

Salisbury, North Carolina

January 3, 2002

The City Council of the City of Salisbury met in regular session in the Council Room of the Municipal Building on Thursday, January 3, 2002, at 4:00 p.m., with the following members being present and absent:

PRESENT: Mayor, Susan W. Klutz; Mayor Pro Tem, Paul Woodson, Jr.;
Councilmen William (Bill) Burgin; William (Pete) Kennedy,
and Robert (Bob) Martin.

ABSENT: None.

The meeting was called to order by Mayor Klutz. The invocation was given by Councilmember Kennedy.

Staff members present were:

David W. Treme - City Manager

Swannetta B. Fink - City Clerk

Sam Brady - Fire Chief

Larry Chilton - Director, Land Management

& Development

Chris Herring - Police Chief

Rivers Lawther - City Attorney

Foster Owen - Assistant City Manager

John Sofley - Finance Director

John Vest - Director of Utilities

Gail Elder White - Director, Parks & Recreation

RECOGNIZE DR. DENNIS HILL, CHAIRMAN OF THE 2001 ROWAN COUNTY UNITED WAY CAMPAIGN

Mayor Klutz recognized Dr. Dennis Hill, who served as Chairman of the 2001 Rowan County United Way Campaign, for the success of this year's campaign. Others in attendance who worked closely with the campaign were Ronnie Smith, Board member,

Jackie Harris, Assistant Director and Bob Lippard, Director of the Rowan County United Way. Mayor Kluttz noted this has been an unusual year; we don't normally recognize campaigns of charities just because they make their goal. Because our local economy has been suffering, and because of the events following September 11 which caused many to send their charitable contributions to help in New York, the local United Way volunteers have had to work harder to reach their goal. Mayor Kluttz recognized that the United Way was courageous enough to set the goal high and to set a goal that they knew was necessary for the well-being of our community. She recognized the local United Way for being one of few in the state who reached their goal. Dr. Hill spoke words of praise about the United Way volunteers, particularly Ronnie Smith and Assistant Director Jackie Harris. On behalf of the City of Salisbury, Mayor Kluttz presented to Dr. Hill for the United Way, a key to the City of Salisbury. Mayor Kluttz also thanked Councilmember Burgin and City Manager Treme who participated on the United Way Board.

CONSENT AGENDA

(a) Minutes

Minutes of the meeting of December 18, 2001.

(b) Corbin Acres Phase 1 - Annexation Request

Council received a petition requesting voluntary annexation of Corbin Acres, Phase 1, and adopted a resolution directing the City Clerk to investigate the sufficiency of the request.

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G. S. 160A-31, FOR VOLUNTARY ANNEXATION.

(The above resolution is recorded in full in Resolution Book No. 10, under Chapter XII - Miscellaneous, at Page No. 132, and is known as Resolution No. 2002-1.)

(c) Bridge Inspections

Council adopted a resolution authorizing the Mayor to execute an agreement with NCDOT concerning bridge inspections.

RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION CONCERNING BRIDGE INSPECTIONS.

(The above resolution is recorded in full in Resolution Book No. 10, under Chapter XII - Miscellaneous, at Page No. 133, and is known as Resolution No. 2002-2.)

(d) Retiring Reserve Officer

Approve issuing Badge and Sidearm to James D. Myers, a retiring Reserve Officer with the Salisbury Police Department.

Thereupon, Mayor Pro Tem Woodson made a **motion** to approve the Consent Agenda. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

GROUP DEVELOPMENT SITE PLAN - G-12-2001 - ROWAN COUNTY PARKING LOT, 300 BLOCK NORTH MAIN STREET

Mr. Hubert Furr, Development Services Manager, informed Council that this a site plan for the Rowan County parking lot located in the 300 block of North Main Street. It is on the corner of Main and Kerr Streets. Last year the zoning ordinance was amended in reference to group developments to require all buildings that were 10,000 sq. ft. or more, and all parking lots that are 50 parking spaces or more, to come through the Planning Board and City Council. This parking lot has 94 spaces.

Mr. Furr informed Council that the staff Technical Review Committee recommended approval as submitted. All zoning criteria have been met as far as parking spaces, driveways and landscaping. The Planning Board added one condition which was a three (3) foot vegetative screening along North Main Street. The Historic Preservation Commission also approved the site plan with the screening. Therefore, the recommendation is to approve the site plan with the screening of no higher than a three (3) foot vegetative screening.

Councilmember Kennedy asked about the lighting in the parking lot. Mr. Furr noted that the Historic Preservation Commission has addressed this issue by assigning a committee to work through minor works to approve the lighting fixtures.

Councilmember Martin asked if that was reserved parking or is it opened to the public. Mr. Furr stated he did not know but indicated that in our ordinance it doesn't make any difference.

Mayor Klutz asked about the County's opinion on adding the screening. Mr. Furr indicated that he thought there was some objections but it wasn't brought out at the Planning Board level. They did resubmit the site plan showing the screening.

Thereupon, Mr. Burgin made a **motion** to approve the plan as recommended by the Planning Board which would include the three (3) foot vegetative screening along North Main Street. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

ZONING TEXT AMENDMENT - SECTION 9.05 - SIGNS PERMITTED BY DISTRICT

Section 9.05 Signs Permitted by District, relative to eliminating the front yard setback for ground signs in the B-5 Central Business District.

(a) Mr. Patrick Kennerly, Planner, informed Council that the first text amendment being addressed involves ground signs in the B-5 zoning district. Currently in our zoning ordinance, there is no specific setback requirements for any ground signs other than in the B-5 Central Business District which requires a ten (10) foot front yard setback for ground signs. A new law office has located in the 100 block of North Lee Street. The law firm would like to place a small, relatively low ground sign in the front of the business. They had requested to place the sign in the required ten (10) foot front yard setback which is not allowed, Mr. Kennerly advised. Staff took this matter to the legislative committee of the Planning Board, which saw no reason to keep the ten (10) foot setback since it is not in any other zoning districts. The Planning Board recommends that the ten (10) foot front yard setback be removed in the B-5 zoning district. (9-0)

(b) Mayor Klutz convened a public hearing, after due notice and advertisement thereof, on the following zoning text amendment relative to eliminating the front yard setback for ground signs in the B-5 Central Business District.

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

(c) Thereupon, Mr. Woodson made a **motion** to approve the text amendment to Section 9.05 relative to eliminating the front yard setback for ground signs in the B-5 Central Business District. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, BY AMENDING SECTION 9.05, SIGNS PERMITTED BY DISTRICT, PARAGRAPH (3) B-5 CENTRAL BUSINESS DISTRICT, SUBPARAGRAPH (g) GROUND SIGNS.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter XI - Zoning & Planning, at Page No. 28, and is known as Ordinance No. 2002-1.)

ZONING TEXT AMENDMENT - SECTION 8.31 AND SECTION 7.01

Section 8.31 is relative to the B-CS Convenience Service Business District and Section 7.01 Nonconforming use relative to special use permits for convenience stores in the B-CS district.

(a) Mr. Patrick Kennerly, Planner, informed Council that there are several policies in the Salisbury 2020 Plan that support the establishment of small scale neighborhood oriented businesses to locate in close proximity to residential areas. The B-CS Convenience Service Business District was created many years ago for this. However, often times, existing neighborhoods are opposed to any rezoning that would allow for these types of neighborhood businesses to locate near them. In recent months, Council has considered this type of rezoning application. The most recent one, a request by Lane Yates, was adjacent to property in the Fulton Heights neighborhood. The neighbors weren't necessarily opposed to the neighborhood commercial zoning, but were primarily opposed to the possibility of a convenience store or ABC store locating on the property, Mr. Kennerly reminded Council. The Council originally denied the request, but later came back and approved a Special Use District. Council removed a few uses such as convenience stores. The Council, at that time, asked the Planning Board to look at making modifications to the B-CS district to make it less objectionable to the neighbors. The Planning Board recommends the following changes in the B-CS Convenience Service Business District:

- add the use "neighborhood grocery store, with a maximum size of 2,000 sq. ft. and a prohibition of the sale or use of alcoholic products.[BB]"

- modify the use "convenience stores [BB]" to "convenience stores, with the issuance of a special use permit as outlined in Section 7.01(5) Special Use Permit, (e). [BB]"

- Eliminate the following permitted uses: "Gunsmiths. [BB]"

- Eliminate the following conditional use: "Alcoholic beverage stores (ABC stores and other similar establishments). [BB]"

[Note: The [BB] at the end of a use pertains to the parking space requirement of "one space for each 200 square feet of total floor area."]

- Add a new Section 7.01(5)(e) which reads as follows:

That Section 7.01, Nonconforming use, paragraph (5), Special use permit, be amended to add the following subparagraph (e):

"(e) [Special use permits for convenience stores in B-CS District. The Salisbury City Council may authorize a special use permit for:

- (1) the establishment of any convenience store in the B-CS district
- (2) the expansion or enlargement of any convenience store in the B-CS district
- (3) the reconstruction (through fire, wind damage, etc. that exceeds 60 percent of the fair market value immediately prior to damage) of any convenience store in the B-CS district"].

Councilmember Burgin asked staff if the special use permit is renewable. Mr. Kennerly responded that, as it is written, there wouldn't be an expiration. If problems arose, at any point they could come back to City Council and the permit could be revoked. Mr. Burgin asked if the property is sold, is the special use permit part of the sale, or do they have to renew it as part of the new ownership. Mr. Kennerly noted it was his understanding that the special use permit would go with the property rather than the actual owner of the property. Mr. Burgin asked if we have the ability to put a time limit on a special use permit. Mr. Kennerly said he felt we do. Mr. Burgin stated the only thing that concerns him about the permitting is that it is forever because, then, there will be a huge resistance ever to give a permit. If we had it set up for an automatic renewal, Council's would have a little less pressure on them to allow for special use permits that allow alcohol, Mr. Burgin observed.

Councilmember Kennedy noted he understands the special use permit in that if any complaints come before City Council, then Council can rescind the permit. Mr. Kennerly agreed that this is the idea the Planning Board had.

(b) Mayor Klutz convened a public hearing, after due notice and advertisement thereof, to Section 8.31 relative to the B-CS Convenience Service Business District and to Section 7.01, Nonconforming use, relative to special use permits for convenience stores in the B-CS district.

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

Councilmember Kennedy noted that there are seven (7) convenience stores that would be grandfathered. If one of these stores close for a period of time, will they be able to reopen as a convenience store or will they have to comply with the special use permit, he asked. Mr. Hubert Furr reminded Council of the 6 months "grandfather" clause.

(c) Thereupon, Mr. Kennedy **moved** to approve the zoning text amendment for Section 8.31 relative to the B-CS Convenience Service Business District and to Section 7.01, Nonconforming use, relative to special use permits for convenience stores in the B-CS district. Mr. Martin seconded the motion, Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES, OF THE CITY OF SALISBURY, NORTH CAROLINA, TO AMEND SECTION 8.31, CONVENIENCE SERVICE BUSINESS DISTRICT (B-CS) RELATIVE TO CONVENIENCE STORES AND TO ADD A NEW SECTION 7.01(5)(e) SPECIAL USE PERMITS FOR CONVENIENCE STORES IN B-CS DISTRICTS.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter XI - Zoning & Planning, at Page Nos. 29-30, and is known as Ordinance No. 2002-2.)

STATUS REPORT - ASSOCIATED ASPHALT, INC. - JAKE ALEXANDER BOULEVARD

Assistant City Manager Foster Owen reminded Council that staff has been monitoring activities at the Associated Asphalt plant for over a year. Mr. Richard Kelly, Risk Manager for the City of Salisbury, was assigned to this responsibility. From time to time, he has updated Council on these activities. Mr. Owen noted that for a while staff thought our problems had perhaps almost been solved. Unfortunately, about the first of November, something happened and the City has had a rash of problems and complaints. He indicated it now seems important to come back to City Council and report what has happened in the last two and one-half month period.

Risk Manager Richard Kelly reported to Council that he last updated them seven (7) months ago relative to complaints for Associated and APAC and subsequent odors in the Jake Alexander Boulevard and Milford Hills area. As of today, 335 complaints have been received from area residents on 143 different dates, he stated. Five civil citations have been issued to Associated Asphalt, Inc. and two to APAC under the old ordinance. The City was overruled on that ordinance in that it was deemed that Associated was not a manufacturing plant or processor, but were more bulk storage and transfer, Mr. Kelly noted. Subsequently, the ordinance was rewritten to apply to the nuisance odors being emitted there. Under the new ordinance, 14 civil citations have been issued to Associated Asphalt, Inc. within the last 3-4 months. From September 17 - November 10, no complaints were received from area residents, Mr. Kelly noted. Beginning on November 10, massive complaints totaling 78 were received over the next couple weeks resulting in 11 civil citations issued to Associated Asphalt, he stated. On Mr. Kelly's visit to the terminal, he speaks to the terminal manager or operator on duty, he noted. The City Manager's office did receive correspondence from the President of Associated indicating they had changed the supplier of the bulk asphalt liquid from a Venezuelan vendor to a domestic American vendor. Associated thinks that has caused the odors to increase to the point that it would justify all these recent complaints, according to Mr. Kelly. He added things seem to have taken a turn for the worse.

The Department of Environment and Natural Resources (DENR) set up three testing stations at the above referenced site. They began monitoring the air in June and ran the testing sites through September 15 when they took them down. Mr. Kelly has communicated with DENR in Raleigh a number of times and they have promised the results of the testing. They have not come through with it yet, he said. The last time he spoke with the Division Supervisor, Mr. Steve Schliesser in Raleigh. Mr. Schliesser indicated his goal was to have a public hearing prior to Christmas, Mr. Kelly noted. No hearing has been held thus far. Numerous telephone calls have been made and DENR has failed to return the calls. Staff is in limbo as to what the analyzation will prove or disprove since there has been no correspondence from them [DENR].

Mr. Kelly reported having received 335 complaints with 21 civil citations being issued, 19 to Associated and 2 to APAC. Mr. Kelly indicated that typically when he goes out on an inspection of the facilities APAC has been closed. They have been down for the last three weeks for winter repairs. Associated is the one he has dealt with and issued civil citations.

Mayor Pro Tem Woodson asked if these were \$100.00 citations. Mr. Kelly replied that the first is a warning, the second is a \$50.00 citation, and all subsequent citations have a value of \$100.00. They have paid all of the citations except for the last 4 issued in late December, he noted. They have termed it "paying under protest."

Mayor Klutz informed Council that she has had a request from at least one person in the neighborhood who would like to speak. Mayor Klutz announced that Council will recess the current council meeting today to go into closed session with the attorneys on Monday, January 7, at 9:30 a.m.

Mayor Pro Tem Woodson said it bothers him that the Department of Environment and Natural Resources has not gotten back with the City concerning this matter. Mr. Owen replied it has been very frustrating that we have not been able to get them to respond.

Mr. Charlie Jarrell, 1637 Wiltshire Road, told Council it is back "big time." It is funny that it has come back since the monitors were taken away. Mr. Jarrell stated he has been doing some snooping around and have found out that everybody in the mall has recently learned what this odor is coming from. He indicated every one of them would have been here today but they were closed due to the snow. Mr. Jarrell told Council the Belk's manager seemed very upset about this. He said they would have been here to have some say; they are just like us - upset. He said it is coming into the stores, bothering the customers, getting in the clothes and the food vendors are having a time with it. The whole mall is having a time with it, he noted. They are like us now, ready to get it over with. That's the way we are still feeling and we still want something done, he said.

Ms. Elizabeth Ruth, 1632 Wiltshire Road, told Council that she has been here on numerous occasions. She noted she doesn't know what else to say except "it's in your hands to do with the best you can." She indicated she didn't want to threaten but said they have gotten to a point that if City Council can't take care of it, they will. She noted it's not going to be nice. They have been more than patient, she stated. She said she hears about the Council being neighborhood oriented and how concerned Council is about putting in fast food, etc. Ms. Ruth pointed out "If you get complaints from the neighborhood, do you have any recourse?" She asked "What are we doing here?" She said "We have been doing this since November of 1997 and it is now January 4, 2002. Nothing much has been accomplished, she noted, and added we're back to square one. She expressed appreciation for the Council's help so far and praised Richard Kelly for all that he has done for them. She said he gets calls all day and night and he is willing to go out in horrible weather to sniff and issue citations. She again thanked the Council and stated "please, let's do

something."

Mr. Jay Dees, Ketner and Associates Law Firm, stated he would like to clarify a couple issues. He noted first, we promised everybody a quicker line of communications when they got into this thing. He further noted we're poor communicators; we haven't communicated our efforts of what's been happening. This is an example that communications need to be a two-way street, he noted. He said we need an update on Associated and the person who's in the best position to give an update on the efforts is Bill Kirk, President of Associated Asphalt. They were only aware of meeting when they saw it in the newspaper, Mr. Dees noted. Mr. Dees indicated Mr. Kirk would like to have been here to explain. He said we're here to try to do that. It has been alluded to that the smell has gotten worse because the monitor stations are down, he said. It's leaving open to interpretation that they are doing something different since the monitor stations have been taken down. "Absolutely not", Mr. Dees said. They had to suspend all monitoring or efforts of evaluating and troubleshooting for the last process, which is all floating rail cars, while they did the monitoring, Mr. Dees explained. They were unable to do anything during that period per NCDENR and DAQ, he said. Since they have shut down, they have 3 proposals that are coming in from companies to look at the rail car situation. One is coming in Monday, he said. They are going to bring testing equipment and look at solutions to the last process which they think the problem has been narrowed down to, according to Mr. Dees.

"The fact is we didn't have many complaints in July, August and September", Mr. Dees said. They off-loaded 2.6 million gallons in July; 2.2 or 2.3 in August; a little over 1 in September and October; about 600,000 in November, and less than 600,000 in December, he stated. Mr. Dees indicated that they did switch suppliers at the time the complaints went up. Mr. Dees pointed out they acknowledge that and he stated a letter was sent indicting that. He said the fact is that less product is being off-loaded there.

The number of complaints are directly related to other factors which they do have some control over, he noted. The bottom line is now that the monitoring stations are down, they have resumed all efforts to bring in somebody to try to resolve the problem.

Council has been very good to give time, and time has been the big complaint of the neighborhood, he observed. At this point in time and given short notice of the meeting, gives the appearance of being reactionary to a problem that has been going on, Mr. Dees noted. All they have requested is fairness and openness, he told Council. Mr. Dees expressed they have been open in disclosing their efforts. They are committed to doing this and correcting any problems they have, and Mr. Dees says he is here to relay this sentiment from Mr. Kirk. What he doesn't want to see happen at this point, where they have narrowed this down to the last process, that they get to a point where a reaction as Council makes a decision to do any number of things that is going to take away any incentive they have to do something, Mr. Dees shared with Council. There needs to be a measure of common sense and resolution to this matter, he noted. This means allowing some time, at the inconvenience of some and the inconvenience of others. A long term resolution to the problem is not to be reactionary but to sit down and look at what is going on, Mr. Dees urged.

Mr. Kirk has made himself available to come down and explain exactly what's going on, who they're meeting with, the processes being talked about and the prices of these resolutions. Nothing has been hidden and nor do they intend to, he noted. But, the amount of material has decreased over the last 6 months and this is the slow period in time. He said they have addressed the issue of a new supplier and they have people coming in. They are doing what they can; they are moving as quickly as possible; and they want to find a solution, he indicated. He noted they're setting the tone for this kind of technology for other places. They don't want City Council to react to this last flurry and say "that's it, you're done." Mr. Dees asked Council to work with them, ask them, they will present the information, but they need notice to be able to do it properly and give Council the information so they can make an informed decision.

Mayor Klutz reminded Council that they will recess into closed session to finish the discussion on the odor complaints. She assured the neighbors that Council is as frustrated as they are but they will be discussing the matter at 9:30 a.m., on Monday, January 7. A report of the meeting will be given at a later date.

Councilmember Kennedy noted that if Mr. Dees has something to present to Council, they need to have it to them by Monday morning before they go into closed session.

City Manager Treme stated that he had invited any representatives to present any information that they had on any update at any time. He indicated he assumed where there is something to share, Mr. Dees and the Associated Asphalt group would have the opportunity to share it with City Council. He noted they are always welcome to share information. Mr. Treme indicated he was aware that efforts were being made to look at the last part of the process. He also has shared all information he has been given to City Council and tried to act as a positive conduit for the neighbors and company back to City Council, Mr. Treme noted. He also indicated they didn't have to wait to come in and share it. "Let us know and we'll welcome you," he said. Through July, August and September the complaints were down and things were looking good. Something happened to get this type of activity.

The solution to the problem is to have it resolved by the company and we would be delighted to have it happen, Mr. Treme noted.

BUDGET AMENDMENT - CONTROLLED SUBSTANCES TAXES FUNDS FOR POLICE DEPARTMENT

Police Chief Chris Herring informed Council that the first amendment relates to the purchasing of uniform sweatshirts to be used for the Wellness Program. The second amendment relates to an agreement with the Wildlife Association for an equipment shed on the property.

(a) Thereupon, Mr. Woodson made a **motion** to appropriate restricted Controlled Substances Taxes Funds for purchasing uniforms for the Police Department in the amount of \$1,612.00. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2001-2002 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. 18, under Chapter II - Administrative, at Page No. 43, and is known as Ordinance No. 2002-3.)

(b) Thereupon, Mr. Woodson made a **motion** to use the Controlled Substances Taxes Funds for purchasing of Capital Outlay Equipment for the Police Department in the amount of \$2,599.00. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2001-2002 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. 18, under Chapter II - Administrative, at Page No. 44, and is known as Ordinance No. 2002-4.)

YADKIN RIVER RAW WATER PUMP STATION & INTAKE DESIGN

City Manager Treme informed Council that we are trying to plan the water consumption for Salisbury and Rowan County over the next 30 years. During the study, a determination has been made that in the year 2005-2007, our 40 year old intake and pump station will probably have to be replaced at that time. We have to operate off our existing station while we build a new one. We are evaluating the sites to make sure we put this intake and pump station where it would be most beneficial to the City.

Mr. John Vest, Director of Utilities, noted that staff has been developing a 30 year water plan and part of that led to the recognition of this need. We requested qualifications from 13 different engineering firms. Willis Engineers was selected, he said. They have identified three potential sites for the new intake and pump station. The cost is \$70,000.00 to evaluate those and come to a recommendation on the best site. There are a lot of issues and pros and cons for each one. Once that is determined and we get the full scope of the project, the final contract will then be negotiated and design begun.

Thereupon, Mr. Woodson made a **motion** to do an interim contract with Willis Engineers in the amount of \$70,000.00. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

CAPITAL PROJECT BUDGET ORDINANCE - YADKIN RIVER PUMP STATION

Mr. John Vest, Director of Utilities informed Council that this Capital Project Budget Ordinance is to set up the \$70,000.00. One-third will be paid by one of the energy companies and two-thirds by the City.

Councilmember Kennedy **moved** to approve. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

YADKIN RIVER PUMP STATION, CAPITAL PROJECT ORDINANCE.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter II - Administrative, at Page No. 45, and is known as Ordinance No. 2002-5.)

AWARD CONTRACT - SOUTH ROWAN WATER LINES, PHASE 1

City Manager Treme informed Council that there has been a lot of discussion on the South Rowan Water Line. We have signed agreements with China Grove, Landis, Kannapolis, and Rowan County. We have bid out the portion of the project from Salisbury to China Grove. There are two parts of this. The other part is from China Grove to Landis, he said. We are still getting right-of-ways on the total project. There may be around 270 easements to be obtained as part of this work. Mr. Treme said we recommend approval and that it be contingent upon approval by Rowan County.

Mr. John Vest, Director of Utilities, stated that the \$400.00 per linear foot was a negotiated price of the low bidder for boring and tunneling. The bids initially went from \$180 to \$1,050.00 depending on whether it was boring or tunneling, he said. This reduced the bid amount by \$628,000.00. Staff recommends awarding the contract as presented.

Councilmember Kennedy asked about the towns in the South Rowan area buying water from Charlotte-Mecklenburg.

Mr. Treme noted that the State has given them a temporary inter-basin transfer permit. The State of North Carolina is aware that Salisbury has signed agreements with Kannapolis, China Grove and Landis for water for the future. The problem they had was it appeared they might actually run out of water in those areas before this project is completed later this year. They gave them a temporary inter-basin transfer permit so they could get water from Charlotte-Mecklenburg Utility Department through Concord, Kannapolis, and back to Landis and China Grove. Charlotte/Mecklenburg does offer their product at a unit price lower than Salisbury. This is a short term purchase.

Thereupon, Mr. Woodson made a **motion** contingent upon the County Commissioners also approving this and providing the funding for the following contracts:

- Division A-1 (line from Salisbury to China Grove)

for \$1,507,522.75

- Division B-1 (line from China Grove to Landis) for \$1,583,683.10

Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

RESOLUTION FOR RELEASE OF FUNDS TO CENTRALINA COUNCIL OF GOVERNMENTS

Upon **motion** of Mr. Kennedy, the following resolution was adopted for release of funds to Centralina Council of Governments in the amount of \$1,170.25. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALISBURY, REQUESTING RELEASE OF ITS APPROXIMATE \$1,170.25 SHARE OF REGION F FUNDS TO THE CENTRALINA COUNCIL OF GOVERNMENTS.

(The above resolution is recorded in full in Resolution Book No. 10, under Chapter XII - Miscellaneous, at Page No. 134, and is known as Resolution No. 2002-3.)

HIGHWAY 70 UPDATE

Mr. Dan Mikkelson, City Engineer, reviewed with Council the following four areas regarding U.S. Highway 70 matters:

- NCDOT Design Status
- Speed Study
- Accident History
- Vision 2020

Mr. Mikkelson showed Council an aerial photo of the area on US 70 at Mid Carolina Mall, Salisbury Mall, skating rink, Marketplace, and Lakewood Apartments. The existing conditions on Highway 70 show a traffic signal at Highway 601, traffic signal at entrance to mall, and a four foot wide concrete median. Mid Carolina Mall has two driveways that come directly out to U.S. 70 and one driveway that connects to the Salisbury Mall parking lot. From that driveway you do have direct access to and from the traffic signal, he noted. However, the property owner at Mid Carolina Mall is concerned that the driveway is there only through a gentlemen's agreement. If it should ever be closed in the future because the Salisbury Mall wanted it closed, he is concerned about access to Mid Carolina Mall if there is the median that is proposed by NCDOT. NCDOT's original design was to install a median with a traffic signal at Lash Drive and the median would continue on out. Under NCDOT's original proposal is that traffic would get to Mid Carolina Mall at the traffic signal and through the private driveway opening. This is the one the concern was about from the property owner and the merchants at Mid Carolina Mall, Mr. Mikkelson pointed out.

Mr. Mikkelson reviewed with Council the following alternatives:

NCDOT Design Status

1- provide a crossover at the western most driveway to Mid Carolina Mall.

(DOT looked at this and found there was not sufficient distance between the traffic signal at the Mall and this proposed entrance)

2- retain two-way left turn lane (TWLTL) for 10 years

(DOT felt the accident rate would force them to install the median - denied)

3- provide a crossover at Holly Avenue which wraps around behind Salisbury

Marketplace (if private drive is closed, traffic coming from town to Mid Carolina

Mall could make U-turn and come back to mall - DOT approved)

NCDOT Final Decisions:

- Revisions announced in November, 2001
- Additional pavement for U-turns
- Additional median crossovers:
- Holly Avenue
- Dental offices (2440 Statesville Blvd.)
- St. Matthews Episcopal Church
- Beginning of next phase
- Bradley Drive crossover shifted west
- Revisions to drainage

Speed Study

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Mr. Mikkelsen stated that as part of the public input process, citizens had requested that a study be done of the speed limit in that area. The posted speed limit is 45 mph and there are no geometric issues in that area. The 85 percentile speed was 48 mph. The maximum recorded speed was 53 mph; average recorded speed was 44 mph; and the minimum recorded speed was 37 mph. Nobody was traveling as low as 35 mph so the 45 mph speed limit is appropriate, he stated.

Accident History

Mr. Mikkelsen informed Council that there was 5 years of accident history reports between the entrance to the mall and Holly Avenue. There were 12 accidents reported that were determined "correctable" by the revised design. Three of those accidents involved injuries with an average damage of \$3,100.00 per accident. The severity index for these accidents is 3.5 he noted. An index of 1 would be low and 5 would be high priority. The current accident rate is a moderate accident rate which does not need immediate attention. However, that accident rate is expected to increase as the traffic volume increases, Mr. Mikkelsen stated. Within 10 years time, the increase in traffic will get to the point where the severity index would reach that high priority level.

Vision 2020

Mr. Mikkelsen pointed out that Vision 2020 Policy C-10 says that the City shall encourage the connection of adjacent parking lots. The private connection between Mid Carolina Mall and Salisbury Mall is the concern of the property owner at Mid Carolina Mall. In this case, having that connection, serves multiple businesses from that existing traffic signal, it's the safest access to Mid-Carolina Mall, and it actually removes some turning traffic from the highway. If that connection was not there, traffic that was trying to get from Mid-Carolina Mall to Salisbury Mall would have to get back out on the highway, turn to enter, and then decelerate and turn to exit the highway and go back to Salisbury Mall. For that reason, having that connection is important not just to Mid-Carolina Mall but to the City of Salisbury and the traveling public on Highway 70, Mr. Mikkelsen stated. He recommended that the City should investigate some type of code revision that would be consistent with Policy C-10 to protect the existing connection, he said. Mid-Carolina Mall and Salisbury Mall are both considered group developments. When they make a change to their site plan, that change has to come before Planning Board and City Council. In that process, we should be able to come up with an appropriate code and standard that would protect existing connections between parking lots like this. More importantly, to be consistent with Vision 2020, a new policy needs to be adopted that would actually encourage or require connections of this type between adjacent parking lots, Mr. Mikkelsen stated.

Summary

- 45 mph speed limit is appropriate
- Accident rate is moderate, but would increase without a median
- Crossover at Holly Avenue will allow U-turns within sight of the property
- The City should investigate code revisions to protect the existing connection between parking lots.

Mayor Klutz thanked Mr. Mikkelson for his report. All of us as a Council are very concerned. We are not only advocates for safety, but advocates for our businesses, she said. We don't want to see the businesses negatively affected. If they can't have the cut-through, Mayor Klutz recommended that this be sent to Planning Board to consider a code revision for the Vision 2020 for connectivity.

Councilmember Burgin said he would join the Mayor in asking the Planning Board to take a look at this to see if there is anything we can do. There are a number of 2020 initiatives that Council needs to talk about as well as implementation of strategies as a whole. This can be done at our planning retreat, he said. Mayor Pro Tem Woodson said he felt bad for the mall because it's really going to hurt them significantly not to get the cut-through there. Mr. Kennedy stated it should be noted that it was NCDOT's decision, not Council's, to allow this to happen. We did what we could. The next thing is to make sure there is some connectivity to those two malls, he said.

REPORT FROM CITY MANAGER

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(a) Planning Board

City Manager Treme informed Council that there are no Planning Board recommendations at this time.

(b) Utility Easement - BellSouth

Mr. Joe Morris, Urban Resource Planner, informed Council that in December, staff was authorized to advertise for Notice of Sale of an easement on City-Owned Property to BellSouth for a installation of a telecommunications utility crossbox. The box is to be located behind a particular corner at 205 East Council Street. The landscape plan calls for a landscape area against a retaining wall. We have a distance of 120 feet. This distance will be sufficient for the construction of the future parking deck. The location of the utility box will be in a location that will not be incompatible with that effort. Staff recommends that Council proceed with providing the easement to BellSouth for location of a utility telecommunications crossbox.

Thereupon, Mr. Woodson made a **motion** to proceed with the easement. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

Councilmember Kennedy asked if they could get an update on the Wal-Mart project at our next meeting.

MAYOR ANNOUNCEMENTS

(a) Boards & Commissions Luncheon

Mayor Kluttz reminded Council that February 14, 2002, 12:00 noon - 2:00 p.m., in the Council Chambers is set for the Boards & Commissions Luncheon.

(b) Council Retreat

Mayor Kluttz reminded Council of the Annual Council Retreat to be held February 21-22, 2002.

RECESS OF MEETING

Upon **motion** of Mr. Kennedy, seconded by Mr. Burgin, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voting AYE, the meeting was recessed at 5:40 p.m., until Monday, January 7, 2002 at 9:30 a.m., for the purpose of a Closed Session.

RESUME RECESSED MEETING

On Monday, January 7, 2002, at 9:30 a.m., the City Council resumed its regular meeting which began Thursday, January 3, 2002 at 4:00 p.m.

Present: Mayor, Susan Kluttz; Mayor Pro Tem, Paul Woodson, Jr.;

Councilmen William (Bill) Burgin, William (Pete) Kennedy,

and Robert (Bob) Martin.

Staff Members Present:

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City Manager, David Treme

Assistant City Manager, J. Foster Owen

City Attorney, Rivers Lawther

City Clerk, Swannetta Fink

Motion to go into Closed Session for the purpose of discussing an issue with legal attorneys regarding an asphalt problem was made by Councilman Burgin. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

At the completion of the Closed Session, Mr. Woodson made a **motion** to return to open session. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE. (5-0)

Mayor Kluttz announced that the Council had discussions with the environmental attorneys regarding various options. She advised that there will be a meeting in Raleigh on January 9 (Wednesday) with the Department of Environment and Natural Resources

(DENR) that our attorneys, she, and maybe one other Council member will attend. She shared that there may be another report from the attorneys to Council on Tuesday, January 15 (the next Council meeting).

Mr. Burgin **moved** to adjourn with Mr. Kennedy seconding the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voted AYE.(5-0) The meeting was adjourned at 11:15 a.m.

Mayor

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City Clerk