

Salisbury, North Carolina  
May 2, 2006

**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. Tremé; 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 Councilman Lewis.

**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 change to the Agenda:

Add –Council to consider an appointment to the Planning Board.

**RECOGNITION OF SALISBURY-ROWAN UTILITIES AND ROWAN COUNTY ENVIRONMENTAL SERVICES – MERCURY THERMOMETER EXCHANGE**

Mr. Matt Bernhardt, Assistant City Manager for Utilities, introduced Mr. Alan Fowler, Chemist – Environmental Services Division; Ms. Carol Hamilton, Environmental Services Manager; and Ms. Lori Swain, Rowan County Recycling Coordinator, and informed Council that they had conceived, implemented and conducted a successful thermometer and mercury exchange program which was held April 20, 2006. Mr. Bernhardt stated that they were able to collect fifty-four (54) pounds of liquid mercury along with other mercury related items and over two hundred twenty (220) mercury thermometers were exchanged for non-mercury thermometers.

Mayor Kluttz commended Mr. Fowler, Ms. Hamilton, and Ms. Swain for their work and for implementing such an innovative idea.

**PROCLAMATION**

Mayor Kluttz proclaimed the following observance:

MUNICIPAL CLERKS WEEK	April 30-May 6, 2006
NATIONAL DAY OF PRAYER	May 4, 2006
SENIOR CENTER WEEK	May 14-20, 2006
NATIONAL POLICE WEEK	May 14-20, 2006
OLDER AMERICANS MONTH	May 2006
NATIONAL PRESERVATION MONTH	May 2006

**CONSENT AGENDA**

- (a) Approve Minutes of the regular meeting of April 18, 2006.
- (b) Adopt a budget Ordinance amendment to the FY2005-2006 budget in the amount of \$18,159 to appropriate various donations received by Parks and Recreation.

AN ORDINANCE AMENDING THE 2005-2006 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. 21, Budget, at Page No. 94, and is known as Ordinance No. 2006-30.)

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

**ZONING MAP AMENDMENT Z-03-06 MITCHELL AVENUE PROPERTIES**

Mitchell Avenue Properties - 1027 Lincolnton Road

- (a) Mayor Kluttz announced that a protest petition had been received and asked City Clerk Myra Heard to verify its validity. Ms. Heard informed Council that the protest petition is valid and a three-fourth (3/4) or four (4) out of five (5) votes would be necessary for approval.

Mayor Kluttz noted that the Planning Department received a letter from the petitioner requesting that this item be postponed until the May 16, 2006 meeting. She indicated that because this was a legally advertised public hearing the request could not be granted.

Mr. Preston Mitchell, Senior Planner, informed Council that this request is to rezone property located at 1027 Lincolnton Road from R-8 to MED. He reviewed an aerial map and ground photographs of the site and surrounding properties. Mr. Mitchell pointed out the existing RoMedical Facility adjacent to the site and the Harold B. Jarrett American Legion Post directly across the street from the site. The Fulton Heights neighborhood is behind the site with the Eamon Park neighborhood to the north. Mr. Mitchell stated that the property in question is currently zoned R-8, as are the Fulton Heights and Eamon Park neighborhoods. He noted B-1 zoning across the street from the property and the current RoMedical facility is zoned Limited Office Institutional (LOI), with B-6 being located along Jake Alexander Boulevard. He explained that the R-8 district is primarily for detached single-family homes and their customary accessory uses while the MED district is a medical district. It is non-cumulative and only the specifically stated uses are allowed within the district. Mr. Mitchell informed Council that the MED district requires group development review and approval before any construction can begin.

Mr. Mitchell referred to the Strategic Growth Plan and Vision 2020 and noted that they indicate that the benefits of business expansion should be carefully weighed when located in close proximity to an existing neighborhood. He commented that with the Vision 2020 Plan a new conflict has been created between Salisbury's core value of neighborhood protection and the 2020 Plan's overall objective of reducing vehicle dependency and traffic congestion by allowing transitional commercial at the neighborhood edge. He noted that the 2020 Plan supports neighborhood protection and encourages new development that emulates many of the traditional neighborhoods.

Mr. Mitchell reviewed the idea of clustering similar uses and displayed an aerial map showing the fourteen thousand (14,000) square foot existing RoMedical facility. He pointed out that should the property in question be approved for rezoning and constructed as an office medical clinic, staff believes the three buildings would act as a cluster. He stated that staff also believes this would serve as a transitional use from the dominant single family use in the Fulton Heights neighborhood to the lower intensity uses, such as the RoMedical facility, and then on to the more intense uses at Jake Alexander Boulevard.

The zoning history of the property was reviewed with Council and Mr. Mitchell noted that the original zoning for the area was R-6. In 1968 the American Legion tract was rezoned to B-1 and in 1970 the site of the RoMedical facility was rezoned to R6-A for multi-family use but was never developed. In 1972 the Littletown Condominiums located across Mitchell Avenue from the RoMedical facility was rezoned to B-1 and the RoMedical facility location was rezoned to B-3. In 1978 the City rezoned all B-3 properties to B-RT. In 1988 the same pieces of property were rezoned from B-RT to LOI and in 1989 the Fulton Heights neighborhood petitioned to rezone the neighborhood from R-6 and R-6A to R-8. Mr. Mitchell noted a request made in 1998 to rezone property located on Lincolnton Road from R-8 to B-1 but the Planning Board denied the request and the petitioner withdrew the application. In 2001 a request was received to rezone the property in question today from R-8 to LOI but the Planning Board denied the request and the application was withdrawn prior to being sent to City Council.

Mr. Mitchell read the Planning Board recommendation made on April 11, 2006 which stated, "The Planning Board finds and determines that denial of the rezoning request is consistent with the adopted Strategic Growth Plan and Comprehensive Plan, referring more towards the protection of neighborhoods, and as a result, the denial advances their goals, objectives, and policies for growth and development in the City of Salisbury." He noted that the motion passed 6-3.

- (b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on zoning map amendment Z-03-06 Mitchell Avenue Properties. She noted that Mr. Jay Dees had requested additional time and since he is a licensed attorney he can represent up to two (2) citizens who would like to come forward to speak. Mayor Kluttz stated that if the petitioner or anyone in favor felt they needed additional time, Council would also extend them the same courtesy.

Dr. Boyd Watts, 530 Hickory Drive, stated that he thinks there are certain aspects brought up by the Planning Board that need to be eliminated. He stated that if Presbyterian Hospital obtains a Certificate of Need (CON) for an outpatient surgery center he already has enough property to place the facility on site. He commented that after the property in question was purchased he and his partners found that they could not keep a viable family in the building. He stated that the structure was eventually demolished and they now own a duplex and single family dwelling but have trouble keeping it rented. He indicated that they are proposing to sell the two pieces of property to another buyer and RoMedical has no desire to expand or to install a helicopter pad. He added that this will strictly be a medical practice and they are just looking for a place to expand. Dr. Watts stated that he agrees with the initial Planning Board recommendation that this is a good egress from the neighborhood.

Dr. Brent Bost stated that he has an existing practice and has been associated with the RoMedical group for many years and is in support of the rezoning. He stated that he feels that the site has been developed in good faith and feels it is a natural egress from business zoning and the natural architecture used on the facility is appropriate with the neighborhood. He stated that this will not be a high volume situation and feels this is a risk to benefit ratio and the benefit will outweigh the risk. Dr. Bost stated that his practice is located on Statesville Boulevard and he has a tendency to draw patients from all over the County. He commented that he feels there are enough existing highway corridors to meet the traffic needs without having to increase traffic burden on the surrounding neighborhoods. He reiterated that the benefit to risk ratio needs to be reviewed for this situation.

Mr. Gary Blaybon, 346 Cameron Drive, informed Council that he is the CEO of the RoMedical Center and they are requesting to rezone the property in order to have more medical office buildings on site. He noted that he has been contacted by several different physicians' groups, both inside and outside of Rowan County, who like RoMedical's business model. He explained they have urgent care, orthopedic, internal medicine, physical therapy, chiropractic care, pain management and podiatry. Mr. Blaybon stated that he feels they fit into the 2020 Plan and noted that their patients like being able to have their needs met in-house. He stated they just wish to expand the medical office building while respecting and working with the neighborhood. He added that they are not interested in moving down Lincolnton Road and developing that property.

Ms. Maggie Blackwell, 422 Mitchell Avenue, displayed pictures of various houses throughout the Fulton Heights neighborhood. She stated that the median income of residents in Fulton Heights is \$37,400 and the yards and homes are maintained by the homeowners themselves who are taxpayers and voters. She stated that Salisbury has been through a planning cycle that has come full circle. She indicated that Fulton Heights was built as a group based neighborhood so residents could walk to purchase wares and use public transportation and the trend has returned to walking neighborhoods. Ms. Blackwell stated that the Fulton Heights residents worked very hard to obtain the R-8 zoning and pointed out that recently the Council approved a public/private partnership to develop a park for the neighborhood. She pointed out that the park is only eight (8) houses away from the property being considered today. Ms. Blackwell informed Council that a fundraiser was held on April 1, 2006 and almost \$7,000 was raised which has been deposited into the City's account for their Centennial Park. She stated that residents of the neighborhood work hard to meet their goals and asked Council to vote against the rezoning.

Mr. Harold Poole, 310 Winterlocken Drive, stated he did not oppose Presbyterian Hospital coming to Salisbury but he does not feel this is the right location. He stated he supports the Planning Board recommendation to deny the rezoning. Mr. Poole referred to the comprehensive plan which refers to the protection and rehabilitation of viable neighborhoods. He noted that the property in question has access to Wiley Avenue and he is concerned that traffic could go to Wiley Avenue and further disrupt the neighborhood. He stated he also has concerns that RoMedical is trying to buy adjoining properties and he feels they have intentions to expand further into the neighborhood. Mr. Poole reviewed the planning history for the area and stated that it is a nice neighborhood and has continued to improve and will continue to improve if it is left alone. He stated that the height allowed in the MED district will allow at least a four (4) story building, with a side yard set back of only ten (10) feet and rear set back of twenty (20) feet and he feels these are important issues.

Mr. Doug Black, 629 Mitchell Avenue, provided Council with a history of the subdivision and how the neighborhood was formed. He stated that Southern Development Company bought seventy-six (76) acres for \$12,000. He noted that this investment is now worth over thirty (30) million. He stated that when the property was developed it was outside the City limits and was considered a healthy place to live outside of the City. He stated that the neighborhood was a great place to live in the 1920s through 1940s and while it gradually went into a slump it has regained its status as a wonderful place to invest in a home.

Mr. John Burke, 328 Mitchell Avenue, referred to a photograph of the property in question and noted that the suggested medical cluster appears to include properties where houses currently exist and he does not believe the owners have tried to sell the property at 1021 or 1011 Lincolnton Road. He stated that the parking lot will be very close to Wiley Avenue and the logical thing to do will be cut through the fenced area and extend Wiley Avenue for access to 1027 Lincolnton Road creating a thoroughfare. He stated that traffic will increase for all of the roads and there will be safety problems. Mr. Burke commented that he feels this rezoning will begin the erosion of the R-8 zoning. He pointed out that Dr. Watts indicated he did not need this property rezoned to bring Presbyterian Hospital to the property.

Ms. Dawn Isenburg, 721 Mitchell Avenue, indicated that she has lived at her property for thirty (30) years and has seen the relentless encroachment of businesses into the neighborhood. She stated that the Fulton Heights Neighborhood Association has worked diligently to pursue the preservation of their neighborhood. She stated that Mitchell Avenue Properties already owns residences along Lincolnton Road all of which are R-8 zoning and she feels they bought them as a means of cheaply gaining additional land for commercial development and expansion of the medical park. She added that this is cost effective for Mitchell Avenue Properties but at a high price for Fulton Heights. Ms. Isenburg stated that if this rezoning is allowed it will begin a domino effect and lead to the deterioration and demolition of the Lincolnton Road properties. She stated she feels this is about money and she does not begrudge the expansion of RoMedical but the neighborhood should not have to provide the property to bring it to fruition.

Ms. Jana Annas, 140 McCoy Road, stated that she represents her son who lives on Lyerly Avenue in Fulton Heights and she thinks Council should leave things the way they are because the neighborhood has been in place for a long time. She indicated that she understands that we are living in new times but she does not feel that Fulton Heights should be changed because they do not need a medical facility in their yard. She stated that the focus of the 2020 Plan is to help neighborhoods remain in tact. Ms. Annas stated that she believes RoMedical was offered the old Winn-Dixie building across the street from their facility, but turned it down. She stated she feels they could have used the building which was properly zoned. She stated that Julian Road has surgery facilities and is waiting for more in that area. She agreed with Mr. Poole that this is not the right location for the facility and asked

Council not to allow the zoning change.

Mr. Andrew Pitner, 320 Mitchell Avenue, referred to Dr. Bost's benefit analysis and indicated that the benefit rests with the strength of the R-8 zoning. He stated he feels the R-8 zoning has resulted in a huge amount of community reinvestment by individuals in the neighborhood who have restored older houses. He indicated that the neighborhood is a middle class neighborhood and for these individuals their home is their greatest investment. Mr. Pitner stated that the citizens of Fulton Heights are very active on community boards and are active participants in the community. He asked Council to support them in rejecting this change.

Mr. Jay Dees indicated he is also speaking for Ms. Madeline Tate, 717 Wiley Avenue and Ms. Sue Turner, 726 Wiley Avenue, who have conceded their three (3) minutes to him. He indicated that this is a general rezoning and the general rule is to consider all permitted uses. He referred to the staff report and noted that if any uses are inconsistent in the district then Council should deny the request. He noted that polices of the Comprehensive Plan are applicable and Council should protect viable neighborhoods and reduce through traffic. He noted that trip generation calculations for medical/dental office buildings show a little over thirty-six (36.13) trips per one thousand (1,000) square feet of development, which is in excess of three hundred sixty (360) daily trips generated. He stated that the test data in the report actually reflects the high end of over fifty (50.51) trips per one thousand (1,000) feet. Mr. Dees referred to neighborhood planning areas and contended that the request before Council today is a movement into the residential area and is not creating a transition because the transition is already there. He noted that the proposed site and use is not a basic necessity for the neighborhood and added he feels the intersection of Jake Alexander Boulevard and Lincolnton Road is a commercial center as described in the Comprehensive Plan. He noted that the Strategic Growth Plan breaks commercial into three (3) categories: regional, community and neighborhood. He stated that a neighborhood center is one that is frequently used by the neighbors, but the proposed tenants have stated that their primary service area is all of Rowan County, with twenty (20) percent of clients from outside of the County. Mr. Dees stated that this is not neighborhood commercial but is regional. He referred to Policy 5.10 which states that encroachment by new or expanded commercial uses in viable existing or planned residential areas shall be prohibited. He also noted that the Vision 2020 Plan states that the City shall continually reinvest in the infrastructure of its older urban neighborhoods because they are the most cost effective parts of the community. Mr. Dees stated that a general rezoning concept should include the available properties properly zoned. He provided a map to Council that depicts a one-half (1/2) mile area that includes properties already properly zoned. He referred to the staff report and its specific use discussion stating that he feels it is inappropriate to consider a specific use in a general rezoning. He stated that the report considers the rezoning to be an expansion of an existing planned medical development and will finish a development cluster, but he feels the site is not a planned site but has expanded as opportunities become available. Mr. Dees referred to Vision 2020 and the effort to reduce automobile dependency and stated that by letting this medical facility expand it will not reduce traffic. He concluded that the staff report was based on the specific use generating jobs, which is contrary to all planning principals that deal with a general rezoning. He stated that based on the Fulton Heights' history there is no finishing out of the planned medical cluster and he feels the boundaries have been defined. Mr. Dees stated that Fulton Heights represents everything that the City has been fighting for and still deserves Council's protection.

Ms. Cindy Harwick, 1110 South Fulton Street, stated that she previously lived on Wiley Avenue and this is a neighborhood where children ride their bicycles and people walk and is the kind of neighborhood that Council wants in the City. She stated that they already have cut-through traffic and do not need any more. She added that she hopes Council does not second guess its original pledge to protect the neighborhood.

Mr. Charlie Swaringen stated that he used to live on Mitchell Avenue and his grandfather owned most of the property in question. He noted that the first piece of property sold was to a car dealership and the neighborhood was opposed because of traffic, but the traffic did not increase. He stated that the City needs to change and he feels the City needs the medical facility more than the houses.

Ms. Sue Turner, 726 Wiley Avenue, stated that she walks daily and she would not want her walk to be encroached upon by the traffic and pollution.

Ms. Annie Cole, 805 Mitchell Avenue, stated that she thinks gangs are a bigger problem than the RoMedical facility. She indicated that she feels RoMedical has been a wonderful neighbor. She stated that the American Legion Hall is rented out every Saturday night until late in the night and she has to call the Police Department to break up the noise. She commented that she feels RoMedical would be an excellent place to put a medical facility. She added that not everybody in the neighborhood is against the medical facility but many people were not able to attend today.

Ms. Ruth Thonen, 428 Wiley Avenue, stated her house was built in 1922 and she has two City lots and an alleyway. She noted that she felt the City has too many agencies and referenced Code Enforcement. She stated that she has totally improved her property and she supports RoMedical because it has good doctors for her husband's heart condition. She noted that she does all of her home improvements and concluded by stating that the doctors at RoMedical meet all of her and her husband's needs.

Mr. Gene Auten, 406 Travis Lane, stated that he is the First Vice-Commander of the Harold B. Jarrett Legion Post and they close at 9:30 p.m. every night. He noted that they lease the building occasionally, but they pay \$100 for security. He stated that he supports the rezoning.

Ms. Teresa Pitner, 320 Mitchell Avenue, stated that the Neighborhood Association is very aware of gang activities and has met weekly to address the issues. She stated that they feel if RoMedical expands it will increase the problem.

Mr. Jim Cusack stated that he works at RoMedical and there is no gang activity there. He commented that he feels Council has said no long enough and needs to say yes to something, adding that he feels the Mitchell Avenue area has changed forever. He noted that there is now the possibility of new employment and tax revenue for the City. Mr. Cusack stated that if people turn right out of the RoMedical parking lot the residents on Mitchell Avenue will never know they are there. He stated that the new surgical center will have one (1) operating room and if they perform six (6) surgeries a day it would be a lot.

There being no one else present to speak to Council, Mayor Kluttz closed the public hearing.

Mayor Kluttz stated that there is no question that Fulton Heights is one of the finest neighborhoods in the City and Council would not want to do

anything to hurt the neighborhood. She added that Council must consider the impact the development will have and the balance between a reputable business and the neighborhood.

Mayor Pro Tem Woodson commented that there were several issues brought up that were of interest to him and he is not sure he could make a decision today. He commented that the fifty (50) foot height allowed in the MED district concerns him. He stated that he hears from residents who want better, higher paying jobs and the need for Salisbury to grow, and commented that this is progress versus protection and it is a hard issue to balance. He noted that he understands the neighborhood's position and would like to study the issue further. Mr. Woodson suggested a Council Committee to study the issues and find a resolution.

Councilman Kennedy asked if a count of those in attendance that were for and against the rezoning could be made. Mayor Klutz asked all those in favor and then all those opposed to raise their hands. The audience was equally divided.

Councilman Burgin stated that there is no question Fulton Heights is one of the City's best neighborhoods and he feels Council has a history of protecting it. He commented that he has never considered this development as a neighborhood medical center but feels it is more of a regional center. He noted that not every change will cause the automatic demise of the neighborhood because some developments have been built-out and have become assets to adjoining neighborhoods. He commented that he feels Fulton Heights proximity to the YMCA, its proximity to drug stores, and its proximity to RoMedical are what help make it a strong neighborhood. He noted that at this point he is not sure that rezoning would lead to the demise of Fulton Heights, but might actually lead to making it stronger and he would like to study this before making his decision. Mr. Burgin stated that a Council Committee can study these issues and noted that decisions need to be made to find a balance to see if this will work. He noted that he will not support access to Wiley Avenue. Mr. Burgin commented that he has trouble viewing the property across from the American Legion as R-8 or R-6 for multi-family, and he feels these zoning changes could be more detrimental to the neighborhood than if they were part of the medical park. He stated that if at any time it appears the decision would hurt Fulton Heights he will not support a change, but he feels a Council Committee needs to review the issues to help Council make a decision that will be best for the entire City.

Mr. Woodson pointed out that the MED district is one of the most restrictive of any districts and he thinks that is a good thing.

Mr. Burgin asked to verify that the MED district will require automatic group development review. Mr. Mitchell responded that the review is automatic regardless of square footage.

Councilman Lewis commented that the MED is fairly new and was created during a time when the hospital was in conflict with its neighbors. It served as a way to identify the area around the hospital that could be developed for medical services so that the neighborhoods would know the boundaries and feel comfortable. He stated that he appreciates what the Fulton Heights neighborhood stands for and its protection of its boundaries, but in looking at the piece of property in question and how it is oriented he does not see it redeveloping for single family. He added he is not sure it was intended to be part of the neighborhood. Mr. Lewis noted that this becoming a medical campus is certainly something for the Council to evaluate and there have been a number of legitimate site plan and use related issues brought up by the neighborhood. He stated that Council can not focus more on form than use and added he did not feel adding a four (4) story building right beside the neighborhood would be good form. He commented that there are issues that need to be studied and options explored so Council can make a decision.

By consensus, Council agreed to send this issue to a Council Committee. Mayor Klutz appointed Mayor Pro Tem Woodson and Councilman Lewis to serve on the committee.

Mayor Klutz commented that she is excited to see people passionate about their neighborhood and she thanked everyone in attendance for sharing their questions and concerns. She noted that the Committee will not make a decision but will study the issue and bring a recommendation back to Council. Mayor Klutz asked anyone who wished to be notified of the Committee meeting to contact City Clerk Myra Heard.

#### **ZONING MAP AMENDMENT Z-04-06 MARTHA AGNER**

Martha Agner – 2417 Statesville Boulevard

(a) Mr. Preston Mitchell, Senior Planner, indicated that Ms. Martha Agner is requesting to rezone one piece of property located at 2417 Statesville Boulevard from R-8 to B-2. He reviewed an aerial map and photographs of the property and noted a single family structure currently located on the property. Mr. Mitchell reviewed the zoning for the property and the surrounding area and noted that the property is currently R-8. He pointed out B-1 zoning across the street and BCS and B-RT zoning along Statesville Boulevard and remarked that the intensity increases closer to Majolica Road. He explained that B-2 is most similar to BCS which is a light commercial zoning but the BCS district has a cap of two thousand five hundred (2,500) square feet on development. The B-RT district does not have the same cap but allows like commercial uses. He stated that B-2, as a light commercial district, allows selected retail trade, restaurant and office and includes multi-family.

Mr. Mitchell referred to the Comprehensive Growth Plan and Vision 2020 efforts to stop the stripping out of major corridors, specifically the gateways into the City, and noted that US 70/Statesville Boulevard is considered a gateway. He indicated that the US 70 Corridor Study was performed by staff and the Planning Board in 2001-2002 as a proactive approach to corridor development as part of the North Carolina Department of Transportation widening project. The study called for coordinated ingress and egress along US 70 and the concentration of like uses in nodes. He pointed out that the study was approved by the Planning Board but was not adopted by City Council. During the review of this case the Planning Board reviewed the study in their deliberation but recognized that it was not an adopted plan and could not be included as a part of their Statement of Consistency. Mr. Mitchell explained that the plan calls for concentration of the heavier commercial uses at the major intersections, or nodes, such as Majolica and Statesville Boulevard. For the area located between the nodes the study calls for lower intensity zoning such as multi-family and office institutional in order to avoid the stripping out of the street.

Mr. Mitchell informed Council that the Planning Board approved the following statement, "The Planning Board finds and determines that zoning petition Z-04-06 is consistent with the adopted Strategic Growth Plan and the Comprehensive Plan and, as a result, the advancement of their goals, objectives, and policies for growth and development in the City of Salisbury." He noted that their motion passed 8-3. Mr. Mitchell stated that the Planning Board also voted 11-0 to bring the US 70 Corridor Study back to update it and recommend to City Council.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on zoning map amendment Z-04-06 Martha Agner.

Those who addressed Council were:

Ms. Martha Agner, 170 Francis Street, indicated that she owns the property at 2417 Statesville Boulevard and it is within a block of where she resides. She noted that many of the recommendations of the Vision 2020 Plan remind her of growing up in the Town of Spencer with its small town character and community and she feel this is also similar to what she has in Hendrix Estates where she now lives. Ms. Agner stated that the other segment noted in Vision 2020 has yet to be developed, that of a neighborhood store. She noted that residents in that area now have City water and sewer and a new fire station under construction and she feels it would expand on Vision 2020 if the property is rezoned. Ms. Agner stated that she bought the property in order to have control of the development and hopes her family can put a business on the property that would be compatible with the neighborhood. She noted that the adjacent neighbor, Ms. Jane Shoaf, did not need her property rezoned right now but she did not object to Ms. Agner rezoning her property.

Mr. Harold Poole, 310 Winterlocken Drive, stated that he is in opposition to the request based on his feeling that this is midway between Majolica Road and Lash Drive and an area that the US 70 Corridor study found should remain residential. He noted that B-2 is listed as light commercial use but he feels there are some uses allowed that are more than light commercial. He noted that the Ordinance states that buildings may be placed as close as fifty (50) feet to any street right-of-way which permits direct access to a property and he questions if the house in question could be used as commercial since it is less than fifty (50) feet from the right-of-way. Mr. Poole indicated he felt this might be a case of spot zoning since more than ninety-five (95) percent of the property is surrounded by R-8 and added he feels there are residential solutions to this property rather than moving to commercial. He stated that he hopes Council will have a chance to review the 2001-2002 Planning Board study of the US 70 corridor.

There being no one else present to address Council, Mayor Kluttz closed the public hearing.

Mr. Mitchell clarified that when staff referred to nodes of like uses they realized that not all uses listed in the B-2 zone are alike and did not intend for the statement to be taken that way. He explained that the statement was intended to mean like uses for a zoning district which include a variety of commercial uses in one node.

Mr. Mitchell commented that the fifty (50) foot setback mentioned by Mr. Poole would be required if the property is rezoned; however, if it is developed commercially parking can be placed within the fifty (50) foot setback. He stated that regarding the location of the property from Majolica Road, staff does not disagree that one thousand (1,000) feet might be far for a B-2 use and while staff supports the Corridor Plan it was not adopted by City Council. He stated that when the applicant originally approached staff she sought B-6 zoning and staff was able to work with her to bring the zoning down to B-2 to be more consistent with the zoning in the area. Mr. Mitchell commented that he does not think this is an issue of spot zoning and, as proven by case law, spot zoning is not a clear issue and cannot be easily judged.

Councilman Kennedy stated that he does not think Statesville Boulevard is conducive to housing because of the four (4) lane highway.

Thereupon, Mr. Kennedy stated that the City Council hereby finds and determines that adoption of the ordinance pertaining to zoning petition Z-04-06 is consistent with the adopted Strategic Growth Plan and the Comprehensive Plan and that adoption of the ordinance is reasonable and in the public interest due to its consistency with the Strategic Growth Plan and Comprehensive Plan and, as a result, its furtherance of the goals, objectives, and policies for growth and development in the City of Salisbury. Therefore, Mr. Kennedy made a **motion** to adopt an Ordinance amending the official zoning map of the City of Salisbury, North Carolina, by rezoning approximately 1.85 acres, one parcel located at 2417 Statesville Boulevard identified as tax map 330 and parcel 029, from R-8 district to B-2 district. Mr. Woodson seconded the motion.

Councilman Burgin commented that he is concerned that there is no plan in place for Statesville Boulevard and if this zoning change is approved he feels it will create a domino effect. He stated he agrees there will not be houses on this piece of property but he does think it could be multi-family and he is hopeful that something more than just business after business can happen on these properties. He stated that he feels Council should delay a decision on this until some form of plan is in place. He added that he cannot support this zoning change at this time.

Mr. Kennedy stated that Ms. Agner bought the property in good faith and the Council has not done anything with the Corridor Study. He noted that the Planning Board is going to work on the study but he does not feel Council should ask Ms. Agner to wait for the study to allow her to use her property.

Councilman Lewis stated that he takes comfort in the fact that Ms. Agner and her family live so close to the property. He indicated that if the Corridor Study is done correctly it will entail wholesale rezoning and will require a great deal of work. He added that he does not think Council can ask the petitioner to wait for a plan that may or may not be adopted.

Mayor Kluttz stated that she agrees with Councilman Burgin's concerns, but the Plan was developed five (5) years ago and no action has been taken on it during that time and she does not feel it is fair to the petitioner to deny her request because of the Plan. She added that she would like the development of the Study to begin.

Mayor Kluttz then called for the vote. Messrs. Kennedy, Lewis, Woodson and Ms. Kluttz voted AYE. Mr. Burgin voted NAY (4-1).

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING

APPROXIMATELY 1.85 ACRES, ONE (1) PARCEL, LOCATED AT 2417 STATESVILLE BOULEVARD, IDENTIFIED AS TAX MAP AND PARCEL 330-029, FROM R-8 DISTRICT TO B-2 DISTRICT.

(The above Ordinance is recorded in full in Ordinance Book No. 21, Zoning & Planning, at Page Nos. 95-96, and is known as Ordinance No. 2006-31.)

### **ROWAN COUNTY LAND FOR TOMORROW**

Mr. Jason Walser, Director of Land Trust for Central North Carolina, and Ms. Gail Elder White, Parks and Recreation Director, presented a resolution in support of Land for Tomorrow. Mr. Walser stated that Land for Tomorrow is a proposal for a bond referendum in November 2006 for \$1 billion over five (5) years to be used for conservation of lands across the state. He added that it consists of public, private and government entities in a non-partisan effort to secure funding to save and purchase lands, as they become available, for future State infrastructure. He pointed out that industries such as tourism, military bases, agriculture, forest products and wildlife recreation will be eligible to receive funds provided by the bonds.

Mr. Walser stated that North Carolina's population is expected to grow by fifty (50) percent by the year 2030, resulting in economic change, pollution, increased traffic and loss of landscapes and historic sites. He pointed out the five (5) year goals of Land for Tomorrow are:

- Double the rate of protection from three thousand (3,000) to six thousand (6,000) miles of stream buffers
- Protect fifty thousand (50,000) acres of productive farmland in voluntary agricultural districts
- Protect twenty-five thousand (25,000) acres of private forest land within Forest Legacy Areas
- Increase urban forest in air quality non-attainment cities
- Protect sixty thousand (60,000) acres of State parks and trails
- Protect land, build trails and develop park facilities needed in local communities
- Protect one hundred fifty thousand (150,000) acres of important natural sites and hunting land
- Protect fifty thousand (50,000) acres along Blue Ridge Parkway and other designated scenic highways
- Protect three thousand (3,000) acres of State historical sites
- Repair, renovate and improve accessibility to three hundred fifty (350) historic landmarks open to public

Mr. Walser stated that \$3.9 billion is needed for the five (5) year funding and will be invested in the following trust funds:

- Natural and Cultural Heritage Trust Fund
- Clean Water and Air Trust Fund
- Parks and Recreation Trust Fund
- Working Lands and Sustainable Communities Trust Fund
- Landing Jobs: a new initiative

Mr. Walser concluded by asking Council to adopt the resolution.

Mayor Kluttz expressed her appreciation for bringing the proposal to Council and stated that she feels it is critical to save properties.

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

### **LAND FOR TOMORROW RESOLUTION**

(The above resolution is recorded in full in Resolution Book No. 12, at Page No. 27, and is known as Resolution No. 2006-15).

### **PRESENTATION FROM THE DOWNTOWN PUBLIC ART COMMITTEE**

Ms. Barbara Perry, Chairman of the Downtown Public Art Committee, and Ms. Lynn Raker, Urban Design Planner, presented the first marker for the History and Art Trail which will be installed at 106 South Main Street and added that this is the first of eleven (11) markers to be installed. She noted that the markers will display five (5) eras with the first marker displaying the Railroad and Industrial Era. She expressed appreciation for the contributions from the Proctor Foundation, the Woodson Foundation and the City of Salisbury. She noted that the next ten (10) markers will go out for bid.

Ms. Perry recognized committee members Mr. Robert Crump, Ms. Judy Newman and Mr. Jack Thompson, along with staff members Ms. Janet Gapen, Ms. Lynn Raker and Mr. Joe Morris.

Mayor Kluttz stated that the marker was very attractive and thanked the committee for their presentation.

### **REPORT REGARDING SALISBURY CULTURAL RESOURCES INVENTORY**

Mr. Joe Morris, Planning and Community Development Director, stated that the City received an application from the School of Government to apply for and receive student research projects being conducted through the University of North Carolina Master of Public Administration (MPA) Program. He introduced MPA team members Mr. Christopher Sherman, Riverside, California, Mr. David Leonetti, Tabernacle, New Jersey, Ms. Brandy Sparks, Mocksville, North Carolina and Mr. Doug Paris, Salisbury, North Carolina.

Mr. David Sherman thanked the City Council, City Manager David Treme, and Mr. Joe Morris for giving the team the opportunity to conduct this study and to meet with them today to present the Salisbury Cultural Resources Inventory Report.

- Background
  - City of twenty-nine thousand (29,000)
  - Historic: Formed 1753
    - Andrew Jackson, Daniel Boone, Historic District
  - History of Innovation: Food Lion, F&M, Powercurbers
  - History of Support: Local business and patrons
  - Strong Cultural Resources:
    - Three (3) Colleges, Regional Visual Arts Center, Symphony
    - Theatre, Regional Environmental Center, Preservation
- Purpose
  - Council Goal: Creating a cultural, historic, environmental, and arts identity for Salisbury
  - First Step: Gathering baseline data on cultural resources
  - Goal: Assessment of cultural stakeholders' views and opinions on the current state of Salisbury's cultural resources
- Methodology
  - In-depth interviews consisting of twelve (12) structured, open-ended questions
  - Fifty-seven (57) percent response rate
  - Wide-variety of respondents: artists, board members, philanthropists, and representatives from the majority of cultural organizations in Salisbury
  - Limitations

Mr. Doug Paris presented the interview results and recommendations:

- Interview Results
  - Definition of Cultural Resources
    - Fine Arts: Theater, music, visual arts, galleries, artists/freelancers
    - History: Heritage, tradition, architecture, design, preservation
    - People: Unique local personalities, donors/patrons/supporters
    - Actual Sites: Venues, public art (murals), public gathering places
    - Crafts: Artists, craft artisans, crafts specialty shop
  - Current Relationships or Ties with Other Cultural Resources (links between the various cultural resources)
    - Multiple – the majority of Cultural Resources collaborate with two (2) or more Cultural Resources
    - Limited
    - None
  - Relationships desired
    - Planning
    - Funding
    - Events
    - With City of Salisbury
    - None
  - Cultural Strengths of Salisbury
    - Big Three (3) (Piedmont Players, Salisbury Symphony, Waterworks Visual Arts Center)
    - Historic Preservation
    - Patrons
    - City Staff and Council
    - Artists
    - Environmental Center
    - Rowan Museum
    - Arts Council
    - YMCA
    - Other
  - Cultural Weaknesses
    - Advertising
    - Arts Council
    - Lack of Civic Center
    - Scheduling Conflicts
    - Long-Term Planning
    - Downtown Stores
    - Fundraisers
    - Diversifying Funding
    - Other
  - Perceptions of Salisbury
    - Small Town, Big Benefits

- History
- Progressive
- Attractive Feel
- Geography
- Cost of Living
- Environmentally Conscious
- Other
- Reasons for Moving or Staying in Salisbury
  - Business Related
  - Quality of Life
  - Cultural Resources
  - Downtown/Historic Properties
  - Location
- What the City can do to help the Cultural Resources
  - Marketing
  - Long-Range Planning
  - Facilitate with schools
  - Public Performance Space
  - City is Already Helping

- Physical Appearance of Downtown
- Other
- Threats to Salisbury's cultural resources
  - Continuity of Funding
  - Lack of Customers
  - Cultural Complacency
  - Unsupportive Businesses and Residents
  - Weakening Arts Council
- Other Cities to serve as a model for Salisbury
  - Madison, GA
  - Culpepper, VA
  - Davidson, NC
  - Indianapolis, IN
  - Loveland and Grand Junction, CO
  - Charlotte, NC
  - Statesville, NC

- Recommendations
  - Continue with the branding of the City
  - Create a strategic vision plan for Salisbury's cultural resources
  - Facilitate a stronger arts council
  - Facilitate partnerships between Rowan-Salisbury School System and cultural resources

Mayor Kluttz thanked the team for their hard work in creating the study and expressed how helpful it will be to the City.

Councilman Burgin stated that he feels the team did an excellent job compiling a very concise vision of where Salisbury is and recommendations for the future.

#### **REPORT ON MEETING OF SALISBURY-ROWAN UTILITIES REPRESENTATIVES AND FEDERAL OFFICIALS**

Mayor Kluttz informed Council that she and a City delegation comprised of Mr. David Treme, City Manager; Mr. Matt Bernhardt, Assistant City Manager for Utilities; Mr. Jeff Jones, City Engineer for Utilities; Mr. Randy Tinsley, Environmental Attorney; and Dr. Martin Doyle, Professor at the University of North Carolina traveled to Washington, DC during the week of April 24, 2006. She stated that the delegation had a meeting with Senator Elizabeth Dole and staff. They also met with the Chairman of the Federal Energy Regulatory Commission (FERC), and noted that the delegation then made a two (2) hour presentation to eight (8) members of the Chairman's senior staff. The delegation also met with Senator Burr's Legislative Council, Congressman Mel Watt and his Chief of Staff. She stated that the purpose of the meeting was to discuss Alcoa's relicensing application and to discuss the City's concerns regarding the facilities in the Yadkin River and the effects the sedimentation and potential flooding are having on intake. She stated that the City is looking at the threat of the loss of millions of dollars for the utility and water and the City cannot afford to allow this to happen. She added that the City felt it was vital to explain the threat to FERC before they approve Alcoa's relicensing application. Mayor Kluttz stated that these concerns have been expressed to Alcoa and that the City requested a study on the sedimentation from Alcoa, adding that the City does not feel an accurate study has been done. She stated that an abbreviated version of the presentation made in Washington will be given to Council at its next meeting.

Councilman Burgin asked if the City is anticipating FERC to add a requirement to the Alcoa licensing that sediment be kept out of the system. Mr. Treme stated that he feels the delegation demonstrated that there is a negative impact on our facilities and wants FERC to be aware of this during the relicensing and added that he feels there is a vehicle available in the licensing to allow FERC to address this issue.

Mayor Kluttz stated that the delegation felt reassured that FERC will consider this very seriously before allowing the permit and that there will be time for public input and for the City to present further studies.

#### BOARDS AND COMMISSIONS APPOINTMENT

Mayor Kluttz stated that at the April 18 Council meeting Mr. Glen Taylor was recommended for the Planning Board, however, Mr. Taylor has withdrawn his name for consideration.

Thereupon, Mr. Woodson made a **motion** to nominate Mr. Robert Cockerl to the Extra Territorial Jurisdiction position on the Planning Board. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

#### BUDGET PUBLIC HEARING AND COUNCIL WORKSHOP

Mayor Kluttz stated that the date of May 16 has been set for the budget workshop public hearing and the Council budget workshops will be held May 23 at 10:00 am and if a second session is needed, May 24 at 12:00 Noon.

#### EXCUSE COUNCILMAN KENNEDY

Councilman Kennedy stated that due to an appointment he needed to be excused from the meeting. Mr. Burgin made a **motion** to excuse Councilman Kennedy from the meeting. Mr. Lewis seconded the motion. Messrs. Burgin, Lewis, Woodson, and Ms. Kluttz voted AYE. (4-0)

#### COMMENTS FROM THE CITY MANAGER

##### (a) Presentation of FY2006-2007 Proposed Budget

City Manager David Tremé presented the proposed FY 2006-007 budget. He stated that the total budget for all City funds is \$55.6 million. He noted that he feels the proposed budget maintains existing services, recognizes past commitments, and recognizes the volatility in fuel prices. He added that even though the amount of City gas consumption is down, Salisbury will pay an additional \$258,000 for gas in the coming year, resulting in an increase of one (1) cent in the tax rate.

Mr. Tremé stated that last year Council agreed to staff and construct a new fire station in order to maintain the City's Class two (2) insurance rating and noted that there are only five (5) cities in the state that have ratings equal to or better than Salisbury's. He added that this rating also assists the City in achieving national accreditation from the Commission of Fire Accreditation International.

Mr. Tremé stated that the same forces that have an effect on gasoline have also resulted in the necessity for revised solid waste fees. He noted that the City's contracts have increased and he recommends bidding out the contracts but also implementing the proposed fee of \$1.82 to be effective in July.

Mr. Tremé noted that the budget includes an average three (3) percent merit pay increase for City employees and added that the City's health insurance will increase nine and eight tenths (9.8) percent. He pointed out that of the twenty-six (26) additional positions requested by City management, he is recommending five (5) additional full-time positions and two (2) part-time positions.

Mr. Tremé explained that the budget provides funds for a Fiber To The Home contract, a citizen resource center, additional City branding and continued cultural diversity efforts.

Mr. Tremé stated that he recommends an average of approximately seven and one half (7.45) percent increase in the water/sewer rate which includes two and seven tenths (2.7) percent dedicated to the Interstate 85 debt service, one and three tenths (1.3) percent to waste water sales and approximately three and one half (3.45) percent for work with Alcoa.

Mr. Tremé concluded by recommending a two and one half (2.5) cent increase in the tax rate and approximate seven and one half (7.45) percent increase in water and sewer.

#### MAYOR'S ANNOUNCEMENTS

##### (a) Law Enforcement Appreciation Breakfast

Mayor Kluttz announced that the Optimist Club will host a Law Enforcement Appreciation breakfast May 9, 2006 at 7:30 a.m. at the Holiday Inn.

(b) Peace Officers Memorial Service

- Mayor Kluttz announced the Rowan County Peace Officer's service will be held May 18, 2006 at 12:00 Noon at First Presbyterian Church.

(c) Recognize Councilman Burgin

- Mayor Kluttz congratulated Councilman Burgin on the birth of his grandson, Aaron Jennings Burgin.

(d) Hendrix Barbecue Driveway

- Councilman Lewis informed Council that the Westcliffe Neighborhood Association met regarding the curb cut at Hendrix Barbecue and voted unanimously not to support the curb cut onto Ashbook Road. He stated that they expressed their appreciation for Council's support.

**SET PUBLIC HEARING FOR BUDGET**

- Thereupon, Mr. Woodson made a **motion** to set a public hearing for the budget on Tuesday, May 16, 2005. Mr. Lewis seconded the motion. Messrs. Burgin, Lewis, Woodson, and Ms. Kluttz voted AYE. (4-0)

**ADJOURNMENT**

**Motion** to adjourn the meeting was made by Mr. Paul Woodson, seconded by Mr. Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 7:15 pm.

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Mayor

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City Clerk