

Salisbury, North Carolina
August 3, 2004

REGULAR MEETING

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

ABSENT: None.

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

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following changes to the Agenda:

Addition of a closed session to discuss an economic development matter and a personnel matter.

SPECIAL ANNOUNCEMENT - LORD SALISBURY

Councilman Bill Burgin announced that Downtown Salisbury, Inc. (DSI) has planned a signature festival for Salisbury and introduced Ms. Meg Dees and Mr. Foster Owen who shared information about the Lord Salisbury Festival.

Mr. Burgin told Council that the mission of the Lord Salisbury Festival is to create exposure and awareness within the region for downtown Salisbury, its arts, antiques, specialty shops and historic heritage. He added that he feels this is precisely what Council has been trying to do.

Mr. Owen told Council that DSI has been discussing the need for a signature festival for several years. He noted that this year they are considering the events as a "sneak peak" of the full festival and hope that next year the festival will run for a week.

Ms. Dees informed Council that the festival will be held October 7-10, 2004 in conjunction with the OctoberTour and described the events that have been planned for the weekend

Mr. Owen introduced Lord Salisbury who will be attending the various events and informed Council that the original Lord Salisbury was a gentleman named Mr. George McPoole. Mr. Owen, Ms. Dees and members of the festival committee then presented Lord Salisbury Festival literature and t-shirts to Council.

Mayor Kluttz thanked the committee members for their enthusiasm and interest in doing something wonderful for Salisbury.

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of July 20, 2004.

(b) Final Subdivision Plat S-04-92 - Oakview Commons Phase 3-A

Approve final subdivision plat S-04-92 for Oakview Commons Phase 3-A, accept maintenance responsibility of Oak Leaf Lane and Oak Brook Drive, and adopt an ordinance to establish stop conditions.

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

(The above Ordinance is recorded in full in Ordinance Book No. 20, Traffic, at Page No. 137 and is known as Ordinance No. 2004-52.)

Thereupon, Mr. Kennedy made a **motion** to approve the consent agenda. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

COUNCIL COMMITTEE REPORT - SPECIAL USE PERMIT - SUP-03-04 - MICHAEL LEE KING, 1131 NORTH MAIN STREET

Mayor Klutz noted that at Council's last meeting Councilmen Lewis and Burgin were appointed to a committee for further study of SUP 03-04.

Councilman Lewis stated that this had been an interesting planning case, and he felt there had been good discussion and planning through the Planning Board, which resulted in great recommendations. He noted that the Council Committee also had discussion on several other issues before arriving at their recommendation. Mr. Lewis told Council that the committee recommends approving Special Use Permit 03-04 for Mr. Michael King with the conditions agreed upon by the Planning Board in addition to the following conditions:

- All fuel storage tanks are to be underground.
- No overnight storage of vehicles on the property.
- A time limit of ninety (90) days, from the time construction begins to the time all conditions are met and the site is ready to sell gas.

Councilman Burgin stated that he felt the Council Committee had a good meeting and was pleased to bring Council a resolution that they feel will allow everyone to move forward.

Thereupon, Mr. Lewis made a **motion** to approve Special Use Permit 03-04 Michael Lee King, 1131 North Main Street with the following conditions:

1. Products prohibited to be sold – no alcohol or tobacco shall be sold on the property.
2. Operating hours – operating hours for the store, gas pumps and other uses on the property shall be between 7:00 a.m. and 10:00 p.m.
3. No pay telephone – no operating, exterior pay telephone shall be allowed on the premises.
4. Landscaping – If the North Carolina Department of Transportation (NCDOT) enforces its twenty-five (25) foot front yard setback to gas pumps or canopies, an eight (8) foot landscaping strip at the front of the property. Types of landscaping points, etc. shall be as otherwise required for new development. If NCDOT does not enforce its twenty-five (25) foot setback to gas pumps or canopies then no landscaping requirement for street trees.
5. Landscaping planting yard – at the back of the property, adjoining SFC zoned property with the first house facing East 11th Street, the planting yard requirement shall be at the top of the hill. It shall consist of a six (6) foot tall opaque fence, with a minimum of a six (6) foot wide planting strip.
6. Signage – B-CS sign regulations must be complied with, except as further restricted in this paragraph: the existing ground sign could be structured to the B-CS sign requirements which require ground signs to be no larger than forty (40) square feet and no taller than fifteen (15) feet. A new ground sign would also have to meet these requirements. Only one ground sign could be allowed. In addition, the B-CS sign requirements for wall signs, canopy signs and other types of signs shall be observed except that only one wall sign shall be allowed and canopy signs shall contain only the name of the business or gas distributor.
7. Lighting – all lighting shall be directed away from residential uses.
8. Pool table – no pool table shall be allowed on the premises.
9. All fuel storage tanks to be underground.
10. No overnight storage of vehicles on the property.
11. A time limit of ninety (90) days, from the time construction begins to the time all conditions are met and the site is ready to sell gas.

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

ZONING MAP AMENDMENT - Z-10-04 - CITY OF SALISBURY

Z-10-04 - City of Salisbury

Located in the general vicinity of North Main Street between
Liberty Street and the railroad

(a) Ms. Janet Gopen, Planner II, stated that this request originated from the Planning Board, and seeks to rezone a portion of the downtown area in

the vicinity of North Main Street from B-6 General Business to B-5 Central Business. She noted that B-5 currently covers the core of the downtown area. The property adjacent to the proposed rezoning area is zoned M-1 and B-5. Ms. Gapen pointed out that the area is located within the Downtown Historic District Overlay and the parking exempt overlay also covers a portion of the area.

Ms. Gapen explained that in B-6 zoning there is a setback requirement that the front of a building must be set back thirty-five (35) feet from street right-of-way. She noted that there are also some uses allowed in B-6 that may be incongruous with a downtown environment. There is also a significant difference in signage allowed, particularly ground signs. She noted that B-5 zoning does not have a required front setback so buildings may be constructed or expanded to extend to the sidewalk, which creates a more pedestrian friendly downtown environment. Ms. Gapen told Council that the committee from the Planning Board spent approximately five (5) to six (6) months studying existing land uses and interviewed many of the property owners. The overriding result of the committee's study was that the existing land uses were almost all consistent with the B-5 district. She noted that some of the uses that are allowed in B-6 that would be eliminated with B-5 zoning include auto repair, paint and body shops, mini-warehouses and light manufacturing types of uses. Ms. Gapen indicated that one of the advantages for the zoning change is that there are a number of parcels and lots suitable for redevelopment in the area. She stated that overall this action is to set up a framework to support the future growth of downtown.

Ms. Gapen explained to Council that non-conforming uses or signs created by the rezoning would be allowed to remain. Signs can remain until they are replaced and land uses can continue until the operations cease for longer than one hundred eighty (180) days.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider Zoning Map Amendment Z-10-04 - City of Salisbury, located in the general vicinity of North Main Street between Liberty Street and the railroad.

Those speaking to Council **against** the proposal were:

Mr. Jay Dees, 121 East Kerr Street, Ketner and Dees Attorneys, informed Council that he represents a client who owns two (2) parcels at the intersection of Church and Cemetery Streets. He stated that his client purchased the property with certain expectations to develop it, and added that the rezoning is a down-zoning. He told Council that he feels this is premature since there is a group rewriting the zoning ordinance. Mr. Dees stated that a developer will lose the choices for allowable uses and he feels there are some uses in B-6 that will be eliminated in B-5 such as greenhouse, horticultural services, veterinarian clinics and bicycle sales that do not detract from downtown. He commented that people downtown need ancillary services and added that he feels the design standards can be dealt with using an overlay district. Mr. Dees stated that he did not think the down-zoning should take place now when it will change again when the City changes to a new classification with the new ordinance.

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

Mayor Pro Tem Woodson stated that he had been contacted by Mr. Lee Gillespie who owns a metal working shop and is opposed to the rezoning. He stated that Council wants to recruit new businesses to Salisbury and he has a problem restricting light manufacturing in this area.

Councilman Burgin stated that he felt as the new ordinance is being developed Council will have an opportunity to revisit what may or may not be appropriate downtown. He stated that he felt they should continue to do business while developing something that may be better, and commented that Council has tried to prepare the way for the down-zoning. He stated that the advantage for rezoning the downtown is that it will allow the buildings to be brought to the street, which is also beneficial to the developer. Mr. Burgin told Council that this will protect downtown during the interim until the new ordinance is adopted. He noted that if uses are eliminated Council can consider adding them back as needed.

Mayor Kluttz stated that she feels more comfortable down-zoning the area now and if a business comes along that would be an advantage to downtown, considering it on a case by case basis.

Councilman Kennedy stated that this has been studied for a long length of time and due to the lack of opposition he sees no problem and can support the change.

Councilman Lewis indicated Council is committed to promoting a positive business climate downtown and as individual circumstances arise they can be addressed.

(c) Thereupon, Mr. Burgin made a **motion** to approve the zoning map amendment Z-10-04. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 13.5 ACRES LOCATED ALONG NORTH MAIN STREET, WEST CEMETERY STREET, EAST CEMETERY STREET, WEST KERR STREET, EAST KERR STREET, EAST FRANKLIN STREET, AND THE EAST SIDE OF NORTH CHURCH STREET, IDENTIFIED AS PARCELS 69, 70, 77, 78, 79, 95, 96, 58, 59, 65, 63, 63-A, 62, 62-1, 205, 212, 204, 232, 231, 233, 230, 229, 228, 227 AND A PORTION OF PARCELS 74, 75, 76, 209-A, 218, AND 213 ON SALISBURY TWP TAX MAP 11, AND BY REZONING APPROXIMATELY 2.5 ACRES LOCATED ALONG NORTH MAIN STREET, EAST KERR STREET AND EAST LIBERTY STREET IDENTIFIED AS PARCELS 229, 449, 231, 232, 233, 234, 245 AND A PORTION OF PARCEL 237 ON SALISBURY TWP TAX MAP 10-4, AND REZONING APPROXIMATELY 4.9 ACRES LOCATED ALONG NORTH MAIN STREET, WEST LIBERTY STREET, NORTH CHURCH STREET AND WEST KERR STREET, IDENTIFIED AS PARCELS 215, 216, 217, 218, 219, 220, 223, 224, 225, 226, 227 AND 228, FROM B-6 GENERAL BUSINESS DISTRICT TO B-5 CENTRAL BUSINESS DISTRICT.

(The above Ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page Nos. 138-139, and is known as Ordinance No. 2004-53.)

NCDOT MUNICIPAL AGREEMENT - PROJECT 04-ST-005 - SALISBURY DEPOT

Mr. Dan Mikkelson, Director of Land Management and Development, informed Council that this project is being offered by the North Carolina Department of Transportation (NCDOT) in an effort to improve passenger rail service. NCDOT will reimburse the City ninety percent (90%) of the cost of installing a concrete platform and trackside canopy at the Salisbury Depot. He explained that the City will perform all of the administration and oversee the design and construction of the project. This will be in coordination with the Historic Salisbury Foundation who owns the train depot. Mr. Mikkelson stated that staff has been in contact with the Foundation and they are definitely in favor of the project. He noted that an agreement would need to be adopted with the Historic Salisbury Foundation for the on-going maintenance of the facility.

Mr. Mikkelson stated that the project was budgeted using an estimated \$100,000 maximum and the City's ten percent (10%) or \$10,000 has been budgeted. He noted that when the agreement was received it had been raised to a \$500,000 maximum, but at this point they do not have an actual cost for the project. He recommended authorizing the Mayor execute the contract noting that there is enough money in the budget to hire an architect for the design and planning. This will give staff a realistic cost estimate and it can be determined if there is money in the current fiscal year that can be shifted or if it will be better to delay until next fiscal year.

Thereupon, Mr. Woodson made a **motion** for the Mayor to execute the municipal agreement with the North Carolina Department of Transportation, Project 04-ST-005 design and construction of the concrete platform and trackside canopy at the Salisbury Station. Mr. Kennedy seconded the motion.

Councilman Lewis clarified that the City's portion could be up to \$50,000. Mr. Mikkelson responded that this is correct. He noted that the City frequently leverages its dollars with state and federal funding.

Mayor Klutz asked if Council will have a choice to proceed if the project exceeds \$100,000. Mr. Mikkelson stated that the \$10,000 currently budgeted will be enough, along with the State's matching funds, to have the architectural work done. The cost estimate will then be brought back to Council to decide if they want to proceed. He added that Council will have the option to stop and be reimbursed from NCDOT for costs incurred up to that point.

City Manager David Treme stated that staff seeks matching funds to accomplish goals of the City Council but at this point they do not have a good idea of what the final cost will be. He noted this is the first step of a two step process and pointed out that Council will have the final decision.

Councilman Burgin stated that he knows the project will cost more than \$100,000 but it will serve a tremendous purpose for bringing in rail passengers.

Councilman Kennedy noted that tourism is a focus point for Council and he feels this is an important part of that.

Councilman Burgin then **called** for the question. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH NCDOT CONCERNING CONSTRUCTION OF A NEW CONCRETE PLATFORM AND TRACKSIDE CANOPY, PROJECT 04-ST-005.

(The above Resolution is recorded in full in Resolution Book No. 12, at Page No. 35, and is known as Resolution No. 2004-23.)

INFORMATION TECHNOLOGY SYSTEM - PERSONAL COMPUTERS

Mr. Dewey Peck, Purchasing Manager, and Mr. Michael Crowell, Information Technology Manager, explained that the City has a policy of replacing one-third (1/3) of its computers every three (3) years. He noted that this is because the computers are on a three (3) year warranty and they have found that the hard drives tend to expire at the end of this time. Mr. Peck stated that there is a fund established for this purpose and asked Council's approval for the purchase of ninety-seven (97) desktop personal computers and five (5) GIS personal computers for a total of \$115,520.

Thereupon, Mr. Burgin made a **motion** to award the contract for the purchase of ninety-seven (97) desktop and five (5) GIS personal computers to Fortress Systems, International for a total of \$115,520. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

SURPLUS PROPERTY - ELECTRONIC AUCTION

Mr. Dewey Peck, Purchasing Manager, and Mr. Michael Crowell, Information Technology Manager, informed Council that with the purchase of the new computers there will be ninety (90) personal computers taken out of service. He stated that staff sold a computer through electronic auction several weeks ago for a little over \$200, and they would like to sell the ninety (90) computers being taken out of service through the same means. He noted that they expect the computers to sell for the same amount, if not more, and anticipate making \$20,000 from the auction. Mr. Peck explained that the computers will be on EBay and will be available to anyone who has access to EBay.

Mr. Crowell explained that the City will still donate networking equipment along with cameras, projectors and other miscellaneous items to the school system, but the desktop computers themselves are of little use to them. He noted that when the City leased computers several years ago employees had the option of purchasing their computer at the end of the lease and it was a very popular benefit. By using EBay he feels it will give the employee a chance to buy their computer.

Thereupon, Mr. Kennedy made a **motion** to adopt the Resolution declaring ninety (90) personal computers as surplus and authorize disposition by electronic auction. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)
RESOLUTION DECLARING CERTAIN PERSONAL COMPUTERS SURPLUS AND AUTHORIZING DISPOSITION BY ELECTRONIC AUCTION.

(The above Resolution is recorded in full in Resolution Book No. 12, at Page No. 36, and is known as Resolution No. 2004-24.)

COMMENTS FROM THE CITY MANAGER

(a) Planning Board Recommendations

Council received the Planning Board recommendations and comments from their July 27, 2004 meeting.

MAYOR'S ANNOUNCEMENTS

(a) National Night Out

Mayor Klutz announced that the Salisbury Police Department will hold National Night Out tonight, August 3, 2004, at the Salisbury Mall and Salisbury City Park from 6:00 p.m. until 8:00 p.m.

(b) Police Reaccreditation

Mayor Klutz announced that there will be a public hearing on August 16, 2004 at 7:00 p.m. in City Council Chambers concerning the Police Department reaccreditation.

(c) Hood Seminary Dedication

Mayor Klutz announced that the Hood Theological Seminary recently held the dedication of their new facility and she stated that this Seminary is one of the most diverse in the nation and is a true example of putting diversity to work.

CLOSED SESSION

Mayor Klutz informed Council that she would entertain a motion for the Council to go into closed session concerning an economic development matter as allowed by NCGS 143-318.11(4) and a personnel matter as allowed by NCGS 143-318.11(6).

Thereupon, Mr. Kennedy made a **motion** to go into closed session concerning an economic development matter as allowed by NCGS 143-318.11(4) and a personnel matter as allowed by NCGS 143-318.11(6). Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

RETURN TO OPEN SESSION

Mr. Burgin made a **motion** to return to open session. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

Mayor Klutz stated that no action was taken in closed session.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 5:56 p.m.

Mayor

City Clerk