

Salisbury, North Carolina
December 5, 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.

ABSENT: City Clerk, Myra Heard.

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.

RECOGNITION OF THE SALISBURY HIGH SCHOOL WOMEN'S GOLF TEAM

- Mayor Kluttz recognized members of the Salisbury High School Lady Hornets Golf Team for winning the North Carolina 1A/2A/3A State Championship. Members of the team were North Piedmont Conference Player of the Year Lauren Smith, Allison Lee, Morgan Meng, Catherine Parks, Lauren Alexander and Coach Dale Snyder.

Mayor Kluttz read a Proclamation proclaiming December 5, 2006 as Salisbury High School Lady Hornets Golf Day and presented the Proclamation to the team.

RECOGNITION OF THE SALISBURY WOMEN'S TENNIS TEAM

- Mayor Kluttz recognized the Salisbury High School Lady Hornets Tennis Team for winning the North Carolina 2A State Championship. Members of the Team were Central Carolina Conference Player of the Year and All County Tennis Team member Susie Wear, All County Tennis Team members Meredith Weisler, Hanna Lebowitz, Chris Leonard, Ellen Emerson, Casey Collins and teammates Lindsay Davis, Holly Sexton, Molly Fowler, Kirstin Myerhoffer, Sarah Truemper, Brook Johnson, Shea Comadoll, Sun Dragas, Mariann Dandison, Sarah Shirley, Dzenita Sukurika, Alex Yarborough, and Central Carolina Conference Coach of the Year Chris Myers.

Mayor Kluttz read a Proclamation proclaiming December 5, 2006 as Salisbury High School Lady Hornets Tennis Day and presented the Proclamation to the team.

Mayor Kluttz expressed Council's pride in both the Tennis and Golf teams and congratulated them on their accomplishments.

CONSENT AGENDA

(a) Minutes

- Approve Minutes of the regular meeting of November 21, 2006.

(b) Stop Conditions in the Milford Hills Neighborhood

Adopt an **ORDINANCE** to establish stop conditions on Milford Drive, McCoy Road, and East Colonial Drive.

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. 21, at Page No. 157, and is known as Ordinance No. 2006-53.)

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

ZONING MAP AMENDMENT AND ISSUANCE OF A SPECIAL DISTRICT PERMIT FOR Z-11S-06, KEVIN WILSON, BRINGLE FERRY ROAD

Z-11S-06 Kevin Wilson, Bringle Ferry Road

(a) Swearing In

Mayor Kluttz swore in the following persons to testify in this case:

Mr. Kevin Wilson
Mr. Preston Mitchell

(b) Evidence Presented

Mr. Preston Mitchell, Senior Planner, indicated that this request is from Kevin Wilson, property owner, to rezone a portion of five (5) parcels from R-6 and B-1 to B-6-S and is a request for special use district. He reviewed aerial photographs of the area and noted that it is a three (3) acre parcel located along the south side of Bringle Ferry Road and west of I-85. Mr. Mitchell informed Council that the current zoning for the petition area is split zoned between B-1 and R-6. He noted that the portion along Bringle Ferry Road is zoned R-6, a Duplex Residential zone, and the rest of the petition area is B-1 Office Institution, which is similar to a light commercial zone. He pointed out other zoning in the area and noted the B-1, R-6, and R-6A zones. He stated that the R-6A is also residential but allows for multi-family. On the other side of I-85 there is Single Family Residential zoning and some Light Commercial zoning.

Mr. Mitchell explained S-District, or Special Use District zoning and how it is different from regular, legislative, general rezoning. He stated that it is similar but it has the ability to limit specific uses within the new zone. He cited an example that an individual is requesting B-6-S zoning and there are uses allowed within B-6 zoning and as part of the S District the petitioner can request, and the Planning Board and City Council can recommend to impose, taking out certain uses from the B-6. In addition, conditions can be added to the permit.

Mr. Mitchell stated that in this particular case Mr. Wilson, the petitioner, is asking for the S-District rezoning to allow for two (2) uses that are allowed within the B-6 zones. These uses are a mini-warehousing facility and auto sales lot, but the change will not allow for any other use within the B-6. Mr. Mitchell commented that these two (2) uses along with what would normally be allowed in the B-1 district, is what is allowed for the B-6-S district.

Mr. Mitchell displayed stock photographs of a mini-warehouse and an auto sales lot and noted that the auto sales lot would not include major auto repair, just the sales and storage.

Mr. Mitchell reviewed the current zoning districts noting that R-6 is a single-family and duplex residential zone. The B-1 is primarily an office zone and does not allow for retail. He added that it is a professional office zone that also allows for multi-family, duplex, and single-family residential. Mr. Mitchell noted that the B-6 is general commercial and is a heavier commercial district that would typically be found along major arterials, such as parts of Innes Street or Jake Alexander Boulevard.

Mr. Mitchell stated that the Strategic Growth Plan, in terms of commercial, finds that both of the uses, the mini-warehousing and the auto sales lot, are highway oriented commercial uses. Mr. Mitchell commented that based on the images shown to Council earlier, and with knowledge of the use, they are clearly highway oriented, vehicle oriented type uses. He noted that although Bringle Ferry Road is a major thoroughfare, staff found it questionable if those uses, the mini-warehousing and auto sales lot, would be compatible with the surrounding residential area. He noted the issue of excessive signage for access points and the domino effect of intensive commercial on fragile neighborhoods. Mr. Mitchell stated that B-6 allows for a much larger sign and other reduced development standards as it transitions into commercial.

Mr. Mitchell noted that in the staff report Council found policies from the Strategic Growth Plan that addressed effective buffering and landscaping, as well as encroachment of heavy commercial into the Park Avenue Neighborhood. He added that there is a concern for the Park Avenue Neighborhood and its fragility, along Bringle Ferry Road.

Mr. Mitchell referred to the Strategic Growth Plan, in terms of residential, and stated that in the Park Avenue Neighborhood there is marginal investment occurring in the area, specifically along Bringle Ferry Road. He noted that the Plan calls for protection and rehabilitation to maintain the neighborhood as a major housing source.

Mr. Mitchell noted that although Bringle Ferry Road is a major thoroughfare, by looking at the zoning pattern and the physical development to

date it can be found that there is no infusion of commercial yet. He stated that the issue of infusion into the area has not yet occurred. The Plan states that any infusion must be orderly as it transitions from low density residential to high density residential or some other compatible commercial zone. Mr. Mitchell noted that this needs to be considered when thinking of a heavy commercial zone such as the B-6.

Mr. Mitchell stated that the Vision 2020 Plan touches on tough times for the Park Avenue Neighborhood. He noted that there is commercial and industrial urbanization on all sides of the Park Avenue Neighborhood which is bound by I-85, Innes Street, Bringle Ferry Road and Long Street. He pointed out that there was a mill closing and there is little to no reinvestment in the neighborhood housing stock. Mr. Mitchell stated that the housing stock on the edges of the Park Avenue Neighborhood is very fragile.

Mr. Mitchell stated that there are two (2) undesirable scenarios outlined in the Vision 2020 Plan. One is the gradual downward spiral of property upkeep and property values and Mr. Mitchell noted a concern for the neighborhood edge, especially along Bringle Ferry Road. The scenario that has yet to occur is transition into intensive commercial development. Mr. Mitchell indicated that the Park Avenue Neighborhood Plan calls out the area in question as poor housing because of existing conditions. He added that how to address the problem is not called out in the Plan. He noted the petition area on the map and stated that the Plan does not address this particular area next to the Interstate; however, the Bringle Ferry Road District does have three (3) policies. He stated that he feels that these three (3) policies can very comfortably be extended down to the Interstate. He stated that the Bringle Ferry Road District includes some of the better housing stock in the neighborhood and could offer an attractive edge, but suffers from heavy traffic along a major thoroughfare. He pointed out the three (3) policies embedded into the Park Avenue Plan: infrastructure improvements to ease the impact of traffic; infill housing to strengthen the street character; and redevelopment of the trailer park site as townhomes. He commented that the Park Avenue Plan is clearly calling for the Bringle Ferry Road corridor to be residential.

Mr. Mitchell reviewed ground photographs of the site and the surrounding area. He pointed out that the sound barrier located along I-85 is not on the petition site but is on the other side of the Interstate. He added that the homes shown behind the barrier are R-8 on the other side of the Interstate. Mr. Mitchell noted a brick structure with several shops in the back on the property. He stated that there is a Duke Energy transmission easement containing electrical transmission lines that cuts through the property. He also pointed out a red house that is located at the outer edge of the petition area and noted that the rezoning area stops just after the red house. Mr. Mitchell noted a brick house beside the red house and indicated that it is not part of the petition.

Mr. Mitchell informed Council that the staff recommendation at the Planning Board meeting was that the petition is not consistent with the City's growth and comprehensive plans; however, staff did recognize the marginal to no investment within this area and the concern for how to pick this up. He stated that staff recommended that if the B-6-S was recommended by the Planning Board that it be located in certain areas with two (2) conditions: the signage conform to the B-1 District; and a buffer be provided along the Interstate.

The Planning Board heard the request for the first time on November 14, 2006 and sent it to a Committee. Mr. Mitchell stated that the Legislative Committee met on November 21, 2006 and the following bullets touched on their concerns:

- Neighborhood fragility
 - Concern for Park Avenue Neighborhood Plan
 - Little to no investment
- Slippery Slope effect, the domino effect discussed in the Strategic Plan
- Gateway concerns – Mr. Mitchell noted that while it is not one of the more prominent gateways into the City one of the Planning Board members felt it is a gateway and questioned if these two (2) uses would be appropriate
- Which side of transmission lines should be developed
- Specific Use concerns (S-District) for the two (2) specific uses

Mr. Mitchell stated that the petition went back to the Planning Board on November 28, 2006 and in terms of the rezoning, the Planning Board found that adoption of an ordinance to rezone the petition area is not consistent with the goals, objectives and policies of the Growth Plan and the Comprehensive Plan; however, there are conditions of the site that need to be considered. The Planning Board recommended approval of the Committee's recommendation to rezone the property. He displayed a map of the petition area depicting the one hundred (100) foot Duke Energy transmission easement. He stated that the Committee and Planning Board recommended that the area underneath and to the west of the transmission lines, including the small red house, be rezoned to R-6A. He noted the boundary of the R-6 in the vicinity of the site. The Planning Board also recommended that everything on the east side of the transmission lines be zoned B-6-S. He stated that the vote was unanimous at the Planning Board to rezone as shown on the map.

Councilman Kennedy asked Mr. Mitchell how the property located across the Interstate on Bringle Road is zoned. Mr. Mitchell responded that directly across from the site the property is zoned R-8 Single-family residential. He explained that the R-6 is a duplex zone and R-6A is multi-family. He noted that there is some commercial zoning on the other side of Bringle Ferry Road across the Interstate, where it is zoned BCS, which is similar to a convenience commercial zone.

Mayor Klutz convened a public hearing, after due notice and advertisement thereof, to consider zoning map amendment Z-11S-06 Kevin Wilson, Bringle Ferry Road.

Mr. Kevin Wilson, 1333 Bringle Ferry Road, stated he wanted to make note that the landscape provision should be eased from a fifteen (15) foot to a five (5) foot area along the Interstate. He stated that he would like for all of the area to be zoned B-6 with the automotive sales lot and the storage facility allowed, due to the commercial highways on Bringle Ferry Road and the Interstate.

Mayor Klutz then administered the oath to Ms. Sifford who wished to address Council.

Ms. Barbara Mitchell Sifford, 1308 Bringle Ferry Road, stated that she opposed what Mr. Wilson wants to have done on the property because she cannot see a business being in the middle of a community. She stated that she has lived here all of her life and the neighbors have just gotten to the

place where the community looks like a community and she feels this change will downgrade the community. She indicated that the property Mr. Wilson owns located directly in front of her property has been going down since he has owned it because it is not properly kept. She added that if he can have something like he has requested she does not think it will be kept up. Ms. Sifford noted that, Mr. Wilson may not know but the house he lives in now was part of a row of shanty houses. She stated the houses have been torn down and the neighbors have worked hard to build the neighborhood up and she would like to see it kept that way.

Mayor Kluttz then administered the oath to Mr. Heggins who wished to address Council.

Mr. John E. Heggins, 1303 Bringle Ferry Road, stated that his house is right beside the house on the edge of Mr. Wilson's property. He stated that he thinks it would be a disgrace because the neighbors have built up the neighborhood to try to live in a decent place. He added that to put in all of the storage houses would be bad and he does not want it right up on him.

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

Councilman Lewis stated that basically the request is to take the B-1 uses and add two (2) uses to it. Mr. Mitchell responded that this is correct. Mr. Lewis commented that Mr. Mitchell indicated staff recommended that the signage conform to B-1 and asked if it was still a part of the recommendation. Mr. Mitchell responded that it is but the conversation has not reached that point yet. He stated that if the Mayor would like he can give Council the Planning Board recommendation on the permit in order to hold all of the conversation now. Mayor Kluttz stated that she felt it would be more helpful to Council to hear the complete report before they discuss the issue.

Mr. Mitchell noted the map depicting how the Planning Board recommended the zoning be split and stated that the petitioner requested the entire three (3) acres, regardless of the transmission lines, to be zoned B-6-S. He stated that the map shown to Council displayed the Planning Board's recommendation to zone R-6A on the small red house and then B-6-S from the transmission lines to the Interstate. Mr. Mitchell stated that, in terms of the permit, the Planning Board found that the B-6-S use of mini-storage is not going to materially endanger the public health or safety along the road and found that it will not substantially injure property values. The Planning Board also found that the permitted uses, as recommended, would be mini-warehousing storage and all uses in the B-1 district. Mr. Mitchell pointed out that the Planning Board removed the auto sales lot use and recommended the mini-warehousing and everything else in the B-1 with two conditions. The two conditions are: all signage conform to the B-1 and a "B" buffer yard be installed along the Interstate. He explained that a "B" buffer yard is a ten (10) foot buffer yard that would be in addition to what is normally required by Code. Mr. Mitchell stated that Mr. Wilson was referring to these conditions in his statement and his request to reduce the ten (10) feet to five (5) feet. He stated that this was the Planning Board's recommendation regarding the permit and the map depicted its recommendation for the zoning.

Mayor Pro Tem Woodson asked Mr. Mitchell to clarify that the recommendation is for no car lot. Mr. Mitchell responded that the Planning Board recommendation is for no car lot and just the mini-storage only within the B-6-S area. He reiterated that the petitioner is requesting the entire area be zoned B-6-S, but the Planning Board recommends stopping the B-6-S at the transmission lines. He stated that Mr. Wilson can have the mini-warehousing with a ten (10) foot buffer yard along the Interstate side.

Councilman Lewis asked about the thought process behind the ten (10) foot buffer yard on the Interstate. Mr. Mitchell stated that this came from staff who recommended either a "B" or "C" buffer yard along the Interstate. He explained that based on these two (2) uses staff had the same concerns the Committee had, that Bringle Ferry Road is a gateway. He noted that crossing Bringle Ferry Road there is no entrance or exit ramp to I-85 and the Committee questioned if commercial was needed at this intersection when there is no interchange. He stated that since there is not an interchange the traffic will come over the bridge into the Park Avenue Neighborhood and therefore the gateway concern was raised. He questioned the visual impact of the two (2) requested uses as a person crosses into the City. He stated that staff's recommendation was that if the property was zoned B-6-S it be buffered along the Interstate and recommended a "B" or "C", a ten (10) foot or a fifteen (15) foot, buffer and the Planning Board went with the ten (10) foot.

Mr. Lewis asked what type of yard would be required if the property was developed B-1. Mr. Mitchell responded that against the Interstate there would be a typical eight (8) foot buffer.

Councilman Burgin noted that it was his understanding that an "S" zoning required the petitioner to agree to it and asked Mr. Mitchell if the petitioner is agreeable to the recommendation. He questioned that since the request is for zoning the entire property should Council vote it down if they do not agree. He added that he appreciates the Planning Board's recommendation but if the petitioner is not agreeable to it, is an "S" District even an option. Mr. Mitchell responded that it is an option and there are two (2) ways to look at the issue. He stated that he understands Mr. Burgin's comments in that the conditions need to be fair and reasonable and agreed upon, and noted that this is the new language adopted when the State Statutes were updated last year. He added that the new language is specific for conditional districts where the conditions need to be agreed upon. He stated that SUP Districts, or the quasi-judicial districts, are a little different because Council has to make Findings of Fact and if Council found that the conditions were necessary then it can impose those conditions only upon the findings that Council will make. He pointed out that he has given Council the Findings of Fact that the Planning Board made as well as criteria for making Council's own Findings of Fact. He stated that with the conditional districts (CDs) that Council will deal with in the future, they will be legislative and not quasi-judicial or an evidentiary hearing, but right now the conditions have to be agreed upon. Mr. Burgin stated that he personally feels the Planning Board is on target, adding that he would not be able to support a car lot in this area but thinks the mini-warehouses will be fine. He stated that the warehouses will be buffered by the R-6A piece and the Duke Power right-of-way which, in effect, will be a one hundred fifty (150) foot buffer between the mini-warehouses and the neighborhood. He added that he is not sure he would fight for an additional two (2) foot of buffer for the Interstate side but it is not a big burden to the property owner. He commented that he thinks the Planning Board has done a good job and he would support the Planning Board recommendation.

Mr. Woodson agreed with Mr. Burgin and indicated he is glad the car lot has been removed. He indicated that it appears that nothing will be within five hundred (500) feet of Mr. Heggins property and a car lot will not be allowed. He confirmed that Mr. Heggins house is located above the R-6A and noted that no business could be placed next to the house. Mr. Woodson stated that he does not blame Mr. Heggins for objecting and he would not want a car lot in the area either, reiterating that it will just be mini-storage where people will store items. He added that he does not feel the

recommendation will affect Mr. Heggins as Mr. Heggins had originally thought.

Mr. Lewis asked if the proposed R-6A currently has R-6 under it. Mr. Mitchell responded that R-6 is under a portion of it from approximately the center of the transmission lines west, and from the center to the Interstate is B-1. Mr. Lewis noted that it would increase the potential density on the property. Mr. Mitchell responded that this is correct.

Mr. Burgin questioned the location of R-6A. Mr. Mitchell responded that it is up and to the left on the vicinity map. He pointed out where the R-6 and R-6A is located.

Councilman Kennedy stated that a red flag has been raised for him because the staff is recommending a buffer on the Interstate side and the buffer for cars moving 65 mph-70 mph, but staff is not giving any visual protection for the people who live right across the street and will have to see what is built there everyday. He reiterated that staff wants a buffer for the Interstate but nothing is being done for the people who live across the street. He stated he does not feel it is consistent with the goals, objectives and policies of the Strategic Growth Plan and the Vision 2020 Comprehensive Plan and he has not seen anything that would compel him to change his mind at this particular point. Mr. Kennedy stated that warehouses could be located somewhere else, adding that he travels this portion of Bringle Ferry Road on a daily basis and to him it is somewhat of an eyesore. He commented that he cannot imagine how the area will look if it is rezoned and he cannot support the request and does not see why it should be changed at this point.

Mr. Lewis stated that he feels the rezoning of the R-6A portion of the property will give an opportunity for this area to continue its redevelopment. He indicated that the multi-family housing just to the north of the property, from an aesthetic point of view, is an improvement over what was there. He added that he cannot speak to any crime issues that may or may not be there. He stated that he looks at the mini-warehousing almost as a support service to multi-family. Mr. Lewis noted that, aesthetically, he wonders what will be developed on that parcel right next to the Interstate and he does not see R-6 taking place. He added that it is zoned B-1 so he feels the real issue is it is B-1 zoning now and Council is adding one use of mini-warehousing storage. Mr. Kennedy asked if the auto sales lot is in the recommendation. Mr. Lewis clarified that the auto sales is not included and added that he feels that is a retail type of trade and this would just be the mini-warehouse. Mr. Woodson added that he does not think the mini-warehousing will have much traffic and he would rather have the mini-warehousing on the property.

Mr. Lewis commented that he wonders how many offices might develop on this property. He stated that the type of businesses that develop on the Interstate are retail and they want access to the Interstate but the access is not there.

Mr. Burgin stated that it is a tough piece of property to develop because he does not think the B-1 would ever develop in the area because there is no access to I-85. He added that he thinks with the power line being a fairly wide buffer and with the Interstate being the next adjacent property that a mini-warehouse would not be bad. He commented that if it does not develop as mini-warehouses, the owner's only other choice is to go back to the B-1 option.

Mr. Kennedy stated that there is a buffer on the Interstate side and questioned why there could not be one on the Bringle Ferry Road side. Mr. Burgin indicated that there could be a buffer and he would rather have it on the Bringle Ferry Road side and leave the eight (8) foot standard on the Interstate, putting the extra demand on the Bringle Ferry Road side. Mr. Lewis asked if he meant the whole property or just the B-6-S portion. Mr. Burgin responded that he feels just the B-6-S piece, which would put the mini-warehouses behind a small buffer which should not be a problem for the mini-warehouses.

Mr. Lewis asked what kind of planting yard is required on B-6, the area along Bringle Ferry Road. Mr. Mitchell responded that it would typically be an eight (8) foot street yard. Mr. Lewis asked if there would be eight (8) feet on both sides. Mr. Mitchell stated that eight (8) feet would be Code. Mr. Burgin pointed out that the street planting yard is grass and trees every thirty (30) feet. Mr. Mitchell agreed. Mr. Burgin noted that there is no real planting buffer there and if it were to be made a "B" or "C" yard there would be an actual planting screen. He added that Council could add the requirement for a planting screen.

Mr. Lewis commented that he understands why Mr. Burgin would request the planting screen but if there are mini-warehouses or any office use on the site it will rely on a certain amount of drive-by traffic for advertisement. He added that if the whole thing is screened off he feels it will be a disservice to the business located there. He commented that it would be weighing the business need against the visual impact to the neighborhood. He stated that he feels that this is a good discussion, but he is not sure the neighborhood has a huge visual impact in this area because of the transmission lines going through the area.

Mr. Burgin stated that it could be argued that if indeed it is a support service for the neighborhood it could be screened because the neighborhood would know that it is there. He noted that he is flexible on this because he feels the Planning Board has done pretty well in protecting the neighborhood in their suggestion of taking out the car lot. He stated that R-6A might actually help some development occur in this area that is residential.

Mr. Kennedy noted that Councilman Burgin raised a question he does not feel was answered and asked if the petitioner agrees with what is being recommended by the Planning Board. Mr. Mitchell responded that the petitioner did not agree. Mr. Woodson asked to clarify if he does or does not agree with the recommendation. Mr. Mitchell stated that the petitioner does not agree.

Mr. Lewis stated that he does not want to approve anything that the property owner does not want and if Council does not agree with what he wants it should just say no. He asked if the property owner could come back before Council.

Mayor Klutz asked Mr. Wilson to come back to the microphone. Mr. Wilson stated that he does agree. Mr. Woodson asked Mr. Wilson if he understands that there would be no car lot and just mini-storage. Mr. Wilson responded that he understands that it would just be the storage buildings. Mayor Klutz asked Mr. Wilson if he would agree if Council rezones the property as presented. Mr. Wilson responded that he would.

Mr. Lewis asked Mr. Wilson if he would keep the eight (8) foot yard along the Interstate and have a ten (10) foot yard along Bringle Ferry Road. Mr. Wilson agreed, noting it would be no problem.

Mr. Woodson addressed the Findings of Fact. Mr. Mitchell stated that the rezoning does not have Findings of Fact but Council should consider if rezoning the property a certain way would be consistent and reasonable. Mayor Klutz pointed out that it is listed on the Agenda as the next order of business, and Mr. Mitchell agreed with the process.

(c) Findings of Fact

Mr. Woodson then offered the following Findings of Fact:

1. The proposed use or development of the land will not materially endanger the public health or safety and will not injure anyone on the abutting property
2. That the proposed use or development of the land is reasonably compatible with significant natural and topographic features both on the site and immediate vicinity of the site given the proposed site design meeting the Interstate. He added that he feels that what is proposed by the applicant will be apropos with the piece of property adjacent to the Interstate.

(d) Decision

Mr. Woodson stated that Council finds and determines that adoption of this Ordinance to rezone properties described here within is consistent with the goals, objectives, and policies of the Strategic Growth Plan and the Vision 2020 Comprehensive Plan. He stated that this was at first objected to by the Planning Board but reinstated as a reconsideration to the public interest. Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending the official zoning map of the City of Salisbury by zoning approximately 3.07 acres of a portion of five (5) acres located along the south margin of Bringle Ferry Road, identified as tax map and parcels 057A-13308, 057-054, 057-051, 057-050, and portions of 057A-049, from R-6 two family residential to R-6A. He asked if this is stated correctly. Mr. Mitchell noted that Mr. Woodson was listing what the property will be zoned from, R-6 and B-1, and he needs to state what it will be zoned to. He commented that this language was not provided to Council because the petitioner requested one thing but the Planning Board recommended another leaving the Council several options. He explained that the zoning is going from R-6 to the B-1 and if Council is supporting the Planning Board recommendation he will help Mr. Woodson state the motion properly. Mr. Woodson stated that he supports the fact that the R-6A will border the property owners and the B-6-S for the storage and he makes this motion. Mr. Burgin seconded the motion and indicated he would like to amend the motion to include a standard buffer along I-85 and the addition of a ten (10) foot planting yard along Bringle Ferry Road at the B-6-S. Mr. Woodson agreed with the amendment. Mr. Lewis asked when the signage restriction should be added. Mr. Mitchell indicated that it could be added now. Mr. Lewis asked if Mr. Burgin would accept an amendment to allow only B-1 signage in the B-6-S. Mr. Burgin accepted the amendment.

Mayor Klutz asked Council if they would like Mr. Mitchell to restate what he hears Council is stating. Council agreed.

Mr. Mitchell indicated he would split the action. In terms of the rezoning, Mr. Mitchell indicated that what he heard is that what Council is recommending is in line with the Planning Board recommendation that R-6A be placed underneath the transmission lines and west to the red house as shown on the map, and from the transmission lines east to the Interstate it will be B-6-S. Council agreed. Mr. Mitchell asked Council if they believed that rezoning that way, as shown on the map, is consistent with the Strategic Growth Plan and Comprehensive Plan or did they not believe that it is consistent. Mr. Woodson stated he feels that it is consistent with what Council hopes to do in Salisbury. Mr. Mitchell indicated that Council can now vote on the map. Mayor Klutz then called for the vote. Messrs. Burgin, Lewis, Woodson and Ms. Klutz voted AYE and Mr. Kennedy voted NAY (4-1).

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 3.07 ACRES ON A PORTION OF FIVE PARCELS LOCATED ALONG THE SOUTH MARGIN OF BRINGLE FERRY ROAD, IDENTIFIED AS TAX MAP & PARCELS 057A13308, 057-054, 057-051, 057-050, AND A PORTION OF 057A049, FROM R-6 (TWO-FAMILY RESIDENTIAL) AND B-1 (OFFICE/INSTITUTION) DISTRICTS TO R-6A (MULTI-FAMILY RESIDENTIAL) AND B-6-S (SPECIAL GENERAL BUSINESS) DISTRICTS.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page Nos. 158-159, and is known as Ordinance No. 2006-54.)

(e) Special Use District Permit

Mr. Mitchell stated that in regards to the S District permit, the Planning Board recommended that the auto sales lot be removed and mini-warehousing be allowed only within the B-6-S and that all other uses would fall under B-1. Mr. Woodson pointed out the signage would be B-1. Mr. Mitchell stated that the conditions the Planning Board recommended were that all signage must conform to B-1 and that there be a ten (10) foot buffer yard along the Interstate. He questioned if Council is requesting ten (10) foot along the Interstate and ten (10) foot along Bringle Ferry Road. Council clarified that there be a standard planting yard along the Interstate and a ten (10) foot planting yard on Bringle Ferry Road. Mr. Mitchell added that it would have B-1 uses with the addition of mini-warehousing in the B-6-S, and B-1 signage. Council agreed. Mr. Mitchell noted that Mr. Woodson made the Findings of Fact earlier and Council is finished with the Findings and now ready to vote.

Thereupon, Mr. Woodson made a **motion** as stated by Preston Mitchell. Mr. Burgin seconded the motion. Messrs. Burgin, Lewis, Woodson, and Ms. Klutz voted AYE and Mr. Kennedy voted NAY (4-1)

(a) Mr. Preston Mitchell, Senior Planner, informed Council that Z-13-06 is a request by Pilot Developers to rezone approximately fifteen (15) acres from B-RT to RD-A. He explained that B-RT is a retail trade and a lighter commercial trade zone and the RD-A is a residential development district that allows for single family, duplex, and multi-family housing. He added that it allows for higher density of residential but calls for innovative design in the design of the subdivision.

Mr. Mitchell reviewed an aerial photograph of the site in question and pointed out the proposed Jake Alexander Boulevard extension that would be constructed through the property and onto Earnhardt Road. He pointed out the site's location west of Earnhardt Road, north of Stokes Ferry Road and adjacent to the Corbin Hills Golf Course.

Mr. Mitchell indicated that the site is currently zoned B-RT and the petitioner is requesting to rezone a portion of the site to RD-A, with a small portion remaining B-RT near the possible intersection of the future Jake Alexander Boulevard alignment.

Mr. Mitchell explained that BR-T is a community scaled commercial retail zone that calls for clustered commercial and acts as a support retail commercial zone for office and residential. RD-A has a variety of residential types that allows up to eleven (11) units per acre.

In regards to the current growth plan, Mr. Mitchell stated that the current zoning pattern provides for a variety of housing types and densities, if Jake Alexander Boulevard were to be extended through the area. He noted that one of the policies in the growth plan states that factors in determining preferred locations for high density residential development include close proximity to employment, shopping and major thoroughfares.

Mr. Mitchell noted that the Vision 2020 Plan calls for neighborhood serving businesses to be encouraged in new neighborhood designs. It also states that new neighborhoods shall be connected to other residential, shopping and work areas within the neighborhood planning area. Small scale, pedestrian oriented shopping and work places are also encouraged in the design of new neighborhoods.

Mr. Mitchell referred to the small portion of the site to remain B-RT located adjacent to Earnhardt Road. He noted that this area could produce approximately forty thousand (40,000) square feet of commercial development and would be considered a neighborhood draw. He stated that when the site plan was originally designed it was designed as a community draw because of the Jake Alexander Boulevard extension. He indicated that it now appears the extension may not occur until 2030 or later and due to the delay staff recommends that the BR-T could safely be reduced.

Mr. Mitchell reviewed ground photographs of the site and the surrounding area. He noted that staff recommends that the petition is consistent with the growth and comprehensive plan and that the plan be approved to reduce the B-RT to approximately three (3) acres. He informed Council that the Planning Board found the request to be consistent with the growth plan and comprehensive plan and recommended approval.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider Z-13-06, Pilot Developers.

Mr. Eric Wood, 266 Irvin Road, Mooresville, NC, stated that he is with Pilot Developers, LLC and indicated that this is a matter of Jake Alexander Boulevard. He stated that when the plan was originally approved the developers thought they would be close to the engineering stage with the Jake Alexander Boulevard extension but this now seems to be well off into 2030 or beyond. He noted that it is too much to ask them to wait another twenty (20) or thirty (30) years. Mr. Wood commented that this zoning is in the middle of nowhere without Jake Alexander Boulevard.

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

Councilman Lewis stated that the developer brought their former plan and zoning before Council in good faith based on the Transportation Improvement Plan. He added that because the project has been delayed he does not feel it is reasonable to expect the developers to sit on the property. He noted that RD-A is appropriate and would provide for a very nice subdivision.

Councilman Burgin indicated that Jake Alexander Boulevard could still go through the area and asked if property would still be reserved for the extension. Staff responded that it would. Mr. Burgin commented that the question is whether there will be enough traffic now to support commercial versus residential. He added that he is in favor of the request.

(c) Mr. Lewis stated that City Council hereby finds and determines that adoption of an Ordinance to rezone properties as described herein is consistent with the goals, objectives, and policies of the Strategic Growth Plan and the Vision 2020 Comprehensive Plan and that adoption of the ordinance is reasonable and in the public interest. Thereupon, Mr. Lewis made a **motion** to adopt an Ordinance amending the official zoning map of the City of Salisbury, North Carolina, by zoning approximately fifteen (15) acres on a portion of three (3) parcels, located west of Earnhardt Road, identified as portions of tax map and parcels 058-088, 065-008, and 067-189 from B-RT Retail Trade Business District to RD-A Residential Development District. 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 15 ACRES ON A PORTION OF THREE PARCELS, LOCATED WEST OF EARNHARDT ROAD, IDENTIFIED AS PORTIONS OF TAX MAP & PARCELS 058-088, 065-008, AND 067-189, FROM B-RT (RETAIL TRADE BUSINESS) DISTRICT TO RD-A (RESIDENTIAL DEVELOPMENT-A) DISTRICT.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page Nos. 160-161, and is known as Ordinance No. 2006-55.)

GROUP DEVELOPMENT SITE PLAN G-07-02 DRUMMOND VILLAGE, 2800 STOKES FERRY ROAD

(a) Mr. David Phillips, Zoning Administrator, noted that this group development is part of the rezoning case just heard by Council and is the site plan review for the property. He stated that the case is G-07-02 Drummond Village and he reviewed a vicinity map and aerial view of the subdivision. He pointed out Phase I and stated that it is already in construction and includes a street layout approved with the original site plan. Mr. Phillips indicated that the remaining portion of the site plan is what is to be discussed as part of the revised plan request.

Mr. Phillips noted the original plan submitted to the Planning Board which consisted of approximately four hundred (400) lots. He stated that one of the main concerns for the revised site plan was rezoning the property and added that Council just approved that request.

Mr. Phillips explained that when the plan was originally submitted to the Planning Board there were several concerns and the Planning Board did not feel it could make a decision so the plan was submitted to a Planning Board Committee. He noted that there were two (2) streets on the plan that exceeded the maximum allowable length of eight hundred (800) feet in distance. He indicated that there will be property reserved for the proposed Jake Alexander Boulevard extension and the Committee recommended bulb-outs to break up the long stretches of the streets.

Mr. Phillips informed Council that another concern discussed by the Committee was the direction of traffic when leaving the subdivision. The Committee recommended stop conditions with the through traffic being directed onto Earnhardt Road.

Another issue discussed by the Committee was connectivity to a larger tract of land located northeast of the site. The developer has proposed to create a stub-street for future connectivity to the site.

Mr. Phillips referred to a piece of landlocked property shown on the site plan for future development. The Committee expressed concerns about connectivity to the landlocked parcel so the developer has proposed platting the future ownership of the property to the homeowner's association of the subdivision.

Mr. Phillips stated that the lots in Phase II of the subdivision were proposed to be approximately forty (40) feet and the Planning Board expressed concerns about the lot size when the plan came back from Committee and felt it needed to be readdressed. He noted that the Committee took a field trip to Cabarrus County to tour a development by C.P. Morgan, who will be the primary developer in Drummond Village. After viewing the subdivision the Committee recommended that for a forty (40) foot lot a single-load only garage be allowed with the house. If the developer proposed a double-load garage the minimum lot size would be forty-five (45) feet. Any lots located on a corner would have to have a minimum of fifty (50) feet. After this recommendation was presented to the Planning Board the developer requested that it be amended to show that all interior lots would have a minimum width of forty-five (45) feet and fifty (50) foot minimum width for corner lots.

Mr. Phillips indicated that staff recommends that the developer include footprints for the typical house styles to be constructed on the lots be included with the site plan. He stated that the Planning Board approved the site plan with the amendments made by the Committee and the developer by a vote of 7-0.

(b) Mayor Kluttz opened the floor to receive public comment regarding site plan G-07-02.

Mr. Jim Lefevers, 424 De Lara Circle, stated that he is concerned because it appears there will be a lot of traffic coming in and out onto Stokes Ferry Road. He added that he is also concerned about the visual appearance and the magnitude of the total project. He stated he is concerned about congestion for future development and referred to a development located across from the site and in Granite Quarry. He commented that the houses are different house styles from what is being proposed in Drummond Village and he is concerned about the comparables and the impact on the development in Granite Quarry. Mr. Lefevers stated that he is concerned about the impact on the opportunities for other developments in the area, particularly in Granite Quarry. He commented that he is also concerned about the intersection at Dunn's Mountain Road and the increase in traffic if an entrance is placed on Earnhardt Road. He noted that there will be a lot of traffic coming through a densely populated development with the forty-five (45) foot lots.

Mr. Rodney Queen, 101 Polo Drive, stated that he felt that the change to the lot sizes from forty (40) feet with single car garage to a forty-five (45) foot lot with two car garage is a good compromise. He commented that he feels it is a tremendous burden on the safety of a neighborhood to restrict a house to a one (1) car garage. He stated that there will be the same number of cars at a house whether there is a single car garage or a two (2) car garage and for two (2) more feet of concrete there can be a sixteen (16) foot driveway leading to a sixteen (16) foot garage for two (2) cars. He noted that this will enable cars to park off of the street and added that if the garages are limited to single car, then one car will park in the garage and one will park on the street and he does not feel this will be a safe condition. Mr. Queen stated that the streets will be much safer with a two (2) car garage. He indicated that he lives in a large house and there is a development across the street with small houses, but both are good citizens regardless of the house size.

Mr. Eric Wood, 266 Irvin Road, stated he is in favor of the site plan. He noted that he worked hard on the original site plan but it relied solely on the extension of Jake Alexander Boulevard coming through the development. He stated that now that Jake Alexander Boulevard is not coming through the development the original plan is not economically feasible. He added that he feels the proposed plan has a nice amount of density but will still work in the area. Mr. Wood stated that the proposed neighborhood is single-family and this was because of comments from the neighbors who did not want apartments. He commented that the revised plan has greatly reduced the density of the original plan and will greatly reduce the traffic. He noted that the plan has a large open space and park system and estimated that thirty (30) to thirty-five (35) percent of the space will be open space. He stated that the seven (7) acres near the golf course will also remain open. He commented that a lot of concessions have been made on the plan and he has worked hard to address the concerns of staff and the Planning Board. Mr. Wood stated that he hopes this can be worked out because the economics of this plan makes more sense in today's times.

Ms. Diane Bruendl, 425 Earnhardt Road, stated that in the past she has objected to the development. She added that she did not necessarily object to the development but to the proposed apartment buildings and since private houses will now be constructed her objections have been alleviated. She stated that she lives across the street from the development and did not want to have to look at apartments all of the time. She commented that she can not say she is in favor of the development but she does not object to it as she did before.

Mr. Brad Penley, 1812 Darby Place, referred to the Vision 2020 Comprehensive Plan and listed several policies regarding new neighborhoods and how Pilot Developers feel they are in line with the policies. He stated that the change in the plan is necessary because of the Jake Alexander Boulevard extension not going through.

Mr. Andy Widenhouse, 1825 Beckwith Lane, Charlotte, NC, indicated he is with Schneider Corporation, the engineers who laid out the site plan for Pilot Developers. He stated that the depth of the lots for the forty-five (45) or fifty (50) foot lots is an average of one hundred ten (110) feet which would mean a lot in the six thousand (6,000) square foot range. He noted that there will be quite a lot of rear yard. He indicated that he would be happy to add details to the plan that would show the typical footprints on the lots of those sizes.

Mr. Jerry Barger, 1028 Confederate Drive, stated that he owns one hundred thirty-eight (138) acres in the middle of the development. He stated that he is concerned about the seven (7) acres in the area that are surrounded by his golf course and how the property will be accessed. He pointed out that his golf course borders each side of the seven (7) acre parcel and it is landlocked. He noted that the property is proposed to be set aside for the homeowner's association and questioned how it will be accessed. Mr. Barger stated that he has had casual conversations with the developers but there is no logical way to access the property unless there is major construction done to the golf course. He added that this would be very, very expensive.

There being no one else to address Council, Mayor Klutz closed the public comment session.

Councilman Lewis stated that many of the issues that have been identified and discussed are many of the issues the Land Development Ordinance Committee (LDOC) has struggled with. He noted that the City needs increased residential housing stock to increase the tax base and utility customers, but Salisbury is basically a sixty (60) to seventy (70) foot lot community. He added that planners recognized that there are innovative techniques and if the City continued to develop in only seventy (70) foot lots it would create sprawl when more compact neighborhoods are what is desired. Mr. Lewis noted that it was hoped that the compact neighborhoods would be designed in a more traditional neighborhood style and this was the original plan for Drummond Village, but because of the change for the Jake Alexander Boulevard extension it is no longer economically feasible. He stated that what is presented is four hundred (400) lots crowded into the subdivision and while it may not be a bad thing he wants to determine if the site plan meets the tenets of the comprehensive plan before supporting it. He pointed out that RD-A is a negotiated district, not a by-right district, and is a district negotiated by the developers and the community.

Mr. Lewis informed Council that he visited the Brandon Ridge subdivision currently being developed by C.P. Morgan. He indicated that he has photographs of the subdivision that he would like to present to Council. Mr. Lewis referred to the general policy recommendations of the Vision 2020 Plan and noted that for future neighborhoods the Plan states that residential architecture should respect the value of the street upon which it faces and contribute to the sense of community. He added that this generally means houses constructed closer to the street, porches in the front, a front walk connecting to the sidewalk, and garages to the rear of the house. Mr. Lewis stated that this is how neighborhoods used to be built and while not all subdivisions can conform to this, Council must decide what the minimum permissible development allowed should be.

Mr. Lewis referred to the Community Vision section of the Vision 2020 Plan and noted that it seeks to have a multitude of housing choices. He pointed out that Drummond Village proposes to have a multitude of price points and sizes for the homes. The Plan also calls for community parks, smaller neighborhood parks and tiny pocket parks. Mr. Lewis commented that with the proposed density the children will have to have a place to play. He added that the depth of the lots as proposed is good and a benefit to the subdivision.

Mr. Lewis noted the policies related to the Neighborhoods Yet-to-Be section in the Plan:

- Policy N-13: New neighborhoods shall be generally compact in form
- Policy N-14: New neighborhood streets shall be no wider than necessary to serve their intended purpose
- Policy N-15: New neighborhoods should be transit route sensitive; designed to incorporate transit stops
- Policy N-16: New neighborhoods should include one or more neighborhood centers or focal points in each neighborhood planning area
- Policy N-17: Neighborhood serving businesses shall be encouraged in new neighborhood designs
- Policy N-18: As new neighborhoods are developed, a mixture of housing types/sizes/prices shall be provided within the bounds of each neighborhood planning area
- Policy N-19: Higher density housing projects, such as apartment complexes and condominium developments, should be located adjoining places of work, shopping and public transit. Access to such higher density housing shall not be through a lower density housing area. Higher density housing may often act as a transitional use between offices or shops and lower density housing
- Policy N-20: New neighborhoods shall be connected to other residential, shopping, and work areas within the neighborhood planning area
- Policy N-21: Street designs in new neighborhoods shall give equal priority to the pedestrian and automobile
- Policy N-22: New neighborhoods shall recognize bike routes at the time of development

He questioned if Salisbury wanted to look like every other City with subdivisions that all look alike and noted the Residential Architecture Guidelines from the Vision 2020 Plan:

- Homes should be raised up off the ground to avoid dampness and encourage natural cooling and ventilation. (Basements and crawl spaces, rather than homes built "on-slab")
- The floor plan should allow for high ceilings and tall windows with free airflow between, thereby encouraging cross ventilation
- Homes should not be set back excessively from the street, but rather pulled up to the street, so as to create a human scaled streetscape
- Functional front porches and rear porches, decks or patios should be an integral part of the home to allow for outside activities in both a public setting (front yard/street space) or private setting (rear yard)
- Garages, when provided, should be placed to the rear of structures and should be accessible by a service alley or by a narrow drive between houses

Mr. Lewis asked Council to keep the Guidelines in mind as pictures of the Brandon Ridge subdivision were shown. He noted the look of the subdivision with garages in front of the houses. He noted that if the house were to be pulled to the street and a porch added as the Comprehensive Plan calls for, the houses would be unable to have a garage. He added that if a garage were added there would be no respect for the pedestrian realm, the area from the street to the front of the house.

Mr. Lewis noted pictures of houses with front garages and pointed out that half of the house's front façade is garage door and approximately thirty (30) to forty (40) percent of the yard is taken up by the driveway. He stated that, as Mr. Queen pointed out, if a house has a single car garage it will most likely also have an automobile parked in front of the garage door. He pointed out utility boxes in the front yards of the houses and stated that this would be consistently seen in this type of development.

Mr. Lewis commented that the photographs that were shown to Council display the type of development that will be in the proposed subdivision. He stated that he has an issue with the garage doors on this size lot because of the ratio of permeable surface to impermeable. He added that he would rather have the houses pulled to the front with garages in the back served by alleyways, just as the original site plan displayed. Mr. Lewis noted that Mr. Wood has indicated he cannot sell this type of product and many builders do not believe there is a market for this type of plan. He questioned if the type of development sought by the Comprehensive Plan is economically feasible for the development community.

Mr. Lewis then displayed photographs of a subdivision with the type of development sought in the Comprehensive Plan. He pointed out the architectural features and noted that there are no driveway curb cuts because all of the garages are behind the homes and served by alleyways. He stated that all of the houses have front porches with elevated entryways and sidewalks that connect to the public sidewalk. Mayor Pro Tem Woodson asked about the size of the lots in the subdivision being displayed. Mr. Lewis estimated the lots to be approximately sixty (60) feet in width.

Mr. Lewis reviewed other photographs of the subdivision and stated that it contains multi-family houses along with the single-family. He stated that he wanted Council to note the street scene in this development and how it respects the pedestrian realm, pointing out how this is significantly different than the subdivision proposed for Drummond Village.

Mr. Lewis stated that the Drummond Village subdivision offers the opportunity for affordable housing because the price point is lower. He added that he wants to encourage homeownership but the City has standards that have been adopted in the Comprehensive Plan and Council has a subdivision being proposed that does not quite meet the standards.

Mr. Lewis referred to a subdivision in Chapel Hill that was to have different price points with multi-family housing designed to be a true diverse community but by the time the infrastructure was completed and the houses went on the market, the least expensive house was over \$200,000. He stated that new urbanism is not cheap.

Mr. Lewis suggested that the proposed subdivision is trying to meet the spirit of the Comprehensive Plan but he has several issues he feels are important and he would like to see if the developer will be willing to work on the issues. He stated that he is concerned about a lot smaller than fifty (50) feet with a two (2) car garage. He suggested that any lot fifty (50) feet or more could have a two (2) car garage with a maximum twenty (20) foot driveway. If the lot is less than fifty (50) feet he suggests allowing only a one (1) car garage with a fourteen (14) foot driveway.

Mr. Lewis referred to the pedestrian realm and noted that the Comprehensive Plan clearly calls for garages to be in the rear of the house. He suggested that there should be a relationship between the front door and the front of the garage. He added that he would like to see the types of houses C.P. Morgan proposes to build in Drummond Village and perhaps the restriction can be designed around the developer's needs. Mr. Lewis commented that he has been told the minimum front setback will be twenty (20) feet from the right-of-way and if the development is allowed to have garages in the front, having the twenty (20) foot setback keeps the cars that park in front of the garage from being parked on the sidewalk.

Mr. Lewis suggested that pedestrian scaled lighting be required in the subdivision along with street trees. He stated he feels that because of the number of units in the subdivision more recreational open space is needed than what is proposed. He thanked the developer for bringing a subdivision with planned open recreational open space but he feels there is room for additional park space.

Mr. Lewis stated that he does not suggest turning down the plan because it does not meet the Comprehensive Plan, but he would like to get the site plan as close to the Plan as possible until a Code is adopted that the development community can rely upon when submitting plans.

Councilman Burgin thanked Councilman Lewis for thinking through these issues. He stated that his expectations for the development have changed because of the change in Jake Alexander Boulevard. He commented that communities with homes that have front porches are closer-knit neighborhoods and neighborhoods that are walkable become inhabited by healthier people, which is a positive thing for the community.

Mr. Burgin noted that Council recognized that the zoning needed to be changed earlier and he feels it will help the developers deal with some of the issues regarding not having Jake Alexander Boulevard. He stated that in RD-A Council has the ability, as lots get smaller, to include some of its expectations for how the house meets the public realm. He stated that he does not think a developer has brought in a development with such narrow lots where changes were not made regarding how the houses were built.

Mr. Burgin stated that he could not support the idea of approving smaller lots with houses that are treated as though they were on wider lots. He commented that the idea of asking for a plan of how the houses will fit on the lots will help Council, but in absence of that he assumes the developer is heading towards a development with narrow lots with forty (40) percent of the front yard paved for the driveway. He added that he does not think this is what the City wants.

Mr. Burgin stated that he is willing to help the developer get past the problem that he did not create regarding Jake Alexander Boulevard but at the same time he wants to salvage as much as possible from the original plan that Council approved.

Mr. Burgin noted that the developer has commented that they have created half as much traffic with the revised plan and added that while the traffic may have been reduced the development no longer has the major thoroughfare to help disburse it. He stated that he is hesitant to support this particular development with those size lots because he has not seen any evidence that the issues of how the homes meet the street have been solved.

Mr. Woodson stated that when he first read the information regarding the revised plan he thought it would be similar to the Olde Salisbury development with wider lots. He commented that he does not think the proposed type of subdivision is very attractive and asked if the lots will be forty-five (45) feet wide. Mr. Wood responded that the majority of the lots are fifty-one (51) feet. He added that approximately sixty (60) lots out of the four hundred (400) will be forty-five (45) feet.

Mr. Woodson noted that he was very excited with the original approved site plan because it had a mix of home sizes and while he understands the situation with Jake Alexander Boulevard, he does not think he could support the revised plan today.

Mayor Kluttz stated that she supports the vision that Council has for the look it wants but she wants to make sure that the subdivision remains economically feasible. She added that she worries about what the population in Salisbury can afford and feels that homeownership is very important. She noted that she would not want to be so restrictive that it makes a difference in whether a person can own a home or not. Mayor Kluttz stated that she feels Council has to be cautious when deciding what it would like to see with the houses, adding that she would rather see two (2) cars in a garage than one (1) parked on the street. She noted that this type of development is popular for people looking for affordable homes or they would not be filled in other cities. She stated that she is disappointed that the site plan has changed so drastically from what was first approved but she would not want to see it totally turned down. She suggested a Council Committee be formed to determine how the issues can be negotiated.

Mr. Woodson stated that what he does not like about these types of subdivisions is that every house looks exactly the same. Mr. Lewis commented that the pictures he displayed for Council only showed a few house styles but there were actually a multitude of elevations in the subdivision.

Mayor Kluttz asked about the plans for access to the landlocked property in the middle of the golf course. Mr. Dan Mikkelson, Director of Land Management and Development, stated that the parcel is an existing landlocked parcel and the only access is through the golf course property. He noted that in the original approved plan there was proposed vehicular access into the area and it would have been developed for housing. He stated that on the first revised site plan the parcel was noted for future development and staff pointed out that if it is to be developed access must be addressed. The developer has indicated that the cost of obtaining access has made it economically unfeasible to develop the parcel for housing so he has suggested that the property be dedicated to the homeowner's association. They would then have the option in the future to seek access and develop the open space.

Mr. Mikkelson asked City Attorney Rivers Lawther about case law regarding access rights for an existing landlocked parcel. Mr. Lawther responded that the law is evolving but right now the property is simply landlocked and to address any legal access the owner's would have to investigate how the property became landlocked. Mr. Mikkelson asked to clarify that under current case law the homeowner's association might not be able to gain legal access. Mr. Lawther responded that this is correct. Mr. Mikkelson commented that if the homeowner's association reaches an access agreement in the future they could then return to Council to amend the site plan to allow the property to be sold and developed in a different fashion.

Mr. Wood indicated that he felt leaving the property with the homeowner's association would allow the people who actually live in the development to make the decision about its use at some time in the future.

Mr. Burgin pointed out an intersection near the landlocked parcel and asked if a stub-out road could be created to the property. Mr. Lewis noted that the area in question is between two (2) golf holes on the golf course. Mr. Burgin commented that it sounds as if there is no way to access the property and it should not be a concern to Mr. Barger.

Councilman Kennedy stated that rather than turn down the site plan from the developer he would suggest forming a Council Committee to work with the developer to address Council's concerns so the land can be developed.

Mr. Woodson indicated that he would be willing to work on the Council Committee. Mr. Lewis stated that he will work on the Committee as well, adding that he would like to see something positive come from this case.

Mayor Kluttz then appointed a Council Committee of Mr. Lewis and Mr. Woodson to meet with the developer in order to make a recommendation to Council.

PARKING ON THE SOUTH SIDE OF THE 100 BLOCK OF NORTH PARK DRIVE

Ms. Wendy Brindle, Traffic Engineer, stated that at the November 21, 2006 City Council meeting a petition was presented from Catawba College requesting that parking be allowed on the south side of the one hundred (100) block of North Park Drive. She added that at the meeting a citizen voiced concern about cars parking too close to the West Innes Street intersection and Council also had a question regarding the history of the original restriction.

Ms. Brindle stated that according to City Council minutes the no-parking restriction was placed on North Park Drive on December 18, 1989 and noted that there was no documentation to explain the restriction. She indicated that she did find that the restriction was placed about the same time Catawba College opened a large parking lot and she believes that the college requested the restriction in conjunction with the opening of the parking lot.

Ms. Brindle pointed out that staff visited North Park Drive and recommends that parking be restricted from West Innes Street back one hundred forty (140) feet to where the street widens to thirty-three (33) feet and then allow parking for the remainder of the one hundred (100) block. She noted

that this would allow parking for about fourteen (14) cars.

Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending Section 13-338, Article X, Chapter 13, of the Code of the City of Salisbury, relating to parking prohibited at all times. Mr. Kennedy seconded the motion. Mr. Lewis stated that he received a call from Mr. Raymond Ritchie who said that the original parking restriction was adopted after a fire at Catawba College and fire apparatus could not get down North Park Drive due to cars parked along the street. Mr. Lewis asked if access for fire equipment would be an issue based on the width of the road. Ms. Brindle stated that with the street being thirty (33) feet wide and parking restricted on the north side of the street, there should be no access issues. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-338, ARTICLE X, CHAPTER 13, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO PARKING PROHIBITED AT ALL TIMES.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page No. 162, and is known as Ordinance No. 2006-56.)

2006 COMPREHENSIVE ANNUAL FINANCIAL REPORT PRESENTATION

Mr. Chris Costner, Martin and Starnes Associates, CPA's, P.A., addressed Council regarding the 2006 Annual Comprehensive Financial Report (CAFR) and explained the 2005-2006 City of Salisbury independent audit process and audit report:

Audit Highlights

- Performed by Martin and Starnes, CPA's, P.A.
- Unqualified (clean) opinion
- No findings or questioned costs
- No material internal control weaknesses identified.

General Fund Summary

- 2004
 - Revenues - \$28,419,565
 - Expenditures - \$27,863,968
- 2005
 - Revenues - \$27,751,434
 - Expenditures - \$26,776,947
- 2006
 - Revenues - \$29,587,288
 - Expenditures - \$29,187,345

Fund Balance

- Serves as a measure of the City's financial resources available
 - Assets minus Liabilities equals Fund Balance
- 3 Classifications:
 - Reserved - Mr. Costner stated that these funds are restricted.
 - Unreserved Designated (Available) - Mr. Costner stated that these funds have been reserved by Council and can be re-appropriated.
 - Unreserved Undesignated (Available) - Mr. Costner stated that these funds are available with no restrictions.

Total Fund Balance – General Fund

- 2004 - \$5,809,933
- 2005 - \$6,784,420
- 2006 - \$7,184,363

Mr. Costner stated that the Fund Balance in the General Fund increased almost \$400,000.

Fund Balance Position – General Fund

	<u>2006</u>	<u>2005</u>
• Total Fund Balance	\$7,184,363	\$6,784,363
• Required Reservations	<u>- 3,873,682</u>	<u>- 3,588,992</u>
• Unreserved/Undesignated	\$3,310,681	\$3,195,428

Unreserved/Undesignated Fund Balance as a percent of expenditures of the General Fund:

- 2004 – 10.67%
- 2005 – 12.01%
- 2006 – 11.34%

Mr. Costner stated that State Statutes require the City to reserve a certain portion of the Fund Balance for uncollected receivables. Mayor Pro Tem Woodson asked what percentage of the fund balance was required to be reserved. Mr. Costner responded that the Local Government Commission (LGC) requires a minimum of eight (8) percent and that the City currently has just over eleven (11.34) percent in reserve 11.34.

Mr. Wade Furches, Finance Manager, explained the need for Fund Balance reserves:

Why Keep Fund Balance Reserves?

- Cash Flow – especially during months of low property tax revenues
- Avoid short-term borrowing
- Reserve for emergencies, unforeseen events, unforeseen opportunities
- Ability to fund capital projects without having to borrow money
- Increased investment income
- May help avoid tax/rate increases or service reductions
- Helps protect ratings and obtain lower interest on borrowings

Mr. Furches reviewed the LGC’s policies regarding Fund Balance:

What is the minimum Fund Balance Available (FBA) recommended by the LGC?

- 8% of General Fund Expenditures (for cash flows)
- Salisbury – 11.34% as of June 30, 2006
- City received LGC letter June 30, 2003 expressing their concern that the Fund Balance was 11.62 percent. Mr. Furches added that the City has not received a letter since then and believes it is due to the fact that the Fund Balance has increased. He explained that the LGC averages the Fund Balances of the cities with similar populations and sends letters to those in the lower half of the averages.
- What does the LGC consider to be the appropriate level of the Fund Balance Available?
 - Consider individual municipality’s situation
 - Average Fund Balance Available of similar-sized municipalities

Fund Balance Available (FBA) Comparison to similar Size Municipalities

Municipality	Population	FBA%	Statesville	24,911
103.00%				
Matthews	24,879	59.59%		
Sanford	23,832	39.74%		
Asheboro	22,947	32.14%		
Statewide Average (not including electricities)	20,000 – 40,000	30.94%		
Lexington	20,605	26.66%		
Mooresville	21,914	20.27%		
Kannapolis	39,187	20.24%		
Salisbury	29,239	11.34%		
Thomasville	25,749	7.21%		

Mayor Pro Tem Woodson stated that the City would need to have \$9 million in the Fund Balance to fall within the statewide average. Mr. Furches explained that the City is approximately \$1 million above the eight (8) percent Fund Balance required by the LGC and pointed out that these funds are mainly revenue receivables uncollected at June 30, 2006.

City Manager David Treme stated that the City of Salisbury has among the lowest Undesignated Fund Balances for a City this size in the State of North Carolina and that it is the policy of the City Council to maintain a low Fund Balance. He pointed out that the LGC is aware that the City of Salisbury operates a sound financial management plan and is aware of the City’s increases in the Fund Balance. He added that the City has used the Fund Balance for capital projects such as the fire station, equipment, and unforeseen occurrences.

Mr. Treme stated that as the City’s budget increases each year he and the Management Team strive to increase the Fund Balance by producing more revenue than expenditures. He explained that City Council adopted a policy of maintaining a ten (10) percent Fund Balance and the current balance is over eleven (11) percent. He indicated that it is important to keep transitional money in case it is needed and it allows the City to borrow money at an attractive rate. He stated that the LGC has placed trust and confidence in the City of Salisbury because of the good leadership of City Council and sound financial management.

He stated that he wanted to provide City Council with this audit and comparative analysis so they could see how the City of Salisbury compares with other cities.

Mr. Costner reviewed the revenues and expenditures of the General Fund:

Top 3 Revenues: General Fund

- Property tax – 49%
 - 2004 - \$4,232,240
 - 2005 - \$4,306,693
 - 2006 - \$4,755,926
- Charges for Services – 17%
- Other Revenue – 18%
 - Intergovernmental
 - Investment Income

- Miscellaneous Revenue

Top 3 Expenditures: General Fund

- Public Safety – 39%
- General Government – 21%
- Other Expenditures – 24%
- Transportation – 16%

Mr. Costner reviewed the City’s Debt Position and Enterprise Funds:

Debt Position - General and Business-Type Activities

- Outstanding Debt at 6/30/06 \$ 54,588,551
 - Installment Purchase Contracts \$ 7,277,152
 - Loans and Notes Payable 12,069,566
 - Bonds 32,441,948
 - Capital Lease Agreements 2,799,885
- Debt Margin at 6/30/06 \$164,917,792

Enterprise Funds – Operating Income (Loss) Budgetary Basis for 2006

	<u>Water & Sewer</u>	<u>Transit</u>
● Total Revenues	\$17,959,373	\$ 572,362
● Expenditures		
○ Operating	\$11,854,115	737,774
○ Debt Service	5,116,137	
○ Capital Outlay	<u>882,057</u>	<u>34,366</u>
○ Total Expenses	\$17,852,309	\$ 772,140
● Revenues over Expenditures	\$ 107,064	\$(199,778)
● Contributions from General Fund	\$ _____ -	\$ 213,118
-		
● Net Income	<u>\$ 107,064</u>	<u>\$ 13,340</u>

Mr. Treme explained that the \$199,778 loss in the Transit Fund is the City’s contribution from the General Fund to balance the Transit Fund. He further explained that the \$107,064 net income for the Water and Sewer Enterprise Fund is low but is an increase over last year’s net income and that any net income in the Water and Sewer Fund goes back into Utility to the benefit of the rate payers.

Mr. Costner thanked Management Services Director John Sofley, Mr. Furches and City staff for working with the auditors to make their job easy and efficient.

AWARD A CONTRACT TO RBC CENTURA FOR A LEASE PURCHASE OF A QUINT FIRE APPARATUS

Mr. John Sofley, Management Services Director, stated that at a previous meeting Council authorized the purchase of a Quint fire truck. He explained that the City received six (6) bids for financing of the truck and that RBC Centura submitted the low bid for a forty-eight month purchase agreement at a rate of 3.57 percent.

The bids received were:

<u>Financial Institution</u>	<u>Fixed Interest Rate</u>
RBC Centura	3.57%
Branch Banking & Trust Company (BB&T)	3.70%
SunTrust Leasing Corporation	3.807%
Wachovia Bank, NA	3.88%
Koch Financial Corporation	4.43%
Citizens South Bank	4.75%

Mr. Sofley stated that staff feels 3.57 percent is a good rate and recommends Council approve the Resolution for financing.

Thereupon, Mr. Kennedy made a **motion** to adopt a Resolution approving financing terms and awarding a lease purchase contract in the amount of \$674,425 to RBC Centura. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

RESOLUTION APPROVING FINANCING TERMS

(The above resolution is recorded in full in Resolution Book No. 12, at Page No. 45, and is known as Resolution No. 2006-30).

ISSUANCE AND SALE OF COMBINED ENTERPRISE SYSTEM REVENUE BONDS

Mr. John Sofley, Management Services Director, stated that at a previous meeting he submitted a preliminary bond resolution and identified \$6 million in projects for City funding and indicated that this is part of a two (2) year capital project plan. He noted that the Local Government Commission has approved the City's request to issue the bonds and stated he recommends that City Council authorize the Order to issue the bonds.

Thereupon, Mr. Lewis made a **motion** to adopt an Order authorizing the issuance and sale of Combined Enterprise System Revenue Bonds and authorizing the execution and delivery of certain documents in connection therewith. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

ORDER AUTHORIZING THE ISSUANCE AND SALE OF COMBINED ENTERPRISE SYSTEM REVENUE BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

BE IT ORDERED by the City Council of the City of Salisbury, North Carolina (the "City"):

Section 1. The City Council does hereby find and determine as follows:

(a) At a meeting held on November 7, 2006, the City Council authorized the filing of an application with the North Carolina Local Government Commission (the "Commission") requesting approval of the issuance of a not exceeding \$6,000,000 combined Enterprise System Revenue Bond, Series 2006 (the "Series 2006 Bond") of the City for the purpose of providing funds, together with other available funds, to make certain improvements to the City's water and sewer system (the "Project").

(b) The City, by resolution, also requested the Commission to sell the Series 2006 Bond at private sale without advertisement.

(c) The City has determined to issue the Series 2006 Bond in an aggregate principal amount not to exceed \$6,000,000 for the purpose of providing funds, together with other available funds, to (1) construct the Project and (2) pay certain costs and expenses incurred in connection with the issuance of the Series 2006 Bond.

(d) The City, by resolution, has determined to sell the Series 2006 Bond to Wachovia Bank, National Association (the "Purchaser") upon terms agreed to by the Purchaser and City staff.

(e) There has been presented to the City Council at this meeting a draft of the Third Supplemental Trust Agreement, dated as of December 1, 2006 (the "Third Supplemental Agreement"), between the City and First-Citizens Bank & Trust Company, as trustee (the "Trustee").

(f) The City has determined that the issuance and sale of the Series 2006 Bond in the manner provided in this order is in the best interests of the City.

Section 2. Capitalized words and terms used in this Order and not defined herein shall have the same meanings given such words and terms in the Third Supplemental Agreement and related Trust Agreement.

Section 3. Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "Act"), the City hereby authorizes the issuance of the Series 2006 Bond in the aggregate principal amount of \$6,000,000 pursuant to the terms of the Third Supplemental Agreement.

Section 4. The Series 2006 Bond, together with any Parity Indebtedness hereafter incurred pursuant to the provisions of the Trust Agreement, shall be secured on a parity basis by a pledge, charge and lien upon the Net Receipts and the money and Investment Obligations held in the various accounts and subaccounts of the Bond Fund in the manner and to the extent provided in the Trust Agreement and the Third Supplemental Agreement.

Section 5. The Commission is hereby directed to sell and award the Series 2006 Bond to the Purchaser on behalf of the City, in accordance with the terms and provisions set forth in the Third Supplemental Agreement, at a purchase price equal to the face amount of the Series 2006 Bond.

Section 6. The forms, terms and provisions of the Third Supplemental Agreement are hereby approved, and the Mayor or the City Manager and the City Clerk are hereby authorized and directed to execute the Third Supplemental Agreement in substantially the form presented, together with such insertions, modifications and deletions as the Mayor or the City Manager and the City Clerk, with the advice of counsel, may deem necessary or appropriate, including, without limitation, insertions, modifications and deletions necessary to incorporate the final terms of the Series 2006 Bond as set forth in the Third Supplemental Agreement, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 7. The Mayor, the City Manager, the Management Services Director, the City Attorney and the City Clerk, or any of them or their

deputies, are authorized and directed (without limitation, except as may be expressly set forth in this Order) to take such action and to execute and deliver such certificates, agreements, instruments or other documents as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Order and the Third Supplemental Agreement.

The officers of the City and the agents and employees of the City are hereby authorized and directed to do all acts and things required of them by the provisions of this Order, the Series 2006 Bond and the Third Supplemental Agreement for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 8. The issuance and sale of the Series 2006 Bond is hereby approved subject to the terms and conditions set forth in this Order.

Section 9. This Order shall take effect immediately upon its passage.

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BUDGET ORDINANCE AMENDMENT- HOME FUND BALANCE
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Mr. Wade Furches, Finance Manager, stated that HOME funds are used to build and renovate homes to sell to first time home buyers. He indicated that when the homes are sold, the proceeds are returned to the HOME fund as program income. At the end of the fiscal year the funds lapse into the fund balance in the HOME fund. He explained that in order to spend the money from the fund balance these proceeds have to be re-appropriated and requested Council appropriate \$177,555 from the HOME fund balance to build and renovate additional houses for first time home buyers.

Thereupon, Mr. Burgin made a motion to adopt an Ordinance amending the 2006-2007 Budget Ordinance of the City of Salisbury to appropriate Fund Balance of \$177,555 in the HOME fund. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

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AN ORDINANCE AMENDING THE 2006-2007 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE FUND BALANCE IN HOME FUND
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(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page No. 163, and is known as Ordinance No. 2006-57.)

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COMMENTS FROM THE CITY MANAGER
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(a) Planning Board

Council received the Planning Board recommendations and comments from the November 28, 2006 meeting.

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MAYOR'S ANNOUNCEMENTS
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(a) Branding and Wayfinding Steering Committee Public Meeting

Mayor Kluttz announced that the Branding and Wayfinding Steering Committee will hold a public input meeting on December 11, 2006 e Rowan Museum located at 202 North Main Street, Salisbury, NC.

(b) Employee Christmas Luncheon

Mayor Kluttz announced that the annual Christmas luncheon for City employees will be held Wednesday, December 13, 2006 from 11:30 a.m. – 1:30 p.m. at the Salisbury Civic Center.

(c) Rowan County Commissioner Tina Hall

Mayor Kluttz introduced newly elected Rowan County Commissioner Tina Hall and thanked her for attending the City Council meeting.

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COMMENTS FROM MAYOR PRO TEM PAUL WOODSON
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Speed Limits on Confederate Avenue and Milford Hills

Mayor Pro Tem Woodson stated that he has been contacted by residents of Confederate Avenue and they are not happy with the speed of traffic along Confederate Avenue and indicated to him that the twenty-five (25) mph speed limit has not slowed the traffic down.

Mr. Woodson stated that Ms. Katherine Osborne contacted him with concerns about the stop signs placed in the Milford Hills neighborhood. She indicated that she is not happy with the twenty-five (25) mph speed limit and wants to recommend that the City install speed bumps.

Street Lights

Mayor Pro Tem Woodson stated that he receives many calls regarding street light outages. He indicated that a retired school teacher, Mr. Kent Brown, has volunteered to tag street lights that are out and follow up with the City and Duke Power to get the light back on.

City Manager David Treme stated that City staff are already on the streets and can survey and tag the street lights. He indicated that the City can be divided into quadrants with each assigned to a different City department to tag the outages. He added that the City can also utilize staff that works at night, such as the Police Department. Mr. Treme thanked Mr. Brown for bringing this to the City's attention. He noted that the street lights belong to Duke Power and the City will be glad to tag the lights and make sure that Duke Power responds as quickly as they can.

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ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Burgin, seconded by Mr. Kennedy. All council members agreed unanimously to adjourn. The meeting was adjourned at 7:04 p.m.

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Mayor

City Clerk

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