

Salisbury, North Carolina

April 2, 2002 - 4:00 p.m.

REGULAR MEETING

PRESENT: Mayor Pro Tem, Paul Woodson, Jr., Presiding;
Councilmen William (Bill) Burgin, and William (Pete) Kennedy;
City Manager, David W. Treme; Assistant City Manager,
J. Foster Owen; City Attorney, F. Rivers Lawther, Jr.; and
City Clerk, Swannetta B. Fink.

ABSENT: Mayor Susan W. Kluttz and Councilman Robert (Bob) Martin.

The meeting was called to order by Mayor Pro Tem Woodson who then gave the invocation.

RECOGNITION OF VISITORS

Mayor Pro Tem Woodson recognized all visitors present.

PROCLAMATIONS

The following observances were proclaimed:

NATIONAL SPORTSCASTERS AND SPORTSWRITERS

DAYS IN SALISBURY April 27-29, 2002

SALISBURY- ROWAN SENIOR GAMES DAY April 23, 2002

CONSENT AGENDA

Minutes of the regular meeting of March 19, 2002.

Thereupon, Mr. Burgin made a **motion** to approve the Consent Agenda. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy and Woodson voted AYE. (3-0)

COUNCIL COMMITTEE REPORT - PROPOSED CLOSING OF ALLEY

100 BLOCK WEST KERR STREET

Mayor Pro Tem Woodson and Councilmember Burgin served on the Council Committee regarding the proposed closing of an alley in the 100 block of West Kerr Street. Councilmember Burgin reported an agreement is in progress regarding the area the alley served. At this point, the matter is on hold, with a motion to be made once an agreement between the parties is confirmed, Mr. Burgin reported. He thanked all the parties involved for their cooperation and determination to find an answer to this situation.

PRESENTATION FROM MR. LEO WALLACE

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Mr. Leo Wallace informed Council that the theatres on Statesville Boulevard have been vacated recently by the former owners. In the meantime, Mr. Carl Haynes has leased the building and it has taken him some time to get set up, according to Mr. Wallace. The sign for the theatres announcing the coming movies must be on Statesville Boulevard, Mr. Wallace emphasized. The sign has been there since the theatres were built and before the sign ordinance was just passed, he stated.

Mayor Pro Tem Woodson asked Mr. Wallace if the problem right now was that he needed some relief on the present ordinance, and Mr. Wallace replied "Yes." A letter from Mr. Haynes was read by Mr. Wallace. Mr. Wallace stated there has been some precedent on this in special situations. When McDonald's tore their building down and built a new building, that would have been in conflict with the ordinance, explained Mr. Wallace. An exception was made there, as well as with the Hampton Hotel, he observed. The ordinance says you can't put proprietary signs on other property, but a variance was made on that, noted Mr. Wallace. His situation is not as severe as either one of these because the theatre has not been closed up, but is only changing hands, according to Mr. Wallace. He asked for Council's consideration of a variance in this matter.

Mayor Pro Tem Woodson asked Mr. Hubert Furr, Development Services Manager/Zoning Administrator, what could be put up if the sign had to be taken down. "Could the sign be put back on the road?," he asked. Mr. Furr indicated that the property is zoned B-7 which would allow for one ground sign with a maximum size of 35 sq. ft. and 10 feet in height. Mr. Wallace noted there are 6 cinemas at this location. Six movie headings on 35 sq. ft. would be tough, Mr. Woodson noted. Councilmember Kennedy asked if the sign is going to have to be moved because of the highway expansion, or is it too big? Mr. Furr stated the sign is a non-conforming sign. The sign ordinance was adopted in 1986. The largest sign allowable for on-premises signs is 100 sq. ft. At that time, there was amortization of all signs to come into compliance in November, 1993. In February, 1993, the ordinance was changed to do away with amortization. The Planning Board and City Council put in specific conditions where a sign could not be changed to another business if the building was vacant for more than 60 days. The obsolete sign had to come down. This building has been vacant for more than 60 days, Mr. Furr stated. It is staff's opinion that the sign is an obsolete sign, a non-conforming sign, and needs to come down as per the ordinance, he said. Mr. Wallace stated that being vacant is an exaggerated state of affairs, adding Mr. Haynes has been working on this some time. He would have come within that, but he has to buy new equipment because he found the projection equipment was obsolete, two of the cinemas didn't have seats, and various other things, Mr. Wallace told Council.

Mr. Wallace proposed that the theatres are needed on this side of town and pointed out it is over 4 miles from the other theatres on East Innes Street. Mr. Wallace stated Mr. Haynes wants to go ahead because he has seats ordered, etc. It really comes within the 60 day time as far as the overall transaction, Mr. Wallace noted. Mr. Woodson stated the problem is that staff does not agree. Mr. Furr said it is his understanding that the building has been vacant more than 60 days. Mr. Wallace said it has been vacant but it has been under lease by the former operators. The owners of the property were identified by Mr. Wallace as the Wagoner and Walser families.

Councilmember Burgin questioned whether the lease money was continuous all along with no break in it. Mr. Wallace replied that the lease money and other considerations did go on. Mr. Burgin indicated he could not act on this today and Mr. Kennedy agreed. Additionally Mr. Kennedy advised he does not want to see a building become vacant, but does not want to make a snap decision on the sign ordinance. He then suggested we study this matter.

Mayor Pro Tem Woodson appointed Councilmembers Bob Martin and William Kennedy to serve on a Council Committee to study this matter, and bring it back for consideration at the next meeting.

Mr. Wallace presented Council with the letter from Mr. Haynes.

SECOND READING - CDBG AND HOME BUDGET FOR FY2002-2003

Mr. John Brooks, Community Development Consultant, informed Council that this is the same budget (no changes) as the first reading presented March 19, 2002. It is as follows:

CDBG

Acquisition/Rehab/Resale \$218,000.00

Emergency Rehabilitation 60,000.00

Jersey City Community Center 75,000.00

Public Services

Rowan Helping Ministries \$25,000.00

Family Crisis Council 17,000.00

Rowan Community Care Clinic 10,000.00

Salisbury Youth Employment 10,000.00

Community Youth Garden 5,000.00

\$ 67,000.00

Program Administration \$105,000.00

Total CDBG Funds \$525,000.00

HOME

Acquisition/Resale \$ 35,200.00

Housing Rehabilitation 20,000.00

Homeownership Assistance 60,000.00

Program Administration 10,800.00

Total HOME Funds \$126,000.00

Total Community Development Funds \$651,000.00

SOURCES OF INCOME

CDBG \$375,000.00

Program Income 150,000.00

HOME 126,000.00

Total \$651,000.00

Thereupon, Mr. Kennedy **moved** to adopt the CDBG and HOME budget for FY2002-2003. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy and Woodson voted AYE. (3-0)

GRANT RELIEF FROM SUBDIVISION STANDARDS - PUMP STATION ON OLD CONCORD ROAD

Mr. Dan Mikkelson, City Engineer, informed Council that the Utilities Department needs to acquire some property to put in a pump station. The property is zoned M-1. The zoning ordinance does not have a minimum lot size. This is part of a larger tract and needs to go through the subdivision process. The Subdivision Ordinance does establish a minimum lot size of 100 feet wide by 125 feet deep. In this case, the use is for a gravel parking lot and small pump building. The property is more than likely always going to be owned by the City and always used as a pump station for the water distribution system, indicated Mr. Mikkelson. On this particular pump station site, the appropriate size needed is 70 feet deep by 50 feet wide. Staff recommends that Council grant relief from the minimum lot size requirements in accordance with Section 5.05.2 of the Subdivision Ordinance and approve the minor plat as submitted.

Mayor Pro Tem Woodson observed this is a "must" for the City. Councilmember Burgin asked if there was a list of circumstances under which relief is normally granted to which Mr. Mikkelson said the ordinance states it is on a case by case basis and also for unusual circumstances or hardships. In this case, the unusual circumstance is that it is not a lot for business use, he stated. Mr. Burgin asked if the 70 foot should be deeper. He indicated he would hate to have a pump station forward of businesses and other things simply because we allowed a 70 foot deep lot and others can't operate like that. Mr. Mikkelson replied that a pump station building itself is very small (16x16). The subject property is owned by one property owner (industrial site) that would probably remain under single ownership, he responded.

Thereupon, Mr. Kennedy **moved** to grant relief from minimum lot size requirements in accordance with Section 5.05.2 of the Subdivision Ordinance and approve the minor plat as submitted. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, and Woodson voted AYE. (3-0)

REPORT FROM PLANNING BOARD - U S-70 CORRIDOR STUDY

This item was postponed until the next Council meeting.

GROUP DEVELOPMENT SITE PLAN

G-2-2002 - Royal Homes Construction, 200 block Sunset Drive

(a) Mr. Hubert Furr, Development Services Manager/Zoning Administrator, reviewed with Council the site plan which shows 78 single-family lots with four 6-unit condominiums. There is a plan for storage buildings also. Recently, Council approved the rezoning of the property to B-RT and also the corner property to B-6, he explained. When the site plan was first submitted to the Technical Review Committee, there were 30 items that had to be addressed. The developer and staff reduced the items to 9. These 9 items were brought to the Planning Board and then sent to a committee. The committee met with the neighbors and some of the issues were: minimum lot size, proposed setbacks, tree protection and screening requirements, parking lot trees, street names, driveways, and connectivity to the neighborhood. The proposed site plan has had a lot of work done on it, Mr. Furr noted. Staff recommends approval as submitted.

Mayor Pro Tem Woodson asked staff what size homes are going to be on the lots, and about the side setbacks. Mr. Kennedy asked what the width sizes would be. Mr. Furr responded that they ranged between 40-50 feet wide. The narrowest one was 36 feet, he said. After Mr. Furr responded, Mr. Woodson said the houses can be 5 feet apart. Mr. Furr replied "that's correct."

(b) Mayor Pro Tem Woodson noted that this is not a public hearing, but Council would received comments from the public.

Mr. Terry Eller, Rowan Mills Road, stated that the name of the alleyway that they want the connectivity to is Briarwood Avenue. There were approximately 39 names on a petition asking it to be left closed - they agreed to that and hope you agree to that also. The other issue he has is the off ramp from Jake Alexander Boulevard to South Main Street. He suggested this be made into two left turns; go straight onto Sunset Drive or turn right. He said he thinks traffic will be backed up on Jake Alexander Boulevard causing problems. Again, he asked that Briarwood not be opened to traffic. He stated that the developers have met with the neighbors and they have done a good job. Mr. Woodson asked Mr. Dan Mikkelson, City Engineer, to look into the matter of two left turns at this location.

Mr. Mark Lewis, 136 Rugby Road, told Council that this is a compact infill neo-traditional development that meets many of the suggestions of our Salisbury 2020 Vision. He noted to Council not to let the amount of time and number of meetings spent working on this subdivision concern you. This is one of those rare occasions when you have something new. Mr. Harold Poole had the foresight many years ago to have a zoning classification that is "do your own subdivision." This is the first one where we actually have a site plan that we're trying to approve that somewhat follows the neo-traditional design. It sounds sloppy when it comes to the Planning Board with 9 conditions from the Technical Review Committee (TRC). The Planning Board reacted unfavorably to 9 conditions, even thinking about sending it back to TRC. There were a few ordinance requirements, but they were mostly TRC recommendations that frankly can't be enforced on the developer, per our ordinance, he said. The Planning Board and City Council would make these calls. All of the issues have been hammered out and he said he thinks the developers and the neighbors are happy with it. Mr. Lewis stated he was concerned at the Planning Board meeting because there were two negative votes. Mr. Lewis went on to explain the reason for the negative votes, noting that he has permission from the negative voters to do so.

Mr. Lewis noted that the houses will be in the 1500-2400 sq. ft. range. Even though a 2.5 foot setback sounds like a really small setback, setbacks really determine the building envelope. Every house will not be 5 foot from the house next to it. The market conditions will determine whether that is desirable or not to the people who want to buy there, he concluded.

(c) Thereupon, Mr. Burgin made a **motion** to approve this as presented to Council. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, and Woodson voted AYE. (3-0)

PRESENTATION FROM MR. TITUS KING CONCERNING PROPERTY AT 1231 NORTH LONG STREET

Mr. Titus King, 108 Railroad Avenue, East Spencer, N.C., told Council he owns property at 1231 North Long Street. His concern is that if the City of Salisbury disagrees with what you have on your property, do they have the right to come on your property, remove it, and then send you a bill. Mr. Titus King said his brother, Michael King, drove by and saw the people on his property cleaning it up, and called him (Titus.) Mr. King also had a vehicle parked at this location. The City sent Mr. King a letter stating the vehicle had to be moved. Mr. King moved the vehicle to a different spot and the City indicated this was OK, according to Mr. King. The next couple days the vehicle got stolen, he said. Mr. King said he made a complaint and came and talked to Dave Treme. The City has been coming on his property for several years, he said, and even done things and said they would come back and correct what they had done. Even though your intention may be good, Mr. King said he asked if the Code Enforcement Officer would do what the boss said. The Code Enforcement Officer said he would do whatever his boss tells him to do, according to Mr. King. Mr. King then expressed concern about this approach.

Mayor Pro Tem Woodson asked Mr. King if he was complaining about the bill in the amount of \$298.20 for cleaning up the property. Mr. King replied "Yes, and how they went about doing it." Mr. Woodson asked him if the City gave him proper notice and time to clean it up. Mr. King replied he thinks 15 days and the letter mentioned the stuff he had was abandoned. The property was rented to someone to use temporarily as a church, he said. The inside closets had been torn down and he was re-using the stuff, he stated.

Mayor Pro Tem Woodson asked Mr. Richard Kelly, Risk Manager, to tell Council about this matter. Assistant City Manager, Foster Owen, noted that the Code Enforcement Officer, Jeff Benfield, was also present. City Manager Treme passed out a copy of the Nuisance Ordinance to Council members. Mr. Kelly told Council Risk Management got involved in this matter on February 20, 2002 when Mr. King made allegations that the City had caused some property damage to his residence during the abatement process. He said Code Enforcement Officer Benfield had issued a letter dated January 17 giving Mr. King 15 days to abate the problem. Fifteen days would be February 2, but City staff did not actually go onto the property until February 13 to make those abatements and clean up, Mr. Kelly reported. As a result of that, Mr. King made allegations that the City had caused structural damage to his house in the loading and removing of the equipment, Mr. Kelly explained. Mr. Kelly then presented pictures to Council which show the alleged damage and the overall deterioration of the house and foundation. Risk Management took statements from 5 employees who worked the site that day (February 13). All the information was submitted, along with similar photos, to the League of Municipalities in Raleigh. The League assigned a senior adjuster who completed his investigation, and subsequently issued a denial back to Mr. King dated March 6. The adjuster felt the City did not contribute to the problem, Mr. Kelly noted. Mr. Woodson stated that the City gave Mr. King almost three and one-half weeks. Mr. Kelly replied, yes, we actually gave Mr. King 26 days; 11 additional days beyond the 15 day limit Mr. King had been given in the letter from the Code Enforcement Officer.

Mr. Jeff Benfield, Code Enforcement Officer, informed Council that the property was written up on January 16 and the letter was dated January 17. Mr. King had 26 days before staff cleaned up the property. The debris was old building materials that Mr. Benfield stated he felt would never be used. The sheet rock was out in the yard wet; a lot of brick; and 6 appliances behind the

storage building that would be no good sitting outside for any length of time, he said. All the materials were moved to the landfill. Mr. King stated that the first time Mr. Benfield came out to the property there was a big pile of sheet rock. The second time he came out, there was a small pile of sheet rock left, Mr. King noted.

Mayor Pro Tem Woodson told Mr. King it appeared the City gave him plenty of time to clean up the property. Mr. Woodson asked Mr. Benfield when he came back to the property did it look like Mr. King had made much attempt to clean it up. Mr. Benfield stated he noticed the sheet rock pile had gone down some but there were still some things there including the appliances, the pile of building material as far as wood, and the shelves still behind the outbuilding. Mr. Woodson told Mr. King for \$298.20 and you got everything cleaned up and hauled to the dump, doesn't sound too bad. Mr. Benfield noted he looked in the phone book for Mr. King's number and didn't get it, so there was no way to contact Mr. King other than the letter. Everything that Mr. Benfield sends out has his number on it, he said. If a person needs more time, they can call him and he will be glad to give them a few extra days, weeks, etc. Councilmember Kennedy asked if Mr. King appealed the letter of January 17. "No sir," Mr. Benfield replied. Mr. Kennedy asked Mr. King if he was protesting the removal of the appliances, or the damage to his building. Mr. King stated he was protesting how the City went about doing it. Mr. Woodson noted that the process was done correctly and the City was most generous. If we want to keep our City looking nice, this is why we have the ordinance, Mr. Woodson noted. Mr. King said what he had out there, the City called junk. Mr. Woodson said if it's abandoned appliances, it's junk.

Councilmember Burgin pointed out that the City followed the process. The ordinance is in place for a purpose; the purpose has been to abate nuisances, and this is what it was doing, he said. Mr. Burgin noted he didn't ever want the City to step on anybody's toes, he wants persons from the City to be respectful, but he also knows that we have a job to do, and we asked Mr. Benfield to do it. We are not going to fuss at him (Mr. Benfield) for doing it; we will tell him he did a good job, he abated a nuisance.

OUTSIDE WATER CONNECTION - CHERYL SPILLMAN, 4085 JACK BROWN ROAD

Upon **motion** of Mr. Kennedy, seconded by Mr. Burgin, and with Messrs. Burgin, Kennedy, and Woodson voting AYE, an outside water connection for Cheryl Spillman, 4085 Jack Brown Road, Tax Map 453, Parcel 146, in the amount of \$1,362.30, was approved. (3-0)

BUDGET AMENDMENT - POLICE DEPARTMENT

Ms. Barbara Fuller, Fiscal Analyst with the Salisbury Police Department, informed Council that the City has received a grant from the U.S. Department of Justice in the amount of \$182,430.00. The City's match is \$24,000.00. The funds will be used for mobile data software for the police officers vehicles.

Thereupon, Mr. Burgin **moved** to accept the grant. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, and Woodson voted AYE. (3-0)

AN ORDINANCE AMENDING THE 2001-2002 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, TO APPROPRIATE LOCAL LAW ENFORCEMENT BLOCK GRANT.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter II - Administrative, at Page No. 49, and is known as Ordinance No. 2002-22.)

COUNCIL COMMITTEE REPORT - G-1-02 - TOMMY WHITLEY APARTMENTS, 700 BLOCK OF WILSON ROAD

Councilmember Burgin informed Council that he and Councilman Bob Martin were on a committee to review the group development site plan for G-1-02, Tommy Whitley Apartments, 700 Block of Wilson Road. They met with members of the community and the property owner, Mr. Tommy Whitley, Mr. Burgin said. He further said he thought the committee was actually able to make a sale of the property to the Community Development Corporation (CDC), so the area can then be developed into single-family houses and more in tune with what the neighbors want. This area is located strategically between Salisbury High School and Livingstone College. Everybody seems to be happy, Mr. Burgin noted. Some zoning adjustments are required for building three (3) houses on the property, he said. Mr. Harold Poole, Senior Planner, stated the Planning Board will look at the whole area and bring the matter back to City Council possibly sometime in June.

REPORT FROM CITY MANAGER

Council received the Planning Board recommendations as information only.

MAYOR ANNOUNCEMENT

Spring Spruce-Up Week

Mayor Pro Tem Woodson announced that the Community Appearance Commission and the Public Services Department will hold their annual Spring Spruce-Up Week, April 15-19, 2002.

SALE OF REVENUE BONDS

Mr. John Sofley, Finance Director, informed Council that he had just received notification from the Local Government Commission approving the City's application to sell Revenue Bonds. The next step in this process is for Council to approve the ORDER authorizing the issuance and sale of the bonds.

Mr. Sofley reviewed with Council what the ORDER does and reviewed the ORDER and documents which relate to the ORDER:

- confirms that the City did file application and Council authorized it
- asked Local Government Commission to proceed
- approves Second Supplemental Trust Agreement
- approves Bond Purchase Agreement
- approves Preliminary Official Statement
- approves Financial Feasibility Study
- authorizes Mayor, City Manger, Finance Director, City Clerk and City Attorney

to execute documents required for issuance of bonds

Mr. Sofley told Council that at the moment all the projects are being bid out. If the bids come in substantially under our construction estimate, the amount of bonds needed will be reduced.

Councilmember Kennedy introduced the following ORDER, a copy of which had been provided to each Council member and which was read by its title:

ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF NOT TO EXCEED \$24,500,000 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 meetings held on March 5, 2002 and March 19, 2002, the City Council authorized the filing of an application with the North Carolina Local Government Commission (the "Commission") requesting approval of the issuance of not to exceed \$24,500,000 revenue bonds of the City for the purpose of providing funds, together with any other available funds, to (i) pay the cost of certain improvements to the City's water and sewer system (as more specifically described in the resolution adopted on March 5, 2002, the "Project"), (ii) fund any necessary debt service reserve fund and (iii) pay certain costs and expenses incurred in connection with the issuance of such revenue bonds.

(b) The Finance Director has filed an application with the Commission requesting the approval of the issuance of not to exceed \$24,500,000 revenue bonds for the purposes described below.

(c) The City has also requested the Commission to sell such revenue bonds at private sale without advertisement.

(d) The Commission has approved the application of the City for the issuance of such revenue bonds in an aggregate principal amount not to exceed \$24,500,000 for the purposes described below in accordance with N.C.G.S. § 159-86.

(e) The City desires to issue not to exceed \$24,500,000 Combined Enterprise System Revenue Bonds, Series 2002 (the "Bonds") for the purpose of providing funds, together with other available funds, to pay (i) the costs of the Project, (ii) the premium for the municipal bond insurance policy to be issued in connection with the issuance of the Bonds, (iii) the premium for the reserve policy to be issued in connection with the issuance of the Bonds or the amount necessary to fund a debt service reserve fund, as applicable, and (iv) the costs and expenses incurred in connection with the issuance of the Bonds.

(f) The City proposes to sell the Bonds to Salomon Smith Barney Inc. and Legg Mason Wood Walker, Incorporated (collectively, the "Underwriter") pursuant to the provisions of a Bond Purchase Agreement (hereinafter mentioned), at such prices determined by the Commission, subject to the approval of the City.

(g) There have been presented to the City Council at this meeting drafts of the following documents relating to the issuance and sale of the Bonds:

(1) Second Supplemental Trust Agreement, to be dated as of April 15, 2002 (the "Supplemental Agreement"), between the City and First-Citizens Bank & Trust Company, as trustee (the "Trustee"), supplementing a Trust Agreement, dated as of January 1, 1998 (the "Trust Agreement"), between the City and the Trustee;

(2) Bond Purchase Agreement, to be dated as of the date of delivery thereof (the "Purchase Agreement"), among the Underwriter, the Commission and the City; and

(3) Preliminary Official Statement, to be dated as of the date of delivery thereof (the "Preliminary Official Statement"), relating to the offering and sale of the Bonds, together with the Financial Feasibility Report to be included as Appendix B thereto (the "Feasibility Report").

(h) The issuance and sale of the Bonds in the manner provided in this order is in the best interest 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 Trust Agreement and the Supplemental Agreement.

Section 3. The actions of the Finance Director in applying to the Commission for the approval of the issuance of the Bonds in a principal amount not to exceed \$24,500,000 for the purposes described in Section 1(e) hereof is hereby ratified, confirmed and approved.

Section 4. Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "Act"), particularly G.S. 159-88, the City Council hereby authorizes the issuance of the Bonds in an aggregate principal amount not to exceed \$24,500,000 for the purposes described in Section 1(e) hereof. The Bonds shall mature at such times and in such amounts as shall be set forth in the Supplemental Agreement, subject to the provisions of this order.

The Bonds shall be issued as fully registered bonds in denominations of \$5,000 or any whole multiple thereof and shall be subject to provisions of the book-entry only system for registration of the Bonds as set forth in the Supplemental Agreement. Interest on the Bonds shall be payable on February 1 and August 1 of each year, beginning August 1, 2002, until the payment in full of the principal thereof. The principal of the Bonds shall be payable on February 1 of each year as described in the Supplemental Agreement with a final maturity of the Bonds not to exceed December 31, 2027.

Section 5. The Bonds shall be subject to optional and mandatory sinking fund redemption at the times, upon the terms and conditions, and at the prices as shall be set forth in the Supplemental Agreement.

Section 6. The proceeds of the Bonds (including accrued interest) shall be applied as provided in Section 204 of the Supplemental Agreement.

Section 7. The Bonds, together with any Parity Indebtedness heretofore or hereafter issued and outstanding 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 accounts and subaccounts of the Bond Fund in the manner and to the extent provided in the Trust Agreement and the Supplemental Agreement.

Section 8. The proposal of the Underwriter set forth in the Purchase Agreement offering to purchase the Bonds at the aggregate purchase price and bearing interest at the rates determined by the Commission and approved by the City as hereinafter provided, such purchase price not to be less than 99% of the aggregate principal amount of the Bonds plus accrued interest from the date of the Bonds to the date of delivery of the Bonds, and such interest rates not to exceed a true interest cost of 5.80%, is hereby approved. The Commission is hereby directed to sell and award the Bonds to the Underwriter on behalf of the City, subject to the approval of the City, in accordance with the terms and provisions set forth in the Purchase Agreement. The City Manager or the Finance Director of the City is hereby designated to approve on behalf of the City the sale of the Bonds to the Underwriter at such interest rates, for such purchase price and upon such terms and conditions as the City Manager or the Finance Director shall determine, subject to the provisions of this order. The City Manager or the Finance Director of the City is hereby authorized and directed in the name and on behalf of the City to execute and deliver the Purchase Agreement in substantially the form presented, together with such changes, additions and deletions as the City Manager or the Finance Director, with the advice of counsel, may deem necessary or appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 9. The forms, terms and provisions of the Supplemental Agreement are hereby approved, and the Mayor or the City Manager and the City Clerk or any Deputy City Clerk are hereby authorized to execute and deliver the Supplemental Agreement in substantially the form presented, together with such changes, additions and deletions as the Mayor or the City Manager and the City Clerk or any Deputy City Clerk, with the advice of counsel, may deem necessary or appropriate, including, without limitation, changes, additions and deletions necessary to incorporate the final terms of the Bonds as set forth in the Purchase Agreement and to incorporate certain terms and provisions required by any rating agency or bond insurer, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 10. The Preliminary Official Statement relating to the offering for sale of the Bonds is hereby approved. The City hereby authorizes the use and distribution of the Preliminary Official Statement in substantially the form presented, together with such changes, additions and deletions as the Mayor, the City Manager or the Finance Director, with advice of counsel, may deem necessary or appropriate. The City authorizes and consents to the preparation and distribution of a final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect the final terms of the Bonds. The Mayor, the City Manager or the Finance Director is hereby authorized and directed to execute and deliver the final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes, additions and deletions as the Mayor, the City Manager or the Finance Director, with the advice of counsel, may deem necessary or appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 11. The form and content of the Feasibility Report is hereby approved. The City hereby finds the assumptions made in the Feasibility Report, including the assumed increases in water and sewer rates, to be reasonable; provided, however, that the City shall not be obligated to put into effect the rate increases set forth in the Feasibility Report. Potential rate increases shall be considered by the City Council from time to time in connection with the City's overall budgetary process, and rate increases will be adopted from time to time as necessary to comply with the provisions of the Trust Agreement and current policies of the City.

Section 12. The Mayor, the City Manager, the Finance Director, the City Clerk and the City Attorney, 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, opinions or other documents as they, with the advice of the counsel, may deem necessary or appropriate to effect the transactions contemplated by this order, the Trust Agreement, the Supplemental Agreement or the Purchase Agreement, including, without limitation, such documents as may be necessary or appropriate in connection with the procurement of a municipal bond insurance policy or a debt service reserve policy relating to the Bonds.

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 Bonds, the Trust Agreement, the Supplemental Agreement or the Purchase Agreement for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 13. The issuance and sale of the Bonds is hereby approved subject to the terms and conditions set forth in this order.

Section 14. This order shall take effect immediately upon its passage.

Thereupon, Mr. Kennedy **moved** to adopt the ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY NOT TO EXCEED \$24,500,000 COMBINED ENTERPRISE SYSTEM REVENUE BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH as stated in the attached documents. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, and Woodson voted AYE. (3-0)

AYES: Councilmembers Burgin, Kennedy, Woodson.

NOES: None.

Councilmember Kennedy made another **motion** that we have a second reading on the same item Wednesday, April 3, 2002 at 4:00 p.m. at the address of 106 North Long Street. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, and Woodson voted AYE. (3-0)

CLOSED SESSION

Mayor Pro Tem Woodson informed Council that he would entertain a motion for the Council to go into closed session concerning a property matter.

Thereupon, Mr. Kennedy **moved** to go into closed session to consult with our attorney regarding possible litigation on a property matter from N.C. General Statute 143-318.11(a)(3). Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, and Woodson voted AYE. (3-0)

RETURN TO OPEN SESSION

Councilmember Burgin **moved** to return to the open session. Motion was seconded by Councilman Kennedy. Messrs. Burgin, Kennedy, and Woodson voted AYE. (3-0) Mayor Pro Tem Woodson announced that no action was taken in closed session.

RECESS OF MEETING

Motion to recess the meeting was made by Mr. Kennedy. Mr. Burgin seconded the motion. All Council members agreed unanimously to recess. The meeting was recessed at 5:42 p.m.

RESUME RECESSED MEETING

On Wednesday, April 3, 2002, at 4:00 p.m., the City Council resumed its regular meeting which began Tuesday, April 2, 2002, at 4:00 p.m.

Present: Mayor Pro Tem, Paul Woodson, Jr.; Councilmen William (Bill) Burgin, William (Pete) Kennedy, and Robert (Bob) Martin, along with City Manager, David W. Treme; City Clerk, Swannetta B. Fink; City Finance Officer, John A. Sofley, Jr.; and City Attorney, F.Rivers Lawther, Jr.

Absent: Mayor Susan W. Klutz.

RECONVENE RECESSED MEETING

Motion was made by Councilman Kennedy, seconded by Councilman Burgin to reconvene the recessed meeting. All voted AYE. (4-0)

SALE OF REVENUE BONDS - SECOND READING

Mayor Pro Tem Woodson opened with the reading of the following bond ORDER title: (with all Council members having a copy)

ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF SALISBURY NOT TO EXCEED \$24,500,000 COMBINED ENTERPRISE SYSTEM REVENUE BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

(See Page Nos. 10-14 of the Minutes for text of the ORDER.)

Upon **motion** of Mr. Martin, seconded by Mr. Burgin, and with Messrs. Burgin, Kennedy, Martin, and Woodson voting AYE, the ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF SALISBURY NOT TO EXCEED \$24,500,000 COMBINED ENTERPRISE SYSTEM REVENUE BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH, was approved.

AYES: Councilmembers Burgin, Kennedy, Martin, Woodson.

Noes: None

ADJOURNMENT

Mr. Burgin **moved** to adjourn with Mr. Kennedy seconding the motion. Messrs. Burgin, Kennedy, Martin, and Woodson voted AYE. (4-0). The meeting was adjourned at 4:15 p.m.

Mayor Pro Tem

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City Clerk