REGULAR MEETING

PRESENT: Mayor Paul B. Woodson, Jr., Presiding; Mayor Pro Tem Maggie A. Blackwell, Council Members Karen Kirks Alexander, William (Pete) Kennedy, and William Brian Miller; Interim City Manager John Sofley; Deputy City Clerk Kelly Baker; and City Attorney F. Rivers Lawther, Jr.

ABSENT: City Clerk Myra B. Heard

Salisbury City Council met in Council Chambers in City Hall located at 217 South Main Street. The meeting was called to order by Mayor Woodson at 4:00 p.m. The invocation was given by Mayor Pro Tem Blackwell.

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Woodson welcomed all visitors present.

CHANGES TO THE AGENDA

Mayor Woodson noted the following changes to the Agenda:

Add – Council to discuss recruitment of new City Manager.
PROCLAMATION

Mayor Woodson proclaimed the following observances:

CONSTITUTION WEEK September 17-23, 2014
NATIONAL GOOD NEIGHBOR DAY September 28, 2014

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular Meeting of September 2, 2014.

Thereupon, Ms. Blackwell made a motion to adopt the Consent Agenda as presented. Ms. Alexander seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

FY2013-2014 CONSOLIDATED ANNUAL PLANNING AND EVALUATION REPORT (CAPER)

Senior Planner Trey Cleaton addressed Council regarding the 2013-2014 Consolidated Annual Planning and Evaluation Report (CAPER). Mr. Cleaton stated the CAPER is a performance report for Community Development Block Grant (CDBG) and HOME program funds the City receives from the United States Housing and Urban Development (HUD) for housing and neighborhood revitalization. He indicated the City works with the Salisbury Community Development Corporation (CDC) to administer these programs to address housing issues. He noted the final report will be submitted to HUD by September 28, 2014.

Mr. Cleaton noted the housing and community development activities include:

- Housing
  - Emergency rehabilitation
  - Owner-occupied rehabilitation
- Property acquisition/demolition of blighted structures
- Public facilities improvements
- Funding for public service organizations

Mr. Cleaton reviewed housing and neighborhood improvements in the following areas:

West End Neighborhood

- 1309 West Horah Street
  - Owner-occupied rehabilitated
• West End Transformation Initiative
  o Plan approved by HUD
  o Approved by Council December 2013
  o Civic Park Redevelopment Phase I (existing 72-unit public housing built in the 1950s on Standish Street)
    ▪ Received tax credit financing
    ▪ Currently under construction
    ▪ Funds were used for Phase I design and development
    ▪ 80 new affordable rental units

Park Avenue Neighborhood

• 721 East Franklin Street
  o Emergency rehabilitation
• 624 East Franklin Street
  o Owner-occupied rehabilitation

Jersey City Neighborhood

• Finalized pedestrian improvements at the intersection of West Cemetery Street and Mocksville Avenue

Other Areas

• 1131 North Main Street
  o Blight removal

Mr. Cleaton noted 15 percent of Federal funds are allocated for CDBG public services activities for:

• Rowan Helping Ministries
• Family Crisis Council
• Community Care Clinic
• Salisbury Youth Employment Program
• Salisbury Housing Authority Family Self-Sufficiency Program

Mr. Cleaton explained CDC activities support housing and neighborhood revitalization goals through efforts such as:

• Homeownership Counseling
  o 65 individuals received counseling
  o Classes were held monthly throughout the year excluding December and July:
    ▪ Banking
    ▪ Purchasing your home
    ▪ Budgeting
    ▪ Success stories
- Question and answer session
- Purchasing insurance
- Credit analysis
- Offer to purchase
- Applying for a mortgage
- Home maintenance

Mr. Cleaton noted the CDC partners with the North Carolina Housing Finance Agency (NCHFA) to offer foreclosure prevention counseling:

<table>
<thead>
<tr>
<th>NCHFA Foreclosure Prevention Program</th>
<th>2012-2013</th>
<th>2013-2014</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Families that brought their mortgage current</td>
<td>133</td>
<td>282</td>
<td>112 %</td>
</tr>
<tr>
<td>Families that received loan modifications</td>
<td>19</td>
<td>176</td>
<td>826.3%</td>
</tr>
<tr>
<td>Families that entered a debt management plan</td>
<td>5</td>
<td>5</td>
<td>0 %</td>
</tr>
<tr>
<td>Families referred for legal assistance</td>
<td>4</td>
<td>2</td>
<td>-50 %</td>
</tr>
<tr>
<td>Families that received foreclosure prevention budgeting counseling</td>
<td>166</td>
<td>319</td>
<td>92 %</td>
</tr>
<tr>
<td>Families that received Mortgage Protection Program funds to pay their mortgage while they looked for employment</td>
<td>114</td>
<td>69</td>
<td>-39.5 %</td>
</tr>
<tr>
<td>Families that received Reverse Mortgage counseling</td>
<td>61</td>
<td>61</td>
<td>0 %</td>
</tr>
</tbody>
</table>

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive comments regarding the FY2013-2014 CAPER.

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

Councilmember Alexander thanked the CDC for all it does for the community.

Mayor Woodson thanked Mr. Cleaton for his presentation.

**DOWNTOWN REVITALIZATION INCENTIVE GRANTS**

Community Planning Services Director Janet Gapen addressed Council regarding Downtown Revitalization Incentive Grants. She stated at its Retreat Council adopted the following:

- Priority Initiatives – Objective 1
  - Improve quality of life and livability
- Goal 6
  - Implement new downtown incentives to spur downtown growth
Ms. Gapen pointed out Downtown Residential Incentive Grants generate vibrancy in the downtown and will promote:

- Investment in the desired product
- Local jobs in construction
- Uptick in real estate activity
- Additional housing choices
- More people will be downtown on nights and weekends
- Higher demand for restaurants and retail

Ms. Gapen explained the program and its qualifications:

- Located in the Downtown Mixed-Use (DMX) District
- New construction and rehabilitation projects
- Emphasis on downtown residential expansion
- Four types of grants
- Grants can be layered in a single project
- Considered and awarded by Council on case-by-case basis
- Single installment reimbursement after the final Certificate Of Occupancy has been issued

Ms. Gapen emphasized the Downtown Residential Incentive Grants will focus on producing new downtown residential units. She pointed out multiple grants can be layered for a single project provided the project meets the guidelines for each grant.

Mayor Woodson asked Ms. Gapen to explain how multiple grants could be layered for a single project. Ms. Gapen stated one of the proposed grants is specific to the rehabilitation of a historic building, with a maximum grant of $50,000. She added another grant is specific to producing new downtown residential units. She explained a building that is being rehabilitated and meets the criteria for a rehabilitation grant could receive up to $50,000. She pointed out if the project involves creation of new residential units to the downtown housing stock, the applicant could apply for an additional grant on top of the $50,000 rehabilitation grant. She explained the cap on the residential grant is $100,000. She added multiple grants can be awarded for a maximum grant of $200,000.

Ms. Gapen invited Downtown Salisbury Inc. Executive Director Paula Bohland and Salisbury-Rowan Economic Development Commission (EDC) Executive Director Robert Van Geons to address Council regarding the impact the proposed development incentives would have on the local economy. Mr. Van Geons noted downtown development projects impact the community by generating revenue, creating jobs, and increasing the tax base. He pointed out the applications must be analyzed on a case-by-case basis, and he emphasized the grants would generate a greater return than the initial investment.
Ms. Bohland reviewed upper floor housing and noted:

- Vacant spaces drain the downtown economy
- Upper-floor housing will impact the downtown economy
- In 2013 the North Carolina Department of Commerce surveyed downtown rents
  - The average downtown rent is $800 per month with some locations commanding up to $1,200 per month
- 120 units rented at the average rental rate would generate more than $1.1 million in revenue
  - The City currently has 80 rental units in the downtown area
- Other stakeholders gain when an empty space is occupied
  - Merchants, restaurants, services, and the municipality gain when an upper floor empty space becomes a residential unit
- Indirect gains to the economy include the employment of construction and design services to support building renovation

Ms. Bohland noted the impact one couple living in an upper-floor apartment would have on the immediate downtown economy if goods and services are available:

<table>
<thead>
<tr>
<th>Annual expenditures of a couple pay rent of</th>
<th>Up to $400</th>
<th>$400 to $800</th>
<th>$800 to $1,200</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food at home</td>
<td>$1,607</td>
<td>$2,307</td>
<td>$3,758</td>
</tr>
<tr>
<td>Food away from home</td>
<td>$562</td>
<td>$899</td>
<td>$1,560</td>
</tr>
<tr>
<td>Alcoholic beverages</td>
<td>$121</td>
<td>$233</td>
<td>$346</td>
</tr>
<tr>
<td>Housekeeping supplies</td>
<td>$215</td>
<td>$282</td>
<td>$437</td>
</tr>
<tr>
<td>Furniture</td>
<td>$81</td>
<td>$138</td>
<td>$259</td>
</tr>
<tr>
<td>Small appliances, miscellaneous housewares</td>
<td>$23</td>
<td>$35</td>
<td>$58</td>
</tr>
<tr>
<td>Miscellaneous household equipment</td>
<td>$228</td>
<td>$262</td>
<td>$470</td>
</tr>
<tr>
<td>Men and boy’s apparel</td>
<td>$81</td>
<td>$121</td>
<td>$173</td>
</tr>
<tr>
<td>Women and girl’s apparel</td>
<td>$144</td>
<td>$187</td>
<td>$336</td>
</tr>
<tr>
<td>Footwear</td>
<td>$81</td>
<td>$121</td>
<td>$230</td>
</tr>
<tr>
<td>Other apparel product and services</td>
<td>$46</td>
<td>$69</td>
<td>$115</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
<td>$927</td>
<td>$1,498</td>
<td>$2,458</td>
</tr>
<tr>
<td>Vehicle maintenance and repairs</td>
<td>$294</td>
<td>$467</td>
<td>$734</td>
</tr>
<tr>
<td>Vehicle insurance</td>
<td>$288</td>
<td>$497</td>
<td>$972</td>
</tr>
<tr>
<td>Health care</td>
<td>$1,325</td>
<td>$1,728</td>
<td>$2,808</td>
</tr>
<tr>
<td>Fees and admissions</td>
<td>$67</td>
<td>$101</td>
<td>$216</td>
</tr>
<tr>
<td>Audio and visual equipment and services</td>
<td>$276</td>
<td>$397</td>
<td>$634</td>
</tr>
<tr>
<td>Pets, toys, hobbies and playground equipment</td>
<td>$202</td>
<td>$367</td>
<td>$396</td>
</tr>
<tr>
<td>Other entertainment, supplies and services</td>
<td>$35</td>
<td>$69</td>
<td>$144</td>
</tr>
<tr>
<td>Personal care products and services</td>
<td>$225</td>
<td>$311</td>
<td>$518</td>
</tr>
<tr>
<td>Reading</td>
<td>$23</td>
<td>$35</td>
<td>$58</td>
</tr>
<tr>
<td>Education</td>
<td>$134</td>
<td>$323</td>
<td>$470</td>
</tr>
<tr>
<td>Tobacco products and smoking supplies</td>
<td>$190</td>
<td>$285</td>
<td>$389</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>$336</td>
<td>$302</td>
<td>$538</td>
</tr>
<tr>
<td>Cash contributions</td>
<td>$346</td>
<td>$446</td>
<td>$696</td>
</tr>
<tr>
<td>Total</td>
<td>$7,867</td>
<td>$11,480</td>
<td>$18,773</td>
</tr>
</tbody>
</table>
Ms. Bohland emphasized downtown residential living has the potential to add millions to the local economy. She reviewed an example of a $1.2 million renovation project and noted:

- Current tax value of building - $240,000
- $500,000 of private investment resulting in six apartment units would generate $7,000 per month in rent
- $200,000 maximum investment in one-time incentive funds

Mr. Van Geons noted a sustainable downtown economy requires people who live and work in the area. He reviewed a $4 million industrial project and noted a $50,000 grant toward the renovation of an older building would generate $252,000 in tax revenue over 10 years.

Mr. Van Geons pointed out if a project creates 25 jobs, three additional jobs would be needed to offer services and another four jobs would be created indirectly in the community. He pointed out since Council first discussed downtown incentive grants there has been renewed interest in the downtown area. He added incentive grant programs allow people to consider additional options. He emphasized additional tools will yield additional results and DSI and the EDC strongly support the Building Rehabilitation Grant, the Residential Production Grant, the Residential Utilities Grant, and the Fire Suppression Grant which will attract residence and new businesses to the downtown.

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive comments regarding the Downtown Revitalization Incentive Grants.

Mr. Mark Lewis, 109 Kingsbridge Road, DSI Board President, stated the community has developed and implemented many planning documents including the Salisbury 2000 Vision and Growth Plan, the Vision 2020 Plan, and the DSI Downtown Master Plan. He noted each document identified downtown residential living as a key component to the success of the City and its downtown. He pointed out the DSI Master Plan calls for the City to maintain the downtown as a diverse, livable urban residential district, expand diverse livable and safe residential housing stock within a larger radius, and encourage business growth to provide service and convenience that meet the needs of downtown residents. Mr. Lewis stated downtown residential housing provides a stable tax base that is compact and less costly to serve when compared to typical suburban development. He explained residents living in the downtown area support local downtown businesses and tend to bike and walk more promoting a healthier lifestyle while reducing traffic congestion, energy consumption, and pollution. He noted urban residential living is fueled by millennials and empty-nesters who desire housing that does not require significant upkeep and is convenient to local services. Mr. Lewis added the time has come to focus on additional housing units in the City’s urban core which can be a challenge as developers and property owners seek a return on investment that is difficult to obtain. He noted the proposed Downtown Revitalization Incentive Grants will provide enough investment to encourage a property owner who otherwise may not commit to the project. He emphasized the program provides economic development for the City, increases the tax base, creates additional consumers for downtown businesses who will pay additional sales tax, and creates a demand for new services that will employ citizens. He urged Council to approve the proposed Downtown Revitalization Incentive Grants.
Mr. Michael Young, 117 Maupin Avenue, downtown property owner and developer, noted empty office or residential space in a downtown generates the least amount of property taxes. He added a commercial building’s worth is determined by the rent received for its use. He emphasized most of the revenue generated from downtown buildings come from the first floor. He noted the downtown has over 165,000 square feet of second and third floor space that is empty creating a financial liability that must be maintained. Mr. Young noted over the last 30 years downtown buildings with residential and commercial uses generated some of the highest rent per square foot and created construction and long-term jobs. Mr. Young emphasized the cost of completely renovating a 100-year old building with modern electrical, mechanical, plumbing, fire suppression, and handicapped accessible facilities requires an incredible investment and risk. He explained the pending demise of the North Carolina Historic Investment Tax Credits will have a negative impact on future development. He emphasized the City’s proposed package of performance-based incentives to promote upper floor development is progressive and will contribute to continued long-term private investments. He added without the proposed Downtown Revitalization Incentive Grants potential development might not happen causing the City to miss critical opportunities for growth.

Mr. Brian Davis, 429 Park Avenue, Executive Director Historic Salisbury Foundation, stated he supports the Downtown Revitalization Incentive Grant Program. He added the North Carolina Historic Tax Credits will sunset on January 1, 2015. He pointed out in many cases incentives determine if redevelopment of a downtown historic building will take place or if infill is constructed on a vacant lot. Mr. Davis explained incentive programs can increase property tax values, increase residential living in the downtown, and help attract additional restaurants, shops, and galleries to the area. He noted with additional people in the area more downtown businesses may choose to extend their hours on nights and weekends. He indicated approval of the Downtown Revitalization Incentive Grant Program will promote a stronger, more diverse downtown.

Mr. Gray Stout, 5 Acorn Lane, indicated the City needs downtown incentive credits more than ever. He pointed out larger neighboring cities are experiencing downtown residential growth. He added, as an architect, he is seeing an interest in downtown projects from clients, property owners, and developers. He stated there are developers and property owners who are sitting on the sidelines and the proposed incentives may persuade them to go ahead with their project. He pointed out the proposed Downtown Revitalization Incentive Grant Program will motivate developers and offset some of the additional costs of restoring historic buildings. He explained building code issues are complicated and maintaining preservation materials and utility infrastructure is expensive. He thanked Council for its consideration and noted the incentives will be good for the City.

Mr. Jeff Carroll, 3116 Glenn Summit Drive, Charlotte stated he is a real estate developer who specializes in multi-family development. He noted he is currently working on two projects in North Carolina to renovate historic buildings into multi-family and retail space. He added one of the projects is the Empire Hotel building. He explained the project has been on hold for six months pending the outcome of the State Historic Tax Credits which were cut from the State budget. He pointed out the proposal for the Empire Building includes 54 multi-family units
upstairs and approximately 34,000 square feet of retail space that would possibly include medical offices and a grocery store. He added the team is considering a variety of options including redeploying the ball room to be used for weddings, catering, and possibly dance lessons. He noted redevelopment of the Empire Hotel will cost approximately $10 million, and the loss of State Historic Tax Credits will cost the project approximately $750,000. He emphasized the project is not feasible without the State Historic Tax Credits, however his team has come up with a solution that could bridge the gap provided the Downtown Revitalization Incentive Grants are approved. He stated municipalities across the State are trying to regroup after the loss of State Historic Tax Credits and the City is ahead of the game. He asked Council to consider supporting the Downtown Revitalization Incentive Grants to bring additional development to the downtown.

Mr. Pete Bogle, 1655 Country Hill Drive, local architect working on the Empire Hotel project, noted surrounding communities are growing and there is a renewed interest in downtown living. He pointed out the City has a thriving downtown, but it needs additional residents who shop, work, dine, and live in the area. He emphasized downtown is a historic treasure and with a little work it can bring more people to the area. He thanked Council for its work on the incentives and all it does for the City. He added the Downtown Revitalization Incentive Grant Program is the best money Council can spend to move the City into the future.

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

Councilmember Alexander stated she supports the Downtown Incentive Grants. She noted this is a critical time in the City and losing the Federal and State Historic Tax Credits could hinder potential development. She indicated approving the proposed Downtown Revitalization Incentive Grant Program would help move the City into the future.

Councilmember Miller pointed out the Downtown Revitalization Incentive Grants would be available to properties in the Downtown Mixed Use zoning District (DMX). He asked how the DMX District mirrors the Municipal Service District (MSD). Ms. Gapen noted the DMX is a little larger than the MSD. Mr. Miller pointed out the MSD funds DSI. He suggested Council require inclusion into the MSD for grant recipients. He explained the MSD cannot be extended without the property owner’s consent, and if the City is going to award a substantial grant, asking the project to join the MSD is a reasonable request that could help the City recover a portion of its investment. He emphasized the proposed incentive grants will come from the City’s Fund Balance and will not come from property tax revenue. Mr. Miller noted there is a limit to the City’s Fund Balance and approval is on a case-by-case basis. He asked for clarification regarding the payment of the proposed incentive grants.

Ms. Gapen noted payment will be immediate based upon the final Certificate of Occupancy. She stated the project must be developed according to the initial plans that were approved. Mr. Miller questioned if Council should discuss when the funds will be disbursed.

Interim City Manager John Sofley stated immediate payment eases administrative work.

Mayor Woodson pointed out the City must keep a certain amount in its Fund Balance by law. Mr. Sofley verified the City must keep a minimum of eight percent in its Fund Balance.
Ms. Gapen noted as projects are approved there would be time to anticipate the amount of the incentives. She stated developers apply for the grants in the early phases of the project, which could take several years to complete, giving the City time to budget for payment.

Mr. Miller emphasized the grants will be awarded on a case-by-case basis. He stated he supports the proposed Downtown Revitalization Incentive Grants. He indicated at a past DSI seminar it was noted if three to five percent of a City’s population lives in the core of downtown it becomes self-sustaining. He added if the City’s 80 residential units have two occupants, there are 160 people living in the downtown, which is less than half of one percent of the City’s 35,000 citizens. He emphasized the proposed grants will lead toward a more vibrant downtown, and he supports the proposal.

Councilmember Kennedy stated he was excited when Council discussed the proposal at its Retreat. He pointed out other downtowns are fully occupied, and the City is lacking. He noted citizens have expressed their support of the proposed incentive grants. He thanked Ms. Bohland and Mr. Van Geons for the impact study which proved the investment would create income for the City and its downtown. He added he supports the proposed grants and looks forward to the development that will take place.

Mayor Pro Tem Blackwell noted Council received a lengthy presentation regarding the proposed incentive grants at its Retreat and at its last meeting, and it has heard from citizens through the week and at today’s public hearing. She emphasized she strongly supports the proposed incentive grants and would like to hear from Council regarding Mr. Miller’s suggestion that recipients agree to incorporate into the MSD.

Ms. Alexander indicated the proposed grants will be a good incentive program to promote development in the City. She pointed out property owner’s benefit from DSI services, and if they are located outside of the MSD, it should not be hard to be incorporated into it.

Mayor Woodson stated he supports the proposed incentive grants. He pointed out the additional development will enhance the City. He indicated he was disappointed when he learned the Historic Tax Credits would expire, and he commended Council for taking a proactive stance.

Thereupon, Mr. Miller made a motion to adopt the Downtown Revitalization Incentive Grant program with the caveat that the petitioners must be incorporated into the Municipal Service District to be eligible. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

Mayor Woodson stated he looks forward to all that will take place in the City.
SUP-02-14 – WEST END PLAZA

SUP-02-14 – West End Plaza, 1935 Jake Alexander Boulevard West

(a) **Swearing In**

Mayor Woodson indicated anyone who wished to speak for or against this item must be sworn in, and he asked those who would like to speak to come forward. Mayor Woodson administered the oath to the following:

Mr. David Phillips
Mr. Preston Mitchell
Mr. Craig Pierce
Mr. Jay Dees
Mr. Ed Muire
Mr. Jerry Rowland
Ms. Nancy Evans
Mr. David Post
Mr. Michael Young

(b) **Ex Parte Disclosure**

Mayor Woodson asked Council members if anyone had knowledge of this case they wished to disclose.

Councilmember Alexander stated she received a phone message from Mr. David Post, but she did not return the call. She indicated she received an email from Mr. John Blair at approximately 1:52 p.m. today saying he did not support the Special Use Permit (SUP), and she did not answer the email.

Mayor Pro Tem Blackwell indicated she received an email from Mr. Michael Young on Monday, September 15, 2014 that included his letter to the Editor. She noted she acknowledged the email.

Mayor Woodson asked if the disclosure includes any conversation since the item was featured in the *Salisbury Post*. He added as a business owner and Mayor many people have spoken to him regarding the SUP.

Ms. Blackwell clarified her disclosure was since the SUP was introduced. She asked how far back the disclosure should go.

Planning and Development Services Manager Preston Mitchell clarified the disclosure includes the time since the SUP application was submitted.

Mayor Woodson indicated he has spoken to several citizens. He added he received the same emails as Council, and he has received phone calls. He emphasized the downtown merchants are concerned about what will happen to the City. He noted he has had many citizens express their point of view regarding the issue.
Councilmember Kennedy noted he has not spoken to citizens regarding the SUP, but he read the Planning Board recommendation.

Councilmember Miller stated he had a conversation in a local restaurant with County Planning Director Ed Muire. He added the conversation was about the item on the Agenda and not its merits. He stated he received a phone message from Mr. David Post, but he did not return the call.

Mayor Woodson noted he listened to citizens but did not comment regarding the SUP.

There were no other ex parte disclosures.

Mr. Mitchell explained this topic is community-wide and there is no way for Council to avoid being approached regarding the SUP. He emphasized Council will receive evidence and testimony from the individuals who have been sworn in, in addition to the evidence received in the Agenda Packet, and any other evidence Council may need to help make the Findings of Fact and determine its decision. He added it is critical that Council have an open mind before the evidence is presented. He emphasized a quasi-judicial process is based upon sworn testimony, and it is important that Council have an open mind. He cautioned if a Council member’s mind is made up it would be important to talk about it now since Council must be open to the evidence it is about to receive.

Mr. Mitchell added there is a lot of passion behind the topic leading up to the SUP. He indicated the evidence Council receives to make its Findings of Fact needs to support the standards for decision before Council. He emphasized Council must think in terms of evidence that is directly related to the request for an SUP to allow Government Services in the building.

Mr. Mitchell noted since Council received emails and phone calls, if it has questions related to the SUP it would be appropriate to ask the applicant to provide evidence based upon those questions during his testimony. He emphasized it is important Council not make generalizations or assumptions. He pointed out if Council has questions it must ask the applicant to provide evidence to address or answer the questions.

Mr. Mitchell indicated if Council believes it is unable to act today or it does not have enough evidence to make Findings of Fact to support the decision it can defer action, but it must not close the evidentiary hearing. He explained Council should open the evidentiary hearing but not actually close it. He noted Council can continue to allow the evidentiary hearing to occur even after everyone has spoken so it can have internal discussion regarding the evidence presented and whether or not it believes the evidence adequately addresses the standards of decision. He cautioned Council if it does not think it has been given enough evidence, it can ask for additional evidence as long as the hearing is not closed.

Zoning Administrator David Phillips indicated the request is for an SUP for property located at 1935 Jake Alexander Boulevard West, known as the West End Plaza and formerly known as the Salisbury Mall. He noted the request is to permit the use of Government Services on the property. He pointed out the zoning is Highway Business (HB) with a use matrix that
allows a variety of uses. He explained when the City adopted its Land Development Ordinance (LDO) the Committee wanted to have a little more transparency regarding Government Services, where it would be located and how it would look, so it decided Government Services would be approved through an SUP or a Conditional District (CD) Overlay. He pointed out when the City built its Customer Service Center it went through the CD overlay process.

Mr. Phillips reviewed the LDO’s definition of Government Services:

- Federal, State and local government agencies that administer, oversee, and manage public programs and have executive, legislative, and judicial authority

Mr. Phillips provided the production of evidence:

- The burden is on the applicant to present sufficient evidence to allow the board to make findings that the required standards will be met
- The burden is on an opponent to present sufficient evidence that a standard will not be met
- If insufficient evidence is presented that the required standards will be met, then the SUP must be denied
- If uncontradicted evidence is presented that all of the standards will be met, then the SUP must be issued
- If uncontradicted evidence is presented that even one of the general or specific standards will not be met, then the SUP must be denied
- If there is conflicting evidence, the board decides what the facts are and decides accordingly

Mr. Phillips then reviewed the standards for decision that are required for all SUPs:

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed

Mr. Phillips summarized:

- Does the request meet the Code and Vision 2020 Plan
- Is it visually/functionally compatible
- Are public health, safety, welfare, and property values addressed

Mr. Phillips reviewed a map of the area, and he pointed out the site and its proximity to Jake Alexander and Statesville Boulevards. He noted the West End Plaza is zoned HB with surrounding zonings of Corridor Mixed-Use (CMX) and Residential Mixed-Use (RMX). He
displayed photographs of the property and the submitted site plan showing the parking layout. He reviewed the interior floor plan, and he pointed out the applicant is proposing to locate two Government Services in the facility, Rowan County Board of Elections and Veteran Services.

Mr. Phillips noted testimony will be given by the applicant and anyone for or against the SUP must address the following standards:

- Does it meet the Code and Vision 2020 Plan
- Is it visually/functionally compatible
- Are public health, safety, welfare, and property values addressed

Mr. Phillips stated the SUP went before the Planning Board who recommended approval 7-2 with the condition that any impound or outdoor storage area be screened from all sides.

(c) Mayor Woodson convened a public hearing, after due notice thereof, to receive testimony regarding SUP-02-14. He asked for testimony from proponents.

Mr. John Dees, Ketner and Dees Attorneys, attorney for the applicant, presented Exhibit 1 and Exhibit 2 to Council for the official record.

(SALISBURY POST ARTICLES FROM WEDNESDAY, SEPTEMBER 10, 2014 AND SUNDAY SEPTEMBER 14, 2014 ARE HEREIN INCORPORATED AND MADE A PART OF THESE MINUTES)

Mr. Dees noted he is submitting the articles to be incorporated and made a part of the minutes in case there is a need for appeal. He added he has an issue with the double quasi-judicial hearing process used by the City. He explained a quasi-judicial hearing at the Planning Board meeting introduces public commentary that can infiltrate Council’s SUP hearing. He emphasized it is critical that no Council member form an opinion that is not susceptible to change based on the evidence to be presented.

Mr. Dees thanked Council for their disclosures regarding email and communications. He indicated in the event he has to appeal the decision, he has made a public records request for all emails to and from Council and staff in regards to this subject matter.

Mr. Dees explained he contacted Mr. David Owens from the University of North Carolina (UNC) School Of Government who Mr. Mitchell conferred with today regarding procedural matters.

Mr. Dees commended Mr. Phillips for opening his discussion by presenting the three general standards for Council’s review. He reminded Council for legislative decisions general standards are acceptable, but for quasi-judicial decisions, SUPs, and conditional use permits general standards are not applicable. He noted specific standards are required for SUP hearings so Council can apply the same standards to every application. He quoted Mr. Owens regarding specific standards, “since decision on special and conditional use permits involve applying legislatively established standards to individual applications it is essential that the zoning
Ordinance itself include adequate guiding standards for quasi-judicial decisions. If there are no standards or if the standard provided is so general as to leave the Board unbridled discretion in its decision, the courts will invalidate the Ordinance provision as an unlawful delegation of legislative authority.”

Mr. Dees pointed out the court of North Carolina stated that the standard regarding the SUP being conducive to or adverse to the public interest or welfare is too general. He added the courts of North Carolina held that it was improper for the Nags Head governing board to deny a conditional use permit for a planned unit development on the grounds that it was inconsistent with the goals and objectives of the land use plan, even though the ordinance specifically listed the plan as one of the factors in determining the suitability of a conditional use permit. He emphasized the court held it was improper to deny an SUP for an adult book store on the grounds that it would be incompatible with the character and use of the surrounding buildings.

Mr. Dees emphasized the court stated the inclusion of the use as a special use by the ordinance is conclusive on the policy question of general use compatibility. He stated Government Services is included in every City zoning district as a special use. He pointed out there is no other use in the City’s matrix that is treated this way, and it is conclusively presumed to be compatible in every district. He emphasized standards must be clearly identified by the Ordinance and only those standards specifically listed as applicable may be applied when making special and conditional use permit decisions. He stated this is important because Mr. Post and Mr. Bixby brought up at the Planning Board special use hearing, there are generalized fears of future plans with regards to Rowan County and the West End Plaza.

Mr. Dees stated generalized expressions of fear for potential impacts are not acceptable standards for Council’s decision today. He noted if the applicant presents uncontroversial, competent, substantial, and material evidence that the standards have been met, there is a prima facie case to entitlement to the permit and the permit must be issued. 

Mr. Dees explained the burden is upon the County and once the County meets its burden the burden shifts and others can speak. He offered Mr. Ed Muire as an expert witness in the area of Planning and Zoning. He noted Mr. Muire will give his credentials and experience and then introduce Mr. Jerry Rowlund, who Mr. Dees stated is an expert witness and appraiser to values.

Mayor Pro Tem Blackwell asked Mr. Dees if he is alleging City standards are inadequate and if Council makes its decision based on its internal structure and does not rule in the County’s favor he will appeal the decision. She questioned the use of Council’s and citizen’s time.

Mr. Dees stated he would raise City standards as an issue on appeal.

Mayor Woodson stated Mr. Dees referenced the newspaper articles from David Post and Michael Young. He asked Mr. Dees if he is alleging that if Council read those newspaper articles it is not following its own procedure.

Mr. Dees noted the City has a duplicated process with two quasi-judicial hearings, one at the Planning Board, who makes a recommendation, and the other before Council. He noted he
understands Council may want to resolve issues legislatively but in a quasi-judicial setting where there is a hearing and one chance to present evidence, having a duplicated process allows evidence and opinions to be introduced before the SUP hearing.

Mayor Woodson noted citizens are talking about the issue. Mr. Dees pointed out that is the sole reason to ask Council if it communicated with anyone regarding the issue. He added Planning Board members were reaching out to Council before the SUP hearing which introduces ex parte communication into a quasi-judicial hearing.

Mr. Dees stated he detects Council wants to deny the SUP request. He noted he believes his presentation will show that the use is compatible, and the SUP should be granted based upon City Ordinance.

Ms. Blackwell stated Council is responding to Mr. Dees' proposal. She asked Mr. Phillips why the rezoning for the City’s Customer Service Center was handled with a CD Overlay, and the West End Plaza must be handled through a SUP. Mr. Phillips noted the SUP was most likely used for the West End Plaza because the building already exists. He explained the Customer Service Center was new construction with a new design. He pointed out the use was limited to Government Services so nothing else could go on the location. He indicated alternatives needed for the site plan were granted through CD zoning.

Ms. Alexander pointed out the use for the West End Plaza will include Government Services and retail. She added Council is not making a decision based on Government Services alone but mixed-use. Mr. Phillips stated the decision before Council is to allow Government Services. Ms. Alexander pointed out Council is considering Government Services as a use in context with all of the other uses at the West End Plaza. Mr. Phillips stated all of the other uses will remain, and if approved the SUP will add Government Services as a use.

Mr. Mitchell noted the uses would be considered dual or multiple-primary. He explained a typical development with a single primary use can have subordinate uses. He noted a downtown merchant who retails wine and beer as a primary use can receive an SUP to sell alcohol for consumption as a secondary use which would be subordinate to the primary use. He added the West End Plaza would be considered multiple primary uses. He indicated in order to have retail, restaurant, and government service the SUP is required.

Mr. Mitchell stated multiple communities in North Carolina have quasi-judicial proceedings at Planning Board and Council meetings. He emphasized it is a normal process. He added for the Planning Board to have its own Findings of Fact, hear the evidence and make a recommendation is the process established in the Code. He pointed out there are three general standards that must be met which is typical for North Carolina zoning Ordinances. He added there can be additional, more specific standards, such as distance restrictions on alcohol use. He explained the process by which Council is operating, and the Code that guides it, has been vetted by the UNC School of Government at Chapel Hill and by City Attorney Rivers Lawther.

Mr. Ed Muire, 402 North Main Street, stated he will address the special use criteria of Rowan County's application. He tendered himself as an expert witness. He pointed out he is a
graduate of Appalachian State University with a degree in Community and Regional Planning. He added he has been a practicing Planner since 1993 and in 2001 was admitted into the American Institute of Certified Planners. He emphasized he has served as the Rowan County Planning Director since 2004 and will be representing Rowan County’s interest in the SUP application.

Mr. Muire thanked Council and staff for its timely consideration of the application. He noted Rowan County supports the Planning Board’s recommendation of approval. He reviewed an aerial photograph of the area, and he pointed out the West End Plaza formerly known as the Salisbury Mall. He stated the West End Plaza was built in 1985 and has 7.6 acres under roof and over 15 acres of parking which makes it attractive to the County for adaptive reuse.

Mr. Muire emphasized the West End Plaza will support a supplement of uses including Government Services. He stated the North Carolina Department of Transportation (NCDOT) indicates in 2013 there were 17,000 vehicles per day on Statesville Boulevard and 20,000 vehicles per day on Jake Alexander Boulevard. He noted there is an abundance of available parking and a core space that could be renovated quickly and efficiently when compared to the development of a new site.

Mr. Muire explained the County is requesting an SUP instead of a CD Overlay because the design infrastructure and building are in place. He added there has been a lot of discussion before he could address the issue. He noted City Code has three criteria that must be addressed. He pointed out what the City’s Ordinance and Vision 2020 Plan provide as a rational basis for issuance of the SUP:

- Fiscal Responsibility and Better Services
  - Section 1.2 of the LDO
- No specific standards are required
- No Additional Use Standards Required
  - Chapter 3 of the LDO

Mr. Muire reviewed Section 1.2 of the LDO and quoted, “we see a more compact town development resulting in considerable cost saving to the taxpayer compared to a sprawling development pattern.” He emphasized the West End Plaza is an existing facility.

Mr. Muire stated there are no specific standards in the Ordinance that must be met by the County other than the general evaluation criteria. He noted Chapter 3 of the LDO stated no additional use standards are required. He added Mr. Mitchell and Mr. Phillips of the City’s Planning staff could reiterate this to Council.

Mr. Muire emphasized there are 16 zoning districts where an SUP or CD Overlay acknowledge Government Services as an appropriate use. He added Section 15.18 of the LDO states, “special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.”
Mr. Muire indicated there are no specific use standards and no additional use standards required. He indicated the use meets any adopted land use plan and is in general harmony with the general purpose and intent and preserves its spirit. He noted Policy C-1 and C-2 are found in the older commercial areas of the Vision 2020 Plan which he stated applies to the mall site. He added the mall is at least 30 years old. He read excerpts from the Vision 2020 Plan:

- Preservation, rehabilitation and appropriate reuse of commercial properties
  - Policy C-1 of Vision 2020 Plan
- Encourage a flexible, yet compatible development environment that supports new business formation and growth in the city’s older commercial areas
  - Policy C-2 of Vision 2020 Plan
- Large scale commercial developments...contain a diverse mixture of retail, office, restaurant and service uses
  - Policy C-23 of Vision 2020 Plan

Mr. Muire stated Policy C-23 addresses newer commercial areas. He pointed out the parcel is an existing site, and the proposal is to supplement the HB district category with a mixture of retail, office, restaurant and service uses. He reviewed evaluation Criteria 2, and he pointed out the proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area.

Mr. Muire noted the SUP request is to supplement the HB district with Government Services. He pointed out the appearance of the structure will be maintained with no proposed exterior renovations. He referenced the Table of Use Comparison from Chapter 2 of the LDO, and he noted residential uses, lodging, and office space are permitted.

Mr. Muire stated the County is proposing to relocate Veterans Services and the Board of Elections to the West End Plaza. He pointed out banks and credit unions are allowed in the HB district. He noted the interaction with customers, foot traffic and operations that occur at banks and credit unions are very similar to Government Services, and yet Government Services requires an SUP. He noted the permitted uses of retail, restaurant, and professional services are similar to the Government Services nature of the SUP request. He added Planning considers HB an open district where multiple uses are allowed.

Mr. Muire addressed Evaluation Criteria 3 – the public health, safety and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed. He noted the request must be:

- North Carolina Building Code compliant
- Receive approval from the City Fire Marshall
- Have no negative impact to property values

Mr. Muire noted all up-fits to the core spaces will be Building Code compliant and will be reviewed by the City Fire Marshall. He stated Mr. Robert Rowland will address the impact to property values.
Mr. Robert Rowland, 102 Rugby Road, stated he recently retired after serving 24 years as the Rowan County Tax Administrator. He emphasized he has over 40 years of appraisal experience including tax work, and he pointed out he is a State Certified General Appraiser. He indicated he has worked in over 27 counties and completed over 37 reevaluations resulting in 2.4 million appraisals. He added throughout his career he has seen retail spaces outlive their useful life. He noted in many cases the properties are not maintained creating a visual detriment to the area. He emphasized the County will maintain the appearance and upkeep of the old Salisbury Mall currently known as the West End Plaza.

Mr. Rowland noted he was asked to give an opinion regarding any value change in the area if the SUP is approved. He explained all values must be based upon fact. He noted he cannot assign a value when a property is not zoned properly for use at the time of the appraisal. He clarified he was not asked to assign a value to the West End Plaza. He explained he supports the proposed SUP because it would guarantee the building is maintained. He pointed out the property’s useful life is over. He added it is difficult to find mall sales that he could use to assign a value. He noted as an appraiser he supports the County’s request for an SUP because it would clarify the zoning.

Mr. Miller stated rental income from the property affects the value of property. He pointed out the appraisals he has seen use a rental approach, a sales approach, and a cost approach. He asked Mr. Rowland, as a licensed appraiser with 40 years of experience, if changes in income and use at a site change the reasonable amount of rental income that could come from the property therefore changing its value. Mr. Rowland stated he was only asked to offer an opinion of surrounding property values, but this would be a unique appraisal that would require a substitute rental value. He stated without anything else to base it on, it is his opinion that the value of the property would increase.

Mr. Miller asked if the value would increase. Mr. Rowland stated it would, and he pointed out he has to use a substitution of what the mall should rent for.

Mr. Miller asked Mr. Rowland if he could think of another property with a similar mixed-use component. He emphasized comps are important in an appraisal process.

Mr. Rowland agreed comps are very important in almost all appraisals, but he noted a 30 year old mall that is almost fully depreciated would have to depend on rental income.

Mr. Miller asked Mr. Rowland if increased rents would have more to do with a vacant mall than a functioning mall. Mr. Rowland noted he does not have an opinion about rents increasing. He pointed out by using the principal of substitution a rental income space can be assigned for the mall.

Mr. Miller noted outdoor storage was highlighted in the Planning Board process. He asked if the front of the building is used as an impound lot if it would impact surrounding property values. Mr. Rowland stated it his opinion that it would. Mr. Miller asked if it would make property values go up. Mr. Rowland stated it would not.
Mr. Muire pointed out any exterior modifications to the footprint of the building would require a development review that could come before Council.

Mr. Phillips clarified modifications to the property could be brought before Council depending on the size. He explained if the modification is less than 10,000 square feet it would stay at the staff level. He noted the impound area mentioned earlier, and brought up by the Planning Board, is a permitted use in the HB zoning. He pointed out if a retailer at the West End Plaza needed outdoor storage it would currently be allowed. He noted the Planning Board asked that any outdoor storage be screened from all sides. He added the Ordinance states it has to be screened from the street view.

Mr. Miller indicated in prior cases before the Planning Board, outdoor storage space was restricted to certain locations on the parcel. He asked if that applies in this case. Mr. Phillips stated it does not. Mr. Miller asked if outdoor storage space could be restricted to certain parts of the parcel as part of an SUP. Mr. Phillips stated it would have to go through the CD process. Mr. Miller pointed out Council is dealing with an SUP and asked if it could be added as a condition to the SUP. Mr. Phillips indicated Council can add a condition for screening, but the use cannot be eliminated.

Mr. Rowland clarified his earlier statement and noted that based upon the approval of the SUP, he did not think the values of surrounding properties will substantially change or decrease.

Rowan County Commission Vice-Chair Craig Pierce, 111 St. John Drive, stated the County Commission approved moving the Sheriff’s Department to the maintenance facility on Airport Road. He explained if the Sheriff's containment site was located to the West End Plaza it would require a chain link fence and razor wire so the facility was transferred to the current maintenance facility on Airport Road. He noted the property already has fencing and razor wire and is acceptable for bringing cars on the interior. He noted the County will probably come back before Council and ask to build petition walls inside the former Big Lots building for the maintenance facility in order to keep everything inside.

Mr. Pierce indicated the County Commission considered the screening requirement. He emphasized the County wants to be a good neighbor to the community so it changed the location of the Sheriff's containment site so there would not be an impound lot on the property.

Mr. Pierce stated before it purchased the Salisbury Mall the Commission discussed how it would create an eye sore for the County if it became vacant. He stated the County identified a capital need of over 250,000 square feet within the next decade and saw an opportunity to house those facilities under one roof at the Salisbury Mall. He pointed out the move would stabilize that end of the County and offer additional space for business incubators. He indicated the County has signed three new leases to move home businesses and businesses with a rotating location into a retail sector.

Mr. Pierce indicated the County Commission is working to uphold the original retail content of the mall while identifying its use issues that will arise. He noted the County must have the structure available for needs that will be addressed in its Space Needs Study. He noted
the Department of Social Services and the Health Department will have to be relocated from the Innes Street property. He added the moves will probably consume the former Belk's and J.C. Penny's buildings. He noted the County does not want to do another up-fit like it did at the Social Services building six years ago because it is already obsolete. He stated the County has gone from serving 16,000 residents to 26,000 residents at Social Services and the Health Department. He added with the implementation of Obama Care the need will continue to grow. He stated if the County relocates Social Services and the Health Department it wants to make sure the relocation is large enough to meet future needs. He emphasized the idea is to take care of Social Services and the Health Department first and then move the Sheriff's Department to the old Social Services facility extending the life of the Court House an estimated 50 years. He indicated the move would allow the Magistrates office to move inside and eliminate the need for a $5 million parking deck. He pointed out once the Sheriff’s cars are removed from the parking spaces it will free up parking for the court system. He indicated the move would reduce monies spent for future capital improvements. He noted the County Commission is waiting until the Space Needs Study comes back to qualify the Commission’s position.

Mr. Pierce stated the Commission is working to move the Board of Elections. He explained the Commission received a letter in 2009 from the State indicating the County Commission had to bring its facility up to Code. He explained the building is not handicapped accessible, and it is difficult to move equipment back and forth. He indicated the new space would allow the Board of Elections to be handicapped accessible and make it easier for citizens to visit the Rowan County Board of Elections.

Mr. Pierce noted the Veteran Services Office is currently 150 square feet with two officers working inside the facility. He noted Veteran Services serves 100 to 120 clients per month. He stated the move would make it easier for Rowan County veterans to get the care they need. He noted the County increased the number of officers from one to two. He added with the wars there will be an increased need, and the County is working to meet the need with 1,800 square feet of space and three offices in case it needs to expand in the future. Mr. Pierce stated the goal is not to do anything detrimental to the downtown but to meet the current and future needs of the County. He added it will be cheaper for the County to up-fit an existing space rather than purchase land and construct a building. He referenced the Central School Office Building that is being constructed at 504 North Main Street, and he pointed out the cost of land and the cost of the 48,000 square foot building is less space than the Health Department will need. He emphasized the Commission is trying to do what is best for the County and its taxpayers, and is asking for cooperation from the City so it can move forward with its plans to make sure space is available for future needs.

Mr. Pierce indicated the Rowan County Museum does not have enough room to display the donations it has received. He noted if the Museum could have free warehouse space in the West End Plaza it could possibly serve as an annex to display additional items. Mr. Pierce stated Mr. James Meacham is going to install a kiosk showing tourist points for visitors which could generate additional tourism. He stated the County Commission would like to see the West End Plaza become an asset to the County and the City but it needs the SUP to begin.
Ms. Nancy Evans, 130 West Innes Street, stated she has been the Elections Director since 1992. She indicated the Board of Elections moved into its current facility in 1996. She noted in 2007 she presented the County Commission with a long-range plan to move into a bigger facility, but the move did not take place. She pointed out the Board of Elections needs to move into a larger space before the 2016 election. She presented Deputy Clerk Kelly Baker with information, Exhibit 3, for the official record.

(BOARD OF ELECTION DOCUMENT EXHIBIT 3 IS HEREIN INCORPORATED AND MADE A PART OF THESE MINUTES)

Mr. David Post, 121 East Corriher Avenue, stated he voted against the SUP at the Planning Board meeting. He pointed out quasi-judicial is also quasi-legislative. He stated he lobbied for his opinion but has no financial interest in the outcome of the proceeding. He reviewed Rowan County’s slide presentation, and he noted Mr. Dees pointed out Council cannot deal with prospective fears even though it received testimony regarding prospective plans. He noted both the County and the City have had plans that changed after an election. He stated as the petitioner Rowan County has to deal with the burden of proof to meet the criteria, and it has not met that burden of proof. Mr. Post referenced Policy C-2 of the Vision 2020 Plan which states “an adopted land use encourages a flexible yet compatible development environment that supports new business formation.” He asked if a government office is a new business formation. He noted in his opinion it is not, but Council must decide. He asked if allowing Government Services will constitute growth in the City’s older commercial areas. Mr. Post noted the petition has made the point that 30 years old is older, but to qualify as historic property a building must be at least 50 years old. He added the building next door to City Hall is approximately 200 years old and sits at the former home of Andrew Jackson. He emphasized there are some very old buildings in the City, and he questioned if the mall at 30 years old constitutes the City’s older commercial area. He referenced Policy C-23 of the Vision 2020 Plan “large-scale commercial development contains a diverse mixture of retail, office, restaurant, and service uses.” He questioned if the West End Plaza qualifies as a large-scale commercial development since the building in already in place.

Mr. Post stated the contention is that services means government use. Mr. Post noted his opinion is that services and Government Services are not the same because when the SUP process was adopted by Council government uses were segregated. He indicated as staff made its presentation it emphasized the petitioner must hit each check mark and cannot miss one. He added he thinks the petitioner missed several items. He noted Mr. Muire pointed out the presentation made to the Planning Board did not include the Special Use matrix in the slide presentation, and he stated all of the uses are allowed in the current zoning. Mr. Post emphasized the zoning the petitioner is requesting is not allowed. He stated Council has already made its decision that government offices should not go in this location unless the request is brought before Council and it decides to allow the use. He stated just because the zoning allows a variety of uses does not mean that Government Services is the best use.

Mr. Post noted duplicate hearings present an opportunity to review the facts in advance and to submit an opinion in writing in front of a court in a judicial setting. He noted Mr. Mitchell pointed out duplicate hearings are allowed in North Carolina. He indicated the Planning
Board heard the issue and made a recommendation. He stated as Mr. Mitchell pointed out the burden of proof is on the County, and they have not met the burden of proof. He stated since the burden of proof has not been met, Council cannot grant the SUP. He noted the decision can be deferred. He referenced closed session laws NC G S 143-318.11 which points out Council can have a Closed Session regarding economic development. He noted Council has heard a lot of discussion, has access to his article in the Salisbury Post, which is in the public record, and heard the other public comments. Mr. Post emphasized if Council needs time to consider the SUP it has a legislative vehicle for taking additional time. He asked Council to defer its decision, and he pointed out once the SUP is granted it is permanent and cannot be taken away. He noted if there are new decisions after the election and all of the plans that have been presented change, once the SUP is granted it is permanent and cannot be undone.

Mayor Woodson asked City Attorney Rivers Lawther if the SUP can be revoked once it is granted. Mr. Lawther stated Council could rezone the property. Mr. Miller asked if the SUP can be revoked. Mr. Lawther stated it cannot.

Mr. Mitchell clarified the Ordinance states the SUP can be revoked under certain situations and conditions which would require an evidentiary hearing. He explained if the SUP was issued and conditions were applied, and the conditions were not met or if there were recorded and repeated Code violations, the SUP could be revoked. He stated the Ordinance lists criteria where an SUP can be revoked. He added there would be another evidentiary hearing and evidence would be brought forward to address the situation. He explained the SUP conditions can be revised, changed, or the permit can be revoked. Mr. Mitchell noted an SUP runs with the land and not the tenant. He pointed out if the property is sold the SUP would continue. He emphasized under certain circumstance an SUP can be revoked, and it is not an easy process.

Mr. Michael Young stated he expects Council saw his letter in the Salisbury Post. Mr. Young stated he found it humorous that Mr. Dees challenged the procedure used by Council, and he noted he hopes Council will continue to use this procedure. He stated he helped draft the Vision 2020 Plan, and it is being taken out of context. He emphasized older commercial districts refers to a 250-year old downtown and not a 30-year old mall. He added preserving and rehabilitating historic properties does not mean a 30 year-old mall. He indicated large scale commercial development means retail, office, and other tax producing uses. Mr. Young emphasized nowhere in the Vision 2020 Plan does it mention taking a prime piece of commercial property such as the mall and downzoning it to office warehouse. He stated the former County Tax Assessor has impressive credentials but worked for and was paid by the County. He noted property values continue to increase and commercial property values are going up. He added the proposed use of the West End Plaza is not the highest and best use for commercial property on the corner of two of the City’s busiest streets, Jake Alexander and Statesville Boulevards. He noted to use the property for anything other than the intended use is contradictory to the Vision 2020 Plan.

Mr. Dees asked Mr. Young if he helped draft the Vision 2020 Plan. Mr. Young clarified he participated in the process. Mr. Dees noted Mr. Young stated the Vision 2020 Plan refers to historic structures and 250-year old downtown buildings. He asked if anywhere in the Plan it clarifies it only applies to 250-year old downtown structures. Mr. Young stated any reasonable person would refer to a 250-year old downtown as an older commercial area. Mr. Dees noted the
opportunity was there to specifically include 250-year old downtown if that was the intent of the Ordinance. Mr. Young acknowledged the opportunity was there. Mr. Dees asked if 250-year old downtown structures made it into the Plan. Mr. Young stated it is in the Plan. Mr. Dees questioned if the words historic 250-year old downtown are in the Vision 2020 Plan. Mr. Young emphasized older commercial area is in the Plan and any reasonable person would apply that to a 250-year old downtown and not a 30-year old mall.

Mayor Woodson then administered the oath to Mr. Todd Paris who wished to testify.

Mr. Paris pointed out the suit he is wearing came from GQ Fashions, a store in the mall in Salisbury. He stated he enjoys shopping at the mall which has plenty of great stores, and he does not want to see it decline. He encouraged people to shop at the mall which he noted still has some life in it. He stated he is a member and founder of La Resistance, a local political group who helped change the face of politics in Rowan County. He emphasized La Resistance is consistently against Rowan County’s ownership of the mall. He added La Resistance is against what the Salisbury Post termed a downtown exodus after hearing Mr. Pierce speak at a men’s breakfast meeting. He emphasized La Resistance does not think approving the SUP will benefit Salisbury or Rowan County.

Mr. Paris stated Government Services is not the best use of this property. He pointed out a warehouse with large empty property does nothing for local businesses and restaurants. He added large screened parking lots prevent customers from driving around the building to the few remaining stores. He emphasized a warehouse will not bring customers to the area. He noted shifting office workers from downtown to another part of the City does not create anything positive for the economy.

Mr. Paris pointed out there are better uses for the property. He noted there is talk of building a new Knox Middle School, and the mall would be a wonderful location. He pointed out the addition of a school to the area would create vehicular traffic benefiting the local economy. He indicated a school could create an economic engine that would assist the community rather than the mall serving as storage for the County. He emphasized three new Commissioners will be elected this year. Mr. Paris stated La Resistance sent a letter earlier in the year asking the Commission to stop moving things to the mall, to stop wasting tax payer’s money by throwing it into the mall, and to allow the new Commission to decide what it wants to do with the property. He pointed out only two current Commissioners will be on the new Commission yet the pleas of La Resistance have fallen on deaf ears. He added $500,000 of taxpayer’s money was approved to move people into this building before the Commission change. He added it is a rush to tie the hands of the new County Commission. He stated changing the zoning will not benefit Rowan County or the City. He asked Council to deny the request.

Mayor Woodson announced he is leaving the hearing open. He asked Council for its comments.

Councilmember Alexander asked for clarification regarding airport zoning. Mr. Phillips explained airport zoning is an overlay and includes anything in the approach path of the airport and deals mainly with height.
Mr. Miller noted outdoor storage is permitted in HB zoning. He pointed out there is a difference between outdoor storage for retail sale and an impound lot. He thanked Mr. Pierce for his comments regarding moving the Sheriff's functions to the other location, but as someone else mentioned, boards change and plans change. He indicated if he had a focus it would be to ensure outdoor storage such as an impound lot or anything similar would not be allowed at this location.

Mr. Mitchell stated an impound lot cannot be prohibited, but conditions could be added to adjust the appearance or other methods by which the screening occurs. Mr. Miller pointed out the site is lower than the surrounding road and an 8-foot or 10-foot fence with screening will not adequately screen the site. He asked if there is a way not to allow an impound lot as a use.

Mr. Phillips noted the Code states open storage is required to be in the rear yard. He explained open storage would be to the rear of the property based on the orientation of the front of the mall when it was developed. He indicated there would not be open storage in front of what used to be J.C. Penny's.

Mr. Miller referenced Lowes and Walmart and noted they routinely have storage in the front yard of their facility. He stated in HB zoning outdoor storage is permissible but only in the rear yard. Mr. Phillips stated that is correct. Mr. Miller asked if in the future the storage is moved to the front yard and screening installed, would that be a condition to revoke the SUP. Mr. Phillips stated that is correct provided Council adopts the condition as part of its findings.

Ms. Alexander pointed out if an impound lot is located in the rear of the building it would be in front of a new development for veterans. Mr. Phillips stated it would be adjacent to the Westridge Place Apartments which prompted the Planning Board’s condition to screen the property on all sides.

Ms. Blackwell pointed out the Westridge Place Apartments are higher than the West End Plaza. Mr. Miller added HB zoning allows outdoor storage in the rear yard. Mr. Phillips stated that is correct.

By consensus, Council agreed to a three minute recess.

Mayor Woodson called the meeting back to order. He emphasized he did not close the public hearing.

Mr. Mitchell stated outdoor storage as a primary use is prohibited in HB zoning, however outdoor storage is allowed as a secondary use to retail or office use. He explained the primary use might be retail, restaurant, or government and those uses are typically allowed to have outdoor storage, but there are provisions associated with the outdoor storage allowance. He emphasized outdoor storage as a primary use is not allowed, but outdoor storage as a secondary event to the primary use is allowed under certain conditions. He stated the use is already prohibited in HB, and staff would need to check with the School of Government to see whether or not the provision associated with outdoor storage can be taken out of the Code.
Mr. Miller pointed out one of the uses discussed for the property is a maintenance facility. He added it is the County’s property and they can use it for what they want, but maintenance facilities need to park vehicles. He asked if the parking would be in front or back of the building or if the use can be eliminated. He noted staff has given the impression that it will only happen in the rear yard. He asked if parking vehicles in anticipation of maintenance is a secondary use, a primary use, a tertiary use, or some other use fitting the definition of whether or not it is allowed.

Mr. Mitchell stated it will depend on how the use is proposed. Mr. Miller clarified outdoor storage of vehicles as a primary use is not allowed. Mr. Mitchell stated that is correct. Mr. Miller noted a maintenance facility might need as part of its function a place to park vehicles which would seem to suggest a secondary use that would be allowed. Mr. Mitchell stated that is correct. Mr. Miller asked if it would be allowed in the front or the back or at all. Mr. Phillips noted the City’s provision for outdoor storage is relegated to the rear of the property per City Code. Mr. Miller clarified it is a secondary use that is allowed in the back of the property and based on what is before Council from the Planning Board, it would have to be appropriately screened. Mr. Phillips stated that is correct. Mr. Mitchell emphasized it would have to be entirely screened. Mr. Phillips noted the Ordinance states the lot would need to be screened from the street view but the Planning Board added the provision to screen it completely.

Ms. Blackwell indicated Council needs a few minutes to consider the information it has received.

Mr. Mitchell asked Council to keep in the mind the standards for its decision when it applies the evidence in making the Findings of Fact. He reviewed the three questions which are the standards before Council today:

- What evidence have I received
- How does it apply to those questions
- And if I was to respond to those questions in the affirmative or in the negative how or why
  - What evidence supports the affirmative or the negative

Mayor Woodson stated the issue is very important, and he does not believe Council has enough facts to make its decision today. He deferred the issue and noted Council will not vote on the SUP today. He pointed out the public hearing is still open. He noted the speakers were prepared and the presentations were good. He noted Council appreciates everyone who took the time to address Council and voice an opinion.

Mr. Miller asked if Council must vote to defer the item.

Mr. Lawther explained the item is being continued until the next meeting, the hearing is still open and everyone is still under oath. He added if Council would like to hear from one of the speakers at its next meeting, the person would be allowed to speak. He noted if Council would like to hear from someone else they could be sworn in before they are allowed to speak.
Mr. Miller asked if the item can simply be deferred or if Council must take action. He added due to ex parte communication Council is not to have conversations outside of the public realm on the subject. He noted this SUP has issues that are different from a normal legislative process.

Mayor Woodson stated it was his understanding that since the item is still open, Council can defer its decision since the item is not ready for a vote.

Mr. Miller asked if Council is allowed to discuss the issue. Mr. Mitchell stated Council is not allowed to discuss it even as a Council. He added prior to opening the hearing Council disclosed its ex parte communications. He indicated Council was open and transparent to the public by saying it had heard about this before. He indicated since the item has been deferred Council cannot discuss the item amongst itself or with anyone else. Mr. Mitchell added it is suggested that Council not discuss the item with staff. He asked Council to study the evidence it received today along with the information in the Agenda Packet until the next meeting when it may want to consider extending or hearing from the speakers again or receiving new evidence. He emphasized it is critical that Council completely close communication on this item. He stated Council can consider the evidence, come back with additional questions, and demand additional evidence.

Mayor Woodson indicated he should not speak with staff regarding this issue. Mr. Mitchell noted speaking to staff is a little different because in a quasi-judicial hearing it is safer to speak to staff but the conversation must be limited.

Mr. Lawther noted Council must consider staff as a law clerk. He added a judge can take something under advisement for six months but he cannot speak with the parties unless all parties are present. He noted Council cannot talk to laypeople to get an opinion. He emphasized Council is frozen.

Mayor Woodson asked if he could talk to any member of Council about this issue. Mr. Lawther stated the item is frozen. He noted Council can continue to debate the issue or defer it until the next meeting, but it is essentially frozen in time until the next meeting. He added if Council speaks with staff they may try to influence its decision. He pointed out Council is not supposed to speak with anyone that may try to sway its decision.

Ms. Alexander asked if Council can watch the meeting. Mr. Lawther stated Council can review the meeting.

Mr. Mitchell noted the advantage to this time would be for Council to study its notes to develop additional questions.

Deputy City Clerk Kelly Baker recommended Council take action to defer the item and to show consensus among Council.

Thereupon Ms. Blackwell made a motion to defer decision. Ms. Alexander seconded the motion. Messrs. Kennedy and Woodson, and Mses. Alexander and Blackwell voted AYE. Mr. Miller voted NAY. (4-1)
UPDATE CIVIC PARK APARTMENTS

Salisbury Housing Authority Executive Director Sam Foust noted in 2010 the Salisbury Housing Authority partnered with the City to apply for a Choice Neighborhoods Planning Grant.

Mr. Foust explained Congressman Mel Watt shared a program from the United States Housing and Urban Development (HUD) that provided a holistic approach to revitalizing a neighborhood through improvements in housing, education, health, safety, recreation, transportation, and employment.

Mr. Foust noted the Salisbury Housing Authority, in partnership with the City, applied for and received a Choice Neighborhood Planning Grant in 2010 of $170,000 for a two-year study. He stated meetings were held with the community, residents of the West End Neighborhood, and the Civic Park Apartments to gain their perspective regarding the best way to help the neighborhood, and a Housing Site Plan was developed. He added the Plan changed the initial vision for the area. He indicated Ramsey, Burgin, and Smith Architects and Stogner Architecture worked on the plan along with Laurel Street Residential Development of Charlotte. He stated due to the input received, the site plan was revised into what will be a wonderful addition to the West End Community and a wonderful replacement for the Civic Park Apartments.

Mr. Foust indicated the Civic Park Apartments were built in 1953 and have 72 units which served the community well. He added the apartments have been maintained and operated at near full capacity for a number of years.

Mr. Foust explained after the Choice Neighborhood Planning Grant, the Salisbury Housing Authority applied for a Choice Neighborhood Implementation Grant but the grant was not successful. He indicated the grant is awarded to larger cities and noted Columbus, Ohio is the smallest city to win a Choice Neighborhood Implementation Grant.

Mr. Foust stated the next step was to apply for North Carolina Low Income Housing Tax Credits. He explained the Salisbury Housing Authority is a small entity that does not have development staff so it hired Laurel Street Residential to assist with the application for low income tax credits. He noted the Salisbury Housing Authority was awarded the Low Income Tax Credit in 2013 for Phase I. He indicated Phase I will consist of 80 mixed-income residential apartments. He added 36 current residents have been chosen to move into Phase I, and the remaining 44 will be moved into Phase II upon its completion.

Mr. Foust explained approximately one month ago the Salisbury Housing Authority learned it had been awarded funding for Phase II of the project. He emphasized for a small housing authority in a small city to win two tax credit awards consecutively is a remarkable feat. He acknowledged the architects who worked to develop the Plan and developer Laurel Street Residential for its work on the project.

Mr. Lee Cochran, Developer Laurel Street Residential, stated Laurel Street Residential specializes in partnering with housing authorities and other nonprofits to enact their vision. He
stated construction began in August on Phase I which consists of 80 apartments in three three-story multi-family buildings.

Mr. Cochran indicated Laurel Street Residential was thrilled to learn the Salisbury Housing Authority had been awarded funding for Phase II. He noted the goal is to begin Phase II by January 2015. He added the entire community will be under construction at the same time ensuring a quick transformation and transition.

Mr. Cochran explained Phase I is 80 units in three buildings, and Phase II consist of 90 units in 25 buildings. He added Phase II will consist of townhouses, small duplexes, quads and will transition back into the existing neighborhood.

Mr. Cochran reviewed the timeline for Civic Park Apartments

- Construction began on Phase I in August 2014
- Construction will begin on Phase II in January 2015
  o Will include the demolition of the remaining Civic Park Apartments
- May 2015 first building from Phase I will open for residents
- August 2015 Phase I will be complete and include a 3,000 square foot community building with a fitness center, a business center, laundry, a playground, a tot lot, a screened in porch, picnic areas, a community area
  o The community building will also serve Phase II
- October 2015 first building of Phase II will be completed
- March 2016 entire community will be complete
  o 170 units including 80 residents from the former Civic Park Apartments with 90 affordable units for a mixed-income community

Mr. Foust noted citizens are concerned about what will happen to current residents during the construction phase of the project. He explained Salisbury Housing Authority has met with residents on several occasions and sent letters to the tenants. He noted six months ago Salisbury Housing Authority stopped moving in new residents and has approximately 70 vacant apartments. He indicated Housing Authority staff will first offer transition apartments to Civic Park residents who have elementary school children in order to keep the students in their current school zone. Mr. Foust added the transition should not affect middle school or high school students who either attend Knox Middle or Salisbury High Schools. He pointed out there are 15 elementary school students that live in the Civic Park Apartments. He indicated residents must be in good standing and still living within the Salisbury Housing Authority system to be able to move into the new apartments.

Mr. Foust stated he has created a Special Projects Manager to oversee the transition of residents at Civic Park Apartment. He noted the Special Projects Manager will meet with Civic Park residents to offer options for their transitional housing and offer guidance as the residents move back into the new housing units. He pointed out residents who moved out during the transition are allowed to reapply for housing services. He emphasized the current residents of Civic Park Apartment deserve first right to the new housing units.
Mayor Woodson asked if the apartments will be modeled after the units in High Point. Mr. Foust indicated they are modeled closely after the Park Terrace in High Point. He pointed out each apartment will feature a patio or balcony.

Mayor Woodson thanked Mr. Foust and Mr. Cochran for their work on the project.

Mr. Foust thanked Council for its partnership and support.

PROPERTIES TO BE REPAIRED OF VACATED AND CLOSED AND DEMOLISHED

Code Services Manager Chris Branham presented 12 properties to Council for its consideration to allow the Code Services Division Manager to cause the dwellings to be repaired or vacated and closed or demolished:

- 28 Knox Street
- 108 West Steele Street (fire)
- 125 Lloyd Street
- 200 Todd Circle
- 214 Chestnut Street (fire)
- 417 Livingston Avenue
- 728 North Church Street
- 924 South Jackson Street
- 926 South Jackson Street (fire)
- 1216 Grady Street (fire)
- 1539 West Horah Street
- 1621 Bost Street

Mr. Branham noted it is the goal of Code Enforcement to improve the quality of life within the community by ensuring the community is visually appealing, clean and safe. He noted:

- Currently 49 houses have been through the process
  - The properties have been inspected
  - A Notice of hearing was sent to the property owner
  - Staff met with property owners
  - A hearing was conducted
  - Finding of Fact letter has been sent asking the owner to repair the dwelling and or close and demolish it
- Typical demolition cost of a house is around $5,000
  - Cost may vary due to the square footage of the house and materials
  - Before demolition each property is inspected for asbestos

Mr. Branham displayed a map of the City, and he pointed out the location of the 49 houses that have been through the Code Enforcement process. He reviewed a map of the area and pointed out the 12 properties before Council and their location throughout the City. He
displayed photographs showing the impact of properties before and after demolition, and he noted addressing housing blight improved housing and neighborhood conditions and reduced crime and Code Service calls.

Mr. Branham noted Council has Objectives and Goals to improve the quality of life and livability within the City and to implement a two-pronged approach to housing blight and revitalization.

Mr. Branham displayed photographs of the properties, and he noted the neighborhoods affected. He pointed out the property at 728 North Church Street has a new owner who has contacted Code Services to ask about obtaining a demolition permit. He asked that the property remain on the list before Council for its consideration in case the owner does not more forward with the demolition.

Thereupon, Ms. Blackwell made a motion to adopt Ordinances directing the Code Services Division Manager to cause the dwellings located at:

- 28 Knox Street
- 108 West Steele Street
- 125 Lloyd Street
- 200 Todd Circle
- 214 Chestnut Street
- 417 Livingston Avenue
- 728 North Church Street
- 924 South Jackson Street
- 926 South Jackson Street
- 1216 Grady Street
- 1539 West Horah Street
- 1621 Bost Street

Salisbury, North Carolina to be repaired or vacated and closed and demolished, they being unfit for human habitation. Ms. Alexander seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voted AYE. (5-0)

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 28 KNOX STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

(The above Ordinance is recorded in full in Ordinance Book No. 24 at Page No. 99, and is known as Ordinance 2014-32)

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 108 WEST STEELE STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.
ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 125 LLOYD STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 200 TODD CIRCLE, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 214 CHESTNUT STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 417 LIVINGSTON AVENUE, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 728 NORTH CHurch STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 924 SOUTH JACKSON STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.
ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 926 SOUTH JACKSON STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 1216 GRADY STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 1539 WEST HORAH STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

ORDINANCE DIRECTING THE CODE SERVICES DIVISION MANAGER TO CAUSE THE DWELLING LOCATED AT 1621 BOST STREET, SALISBURY, NORTH CAROLINA TO BE REPAIRED OR VACATED AND CLOSED AND DEMOLISHED, IT BEING UNFIT FOR HUMAN HABITATION.

SIDEWALK – JAKE ALEXANDER BOULEVARD SOUTH

City Engineer Wendy Brindle noted the North Carolina Department of Transportation (NCDOT) has construction funds available and have contacted staff regarding a sidewalk along Jake Alexander Boulevard from Rowan Tech Road to the intersection of Klamac Road. She stated NCDOT has agreed to design and construct the project provided the City agrees to obtain any necessary rights-of-way, relocate utilities, and maintain the sidewalk.

Ms. Brindle pointed out everything is located in the right-of-way and no major utility relocations are required. She added the adjustments of manholes and valves are covered under the contract. She pointed out the City currently maintains sidewalks along State roads within the
City limits, and she added the Street Department is willing to take on the additional maintenance. She emphasized there is no fiscal impact to the City.

Ms. Brindle displayed a map of the area and pointed out the proposed sidewalk and its proximity to local businesses, Interstate 85, and Rowan-Cabarrus Community College (RCCC).

Mr. Kennedy asked about the possibility of a sidewalk on the other side of the street. Ms. Brindle stated staff inquired about sidewalk on the other side of the street but was told there were too many obstacles for the funding offered by NCDOT to cover the cost.

Thereupon, Ms. Alexander made a motion to adopt a Resolution pertaining to the support for construction of a sidewalk on the south side of Jake Alexander Boulevard between Rowan Tech Road and Klumac Road. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

RESOLUTION PERTAINING TO THE SUPPORT FOR CONSTRUCTION OF A SIDEWALK ON THE SOUTH SIDE OF JAKE ALEXANDER BOULEVARD BETWEEN ROWAN TECH ROAD AND KLUMAC ROAD.

(The above Resolution is recorded in full in Resolution Book No. 14 at Page No. 22, and is known as Resolution 2014-20)

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

This item was postponed.

PUBLIC COMMENTS

Mayor Woodson opened the floor for public comment.

Mr. Brian Davis, Executive Director Historic Salisbury Foundation, 429 Park Avenue, referenced the Ordinances for demolition adopted by Council. He explained the Historic Salisbury Foundation (HSF) is focusing on the Chestnut Hill neighborhood for revitalization. He noted the HSF has purchased and sold two properties in the 800 block of South Jackson Street to owners who rehabilitated the properties and currently live in them. He emphasized the HSF has another option to purchase property in the block and last month purchased a home at 916 South Jackson Street adjacent to the properties proposed for demolition. Mr. Davis indicated the HSF is assisting the Chestnut Hill community in forming a neighborhood organization and Neighborhood Watch Program. He pointed out the HSF is contacting owners of vacant properties in the area to purchase the properties and find buyers for them. He explained the vacant properties at 924 and 926 South Jackson Street have minor conditions but present no obvious danger to public health and safety. He asked Council to direct that repairs be made to 924 and 926 South Jackson Street instead of demolition. He stated the property at 214 Chestnut Street is damaged by fire beyond feasible repair and demolition should proceed. He added the HSF would like to work with the City to develop and adopt a receivership program for properties
similar to 924 and 926 South Jackson Street. He added when demolition is necessary the HSF would like to partner with the City to salvage reusable building materials and reduce the items that end up in the landfill.

Mr. David Post, 121 East Corriher Avenue, recognized Interim City Manager John Sofley for promptly returning his call at the end of the day. He thanked Mr. Sofley for being responsive and demonstrating incredible customer service.

There being no one else to speak, Mayor Woodson closed the public comment session.

INTERIM CITY MANAGER’S COMMENTS

There were no comments

RECRUITMENT OF A NEW CITY MANAGER

Assistant City Manager Zack Kyle noted he recently met with Mayor Woodson, and it is Council’s desire to begin the search for a City Manager. He explained Council can search internally or externally. He suggested if Council searches externally it should hire a firm to assist with the process to identify candidates that would potentially meet the needs of the City.

Mr. Kyle noted the City used a search firm to search for the former City Manager. He explained the search firm launched an online survey and conducted meetings to develop a profile and determine what citizens were looking for in a City Manager. He noted the profile was developed and a job posting was sent to several locations. He explained the search was narrowed to a number of candidates for Council’s consideration.

Mayor Woodson asked if the City is required to use a search firm or if the City’s Human Resources Department conduct the preliminary search. He pointed out search firms are expensive. He noted Council must decide if it wants to search internally and externally, and added it is his preference to search both internally and externally.

Councilmember Kennedy stated the Rowan County Commissioners recently hired a County Manager. He asked if the County used a search firm. Mr. Kyle stated he was unsure of the method used by the County.

By consensus, Council agreed to search both internally and externally for candidates.

Mayor Woodson asked if Council would like Mr. Kyle and the Human Resources Director to search for potential candidates before hiring a search firm. He recommended he and Mr. Kyle review the costs of a search firm and bring their findings to Council.

Councilmember Miller noted he would like to have at least two options to consider, and he thinks an external search firm is appropriate. He emphasized the goal is a long-term hire for
the City. He added the scope of the search could be smaller this time. He indicated Council can make the process competitive by allowing multiple firms to bid on the project.

Mr. Kennedy noted he was not impressed by the five candidates interviewed by Council during its last search for a City Manager. Mayor Pro Tem Blackwell agreed.

Mr. Miller added the previous search took place several years ago and a new pool of candidates will be available. He noted the last search yielded some worthy candidates so the entire search was not in vain because it helped Council make its decision.

Mr. Kennedy agreed with Mr. Miller that the scope should be reduced.

Mayor Woodson asked Council if it would be acceptable if he met with Mr. Kyle to bring a recommendation back to Council.

Mr. Miller stated Council must start the process because when potential candidates are in the middle of their budget season it is hard for them to make a change. He pointed out if Council waits much longer it will be election season. He added he would like to have two options for a search firm available for Council’s consideration at its next meeting.

Mr. Kyle stated he will have the options ready for Council’s consideration at its next meeting.

Mayor Woodson asked Mr. Kyle to review firms and bring recommendations to Council at its next meeting. He emphasized he would like to be involved in the process.

Mr. Kennedy stated he does not want the process to be rushed.

Mayor Woodson stated by consensus of the Council he would like to review the search firms along with Mr. Kyle to be presented to Council at its next meeting.

Mayor Pro Tem Blackwell offered to be involved in the process and have a two-person committee. Mayor Woodson agreed.

Councilmember Alexander noted Mayor Woodson will work with Mr. Kyle to bring a recommendation of potential search companies back to Council. She indicated she did not think a Committee is needed since the information will be brought back to Council.

Ms. Blackwell stated she would not impact the timeframe.

Mayor Woodson confirmed Mr. Kyle would bring the firms back to Council in two weeks.
MAYOR’S ANNOUNCEMENTS

(a) Bell Tower Concert Series

Mayor Woodson announced the Bell Tower Concert Series will be held on the second and third Thursday of each month from 5:00 p.m. until 7:00 p.m. through October 16, 2014. The next concert will be held Thursday, September 18, 2014. Bring a blanket or chair and enjoy this great time for the whole family. This free event is sponsored by Guitar USA.

(b) Kids Night Out

Mayor Woodson announced the Rowan County Tourism Development Authority will host Kids Night Out in downtown Friday, September 19, 2014 from 5:00 p.m. until 9:00 p.m.

(c) West End Classic

Mayor Woodson announced the West End Classic, collaboration between Livingstone College, the City of Salisbury and the West End Community, will be held Saturday, September 20, 2014. The event begins at 10:00 a.m. with a parade from South Main and Monroe Street to Livingstone College. Following the parade there will be a family fun day from 11:00 a.m. until 1:00 p.m. on the Livingstone College front lawn followed by the Livingstone Blue Bears football game at 1:00 p.m.

(d) La Fiesta de Rowan

Mayor Woodson announced La Fiesta de Rowan 2014 will be held Saturday, September 27, 2014 from 1:00 p.m. until 6:00 p.m. at the Civic Center, 315 South Martin Luther King, Jr. Avenue. The event is a celebration of Hispanic/Latino culture through music, food, dance and much more. The event is sponsored by the Hispanic Coalition, a sub-committee of the Human Relations Council.

(e) Brown Bag Lunch Jam

Mayor Woodson announced the Salisbury Parks and Recreation Department will host the “Brown Bag Lunch Jam” concert series at Gateway Park every Wednesday through October 29, 2014. Entertainment will be from 12:00 noon until 1:30 p.m. Bring a lunch and enjoy some of Salisbury’s best local talent. This event is free and open to the public.

(f) Gig City

Mayor Pro Tem Blackwell stated eight weeks ago she noted the importance of letting the world know Salisbury is a Gig City. She added gig cities are developing across the nation. She indicated on September 9, 2014 Charlotte held a gig rally even though it is not a gig city. She indicated it is an urgent time to promote Fibrant and recruit jobs. She added as other cities become gig cities Salisbury will become another small city. She emphasized it is an urgent issue, and she asked Council to promote the City’s gig status to the world.
Mayor Woodson asked Mr. Sofley to move on this as quickly as possible. Interim City Manager John Sofley stated staff is working on the issue.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Kennedy seconded by Mr. Miller. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 7:26 p.m.

Paul B. Woodson, Jr., Mayor

Myra B. Heard, City Clerk
County request to use mall for 'government services' passes city test

Mark Wineka
Email Facebook Twitter

SAIJSURY — With reluctance from some members, the Salisbury Planning Board voted 7-2 Tuesday in favor of a special-use permit that would allow government uses in the West End Plaza, the former Salisbury Mall.

The recommendation goes to Salisbury City Council next week.

The action may seem like it's going through the motions for something that's going to happen anyway. The Rowan County Board of Commissioners already is making plans for the Board of Elections office to move into a spot that once was an Eckerd Drugstore at the mall.

The Veterans Services Office also will take the location of a former jewelry store, and commissioners plan to provide county storage space in the former Big Lots.

With its request, Rowan County simply is asking the city to add, through the special-use permit, "government services" to the allowed uses under its existing highway business zoning.

But Planning Board members David Post and Shaun Brixey raised questions as to whether the city would be paving the way for the county to move important downtown offices into the former mall.

Post noted how the county's purchase of the Salisbury Mall property was controversial in some corners and that rumors since the purchase have had the county moving the courthouse and other offices at 402 N. Main Street to the West End Plaza.
over how the county’s request meets the city’s three standards to approve a special-use permit.

In the end, the majority on Planning Board agreed the county’s request meets these three requirements:

- “The use meets all required principles and specifications of the ordinance and any adopted land-use plans and is in harmony with the general purpose and intent and preserves its spirit.”

- “The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area.”

- “The public health, safety and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.”

The Planning Board’s vote for the special-use permit included a provision suggested by Bill Burgin, who asked that any outdoor storage on the site be screened on all sides.

Contact Mark Wineka at 704-797-4263.
David Post: About the mall: Can we talk?

Posted: Sunday, September 14, 2014 12:20 a.m.

“All those opposed?”

“No,” I voted. I lost.

As a member of the Salisbury Planning Board, I opposed the city granting the county a special use permit — a blank check — to use West End Plaza (formerly Salisbury Mall) for government services.

I never expected to win, and in fact, believe we had an obligation to put the county’s request in front of City Council because a decision this important should lie with the City Council, not the Planning Board.

Even so, I felt obligated to oppose it, hoping that the City Council think long and hard before granting this permit.

City-county relations have been, well, lousy for the past few years, with the two unable to negotiate or work through disagreements. Both seem to live by the cynical golden rule: Whoever has the gold makes the rules.

While Salisbury provides the county with the largest part of its tax base, voices around the county openly root for Salisbury to fail, claiming that Salisbury is crumbling and crime ridden, and hoping to hasten its demise. These voices view the city, Downtown Salisbury Inc. (which has brought $50 million investment to the downtown), rich bankers, downtown businesses, Historic Salisbury Foundation and the Salisbury Post as an evil cabal interested only in unrestrained power.
Maybe the county can agree to finance the full cost of a larger, 60,000-square-foot central school office in downtown. Maybe the city and county can work together to expand water and sewer service to the eastern side of I-85 to encourage economic development or agree that no more downtown county government offices will be moved to the mall. Maybe they can agree working together should be good for everyone rather than seeking good for one at the expense of the other.

If the city grants this exception to the county, it forever forfeits any city input or involvement in the county’s use or relocation of any county offices to the mall. The city should move cautiously.

Listen to Joan Rivers. Negotiate for mutual benefit. Otherwise, Salisbury is going to find itself snapped again at the end of the county’s whip.

David Post lives in Salisbury.
The Board of Elections and staff appreciate that the Commissioners have identified a location to meet our needs, thus supporting the integrity of the voting system for Rowan County.

1. Background.
   a. In 2007, the State Board of Elections General Counsel inspected the Rowan County Board of Elections premises. He found that:
      i. The area used to store election equipment and files did not meet the security requirements of the NC Administrative Code. (08 NCAC 04.0306)
      ii. The facility did not have adequate parking for routine business hours or voting times.
   b. In 2008, the area storing voting equipment and files flooded. This was not the first time the space had water damage.
   c. Today, this space continues to store our election equipment and records, putting them at risk.
   d. The Board of Elections submitted a Capital Improvement Plan in 2007 so that the Board could be in an appropriate facility in time for the 2008 Presidential Elections.
   e. The Commissioners, after considering an alternate location in 2009-2010, approved in 2013 the Board of Elections’ use of the lower level of the former DSS building on Mahaley Avenue.
   f. On June 18, 2013 the Board of Elections responded that the space was inadequate as it would not meet both the day to day work requirements and storage needs.

2. Current Plan. The architectural plans of the West End Plaza space will not only solve the issues identified by the State Board of Elections General Counsel, but it will improve the effectiveness and efficiency of operation. It will:
   a. Provide secure storage for election equipment and records
   b. Safe and adequate parking
   c. Allow us to train election workers more effectively and efficiently at one location. Currently staff has to take equipment to other locations and set up and take down multiple times during training. This will also increase staff availability to help Citizens during our busiest times.
   d. Improve safety and efficiency during loading and returning election equipment through use of the loading dock.

The Board of Elections appreciates that the current plan will meet our needs by the end of 2014. Timely resolution is critical to the integrity of the Rowan County Election System.