDICATION FOR PUBLIC USE OF AN UNIMPROVED RIGHT-OF-WAY IN THE 600 BLOCK OF VINE STREET.

(The above resolution is recorded in full in Resolution Book No. 10, under Chapter XII - Miscellaneous, at Page No. 169, and is known as Resolution No. 2002-31.)

(d) Thereupon, Mr. Woodson made a **motion** to approve the ORDER closing a portion of the 600 Block of Vine Street. Mr. Burgin seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

NORTH CAROLINA	*	BEFORE THE CITY COUNCIL
		OF
ROWAN COUNTY	*	THE CITY OF SALISBURY
	*	NORTH CAROLINA
	*	
IN THE MATTER OF:	*	ORDER CLOSING A STREET
	*	
CLOSING OF AN	*	PURSUANT TO GENERAL
UNIMPROVED		
RIGHT-OF-WAY IN THE 600	*	STATUTE OF NORTH
		CAROLINA
BLOCK OF VINE STREET	*	SECTION 160A-299

THIS CAUSE, coming on to be heard and being heard before the City Council of the City of Salisbury, Rowan County, North Carolina, at the regular meeting of said Council held on September 3, 2002 at 4:00 p.m., in the City Office Building at 217 South Main Street, Salisbury, North Carolina, and it appearing to the Council that all persons, firms and corporations owning property adjoining the street described in the Petition filed in this cause are parties to this proceeding; and it further appearing that said street is not maintained by the Department of Transportation; and it further appearing that notice of this hearing was duly published in THE SALISBURY POST on August 9, 16, 23, and 30, 2002.

And it further appearing to the Council and the Council finding as a fact, that the closing of the street, as described in the Petition filed in this cause, is not contrary to the public interest or the property rights of any individual, and that no individual owning property in the vicinity of said street or in the subdivision in which they are located will be deprived of reasonable means of ingress and egress to his property by the closing of said street; and it further appearing to this Council that the relief prayed in the Petition should be granted.

IT IS NOW, THEREFORE, ORDERED AND DECREED by the City Council of the City of Salisbury, Rowan County, North Carolina, pursuant to and in accordance with the authority vested in this Council by the General Statutes of North Carolina, Section 160A-299: BEGINNING at an existing iron pin, said existing iron pin being located at the northwest intersection of the 40' right-of-way of Union Heights Boulevard and the 40' right-of-way of Vine Street (not open), the southeast corner of the property of John A. Smith (DB 707 Pg 81). Thence with the west edge of the 40' right-of-way of Vine Street and the east property line of John A. Smith, along the unopened portion of the street, N 04°17'13" W 202.08' to an existing iron pin, the northeast corner of John A. Smith in the line of Becky A. Tarlton (DB 769 Pg 620). Thence with the north edge of the 40' right-of-way of Vine Street, along the unopened portion of the street and with the Becky A. Tarlton line S 86°38'27" E 40.48' to a new iron pin set, the northeast corner of the 40' right-of-way of Vine Street and the northwest corner of Robert M. Troutman (DB 317 Pg 171). Thence with the east edge of the 40' right-of-way of Vine Street, along the unopened portion of the street and with the line of Robert M. Troutman, S 04°16'06" E 202.79' to a new iron pin set, the northeast intersection of the 40' right-of-way

of Union Heights Boulevard and the 40' right-of-way of Vine Street (not open), the southwest corner of Robert M.Troutman. Thence along the north edge of the 40' right-of-way of Union Heights Boulevard, N 85°37'46" W 40.52' TO THE POINT OF BEGINNNG, containing 0.186 acre and being an unopened portion of the 40' right-of-way of Vine Street north of the 40' right-of-way of Union Heights Boulevard.

Be and the same is hereby forever closed.

This the 3rd day of September, 2002.

CITY COUNCIL OF THE CITY OF SALISBURY, NORTH CAROLINA

BY: s/s Susan W. Kluttz
Mayor

s/s Swannetta B. Fink
City Clerk

ZONING TEXT AMENDMENTS - SECTIONS 9.09, MAINTENANCE, REPAIR AND REMOVAL OF SIGNS AND SECTION 9.10, NONCONFORMING SIGNS

The request is to consider zoning text amendments to Section 9.09, Maintenance, Repair and Removal of Signs and Section 9.10, Nonconforming Signs, to extend the period of time for removal of abandoned, discontinued, and obsolete signs from 60 days to 120 days, and to provide consistency in providing 30 days' written notice for the repair or removal of signs.

(a) Mr. Harold Poole, Senior Planner, advised that Council has three options regarding these zoning text amendments which are Section 9.09, subsection (4) and Section 9.10, subsection (8)(d) of the Zoning Ordinance. This has to do with abandoned, discontinued, and obsolete signs. Section 9.09 deals with conforming signs and Section 9.10 deals with nonconforming signs. Mr. Poole further explained that presently the Ordinance allows sixty (60) days after businesses are no longer in existence or products are no longer being sold, etc. for the sign to be removed.

OPTION 1: The two Planning Board committees working on this matter recommended retaining the 60 days for removal of abandoned, discontinued, and obsolete signs.

OPTION 2: Planning Board changed the number of days from sixty (60) to one hundred twenty (120) days and made that its recommendation.

OPTION 3: Adopt Option 2 and direct staff to begin the 120 day period immediately, as of September 3, 2002.

Mr. Poole reminded Council all this has occurred as a result of Mr. Leo Wallace coming to Council on April 2, 2002 with a request related to his sign regarding Salisbury Cinema at the Salisbury Mall. He further pointed out that this would give those in the area caught in a "time warp", so to speak, time to get their signs into compliance. This does NOT address the name of the sign. As long as the sign stays the same name, it would be OK, but if the name changed, it would have to come into compliance, according to Mr. Poole. Mr. Poole explained that the sign for the Salisbury Mall Cinema is 210 square feet which is far out of compliance, and that other cities of similar size to Salisbury have been contacted and agree they would not accept a sign of this size.

Councilman Martin asked about the McDonald's sign and was advised it would be out of compliance but is considered to have a streetscape on Jake Alexander Boulevard rather than Statesville Blvd. where the Salisbury Mall Cinema is located. All other signs along Statesville Blvd. appear to be in compliance.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on zoning text amendments to Section 9.09, Maintenance, Repair and Removal of Signs, and Section 9.10, Nonconforming Signs.

Those speaking concerning the above proposal were:

Mr. Mark Lewis, 136 Rugby Road, expressed he feels we're going the wrong direction. He pointed out the Sign Ordinance was enacted in 1986 and that this is a discontinued use. If someone comes in 61 days after the use has been discontinued, then that person has to remove the sign. The real issue, Mr. Lewis told Council, is going from the 60 to 120 days. He explained Planning Board determined 60 days is not enough time to get something new in place and that 120 days is more reasonable, especially in a "down" economy. Mr. Lewis explained the whole point is we want the nonconforming signs to come down. Every new business since 1986 has had to come into compliance with the sign ordinance, he noted. He indicated he has concern about changing the ordinance for any one person, but this has generated lively debate about whether a cinema sign is something special. Mr. Lewis then said he thinks the sign ordinance has served us well, with some noted exceptions that need some attention. In this particular case, Mr. Lewis, said he doesn't think we need to go past 60 days-that 60 days is long enough. He again pointed out that this would be a new business coming in and it should be required to come into compliance with the sign ordinance like every other new business coming into town.

No one else was present to speak **for** or **against** the above proposal. Mayor Kluttz closed the public hearing.

Councilman Martin agreed 120 days would be a good option and starting on September 3 would be good to give everyone a level playing field. Mayor Pro Tem Woodson indicated he thinks the mall theatre is a little different, and they have a legitimate problem if the sign is not out at the road. He further indicated he doesn't think the 120 days would make that much difference. Councilman Burgin indicated over time, we're beginning to get a handle on the sign ordinance

and trying to invoke change and bring signs into compliance. He said the last few situations are probably the hardest. Mayor Kluttz added she wants to be sensible to help our businesses survive and would be favorable to the 120 days.

(c) Thereupon, Mr. Martin made a **motion** to adopt the text amendment recommended by the Planning Board, which would extend the period of time for removal of abandoned, discontinued and obsolete signs from 60 days to 120 days, and to be consistent in providing 30 days' written notice for the repair or removal of sign (with a directive to staff for a beginning date of September 3 expiring December 31). Mr. Woodson seconded the motion. Messrs. Martin, Woodson, and Ms. Kluttz voted AYE. Mr. Burgin voted NAY. (3-1)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, TO AMEND PORTIONS OF ARTICLE IX, SIGNS, SECTION 9.09, MAINTENANCE, REPAIR, AND REMOVAL OF SIGNS, AND SECTION 9.10, NONCONFORMING SIGNS.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter XI - Zoning & Planning, at Page No. 92, and is known as Ordinance No. 2002-64.)

Due to the lack of an affirmative vote of two-thirds of all members of the Council, it will be necessary to have a second reading on the above ordinance before it can be ratified.

BUDGET ORDINANCE AMENDMENT - APPROPRIATE INSURANCE PROCEEDS SALISBURY POLICE DEPARMENT

Mr. Woodson made a **motion** to approve amending the 2002-2003 budget ordinance to appropriate insurance proceeds for the Salisbury Police Department police car (in the total amount of \$21,533.00). Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Woodson, and Ms. Kluttz voted AYE. (4-0)

AN ORDINANCE AMENDING THE 2002-2003 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, TO APPROPRIATE INSURANCE PROCEEDS.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter II - Administrative, at Page No. 83, and is known as Ordinance No. 2002-65.)

BUDGET ORDINANCE AMENDMENT - APPROPRIATE VARIOUS RECREATION DONATIONS - SALISBURY PARKS & RECREATION DEPARTMENT

Ms. Gail Elder White, Parks & Recreation Director for the City of Salisbury, informed Council that Mr. Fred Stanback donated a large portion of the \$62,428.00 received by the Salisbury Parks and Recreation Foundation. Much of the donation is for a mile and a half trail at the Salisbury Community Park, as a paved trail going to the fishing pier. In addition, a

\$1,000.00 donation was received from Gordon Hurley as a beginning of a fundraiser to recognize two 35-year employees, Ms. Peggy Smith and Ms. Dot Miller, who worked at City Park Recreation Center for a long time. Other donations are toward the Girl's Fast Pitch Softball program and proceeds from the summer 5K Run.

Thereupon, Mr. Woodson made a **motion** to appropriate various recreation donations in the amount of \$62,428.00 for the Salisbury Parks & Recreation Department. Mr. Burgin seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

AN ORDINANCE AMENDING THE 2002-2003 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, TO APPROPRIATE VARIOUS RECREATION DONATIONS.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter II - Administrative, at Page No. 84, and is known as Ordinance No. 2002-66.)

BUDGET ORDINANCE AMENDMENT - APPROPRIATE ASSISTANCE TO FIREFIGHTERS GRANT - SALISBURY FIRE DEPARTMENT

Mayor Kluttz recognized Fire Department personnel for their fine grant writing skills which have resulted in a savings of over \$500,000.00 for the City.

Mr. Burgin made a **motion** to adopt an amendment to the 2002-2003 budget ordinance to appropriate Assistance to Firefighters Grant in the amount of \$520,035.00. Mr. Woodson seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

AN ORDINANCE AMENDING THE 2002-2003 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, TO APPROPRIATE ASSISTANCE TO FIREFIGHTERS GRANT.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter II - Administrative, at Page No. 85, and is known as Ordinance No. 2002-67.)

WATER SUPPLY AGREEMENT WITH ROWAN COUNTY POWER LLC

Mr. John Sofley, Finance Director, explained to City Council a PROJECT CONSTRUCTION AND WATER DELIVERY AGREEMENT with Rowan County Power, LLC . Mr. Sofley reminded those present that Council has approved two previous Memorandums of Understanding regarding this matter. He further added that this Agreement takes all the points and puts them into one concise Agreement and lays out the responsibilities of the parties. Since we are under an emergency water plan at this time, Rowan County Power would fall under this same plan as well. Mr. Burgin asked about the bond involved and Mr. Sofley responded that the bond is in place and has been so since April.

Thereupon, Mr. Burgin made a **motion** to authorize the Mayor to sign this Agreement on behalf of the City (PROJECT CONSTRUCTION AND WATER DELIVERY AGREEMENT with ROWAN COUNTY POWER, LLC). Mr. Woodson seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

COMMITTEE REPORT - G-14-2001-FRANKLIN STREET PLAZA

Councilman Burgin reported that he and Councilman Martin met on the Franklin Street Plaza development to help find a common ground between the City and the applicant (Henry and Karen Alexander). What they have tried to do is add some street trees to which the applicant has agreed, reported Mr. Burgin. The Council Committee recommends approval of the site plan with the following conditions:

1. Existing trees and shrubs shall remain along the west and south sides.
2. Four (4) maple trees shall be planted in an eight (8) foot planting area along East Franklin Street right-of-way.

Thereupon, Mr. Burgin made a **motion** to approve the development with the addition of the street trees along East Franklin Street. Mr. Woodson seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

REPORT FROM CITY MANAGER

(a) Drought Update

City Manager, David Treme, reported that he and some other staff members met approximately a week ago with some of Governor Easley's staff members. Mr. Treme said we did, at that time make a request for funds that would enhance our ability to provide water to those who might be in need. The Governor's staff appears to look at Salisbury as a City which is in a position to help others, he indicated. Several projects were identified to get water down Highway 70 and also Highway 29, and that we have averted a problem down Highway 52 with wells. Another meeting is to be held in Raleigh with persons in the Department of Environment and Natural Resources.

Mr. Treme pointed out the state is highly interested in decreasing the impact of drought, especially as it relates to job retention and environmental and humane factors. There are some gaps in our lines as far as getting out greater volumes. There are things which could be done in the short term to increase the capacity of the water lines from twelve (12) to sixteen (16) or eighteen (18) million gallons per day within a twelve month period. It seems the state is interested in what can be done in a twelve month time period, Mr. Treme explained. This is a preliminary report at this time, Mr. Treme told Council.

(b) Accrued Taxes

Mr. Wade Furches, Accounting Manager, presented to Council a recommended accounting change. He referenced a letter from the Local Government Commission (LGC) dated July 10, 2002 and GASB (General Accounting Standards Board) Statement 33 which addresses an accounting issue on how to report certain revenues collected by the state and passed on to municipalities; two of these revenues being Sales Tax on Telecommunication Services and Utility Franchise Tax which are received quarterly from the state. These revenues for the quarter which ended June 30, 2002 are received September 15, 2002. The Local Government Commission now interprets that since this revenue is received substantially after the end of the fiscal year, that money is really not available to fund operations through June 30 (end of fiscal year), Mr. Furches explained. He went on to explain that the LGC's recommendation is not to include these as revenue as of June 30, but instead include it as revenue in this current fiscal year. Mr. Furches told Council the Finance Department believes we should go along with the LGC recommendation and change the City's accounting for these revenues. He said the net effect of this is that the City deficit would be using \$150,000 to \$200,000 more of fund balance for the fiscal year ending June 30, 2002.

City Manager Treme reminded Council he had been predicting since January that the City would be running about a \$600,000 to \$800,000 deficit based on what the governor did. Mr. Burgin asked that Mr. Treme share with Council at the next meeting what the fund balance percentage for the City will be after using this new LGC recommendation.

(c) Communication regarding Local Reimbursements

Mr. Treme explained a letter has been received from Governor Easley and a communication from the North Carolina League of Municipalities (NCLM) that it will be necessary to deliver a strong message to our legislators not to adjourn before making adequate provisions for local reimbursements. Mr. Treme pointed out these are reimbursements which are owed to municipalities. It was the consensus of Council to proceed with writing letters to our legislators concerning the reimbursements.

(d) Home Consortium Resolution 2002-27

City Manager Treme explained that the Resolution regarding the Cabarrus/Iredell/Rowan Housing Consortium had a couple places which referenced the City Manager of Concord instead of the Mayor of Salisbury which is the way it should have read. Note: Council has a corrected copy for reference.

After Mr. Treme's recommendation to pass this resolution and make it effective August 20, 2002, Mr. Woodson made a **motion** to approve the changes recommended by the City Manager regarding the Mayor signing the Resolution for a joint cooperation agreement extending the Cabarrus/Iredell/Rowan Housing Consortium. Mr. Burgin seconded the motion. Messrs. Burgin, Martin, Woodson, and Ms. Kluttz voted AYE. (4-0)

RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF SALISBURY TO ENTER INTO A JOINT COOPERATION AGREEMENT EXTENDING THE CABARRUS/IREDELL/ROWAN HOUSING CONSORTIUM.

(The above resolution is recorded in full in Resolution Book 10, under Chapter XII - Miscellaneous, at Page No. 163-164, and is known as Resolution No. 2002-27.)

MAYOR ANNOUNCEMENTS

(a) Political Signs

Mayor Kluttz indicated she and Mayor Pro Tem Woodson have been approached about those who are running in the primary election be allowed to leave up their signs for the general election. By consensus, Council agreed to allow the winners of the primary elections to leave their signs up for the general election, and encouraged that these persons take down their signs during the October Tour, October 12th-13th.

(b) Firefighters Memorial Dedication

Mayor Kluttz reminded Council and those present of the upcoming Firefighters Memorial Dedication to be held September 11, 2002.

Mayor Pro Tem Woodson addressed the Council regarding several matters. He told those present that he has received a communication (resolution) from the High Rock Lake Association regarding the water plight and land value issues in the High Rock Lake area. He indicated those living in the area are asking for some help with their problems. Mr. Woodson will provide a copy of the resolution for distribution.

Then, Mayor Pro Tem Woodson asked for a clarification from Zoning Administrator, Hubert Furr, that the sign on Grove Street for Harrison Florist, which Mr. Woodson says has been there for 40-50 years, is not required to be removed. Mr. Furr assured Mr. Woodson the sign he referenced has no requirement for being removed. Mr. Furr explained that a small sign beside the larger sign was the one in violation. Also there was a banner on subject property's fence which was in violation.

In another matter, Mayor Pro Tem Woodson shared that he is getting complaints regarding parking around Salisbury High School. Mayor Kluttz indicated City Manager Treme is looking into this matter.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Burgin, seconded by Mr. Woodson. All members agreed unanimously to adjourn. (4-0) The meeting was adjourned at 5:15 p.m.

Susan W. Klutz
Mayor

Swannetta B. Fink
City Clerk