

Salisbury, North Carolina
November 2, 2004

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem, Paul B. Woodson, Jr.; Councilmen William (Bill) Burgin; William (Pete) Kennedy; Mark N. Lewis; City Manager, David W. Treme; City Attorney, F. Rivers Lawther, Jr.; and City Clerk, Myra B. Heard.

ABSENT: None.

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Mayor Pro Tem Woodson.

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.

ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following changes to the Agenda:

Add – a Proclamation honoring Mr. Ozell K. Beatty

Move – item 15b - Discussion of skateboard issues from the City Manager's comments to be discussed after the Consent Agenda.

PROCLAMATIONS

Mayor Kluttz stated that Mr. Ozell K. Beatty, a former City Council member and Mayor Pro Tem passed away over the weekend and noted the tremendous impact he had on the City of Salisbury. She then read the Proclamation in memory of Ozell K. Beatty, which was also read by Councilman Kennedy at Dr. Beatty's funeral.

Mayor Kluttz proclaimed the following observances:

IN MEMORY OF OZELL K. BEATTY	November 1, 2004
VETERANS DAY	November 11, 2004
NAACP HARVEST BANQUET DAY	November 12, 2004

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of October 19, 2004 and the recessed meeting of October 29, 2004.

(b) Budget Ordinance Amendment - Police Department

Adopt a budget ordinance amendment to the FY2004-2005 budget in the amount of \$10,900 to appropriate funds received through restricted controlled substances taxes.

AN ORDINANCE AMENDING THE 2004-2005 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, TO APPROPRIATE RESTRICTED CONTROLLED SUBSTANCES TAXES.

(The above ordinance is recorded in full in Ordinance Book No. 20, Budget, at Page No. 167 and is known as Ordinance No. 2004-77.)

(c) Budget Ordinance Amendment - Powell Bill Revenues

Adopt a budget ordinance amendment to the FY2004-2005 budget in the amount of \$44,950 to appropriate additional funds received through Powell Bill revenues.

AN ORDINANCE AMENDING THE 2004-2005 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, TO APPROPRIATE ADDITIONAL POWELL BILL REVENUES.

(The above ordinance is recorded in full in Ordinance Book No. 20, Budget, at Page No. 168 and is known as Ordinance No. 2004-78.)

(d) Street Closing - 700 Block of West Monroe Street

Approve a request to close the 700 Block of West Monroe Street from 10:30 a.m. until 12:00 noon on Saturday, November 6, 2004 to accommodate the dedication ceremony for a North Carolina Historical Marker.

(e) Pool Hall Permit Application - The Original Steakhouse and Sports Theatre

Receive an application from Richard Green for The Original Steakhouse for a permit to operate a pool hall located at 1935 Jake Alexander Boulevard West, and set a public hearing for November 16, 2004.

Thereupon, Mr. Lewis made a **motion** to adopt the Consent Agenda. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

DISCUSSION ON SKATEBOARD ISSUES

City Manager David Tremé reported to Council that he has received numerous questions and inquiries from churches, downtown businesses, and citizens regarding skateboard issues. He stated that he feels a survey should be completed to discuss the impact of skateboarders downtown, as it relates to property, and to hold a public hearing during December. Mr. Tremé informed Council that the University of North Carolina has a graduate program with students who may be able to assist the City with the survey. He stated that with Council's permission he will proceed and return with a plan of action. He added that he wants to ensure a thorough study is done on the issue and to include all people who have interests in the issue.

Councilman Burgin stated he feels the issue of the skateboarders and property owners should have been managed by being courteous to each other, but apparently this has not been the case. He noted that he felt Council had no choice but to proceed in determining its options. He added that, in the meantime, if skateboarders practiced the act of being courteous the issue may be able to be solved with the least amount of bureaucracy.

Mayor Kluttz asked if the date should be set for the public hearing. Mr. Tremé commented that it may take time to develop the survey but noted that the public hearing could be held with the survey work continuing after the public hearing. By consensus Council agreed to set the public hearing for December 7, 2004.

VOLUNTARY ANNEXATION - PARKDALE HEIGHTS

2.036 acres - 200-300 Blocks of American Drive

(a) Mr. Patrick Ritchie, Engineer, noted that Parkdale Heights is a residential subdivision located on American Drive. As a part of the subdivision process the developer has asked for the voluntary annexation for a portion of the subdivision which is located outside of the City limits. This area is approximately 2.036 acres. Mr. Ritchie indicated that the effective date of the annexation will be December 31, 2004.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider voluntary annexation of a 2.036 acre portion of Parkdale Heights, 200-300 blocks of American Drive.

Since no one was present to speak **for** or **against** the voluntary annexation, Mayor Kluttz closed the public hearing.

(c) Thereupon, Mr. Woodson made a **motion** to annex the 2.036 acres of Parkdale Heights on American Drive with an effective date of December 31, 2004 into the City. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SALISBURY, NORTH CAROLINA, 2.036 ACRES TO INCLUDE PARKDALE HEIGHTS.

(The above ordinance is recorded in full in Ordinance Book No. 20, Miscellaneous, at Page No. 169, and is known as Ordinance No. 2004-79.)

ZONING MAP AMENDMENT - Z-15A-04 - CITY OF SALISBURY PLANNING BOARD

Z-15A-04 - City of Salisbury Planning Board
East Innes Street near Lee Street, Downtown East Phase

(a) Ms. Janet Gapen, Planner II, informed Council this is the final phase of a Planning Board initiative to rezone portions of downtown from B-6 to B-5. She noted that this area is located in the vicinity of East Innes Street, Lee Street, Depot Street and East Council Street. She noted that all of the area is currently zoned B-6. Ms. Gapen explained that the Planning Board initiated the rezonings because they felt there are a number of uses in the current B-6 zoning that are incompatible with a downtown environment. She added that under the new code rewrite the current B-6 District will convert to a Highway Business type of district, and B-5 will convert to downtown mixed-use.

Ms. Gapen stated that at the Planning Board courtesy hearing concerns were raised about the affects of the rezoning on neighboring residential properties. She noted that B-5 greatly reduces the setbacks and with any new development or expansion landscape requirements will be required. Ms. Gapen informed Council that the Planning Board recommended approval of this rezoning.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider zoning map amendment Z-15A-04 City of Salisbury Planning Board, located in the general vicinity of East Innes Street near Lee Street, Downtown East Phase, from B-6 to B-5.

Mr. Brian Miller, Planning Board Member and Committee Chair, reviewed the justification for the initiation of this rezoning. He noted that there has been pressure in the downtown area to rezone to B-5 in order to allow property owners more options relative to how they develop their lot. He explained that when the committee looked at the case history of the parcels involved in this initiative there were several properties which had been down-zoned from B-6 to B-5. Mr. Miller stated that when the Land Development Oversight Committee reviewed the current zoning classifications and how they are mapped, they felt that this area is not part of a corridor but part of the downtown and they felt it was appropriate to define it as such.

Ms. Ann Lyles, 409 East Bank Street, stated that she is a member of the Board of Trustees for Historic Salisbury Foundation and Chairman of their Preservation Action Committee. She indicated that they had a concern for two (2) houses located on South Lee Street and noted that they realize the houses are located within the Historic District and will be afforded some protection by this fact. She stated that she realizes that in the future the houses will most likely be used for business and added that she feels it appropriate to maintain the houses. She commented that she feels they will make a nice transition from the business community to the residential community.

Mr. Leo Wallace, 508 South Fulton Street, stated that he is in favor of the rezoning with one exception, the 300 block of East Council Street. Mr. Wallace reviewed the history of the area, including what is located there now, and concluded that the area has traditionally been wholesale and light manufacturing and should not be changed from B-6.

Since no one else was present to speak **for** or **against** the proposed rezoning, Mayor Kluttz closed the public hearing.

Mayor Pro Tem Woodson asked staff if the tire company in the 300 block of East Council Street will become non-conforming. It was confirmed that several of the businesses will become non-conforming.

Ms. Gapen clarified that there is a heating and air contractor within the area and this type of use is allowed as a general contract. She noted that the tire and re-treading business is first allowed in M-1 so it is non-conforming under the existing B-6 zoning. She stated that there was an auto repair business in the area that closed, and since the one hundred eighty (180) day period has passed, this particular use would be non-conforming and not allowed in B-5. She noted that the recycling business is also non-conforming in the existing zoning and explained that if a use continues in operation or ceases but resumes operation within the one hundred eighty (180) day period it can continue as a non-conforming use.

Mr. Wallace read a list of the uses that will be non-conforming in B-5 zoning. Mr. Lewis noted that the list had been modified and read the list of uses allowed in B-6 that will not be allowed in B-5. He indicated that there are one hundred twenty-eight (128) permitted uses in B-6 and one hundred one (101) in B-5.

Mr. Lewis commented that he could understand the need for B-6 zoning beside railroad tracks in the past and questioned how many of today's uses still require rail. He stated that the existing tenants who become non-conforming will be able to exist for as long as they wish to operate their business, but added that Council needs to look toward the future and how Council would like to see the area developed. He commented that while the rezoning reduces some of the allowed uses he feels it brings protection to the properties where redevelopment is considered because the uses deemed inappropriate for downtown will not become their neighbor.

Councilman Burgin stated that the structures in this area are currently built to the edge of the property and if the property should be damaged they would have to be reconstructed twenty-five (25) feet from the property lines as required in the current B-6 zoning. He noted that B-5 will allow construction to the property line. He commented that the nature of the block in question has changed and he feels it is time the zoning reflect the change as well.

Mr. Woodson commented that some of the excluded uses seemed restrictive and pointed out Florists Shops as an excluded use. Mr. Lewis clarified that Florists are permitted with restrictions in both B-6 and B-5 and the use would not change. Mr. Burgin commented that the bulk of the list of excluded uses are not uses desirable for a downtown area.

Councilman Kennedy stated that he supports the rezoning because it will not close any current business. He added that he feels the change will be helpful because it will be consistent with what is being done in other parts of the City.

Mr. Woodson commented that he would hate to exclude light manufacturing from some of the buildings in the area. Ms. Gapen stated that in reviewing the draft version of the proposed new code the proposed DMX (Downtown District) includes light manufacturing.

(c) Thereupon, Mr. Burgin made a **motion** that the property presented in Z-15A-04 be rezoned from B-6 to B-5 as recommended by the Planning Board. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 18.5 ACRES LOCATED ALONG EAST INNES STREET, EAST FISHER STREET, SOUTH LEE STREET, DEPOT STREET, EAST COUNCIL STREET, NORTH LEE STREET, AND EAST LIBERTY STREET, IDENTIFIED AS PARCELS 325, 326, 327, 328, 329, 330, 331, 332, 319, 306, 320, 321, 300, 300-1, 301, 431, 302, 303, 304, 307, 287, 286, 289-A, 289, 284, 285, 278, 262-2, 278-A, 278-B, 258, 261, 260 AND A PORTION OF PARCELS 308, 262, AND 434 ON SALISBURY TWP. TAX MAP 10, AND BY REZONING APPROXIMATELY 32,560 SQUARE FEET LOCATED ALONG EAST INNES STREET IDENTIFIED AS PARCELS 504, 498, AND PORTIONS OF PARCELS 499, 500, 501, 502, AND 503, ON SALISBURY TWP. TAX MAP 10-5, AND BY REZONING APPROXIMATELY 38,940 SQUARE FEET LOCATED ALONG EAST COUNCIL STREET IDENTIFIED AS PARCEL 437, ON SALISBURY TWP. TAX MAP 10-4, FROM B-6 GENERAL BUSINESS DISTRICT TO B-5 CENTRAL BUSINESS DISTRICT.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page Nos. 170-171, and is known as Ordinance No. 2004-80.)

ZONING MAP AMENDMENT - Z-15B-04 - CITY OF SALISBURY PLANNING BOARD

Z-15B-04 - City of Salisbury Planning Board
West Innes Street near Jackson Street, Downtown West Phase

(a) Ms. Janet Gapen, Planner II, informed Council that this is the final phase of rezoning from B-6 to B-5 in quadrants of downtown. She explained that there are sixteen (16) parcels in the area and all are currently zoned B-6. She reviewed the location of the Historic District Overlay and noted that a concern has been raised regarding historic structures. The concern is that the structures will not be protected and have a greater risk of being razed in order to take advantage of the no set-back requirements. She explained that structures located in the Historic District are protected by a delay of three hundred sixty-five (365) days before demolition can begin. She pointed out a structure on Fulton Street, where Bijoux is currently located, and noted that it is outside of the Historic Overlay, but within the area to be converted to B-5. Ms. Gapen stated that staff felt the most likely scenario would be a use not desirable to the neighborhood locating in the structure, rather than the structure being demolished.

Ms. Gapen informed Council that there are no non-conforming uses in the area proposed for rezoning.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider zoning map amendment Z-15B-04 City of Salisbury Planning Board located in the general vicinity of West Innes Street near Jackson Street, Downtown West Phase, from B-6 to B-5.

Ms. Ann Lyles, 409 East Bank Street, stated that the Preservation Action Committee is concerned about the house where Bijoux is located and feel it would be a shame to lose this structure. She noted that they determined that a different zoning classification would not provide additional protection to the structure and asked that this house be afforded some protection. She noted that the house is not in the Historic District or Overlay but is architecturally significant.

There being no one else present to speak **for** or **against** the proposed rezoning, Mayor Kluttz closed the public hearing.

(c) Thereupon, Mr. Kennedy made a **motion** to amend zoning map Z-15B-04 City of Salisbury Planning Board located in the general vicinity of West Innes Street near Jackson Street, Downtown West Phase, from B-6 to B-5. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 18.4 ACRES LOCATED ALONG WEST INNES STREET, NORTH FULTON STREET, SOUTH FULTON STREET, WEST FISHER STREET, SOUTH CHURCH STREET, NORTH CHURCH STREET, WEST COUNCIL STREET, WEST LIBERTY STREET AND NORTH JACKSON STREET, IDENTIFIED AS PARCELS 127, 136, 137, 138, 149, 150, 104, 97, 96, 153, 153-1, 429, 436, 95 AND A PORTION OF PARCELS 151 AND 94 ON SALISBURY TWP. TAX MAP 10, FROM B-6 GENERAL BUSINESS DISTRICT TO B-5 CENTRAL BUSINESS DISTRICT.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page Nos. 172-173, and is known as Ordinance No. 2004-81.)

Councilman Burgin indicated that it seemed the best solution for protection of the house where Bijoux is located would be to "pan-handle" the Historic District. He asked if Council would agree to ask the Planning Board to study this issue. It was noted that the Historic Preservation Commission (HPC) would be the appropriate board, and by Consensus Council agreed to ask the HPC to study this issue.

PUBLIC HEARING - 2004 LOCAL LAW ENFORCEMENT BLOCK GRANT

(a) Ms. Barbara Fuller, Fiscal Analyst, informed Council that the City has been awarded a grant through the United States Department of Justice Local Law Enforcement Block Grant in the amount of \$16,466. She explained that before the funds can be received a public hearing is required for public input on the use of the funds. Ms. Fuller stated that if no public input is received the Police Department will use the funds for their Youth at Risk

programs.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, concerning the 2004 Local Law Enforcement Block Grant.

Since no one was present to speak to Council concerning the Local Law Enforcement Block Grant, Mayor Kluttz closed the public hearing.

FULTON HEIGHTS NEIGHBORHOOD STOP CONDITIONS

Mr. Dan Mikkelson, Director of Land Management and Development, indicated that the proposed Ordinance is a follow-up to action taken by Council to establish all-way stops in the Fulton Heights neighborhood.

Thereupon, Mr. Woodson made a **motion** to approve the Ordinance establishing the stop conditions in the Fulton Heights neighborhood. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-332, ARTICLE X, CHAPTER 13, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO STOP SIGNS.

(The above ordinance is recorded in full in Ordinance Book No. 20, Traffic, at Page Nos. 174-175, and is known as Ordinance No. 2004-82.)

AMENDMENT TO NUISANCE ABATEMENT ORDINANCE

Mr. Vernon Sherrill, Director of Public Services, informed Council that the requested amendment to the Nuisance Abatement Ordinance will bring it in line with more recent ordinances adopted by Council. He noted that the amendment will change the appeal process to include the Zoning Board of Adjustment, and will clarify responsibility for property owners for the front of their homes and businesses.

Thereupon, Mr. Burgin made a **motion** to amend the Ordinance for Nuisance Abatement, Chapter 14, Section 14-4 and 14-8 as presented. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING CHAPTER 14, SECTIONS 14-4 AND 14-8, NUISANCE ABATEMENT, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA.

(The above ordinance is recorded in full in Ordinance Book No. 20, Miscellaneous, at Page No. 176, and is known as Ordinance No. 2004-83.)

AMENDMENT TO FLEXIBLE BENEFITS PLAN

Ms. Melissa Taylor, Human Resources Director, indicated that the Resolution before Council is for the continued administration of the Flexible Benefits Plan. She noted that a third party administers the plan and this Resolution will allow the City to continue this benefit.

Thereupon, Mr. Kennedy made a **motion** to adopt the Resolution to amend the Flexible Benefits Plan. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

RESOLUTION AMENDING THE FLEXIBLE BENEFITS PLAN.

(The above resolution is recorded in full in Resolution Book No. 12, at Page No. 46, and is known as Resolution No. 2004-32.)

-

-

APPOINTMENT TO TREE BOARD

Mayor Kluttz noted that there are two vacancies on the Tree Board and recommended Ms. Doris Roberts to fulfill one of the unexpired terms.

Thereupon, Mr. Kennedy made a **motion** to appoint Ms. Doris Roberts to the Tree Board. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

Councilman Burgin asked Council's consideration to appoint Mr. John Burke for the second unfulfilled term.

Thereupon, Mr. Kennedy made a **motion** to appoint Mr. John Burke to the Tree Board. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

COMMENTS FROM THE CITY MANAGER

(a) Planning Board Recommendations

City Manager Tremé noted that the Planning Board recommendations from their October 26, 2004 meeting will be forwarded to Council.

(b) Town Creek Commons

Mr. Dan Mikkelson, Director of Land Management and Development, informed Council that the developers of Town Creek Commons constructed a public street and posted a guarantee of construction with the City. The construction is now complete and staff recommends the street be accepted for permanent maintenance by the City and the guarantee be released.

Thereupon, Mr. Woodson made a **motion** that staff's recommendation be approved. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

MAYOR'S ANNOUNCEMENTS

(a) NAACP Harvest Banquet

Mayor Kluttz announced that the NAACP Harvest Banquet will be held Friday, November 12, 2004 at 7:00 p.m. at the Holiday Inn on Jake Alexander Boulevard.

(b) North Carolina State Historical Marker

Mayor Kluttz announced an unveiling of a North Carolina State Historical Marker celebrating the lives of J.E.K. Aggrey and Rose D. Aggrey will be held Saturday, November 6, 2004 at 11:00 a.m. at 700 West Monroe Street.

(c) 2004 North Carolina League of Municipalities Conference

Mayor Kluttz informed Council that she attended the North Carolina League of Municipalities annual conference and the North Carolina Metropolitan Coalition meeting held in Raleigh, North Carolina October 24-26, 2004. She noted that she traveled with other Mayors from Raleigh to Greenville, North Carolina to participate in a press conference promoting Amendment One. Mayor Kluttz stated that she also participated with a group of Mayors in a press conference in Kannapolis, North Carolina. She informed Council that she and City Manager Tremé also spoke at both of the local radio stations to promote Amendment One and the benefits to the City of Salisbury.

(d) National Project Safe Neighborhoods

Mayor Kluttz reported that a meeting with the National Project SAFE Neighborhoods training team was held on October 26, 2004 at City Hall. She noted that several members of the task force participated in the meeting and Salisbury was highlighted as a Best Practices because Salisbury is one of the smallest cities in the nation participating in the Project.

(e) Convention/Conference Center Task Force

Mayor Kluttz announced that the Convention/Conference Center Task Force will hold a workshop on Wednesday, November 3, 2004 and Thursday, November 4, 2004 and Council members are invited to attend. She stated that a final report will be presented on Thursday, November 4, 2004 at 4:00 p.m. but the Task Force will also make an official report to Council at a later meeting.

(f) National Guard Deployment

Mayor Kluttz reported that she participated in the National Guard Company B First Battalion 126th Aviation deployment on Friday, October 29, 2004. She expressed her gratitude to all of the men and women who serve in the war in Iraq.

COMMENTS FROM COUNCILMAN KENNEDY

Councilman Kennedy thanked Mayor Kluttz and City Clerk Myra Heard for the preparation of a Proclamation honoring Mr. Ozell K. Beatty, which Councilman Kennedy read at the funeral in Raleigh, North Carolina. Mayor Kluttz thanked Mr. Kennedy for representing the City at this event.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Burgin, seconded by Mr. Woodson. All council members agreed unanimously to adjourn. The meeting was adjourned at 5:12 p.m.

Mayor

City Clerk