

April 1, 2003

REGULAR MEETING

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

ABSENT: None.

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Mayor Pro Tem Woodson.

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

RECOGNIZE COUNCILMAN WILLIAM (BILL) BURGIN - WINNER OF 2002 HISTORIC PRESERVATION AWARD

Mayor Kluttz recognized Councilman Bill Burgin who recently won a 2002 Historic Preservation Award from the Historic Salisbury Foundation "for his concepts and design in restorations of the Montgomery Ward and Normans buildings" in downtown Salisbury. On behalf of the Council, Mayor Kluttz expressed appreciation to Councilman Burgin for the dedication and talents he brings to the betterment of Salisbury.

PROCLAMATIONS

Mayor Kluttz proclaimed the following observances:

CHILD ABUSE PREVENTION MONTH April, 2003

NATIONAL NURSES WEEK May 5-11, 2003

Mayor Kluttz presented the Proclamation for CHILD ABUSE PREVENTION MONTH to Ms. Carolyn Corriher, President, Prevent Child Abuse Rowan, and thanked both her and her committee for all the work they do for our children.

Mayor Kluttz announced that the Proclamation for National Nurses WEEK was issued prior to the meeting.

ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following change to the Agenda:

Item (7-d), Decision - to consider taking action to issue a special use district permit should read Decision - to consider taking action to approve site plan.

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of March 18, 2003.

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

Group Development Site Plan - G-3-03 - College Point

G-3-03 - College Point

730 West Council Street (16 Apartments)

The request is to consider an application for the construction of two (2) apartment buildings consisting of sixteen (16) units total to be located at 730 West Council Street.

Mayor Kluttz announced to those persons in attendance that this is not an advertised public hearing, but that there are so many people who are concerned about this that the Council is requesting that people come forward who would like to express their opinions. She informed the audience that everyone who thinks they might want to speak should come forward to be sworn in.

(a) Swearing In

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

Mr. Harold Poole, Senior Planner

Mr. Hubert Furr, Development Services Manager

Mr. Dan Mikkelson, Director of Land Management & Development and City Engineer

Mr. James Patterson, 4252 Wayne Road, Greensboro, NC, Project Developer

Mr. David Eller - 2955 Oddie Road, Salisbury, Project Developer

Ms. Diane Dillon - Historic Salisbury Foundation

Ms. Kathy Walters - citizen

Ms. Dorothy Rendleman - resident

Mr. Joey Lopez - resident

Ms. Sharon Barber - daughter of resident

Ms. Shelly Allison - resident

Mr. Joseph Kirk - resident

Ms. Rita Foil - daughter of resident

Ms. Margie K. Sides - daughter of resident

Dr. Charles T. Wolpert - citizen

Ms. Dawn Isenberg - citizen

Mr. Edward Clement - citizen

Ms. Pat Sylvester - North Main Street Neighborhood Association

(b) Evidence Presented

Mayor Kluttz then explained the first thing being done is to receive evidence from City staff.

Mr. Hubert Furr, Development Services Manager, indicated that he wanted to explain why speakers were being sworn in. He explained that often group development matters are on the Consent Agenda or presentations are made and the matter is either approved or disapproved. He commented that because of the possibility of the decision that might be made in this case, it was important to conduct a quasi-judicial hearing in which everyone will be giving testimony and everyone would need to be sworn in, as the Mayor has appropriately done. Mr. Furr noted that this would give Council some latitude in their decision-making which might or

might not be made completely based on the ordinance.

Mr. Furr reminded Council that whenever a decision on this case is made, whether now or later, it will need to be based on findings of facts. He distributed to Council members a list of some suggested Findings of Fact.

Mr. Furr reviewed with Council that this is a group development which has been through the Staff Technical Review Committee, the Planning Board, and is now with the City Council. He reminded Council that the development in question is the proposed College Point Apartments which is comprised of 16 apartments in two buildings and would be located at 730 West Council Street. Mr. Furr pointed out the proposed location which would be at the dead end of the existing West Council Street. He noted the boundaries of Innes Street, the railroad tracks, Craige Street, and Caldwell Street. Mr. Furr noted that the property in question adjoins the old Fuchs, formerly Wagoner Construction site. He stated that there have been comments about historic districts, and he wanted to clarify that this property is not located in either a local or a national historic district. He did state that it is in close proximity to the Ellis Street Graded School Local and National Register Historic District.

Mr. Furr shared pictures which showed the 700 block area of West Council Street including one looking straight toward the property, the Fuchs building, houses, Salisbury Motors, the actual property in question, a view looking from the property back toward Council Street, and views looking toward and from the railroad tracks. He pointed out a gully in one of the pictures, and indicated that it could have significance if there is mention of a dump site; he also pointed out that it could figure into the findings of fact that are made. Mr. Furr reviewed the site plan showing that Council Street would be extended into the property as a private drive, the building locations, elevation drawings, the buildings, the parking areas, and the landscaping plan which includes both Type E-1 and Type A yard landscaping. He pointed out the approximate zoning lines for R-6 and M-2.

Mr. Furr indicated again that the plan came through the Technical Review Committee and met all of the requirements of the zoning ordinance, landscaping requirements, use of the apartments, fire requirements, garbage pick-up and dumpster requirements, and minimum parking requirements, all the City's minimum requirements.

Mr. Dan Mikkelson, Director of Land Management & Development/City Engineer, informed Council that the Planning Board had requested that the engineering division investigate concerns regarding Environmental/Landfill, Traffic, and Parking, and that he would like to report on their findings.

Environmental/Landfill

Mr. Mikkelson indicated that questions have surfaced about a landfill that existed in the vicinity of the site plan in the 1960's. He noted that, at that time, the site was owned by Wagoner Supply Company which is currently Wagoner Construction Company. He said that he had contacted Mr. Bill Wagoner, President, and asked him what he knew of that landfilling operation. Mr. Wagoner said that they owned part of the property and leased the part which is tax parcel 55-A. Mr. Mikkelson noted that the apartment site is tax parcel 55 and is adjacent to the Wagoner landfill property. Mr. Wagoner further explained to Mr. Mikkelson that the purpose of their lease was to fill that site primarily with inert materials, raise it up to the same level as the rest of the industrial site, compact the fill, and use it to support the industrial site. Mr. Wagoner indicated to Mr. Mikkelson that the property was leased with an agreement which allowed them to do land filling, and that it was their intention for all of the landfilling to occur only on tax parcel 55-A. He noted that Mr. Wagoner advised him that back in the 1960's, there was less sensitivity to what went into a landfill, and that he could not swear exactly what materials might have gone in. Through the use of a slide showing topographic contour lines of the area in question, Mr. Mikkelson pointed out that the property for the apartment site was not a part of the major filling and grading operation. Mr. Mikkelson informed Council that based on the information that is available, there is reason to believe there was a landfill on tax parcel 55-A, but that it appears from the contour lines that virtually all of the grading occurred on 55-A and not on the apartment site. He also stated that the developer of the apartments has said that his lender is going to require testing to insure that they are not building over an old landfill. Based on the best information available, Mr. Mikkelson informed Council there is no reason to believe there is hazardous material from the landfill on the apartment site.

Traffic

Mr. Mikkelson noted that his office addressed concerns for traffic calculated during peak hours, and using the worst case scenario, which was based on 16 apartments, each with 3 bedrooms, and conceivably as many as 6 students in each apartment. He indicated that an evaluation of what is called the "level of service" was conducted at some of the nearby intersections in order to measure congestion. He reported that even with 6 students per apartment, the traffic generated from the apartment complex would not have a measurable effect on the level of service. Mr. Mikkelson stated that from an engineering standpoint, the apartment would have a minimal impact on the operation of the street system. He commented that an engineering analysis does not evaluate the effect of traffic on the character of an existing neighborhood, and that will be one of the challenges facing City Council in this case. Mr. Mikkelson noted that with respect to the speed of traffic, there is a history of complaints from property owners in the 500-600 blocks of West Council Street. He indicated that it is reasonable to assume that the introduction of additional vehicles could present additional problems with speeding, but that he was not able to quantify the potential concern for speed.

Parking

Mr. Mikkelson noted that another area related to traffic is parking, and that if there is a "spillover" of parking from the apartments, the most probable place would be on the curblin of the 700 block of West Council Street. He commented that, at the moment, curb line parking is allowed, but there is only sporadic parking. Mr. Mikkelson explained that in that block of West Council Street, the pavement is only 25 feet wide from the face of curb to face of curb. He stated that if there were to be

continuous parking, one car behind another, on both sides of the street, it would leave an available center lane of only about 11 feet which is not sufficient for a fire truck to easily maneuver through. He noted that the Fire Department looks for a minimum of a 12-foot lane for movement through an area and that is not assuming they have to set up in that street itself. He said there is also concern about parking in the 100 block of Craige Street. The street is 32 feet wide from face of curb to face of curb, so this should not be a concern. Mr. Mikkelson commented that the city could deal with the parking concern by exercising its authority to restrict parking on the curb, and he noted that the request for such action could be requested by the residents or initiated by the city.

Mayor Klutz asked if there were questions before the public comments begin.

Mr. Furr indicated he felt the Council would be interested in hearing how this item was dealt with by the Planning Board. He noted that the Board sent it to committee which recommended denial, and that when the full Planning Board then received and reviewed the information, he thought it was approved on a vote of 7-2.

Mayor Klutz opened the floor for comments from the public for anyone desiring to speak **in favor** of Group Development G-3-03 College Point.

Mr. James Patterson, 4252 Wayne Road, Greensboro, NC, and Mr. David Eller, identified themselves as Project Developers for this proposed site development. Mr. Patterson said that he wanted to emphasize that they [the developers] had worked closely with city officials to make sure that the plan met all ordinance codes and that any additional changes the city had along the way was incorporated into the design. Mr. Patterson further noted that they [the developers] had studied the situation before proposing this project, and knew there was a serious need for student housing in the community. He said they know there are close to a thousand students living off the main residential campus. Mr. Patterson added that they were trying to fill a need which they knew existed and to do it in a way that would cause as little disturbance as possible and create a first class living facility for college students.

Mr. David Eller, 2955 Oddie Road, Salisbury, having identified himself as a Project Developer for this proposed site development, shared that this is not a new idea, and that his company has constructed lots of student housing buildings, such as some in South Carolina and Virginia. He noted that the students who stay in these tend to be upper classmen, that background checks are made, and that parents are responsible for the students. He said they have been a part of this kind of thing for several years. Mr. Eller commented that the original plan was to create an overflow parking area on the landfill property and to create an access to West Innes Street through a t-shaped portion of property that belongs to Salisbury Motors, but that the property belonging to Salisbury Motors was not available.

Councilman Burgin asked the developers if any contacts had been made with the colleges. Mr. Patterson responded in the affirmative, but stated that there was no type of formal agreement with them. He also noted that they were supportive of the proposed plan.

Mayor Klutz asked for clarification as to student supervision. Mr. Patterson indicated that the apartments would have off-site professional management which would be in regular contact with the residents. He explained that they acquire knowledge of what is going on in each apartment is by conducting monthly maintenance checks with feedback of problems to management. He commented that there just have been no problems with the students themselves and that the only problems have been those coming from neighbors. Mr. Eller noted that the buildings are brick veneer, very safe with sprinklers, open breezeways, and concrete floors.

Those speaking **against** the proposal were:

Ms. Diane Dillon, representing the Historic Salisbury Foundation, stated that she was here in opposition to this project. She commented that, if allowed, this development would adversely affect the quality of life in this downtown neighborhood. She noted that from the Salisbury Vision 2020 Plan, the Council Street area fits the description of streetcar neighborhoods. She commented that this is a very pedestrian-oriented neighborhood with narrow streets and compact neighborhood density, and that the number of renters in the apartments would significantly impact this already dense area. Reference was made again to the Vision 2020 Plan general policy recommendation #4 citing the provision which addresses encouragement for public transit and other alternatives to the private automobile within the development and redevelopment of all residential, shopping, gathering, and work places. Ms. Dillon also noted from the document that new infill development shall be architecturally compatible with existing structures, landscape features, and the streetscape within its vicinity, and that efforts by neighborhood associations to establish their own standards for development compatibility shall be encouraged. She commented that it is important when older homes are restored, remodeled and/or replaced and empty lots are developed that it be done in a manner that is compatible with the balance of the neighborhood. Even though a group development site plan has been completed and has met all of the criteria as presented to you, you still have the ability to deny this application through Section 12.06 of the City Code's [Appendix B - Zoning] Group Development paragraph 2 *Procedure* states: "The city council, following its own review, then may approve the request as originally submitted, approve the request with modifications suggested by planning board, approve the request with modifications, or deny the request." Speaking for Historic Salisbury Foundation, Ms. Dillon asked Council to deny this group development site plan today.

Ms. Kathy Walters, a resident of the Ellis Street Graded School District, stated she is here in opposition to this project. She cited from the City Code [Appendix B- Zoning] Historic Preservation Commission Section 18.01 Purpose which reads in part: "The purpose of establishing local historic districts and landmarks is to encourage the restoration, preservation, rehabilitation and conservation of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, objects and their surroundings, and to review new construction design to ensure compatibility with the character of the district and to safeguard against any potentially adverse influences which may cause the decline, decay, or total destruction of these important assets." Ms. Walters pointed out perhaps the most important 7 words in this would be "...to safeguard against any potentially adverse influences ..." These words are a commitment to Historic District residences, she reminded Council. She noted that approval of

this project will permanently damage the character of the majority of the Ellis Street Graded School District and betray the trust that homeowners evidenced when they invested money in their homes, believing that they would be safeguarded from adverse influences. Ms. Walters commented that the 700 block of West Council is not an island; it is a peninsula which is inseparable from neighboring houses. She stated that negative factors impacting the 700 block of West Council would also impact the entire district. As a member of the Historic Preservation Commission, she said that she has seen many homeowners who are unhappy or even angry about the restrictions that a local historic district imposes on their property, but most of these applicants have later begun to appreciate what they see happening as their neighborhoods improve in appearance, quality of life, and financial value. Ms. Walters commented that if these apartments are allowed, the population on West Council Street would almost double. She noted the new residents would not be homeowners, and would have no emotional, sentimental, or financial investment in their living place, and residential property values will decrease because owners will be unwilling to continue to invest the large amount of money that is necessary to renovate and maintain an older home. She pointed out that quality of life is fragile, and respectfully asked that Council deny this proposal.

Ms. Dorothy Rendleman, 703 West Council Street, stated that she is here in opposition to the College Point Apartment, because it will change the whole character of the residential neighborhood. She explained that her family moved to West Council Street in 1961 with 4 children, and that it turned out to be a good choice, because it was a wonderful neighborhood for raising the children. She noted that her husband, Dr. David Rendleman, practiced medicine in Salisbury for over 50 years. She commented that he grew up in a home on the corner of Kerr and Fulton Street, but that his family moved to the new Club area, and he grew homesick for his old Frank B. John neighborhood and friends. She explained that he always said he would like to raise his children in the Frank B. John area. She commented that they had planned to downsize after the children grew up and would go and look at places, but he would always come home and say "I like my little corner." She said that they decided to stay at their home on Council Street. After a few years, things began to change and drug dealers started moving into the rental houses. She noted that with help from the Police Department, they worked at cleaning out the dealers and the neighborhood has now turned around, and they have young people buying homes there. She commented that they are the future of Salisbury and we want to make it a safe residential place for them to raise their children. I am asking you to deny the request for these transient apartments so we can keep a safe residential neighborhood for the future of Salisbury, Ms. Rendleman said.

Mr. Joey Lopez, 616 West Council Street, distributed pictures to Council members which he said is of work he and his wife have done to their home. He said he is here to express opposition to the College Point Apartments. He explained that he and his wife fell in love with their house when they saw it, but debated the neighborhood because it was in a transitional area of town. He said that his wife was so in love with the house that they decided to just "go for it." Mr. Lopez explained that they spent nearly three years restoring the house inside and out, and during that time became friends with the surrounding landlords and neighbors, and worked to remove the troublesome renters they had. He noted that families in the whole neighborhood would be affected by the approval of this proposition. He commented that his two small children are not allowed to play in the front yard because of traffic and transients. Mr. Lopez noted that seven of the 13 homes in the 600 block have children that play along the street, and it is a refreshing sound to sit on our porch in the evening and hear the screaming and playing of the neighborhood kids. He noted that when they first moved in, there was a lot of drug trafficking and partying going on, but that after numerous phone calls and patience, the obstacles have been overcome and they have made the neighborhood a lot safer place for the children. He explained that if the College Point Apartments is approved, it will create problems that we have already addressed. Mr. Lopez stated that this is more than an emotional or personal issue with him. He explained that he and his wife took a chance at buying their home and putting everything they had into it, and have finally reached a point where we have figured out that we made a wise investment. He stated that what they do not want is for that to be jeopardized by the College Point Apartments. He commented that it is one thing for this to be emotionally disturbing, because most people, including myself, can just get on with life, but when something has jeopardized his family's investment and well-being, he said he must speak out about it. He said that since he had this opportunity, he would like to thank the Historic Salisbury Foundation and the City of Salisbury for awarding them with a Historic Preservation Grant. Mr. Lopez noted that he had invested lots of money into his home, and since the City has invested money in it too, he would assume they also have a vested interest in this. I asked Council to deny the approval of the apartments.

Ms. Sharon Barber, representing her parents Ervin and Doris Holt of 708 West Council Street, stated she is here to vehemently oppose this intrusion into the neighborhood. She noted that her parents vote and pay their taxes on time. She indicated that at the Planning Board meeting, there appeared to be breakneck speed in doing what Mr. Patterson wanted. She noted that they have lived here all of these years and are asking for a voice, because they think that all of the sympathies are with Mr. Patterson. Ms. Barber commented that it seemed like an outsider has come in and more attention was paid to him than to them, and they are tired of hearing over and over that it could be worse. She stated that they know it would be a dangerous precedent to allow apartments to feed into an area that is eligible for inclusion into the National Historic District and that she is here to ask Council to deny this request which would do irreparable harm to the neighborhood. Ms. Barber commented that her parents are seniors and they deserve peace, quiet, and harmony with their neighbors. She said that they deserve to get outside and do what they do with the safety and security of what they should have. She asked that Council hear their voices where the Planning Board did not.

Ms. Shelley Allison, 628 West Council Street, stated that she and her husband live in the last house on the 600 block, and are right next to the 700 block. She noted that their bedroom is on the back of the house and, at night and during the day, when they are in the bedroom, they hear the traffic that goes up and down Craige Street which is a cut-through for many of the backstreets in Salisbury. She commented that when they first moved into their house over 2 1/2 years ago, she did not feel comfortable walking down the street to go to Sacred Heart church, so she would drive. She said that there were a couple of crack houses across the street, that the neighbors got together and called the police when activity occurred, and the problem was alleviated. Ms. Allison noted that the renters in the neighborhood have decreased. She commented that they love living on Council Street; this is their first house. She said they look upon it as an investment over the next 29 years, and would like the

quality of the neighborhood to remain the same. Ms. Allison commented that they do not have anything against college students, and that their neighborhood is a mixed, diverse area. She noted that they just do not want to see twice the neighborhood with the amount of people that could be in there, and being on corner, they would hear the traffic. She said they ask Council to deny it.

Mr. Joseph Kirk, 717 West Council Street, stated that his residence is the property right next to the proposed apartment complex, and that he is opposed to the apartment project. He noted that his family has lived in the same house since 1947, and that in the early 1950's when he was 6 or so years old, he used to play on that property and over near Wagoner Construction. He said that he saw first-hand all of the construction debris which was deposited and dumped on the property. Mr. Kirk indicated that he did not know about lead, but that there were paint cans, sheetrock, tarpaper, concrete, boards, and lumber in the debris. He said that he also wanted to mention a letter that Paul Rendleman had distributed to the Planning Board on March 13. The subject was "Building Over Landfill". Mr. Kirk said he could not say where the landfill begins and ends because it is covered over with dirt. He commented that when they dumped debris over the edge of the bank and it went downhill, there was a large pond at the bottom which was bigger than the size of this room and was about 4-5 feet deep. He recalled it was very dirty and muddy; that he did not know what all was in the water, but it too was covered over. He commented that the end of the landfill might not be exactly on the property where the proposed apartments would be, but he is sure that a lot of the seepage went into that property after it was covered over. I am opposed to the apartment project.

Ms. Rita Kirk Foil, 475 Roger Drive, daughter of Ms. Catherine Kirk, whose property directly adjoins the proposed development of College Point Apartments, stated she is here in opposition to the project. She indicated that her family did not become aware of the proposed apartment complex until Wednesday, March 5, prior to the following Tuesday meeting of the Salisbury Planning Board in which they were to consider approval of the site plan. She commented that she wanted to affirm statements made by her brother, Jay Kirk, concerning the landfill. She noted that as a young girl, she was well aware of all the junk that lay on the other side of the woods beside her parents home and visited the site on numerous occasions. She stated that her concern is that no one has been able to say that they are 100 % sure that asbestos and lead paint are not components of this landfill, and the fact that the landfill does exist and is located next to the proposed development causes enormous concern. She said she would like to submit as evidence to Council a letter from the Director of Environmental Services for Rowan County in which he explains the dangers of methane gas and how it can travel long distances. She quoted one paragraph from the letter: "Buildings built on or near landfills risk having this methane find its way into the building where it creates a fire or explosion hazard. There is one example in Rowan County where methane was found in a building several hundred feet, and across the road, from an old landfill. There are also cases in North Carolina where building explosions have been caused by methane from landfills." Ms. Foil commented that she would also like to mention that she has spoken with a company that performs traffic evaluations and they are willing to perform a traffic analysis for West Council Street. She said a representative from this company has been in touch with the City of Salisbury engineering staff and affirmed the city's willingness to welcome another study to be performed for validation. She stated that they insist City Council do a more comprehensive traffic study. She noted that the West Council Street area is a residential family community and that this proposed development of College Point is a planned group building exclusively for student housing, which, by its nature, is dramatically different from family housing. She ended by asking that City Council please deny this request.

Ms. Margie Kirk Sides, 104 Park Drive, Rockwell, NC, stated that she is against the West Council Street apartment development because it will permanently harm the existing neighborhood and jeopardize the quality of life of the citizens. She identified herself as a daughter of Catherine Kirk who resides at 717 West Council Street which is directly adjacent to the property in question. She commented that her parents built their home in 1947 and that her mother, age 87, her aunt, age 89, and her brother still reside there. They chose this property because it was on a dead end street and would afford them the safest, quietest place to raise their family as well as being within walking distance to downtown, schools, and church, Ms. Sides explained. She noted that this has remained the same for the past 55 plus years, the only home her brother has known and he has continued to live there to take care of these wonderful women. The family has chosen to keep these women in their home and not place them in retirement or nursing homes because of the safety and quietness that comes from living on a dead end street. She explained the family feels it has met its goal. This proposed development will impact the quiet, sedate life which the family has worked very hard to maintain, she explained. Ms. Sides commented that the opening up of this driveway for 32 plus cars coming in and out several times a day certainly would push that term past the limit of "driveway". She said that they have someone staying around the clock with these wonderful women and are trying to make every effort to provide the safe and peaceful environment that they richly deserve. She noted that this will all come to an end if this is allowed to happen. She said she is asking City Council to deny this request for the development of the West Council Street Apartments.

Dr. Charles T. Wolpert, 500 West Council Street, stated that he is here to speak in opposition to the College Apartments. He told Council that for three mornings he has sat on his front porch and checked traffic on West Council Street between 7-8 a.m., and the count was 61, 67, and 64 cars turning onto West Council Street. He noted that he is a strong supporter of EPA, and that before any construction begins at the end of West Council Street, EPA studies should be done. He commented that Ms. Foil and Mr. Kirk have pointed out, from first hand knowledge, that this area was used for waste disposal. Dr. Wolpert reported that at the Planning Board meeting last week, Mr. Mikkelson stated that, based on interviews with people, construction debris was there, but its content was just dirt and stone. There was no EPA in the 1960's and that there could be stuff there, but there is no way of documenting it. Dr. Wolpert commented that to their knowledge nothing happened, but "we do not know for sure". He noted that it is a known fact that underground waste sites not only affect the area in which they were dumped, but, over time, in this case 40 years, also affect the surrounding area. He also noted that contamination of the soil, ground water, and eco system does not stop at a lot line, but filters through and deep into the earth. Dr. Wolpert commented that he had contacted the EPA in Raleigh and also the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Management, in Mocksville, N.C., and that Mr. James Bealle [Solid Waste Management Specialist with NCDENR] was appalled that the city had not required a Phase I environmental study and stated that the City could be liable if there is any problem because the plan was approved without requiring a rigorous site evaluation. He noted that Council has received a copy of a petition asking that a complete EPA and traffic study be completed before any consideration be given to construction on the site. Dr. Wolpert closed by commenting that Council has heard from residents and their deep concerns regarding the negative impact on a historic

preservation district, the quality of life, safety issues, traffic congestion, and environmental concerns. He urged Council to protect this emerging neighborhood in which people have invested time, money, caring and hope. He stated that he requests the denial of this petition, but would like to show Council something that is beautiful, and that is the people who believe in it. He then asked that they all stand.

Ms. Dawn Isenberg, 721 Mitchell Avenue, stated that she lived at 609 West Council Street from a toddler until she married at age 21. She noted that she routinely played in the 700 block at the dead end where all of the kids gathered, but that they were not supposed to go behind the Kirk and Kelly homes down into the dump area. She commented that she once hauled a stove from there for a playhouse, and that there was always construction supplies, bicycles, and tires there. She described the water as not being clear, being lots of different colors, and having beautiful rainbows on it which probably indicated there was oil or something on it. She noted that most people park on the street rather than in their driveway. She expressed her thought that apartments are a bad idea pointing out that she has a son in college and knows that when they get a house or apartment, rooms can be divided and someone else is pulled in. She noted that when there are six to eight in an apartment, there will be six to eight cars per apartment. She urged Council to deny the proposal.

Mr. Edward Clement, 310 South Ellis Street, stated that he owns two houses on West Council Street which he bought to try to hold onto one of the great neighborhoods of Salisbury. He commented that the neighborhood is and must be treated as special because it is historic, and equally important, it is affordable. He noted that there must be support for those who are trying to revitalize affordable downtown neighborhoods. Mr. Clement indicated that he wanted to say a favorable word about the Planning Board indicating that over the last years they have been very supportive of neighborhood preservation. He explained they seem to understand that these neighborhoods are very fragile and that it does not take much to push them right off the edge. As recently as three weeks ago, they supported Caldwell Street which is actually part of this neighborhood, he explained. He commented that this was out of character for the Planning Board, and suggested that maybe it was because it was put on the fast track without ample time to really grasp it or understand the ramifications that these people have told us about. He noted that this is totally incompatible with this neighborhood in every way: architecturally, character, and traffic. Mr. Clement raised the question as to why one would take an historic street and put an apartment development at the end of it. He respectfully requested that Council deny this petition. He requested that Council not compromise this because it will compromise the vitality and viability of the neighborhood.

Ms. Pat Sylvester, representing the North Main Street Neighborhood Association, stated that they are here to support the denial of this proposal. She pointed out that in 1998, the Salisbury City Council adopted a goal to improve the quality of life in neighborhoods throughout the city. She commented that at that time, residents were given an opportunity to discuss problems and solutions with city officials. When evaluating proposals that would have a negative impact residents always came forward and voiced their opinions to protect their neighborhoods, Ms. Sylvester noted. She said that today Council has heard many people express their opposition to building apartments that would adversely affect the West Council Street neighborhood, and we trust that City Council's deep concern for the protection of neighborhoods will prevail in this instance. She stated that they request Council deny this proposal.

Mayor Klutz asked if anyone else who was sworn in would like to speak at this time. No one else responded, so Mayor Klutz closed the public comment period.

Mayor Klutz thanked everyone for being present and for giving their opinions. She noted that Council takes the decisions they make very seriously and want all the information possible and all of the opinions that anyone would like to share with them. She stated that Council realizes this development is allowed in the zoning and wants to be fair with the property owner and the developer.

Council Comments

Mayor Klutz explained that this was her neighborhood between the ages of 25-50 when she lived on West Liberty Street, that she and her husband raised their children there, and that she had many opportunities over that period of time to walk down Council Street. She added she did so because it was such a beautiful street with character and so much potential. She said that it is a quiet neighborhood, which is not always easy to find in downtown. She noted that she is an advocate of quietness, feels that people deserve to have peace and quiet, and that noise is a quality of life issue. Mayor Klutz commented that there are two college neighborhoods in the city, they are wonderful colleges, and people who live near colleges make the decision to live there because there is energy and excitement. She noted that this is not a college neighborhood. She stated that she has concerns about unsupervised young people suddenly being dropped into an older, fragile neighborhood. She explained that she knows what it is to take an old, rundown neglected house and spend a lot of money and time in fixing it up. She explained she also knows the risk one takes, which her family took in 1975, to move into a neighborhood in need of stabilization. Mayor Klutz indicated that this is a crucial time for the neighborhood, and it can be destroyed if progress going on here is stopped. She commented that she has concerns that parking will not be adequate for the apartment dwellers and that when they have friends and visitors over, the parking will spill out onto Council Street which is not adequate for the needs. She also noted concern that there is no outlet from this development to West Innes Street. Mayor Klutz identified concerns about safety issues involving fire trucks and emergency vehicles, concerns for environmental issues, and concerns for the nearby schools. She explained she would like to ask Council how they feel, but that she could not approve the site plan as submitted today.

Mr. Martin indicated that he had the same concerns as the Mayor, but thinks Council has an obligation to protect the character of the neighborhoods. He noted that he is not opposed to the apartments because that is a good thing, but rather opposed to where they would be located. He cited the situation with traffic and spoke of the neighborhood being quiet, and being able to walk downtown, etc. He restated that he is opposed to apartments at that location.

Mr. Woodson expressed that one of his concerns is that the road is so narrow. He also noted that he feels the big problem is

parking. He indicated that he called Don Clement, III, to explore any possibility or way that the Clements could sell any property or give some kind of easement to get back onto Innes Street, but understands they could not. He noted concerns that it is going to be far too crowded with people having nowhere to park. He stated that he would be opposed too.

Mr. Kennedy stated that, personally, as a businessman, developer, and property owner, he recognizes that the property is zoned M-2 which allows for the apartments. Mr. Kennedy said since he is not voting personally for himself, but rather for the citizens of Salisbury, if they are against it, so is he, and will have to vote no.

Mr. Burgin stated that he thought this might be one of those planning issues for which a committee might be formed to work through some of the issues between both the neighbors and the developer. He commented that he thinks what it does, though, is simply point out some weaknesses in our present ordinance which is cumulative. He noted that when you begin to look at M-2's and all of a sudden you can put residential pieces there, and all of a sudden create mixtures that are inappropriate, we have a lack of infill guidelines within our ordinance to say in development of historic communities, this is how you have to develop. He noted that in the absence of that, we have a problem. He commented that having heard from the developer that there is no practical way to gain access to Innes Street, and looking at his financial package where he projects a certain number of college students going into a certain number of apartments, the ratio of those students to parking is probably pretty critical to him. Mr. Burgin stated that he could not support the site plan with those kinds of ratios. He noted he thinks that parking would spill out onto the streets and they would become congested. He also noted there would be some safety issues that the city would be faced with. Mr. Burgin said he thought that the problem of EPA could be resolved by demanding that as a part of planning requirements for approval, but that he could not get past the others. He noted that this is a fragile neighborhood that is moving up, and he thinks apartments in a single family residential area put demands on them that this particular neighborhood cannot stand at this point. He also noted that he thinks there is a character difference between this historic neighborhood and the proposed apartments as has been presented, and at this point there is a sense of intrusion that he feels would affect the quality of that particular neighborhood. Mr. Burgin stated that from some of the Vision 2020 work he noted that there are needs in our community for mixed developments, but it is one thing to create the mixed developments that people choose to go into as opposed to having those mixed developments imposed.

(c) Findings of fact

Councilmember Burgin read the following Findings of Fact:

(a) The existing, adjacent neighborhood is predominately single family dwellings.

(b) The apartments will not be compatible with the neighborhood based on the fact that the paved width in the 700 block of West Council Street is not sufficient to allow continuous parking on both sides of the street.

(c) The projected traffic volume from the apartments will significantly increase congestion within the existing adjacent residential neighborhood.

(d) The projected traffic from the apartments will negatively impact the character of the neighborhood.

(e) Providing an access route from the apartments to West Innes Street is not possible to mitigate the potential impact on the traffic.

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(d) Decision

Thereupon, Councilman Burgin made a **motion** that having found these facts [See Findings of Fact above] he **moves** that we deny the approval of this site development plan. Mr. Kennedy seconded the motion.

Councilman Woodson said that he would like to add one more thing. He stated that he thought that the minimum requirement of 32 parking spaces will not provide on-site parking for 48 or more students.

Councilman Burgin said that he accepted that as a friendly amendment. Seconded by Mr. Kennedy. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

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SPECIAL USE DISTRICT PERMIT - Z-2S-03 - LABUR, INC.

Z-2S-03 - Labur, Inc.

450 White Farm Road

The request is to rezone one parcel (approximately 20,000 square feet) located 450 White Farm Road, from A-1 Agricultural

District to B-6-S Special General Business District. There is a 5,000 square foot warehouse building on the property identified as parcel 128, tax map 320, in Franklin Township.

(a) Swearing In

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

Mr. Harold Poole, Senior Planner

Mr. Burt Harris, applicant

(b) Evidence Presented

Mr. Harold Poole, Senior Planner, informed Council that this request is a proposal for rezoning from A-1 Agricultural to B-6-S Special General Business. With the use of a map, he pointed out the property on White Farm Road and noted its relationship to Highway 601 and to the subdivision known as Hidden Creek. Mr. Poole also pointed out several lines of interest with the most notable being south of the property and representing the old Salisbury 1-mile zoning line that existed until 1972 when new districts were created beyond that area, including A-1 Agricultural District which was applied to most of the properties on the other side except existing subdivisions. Mr. Poole noted that this property was probably carved out in the 1960's with the existing building placed there in 1969 with an extension on the building in 1972.

Mr. Poole told Council the request is that the property be rezoned to B-6-S with the following proposed uses: Warehouse and wholesale establishments, excluding the storage of uncured hides, explosives, oil products, gas storage, etc. all use would be A-1 district uses. He noted that warehousing has essentially been the use since 1969. Mr. Poole pointed out the only proposed condition would be that sign regulations from A-1 district prevail. He told Council the lot is about 1/2 acre in size which looks odd in comparison to the size of the other lots around it.

Mr. Poole informed Council that the Planning Board recommendation on the requested zoning change with a listed use was 9-2 in favor. He noted that there was sentiment on the Planning Board that maybe it should not be rezoned if there was any other way of accomplishing this so that the present owner could be in compliance and, perhaps, even enlarge the building. Mr. Poole also noted that there was concern about this being considered spot zoning based on similar court cases. Mr. Poole indicated to Council that there were two options:

1. Rezone to B-6-S with uses and conditions, and take action to issue a special use district permit with the four Findings of Fact as follows:

- the uses and conditions proposed will not materially endanger the public health or safety if located where proposed and determined according to plan, AND
- the uses and conditions proposed will be required to meet all preexisting conditions and specifications, AND
- the uses and conditions proposed will not substantially injure the value of adjoining or abutting properties, AND
- the location and character of the uses proposed for the site, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted Salisbury Vision 2020 Comprehensive Plan and other plans for the development of the Salisbury area as adopted by the City Council.

2. Consider Section 7.10, Subsection 3-A, which states that on any property like this one, developed prior to zoning being extended into the area, could be expanded on that lot. Mr. Poole noted that with the choice of this second option, there would still be the issue of the special use permit. This option would require only one vote, but would take the reading of findings of fact.

Mr. Poole commented that this was, perhaps, confusing, but that options like this do not generally present themselves, and the ordinance does allow something different to be done here if Council so chooses. Mr. Poole asked if there were any questions before the public hearing.

Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the issuance of a special use district permit in accordance with Z-2S-03, Labur, Inc., 450 White Farm Road.

Those speaking **in favor** of the above proposal were:

Mr. Burt Harris, 826 Maple Avenue, indicated to the Council that he was trying to bring into compliance a building which has been used since 1969 for wholesale x-ray sales and services. He noted that in the reading materials he had been furnished on the B-6-S district, his building could not be used because there is no space for parking, and the building could not be moved closer to the road due to a setback. Mr. Harris noted if the building is brought into compliance, and if he were to lose a tenant, he could at least rent to someone else looking for wholesale warehouse space. He commented that he had never had complaints from his neighbors, that he had sent letters to about 35 of them and to Council members about his intent to bring the building into compliance, and there had been no objections from the neighbors.

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

(c) Findings of fact

Mayor Pro Tem Woodson read the following Findings of Fact:

- the uses and conditions proposed will not materially endanger the public health or safety if located where proposed and determined according to plan, AND
- the uses and conditions proposed will be required to meet all preexisting conditions and specifications, AND
- the uses and conditions proposed will not substantially injure the value of adjoining or abutting properties, AND
- the location and character of the uses proposed for the site, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted Salisbury Vision 2020 Comprehensive Plan and other plans for the development of the Salisbury area as adopted by the City Council.

(d) Decision

Thereupon, Mayor Pro Tem Woodson made a **motion** to rezone this property from A-1 to B-6-S. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 20,000 SQUARE FEET WITH ABOUT 134 FEET ON THE WEST SIDE OF WHITE FARM ROAD, IDENTIFIED AS PARCEL 128 ON FRANKLIN TOWNSHIP TAX MAP 320, FROM A-1 AGRICULTURAL DISTRICT TO B-6-S SPECIAL GENERAL BUSINESS DISTRICT, WITH SPECIAL USES AND CONDITIONS AS SPECIFIED.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter XI - Zoning & Planning, at Page Nos. 17-18, and is known as Ordinance No. 2003-24.)

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(e) Decision

Thereupon, Mayor Pro Tem Woodson made a **motion** to take action to issue a Special Use District permit (B-6-S) for the Z-2S-03 case, based on the taking of evidence during the public hearing, and the Council noting the Findings of Fact. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE GRANTING A SPECIAL USE DISTRICT PERMIT IN ACCORDANCE WITH THE SPECIAL USE DISTRICT ALONG WITH ITS SPECIAL USES AND CONDITIONS AS DESCRIBED IN ORDINANCE NUMBER 2003-24.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter XI - Zoning & Planning, at Page No. 19, and is known as Ordinance No. 2003-25.)

REPORT FROM DOWNTOWN SALISBURY, INC. REGARDING THE TROLLEY REORGANIZATION

Mr. Steve Fisher, President, and Mr. Randy Hemann, Executive Director, Downtown Salisbury, Inc. presented the proposed reorganization and operations schedule for the Salisbury/Spencer Trolley Works.

Mr. Fisher recalled that they own two trolleys for which they took on responsibility for running, and were doing well until 9/11. He noted that towards the end of 2002, based on the problems that 9/11 had caused in the operation, expenses for insurance jumped from \$5,000 a year to over \$20,000 a year, and that in less than eighteen months, six years of funding had been used. Mr. Fisher said its become apparent they could not continue to run the trolleys alone and needed to seek partnerships. He

commented that there were people committed to seeing the trolleys work in Salisbury and an ad hoc committee was formed to identify the stakeholders in the community and work on a solution to make the trolleys a viable possibility. He said the committee was successful in coming up with a framework and went back to DSI to make it a reality. He told Council a 501(c)3 has been created and will run the Trolley Works, and that through work with a local attorney the pieces that are needed to make this partnership work are in place: by-laws of the 501(c)3, bill of sale to the City of Salisbury, lease agreement between the city and the 501(c)3 Trolley Works, and an operating agreement that lays out what all the members of that 501(c)3 are responsible for.

Proposed Partnership Responsibilities

- City - Own and insure units; provide indemnification to the partnership for liability purposes and pay 1/2 of maintenance costs. Lease units back to a new 501(c)3 Corporation
- DSI - Pay 1/2 of maintenance costs hire, train and supervise drivers and operate safety program, provide storage and upkeep for units. Share advertising costs.
- RCTDA - Schedule regular route & charter. Coordinate tour/script, etc. Sell tickets. Share advertising costs.

Proposed New 501(c)3 Corporation

- RCTDA President
- RCTDA Executive Director
- DSI President
- DSI Executive Director
- City of Salisbury Designee
- City of Salisbury Designee
- DSI Assistant to the Executive Director (Secretary of the Corporation)

Proposed Operation Agreement

- Decisions and funding of maintenance by mutual agreement of the City & DSI
- Decisions and funding of marketing by mutual agreement of DSI and RCTDA
- Separate bank account for the new organization
- DSI will fund the gap in operating costs for the first 2 seasons

Operation Goals

- Simple schedule
- Two guided tours with step-on guides
- Meet the Raleigh and Charlotte trains
- Make at least two trips to Spencer
- Downtown Salisbury visibility and stops
- Accessibility to the Rowan Museum, Utzman Chambers House, and Hall House while they are open between 1 and 4 p.m. on Saturdays

Proposed Route

- One route that takes one hour for guided tour/15 minutes for tour with stops
- Stops at the Visitors Center Depot/Waterworks/Emporium (Depot & E. Liberty), Rowan Museum, Utzman Chambers House/Hall House (near Wrenn House), Meroney Theatre, N.S.S.A. and North Carolina Transportation Museum (Barbour Junction)*. Only during trips to Spencer.
- To run every Saturday April 1 — October 31

Proposed Schedule

- 10:00 Depart for Depot and Spencer
- 10:30 Arrive from Spencer and park in front of Visitors Center
- 11:00 Guided Tour of Salisbury
- 12:00 Salisbury Route with 6 stops

- o 1:00 Salisbury Route with 6 stops
- o 2:00 Guided Tour of Salisbury
- o 3:00 Salisbury Route with 6 stops
- o 3:30 Depart for Spencer
- o 4:00 Salisbury Route with 5 stops - final stop at the Depot

Proposed Ticket Cost:

- o Tickets purchased at the Visitors Center
- o Allow on-trolley payment when necessary
- o \$5.00 to ride all day and go on the guided tour
- o \$11.00 to ride all day, go on the guided tour and have admission to the Rowan Museum, Utzman-Chambers House, and Hall House (Transportation Museum does not charge admission)

Mr. Fisher noted that their request is to forward this proposal to a Committee with representatives from the City, DSI, and the RCCVB in order to finalize the plan and the supporting documentation. He commented that they would like to get the trolleys up and running for the spring, and that without Salisbury's commitment to this endeavor, it will not be possible.

Mayor Klutz commented that before forming a committee, she felt the next step for the city would be to ask the staff, the City Manager, and the attorney to consult with the insurance carrier and return to Council with a recommendation.

City Manager Treme reported that he has been involved with this project over a year now and would like to share information and a concern. He noted that, should the City take title and maintain the trolleys, both can be insured for an annual premium of approximately \$1,500. The policy would have a limit of three (3) million dollars and carry a deductible of \$1,000 for property damage and \$25,000 for personal injuries as a result of accidents. He further noted that IRFFNC, the insurance carrier, has requested that we require adequate training records of operators to be provided by the Salisbury/Spencer Trolley Works, that we personally perform a commercial drivers license check with a passenger endorsement and drivers record (DMV-5) to be on file, insure there are no habitual offenders of State laws, and have IRFFNC review the lease agreement to make possible recommendations.

City Manager Treme commented that his concern is within the proposed partnership responsibilities which states that the city provide unlimited and blanket indemnification to the partnership for liability purposes in addition to owning and insuring the vehicles. He noted that it leaves the city wide open to provide indemnification such as that, and that it could come back on us. He commented that is the same catch that existed when the process began, and that as City Manager, he has reservations in that area because it provides a risk to City Council.

Mr. Burgin commented that the community has financially demonstrated support for this to happen, and that there must be some combination of words and insurance protection that can be agreeable to all involved parties.

At the suggestion of Mr. Kennedy and Mayor Klutz, Mr. Burgin agreed to work with the City Manager, the staff, and all other involved parties to bring back solutions to the concerns.

2003-2004 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME PROGRAM BUDGETS - SECOND READING

Mr. John Brooks, Community Development Consultant, reviewed with Council the second reading of the 2003-2004 Community Development Block Grant (CDBG) and HOME Program Budgets. He informed Council that this is the same budget (no changes) as the first reading presented March 18, 2003. Mr. Brooks noted that this completes the public hearing process, and upon approval today, it would be submitted to HUD on May 15, 2003.

The following are participants proposed to be funded for FY2003-2004:

	CDBG		
Acquisition/Rehab/Resale		\$117,300.00	
Emergency Rehabilitation		50,000.00	
Jersey City Community Improvements		125,000.00	
Sidewalk Improvements		50,000.00	
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Public Services			
Rowan Helping Ministries	\$28,000.00		
Family Crisis Council	19,000.00		
Rowan Community Care Clinic	12,000.00		
Salisbury Youth Employment	7,500.00		
West End Community Youth Garden	4,000.00		
		\$ 70,500.00	
Program Administration		\$103,200.00	
Total CDBG Funds			\$516,000.00
	HOME		
Acquisition/Resale		\$60,000.00	
Housing Rehabilitation		47,140.00	
Homeownership Assistance		40,000.00	
Program Administration		13,963.00	
Total HOME Funds			\$161,103.00
Total Community Development Funds			\$677,103.00
		-	
SOURCES OF INCOME			
CDBG		\$396,000.00	
Program Income		120,000.00	
HOME		161,103.00	
Total			\$677,103.00

Thereupon, Mr. Woodson **moved** to approve the CDBG and HOME Program Budget as submitted for FY2003-2004. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Mrs. Klutz voted AYE. (5-0).

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SECOND READING - ORDINANCE NO. 2003-23

PROHIBIT PARKING ON THE NORTH SIDE OF LAUREL STREET

At the City Council Meeting on March 18, 2003, Councilman Kennedy was excused from voting at the first reading of the proposed ordinance. It was necessary to have a second reading on the ordinance in order to have a quorum present for the voting.

Thereupon, Mr. Woodson made a **motion** to adopt an ordinance to amend Section 13-338 of the City Code to prohibit parking on the north side of Laurel Street. Mr. Martin seconded the motion. Messrs. Burgin, Martin, Woodson and Mrs. Klutz voted AYE. (4-0)

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

(The above Ordinance is recorded in full in Ordinance Book No. 19, under Chapter X - Traffic, at Page No. 7, and is known as Ordinance No. 2003-23.)

(It was necessary to have a second reading on the above ordinance due to the lack of an affirmative vote of two-thirds of all members of the City Council.)

BUILDING CODES AMENDMENTS

Fire Chief Sam Brady informed Council that occasionally the North Carolina Building Codes Council makes revisions to the building codes, and that these revisions are then usually adopted by all the cities. Revisions were made last year and went into effect on January 1, 2003. His request is that the ordinance for the City of Salisbury now be amended so that we are in line with the other cities of the state.

Thereupon, Mr. Kennedy made a **motion** to adopt the ordinance amending Sections 7-21, 7-22, and 7-23 of the City Code reflecting changes to the Building Code. Mr. Woodson seconded the motion and Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING CHAPTER 7, BUILDINGS, OF THE CODE OF THE CITY OF SALISBURY, NORTH CAROLINA, REGARDING SECTIONS 7-21, SECTION 7-22 AND SECTION 7-23 OF ARTICLE 11, BUILDING CODES.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter V - Fire Protection and Prevention, at Page Nos. 1-2, and is know as Ordinance No. 2003-26.)

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BUDGET ORDINANCE AMENDMENT 2002-03

TO APPROPRIATE FEMA DISASTER GRANT

Mr. John Sofley, Finance Director, explained to Council that Rowan County was declared a disaster area after the ice storm of December 5, 2002. Because of this declaration, the City is eligible to receive grant funds from the U. S. Federal Emergency Management Agency and the State of North Carolina to cover storm-related expenses. He explained that the City has incurred almost \$1,200,000 in debris clean-up and related emergency expenses, has submitted claims for reimbursement of those expenditures, and expects to receive the reimbursements during the current fiscal year. The City must appropriate these reimbursement funds to offset the incurred expenses. Therefore, we are requesting that Council approve the attached budget appropriation in the amounts of \$1,102,000 for the General Fund and \$90,500 for the Water and Sewer Fund.

Thereupon, Mr. Woodson made a **motion** to amend the 2002-2003 Budget in the amounts of \$1,102,000 in the General Fund and \$90,500 in the Water and Sewer Fund from the FEMA Grant. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2002-2003 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE FEMA DISASTER GRANT.

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter II - Administrative, at Page No. 14, and is know as Ordinance No. 2003-27.)

CAPITAL PROJECT BUDGET ORDINANCE

ROCKWELL SEWER EXTENSION LINE

Mr. Matt Bernhardt, Assistant City Manager for Utilities, informed the City Council that the Town of Rockwell has requested that a portion of their \$50,000 annual allocation for water and sewer extensions be appropriated to pay for the extension of sewer service on Fesperman Street to duplex apartments constructed by Mr. Ray Medley. The estimated cost of constructing approximately 80 linear feet of 8" sanitary sewer to serve the duplex apartments is \$14,775. The request is for a capital project ordinance to make the project possible.

Thereupon, Mr. Kennedy made a **motion** to adopt the capital project budget ordinance of the FY2002-2003 in the amount of \$14,775 for the Fesperman Street, Rockwell Sewer Extension Line. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

FESPERMAN STREET, ROCKWELL SEWER EXTENSION CAPITAL PROJECT ORDINANCE

(The above ordinance is recorded in full in Ordinance Book No. 19, under Chapter II - Administrative, at Page No. 15, and is known as Ordinance No. 2003-28.)

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SALISBURY COMMUNITY PARK - EASEMENT TO DUKE ENERGY

Ms. Gail Elder White, Parks & Recreation Director, presented a request for approval of an easement to Duke Energy for the installation of a transformer in the Salisbury Community Park. She noted that the transformer would provide lighting for the lower three ball fields.

Thereupon, Mr. Woodson made a **motion** to approve an easement to Duke Power [DUKE ENERGY] for a transformer in the Salisbury Community Park so there can be lights. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

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BOARDS AND COMMISSIONS

Community Appearance Commission

Upon **motion** of Mr. Burgin, seconded by Mr. Kennedy, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voting AYE, the following reappointments and appointments were made to the Community Appearance Commission:

Emma Jean Hawley	reappointment	Term expires	3-31-2006
Cindee Bridges	appointment	Term expires	3-31-2006
Michael Lippard	appointment	Term expires	3-31-2006
Suzette Davis	appointment	Term expires	3-31-2006
Earline Turner	appointment	Term expires	3-31-2004

(filled unexpired term)

Historic Preservation Commission

Upon **motion** of Mr. Burgin, seconded by Mr. Kennedy, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voting AYE, the following reappointments and appointments were made to the Historic Preservation Commission:

Maureen O'Farrell	reappointment	Term expires	3-31-2006
Kathy Walters	reappointment	Term expires	3-31-2006
Ronald Fleming	appointment	Term expires	3-31-2006

Human Relations Council

Upon **motion** of Mr. Burgin, seconded by Mr. Kennedy, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Kluttz voting AYE, the following reappointments and appointments were made to the Human Relations Council:

Ida Finger	reappointment	Term expires 3-31-2006
Susan Ward	appointment	Term expires 3-31-2006
Orlando Zapata	appointment	Term expires 3-31-2006

Planning Board

Mayor Klutz indicated that she had received a request to defer action at this meeting on appointments to the Planning Board. She pointed out that there are names listed, but Council needs to insure that all of our Boards are balanced with respect to race, neighborhoods, sex, age, etc.

Thereupon, Mr. Burgin **moved** to table reappointments and appointments to the Planning Board until the next meeting. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Mrs. Klutz voted AYE. (5-0).

Hurley Park Advisory Board

Upon **motion** of Mr. Kennedy, seconded by Mr. Woodson, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voting AYE, the following reappointments and appointments were made to the Hurley Park Advisory Board:

Doris Roberts	reappointment	Term Expires 3-31-06
Laura Thompson	appointment	Term Expires 3-31-06

Parks & Recreation Advisory Board

Upon **motion** of Mr. Burgin, seconded by Mr. Kennedy, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voting AYE, the following reappointments and appointments were made to the Parks & Recreation Advisory Board and the third position tabled for two weeks:

Luke Fisher	reappointment	Term Expires 3-31-06
Blane Gorney	<u>appointment</u>	<u>Term Expires 3-31-06</u>

Greenway Committee

Upon **motion** of Mr. Kennedy, seconded by Mr. Woodson, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voting AYE, the following reappointments were made to the Greenway Committee:

Darryl Blackwelder	reappointment	Term expires 3-31-2006
Richard Franklin	reappointment	Term expires 3-31-2006
Lisa Wear	Reappointment	Term expires 3-31-2006

Tree Board

Upon **motion** of Mr. Woodson, seconded by Mayor Klutz, and with Messrs. Burgin, Kennedy, Martin, Woodson and Ms. Klutz voting AYE, the following reappointments and appointments were made to the Parks & Recreation Advisory Board:

Mary Ellen Turner	reappointment	Term Expires 3-31-06
<u>Clay Smith</u>	<u>appointment</u>	Term Expires 3-31-06

Zoning Board of Adjustment

Mayor Klutz noted that the ETJ has shrunk and that it has become increasing difficult to find members from that area. She

commented that she had asked staff to look into the large percentage of ETJ members needed on this and the Planning Board, and wondered if it would be easier to find members from within the city limits.

Upon **motion** of Mr. Kennedy, seconded by Mr. Woodson, and with Messrs. Burgin, Kennedy, Martin, Woodson and Mrs. Klutz voting AYE, the following reappointments and appointments were made to the Zoning Board of Adjustment with the fourth recommendation being tabled at this time:

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Graham Carlton	reappointment		Term expires	3-31-2006
Margaret Lipe	reappointment	(City alternate)	Term expires	3-31-2006
Dr. Andrew Jeter	appointment	(ETJ Member)	Term expires	3-31-2006

Mayor Klutz expressed appreciation to Mrs. Heard for the matrix which she had prepared on the Boards and Commissions information needed for this meeting. She noted that the hard work and organization which Mrs. Heard had put into this and all efforts was truly appreciated.

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REPORT ON THE VISUAL CORRIDOR OVERLAY DISTRICT (VCOD)

Mr. Joe Morris, Urban Resource Planner, indicated that at the most recent planning retreat, City Council asked the planning staff to review the current status of VCOD. A Council Committee, composed of Councilmembers Burgin and Woodson, reconvened and discussed with staff on the VCOD. Mr. Morris noted there has been a lot of concern about the reconfiguration of the I-85 interchange and the potential construction of a new bridge on Innes Street, and other issues.

Mr. Morris recalled that in December, 2000, Article 15 was adopted, which is the VCOD ordinance, but was never applied as a map amendment to any particular geography in the city. He noted that when the committee reconvened, Councilman Burgin produced a document referred to on the planning staff as the "red-line" document. He commented that many changes have been suggested regarding the text of the ordinance.

Mr. Morris said that his purpose with this presentation is to re-initiate the process as directed by the Council through two requests: 1) refer the VCOD draft revisions to the Planning Board for consideration as a text amendment and the creation of a graphic code to facilitate communication of the ordinance, and 2) secure a directive from Council regarding a Planning Board study for the establishment of boundaries, as a map amendment, for the application of VCOD.

Councilman Woodson commented that he and Mr. Burgin had discussed the fact that every business owner from Salisbury Motors past the new interstate exchange was promised an opportunity to meet and discuss VCOD with them, and he wanted to make sure that is clarified. Councilman Woodson commented to Mr. Morris that on the matrix he showed, non-conforming signs are more restrictive and will be a big issue, and he also had a question about the 20 foot minimum streetscape. Mr. Morris responded that some time back, an analysis of every sign along Innes Street showed there to be only a few non-conforming signs and they were largely restricted to the franchise-type restaurant. He noted that these were big ones, and the committee felt they should be addressed. Councilman Woodson also stated that he and Councilman Burgin felt the landscaping would be a big issue, especially the 30 foot landscaping buffer that was a concern.

Mr. Morris indicated that Planning Board would probably refer this to a committee, and that would be an opportune time to engage property owners along the corridor in additional input.

Councilman Burgin commented that this had been very difficult for several important reasons including that the VCOD in place and the next step was to apply it to a large amount of property. Councilman Burgin noted that he and Councilman Woodson literally walked the VCOD proposal and found, for most part, that there are a number of properties for which it had little, if any, effect, especially on West Innes side. He stated that there were some fairly significant issues on the East Innes side and tried to reflect them in the red-line document. Councilman Burgin pointed out that the basic goals of the committee had been to pull buildings closer to the street, increase landscaping modestly, and not to get signs changed that were within the existing sign ordinance, but only look for the few that were non-conforming. He noted that improvement of the Gateway is the primary concern and that explaining this to the businesses has not yet been successful. Councilman Burgin pointed out that a study of the VCOD would show it is middle-of-the-road, accomplishes a few important things for the city, and gives existing developments a little more latitude even when disasters affect their building. He suggested the need to be patient and see this thing through in order to improve the corridor into this city while minimizing the most objections.

Mayor Klutz expressed appreciation to Councilmembers Burgin and Woodson and the committee for the amount of work and time devoted to this project.

Thereupon, Mr. Burgin made a **motion** to refer back to the Planning Board the review of the revisions of the VCOD and in their report back to us to attach a recommended overlay section appropriate for the application of the VCOD. Mr. Martin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Klutz voted AYE. (5-0)

STREET CLOSINGS - 250 FEST/CHEERWINE PARADE OF THE CENTURY

Sgt. Hodge Coffield, Special Operations Commander, Salisbury City Police Department, reported that the Rowan 250 Fest/Cheerwine Parade of the Century will be held in downtown Salisbury on Friday, April 11, 2003, starting at 2:00 p.m. with at least 280 participating units. The parade will line up at North Main and Cemetery Streets and proceed south to the intersection of West Thomas Street. The Rowan 250 Fest Committee is requesting that we limit vehicles coming into the area and control traffic flow during the morning of the event and during the parade.

Sgt. Coffield noted that the committee is requesting that the following streets in the marshalling area be closed after 10 a.m.: North Fulton to Lake, North Jackson Street, West Eleventh Street, East Eleventh Street, Richard Street, North Lee Street, and the East-West Norfolk Southern Railroad Tracks. He noted the request for closing especially of Main Street from the 500 to 1100 blocks and the 100-300 blocks of both West Henderson and West Lafayette. He indicated that seven officers will be assigned to these areas starting at 10:00 a.m. We have been requested to close the streets to local residents, on-lookers, and passers-by, and traffic cutting through those neighborhoods.

Sgt. Coffield commented that there would be approximately eighty police officers on duty in the parade area that day. He noted that support for this security comes from the police departments of neighboring jurisdictions and the Highway Patrol, with about 80 plus police officers working that day.

Thereupon, Mr. Woodson made a **motion** to approve the report received from the Police Department regarding street closings for the 250 Fest Parade. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Klutz voted AYE. (5-0)

FIRE DEPARTMENT - OVERVIEW OF CIVIL UNREST/HOMELAND SECURITY EMERGENCY OPERATING PLAN (OPCON)

Assistant Fire Chief, Rick Fesperman, indicated that due to the attacks on 9/11, the current activities with the war in Iraq, and the threat level of terrorism now at High, it would be a good time to present an overview of the Emergency Operation Plan in the Fire Department.

Mr. Fesperman reviewed color-coded levels of alert as used in the Homeland Security Advisory System, and noted the Fire Department has established five (5) operating conditions, (OPCONS), and a Condition X to identify the severity level of the operations before, during, and after any civil disturbance and/or terrorist attack.

Goal of the OPCON Procedure

- To designate specific activities and functions for various degrees of hazards/

activities associated with terrorist activities and/or civil unrest

- To outline detailed response activities and operations during abnormal situations

Revisit Mass Evacuation Procedures and Planning

- Private companies are encouraged to revisit their evacuation plans
- The firefighters are also reviewing the need to be further away due to

catastrophic collapse and explosions

OPCON 5 Level Yellow

- Normal day to day operations
- Developing and reviewing pre-emergency plans
- Training with new equipment
- Honing skills
 - Practice diligence

OPCON 4 Level Orange

- Increased readiness action

- Protect our resources and assets - tools, apparatus and personnel

as needed, team size is increased to provide greater safety margins- companies are formed into task forces

- Communications are increased to assure team/crew safety- period condition reports

OPCON 3 Level Red

◦ Civil disorder/terrorist attack imminent operations - Salisbury Police Department in operation

- FD Staff Chiefs in-service
- Command and Control operations increased
- Briefing sessions by Law Enforcement

OPCON 2 Level Red

- Civil disorder/terrorist attack in progress Multi-Law Enforcement Agency involvement

- Heightened Security

- Police escort in troubled areas as needed
- EOC Activated
- Call back may be initiated

OPCON 1 Level Red

- Civil disorder/terrorist attack operations -Military Involvement
- Mayor of Salisbury and Governor of North Carolina have declared a state of

emergency

- Police/military protection required at Fire Stations
- Withdrawal from endangered area

CONDITION X

- Uncontrolled situation, unsafe for Salisbury Fire Department personnel to work in and respond to area

Assistant Chief Fesperman recalled that at the recent retreat, the Council was interested in exploring ways in which the community could be made more aware of what they could do at various levels of security. He noted that a pamphlet which comes from FEMA entitled "Are You Ready?" addresses those concerns and the cost is free. He explained that things have changed at the Fire Department as fire departments are considered "soft targets". There is more security at the Fire Department.

Mayor Klutz asked if it were possible that a quantity of these could be acquired from FEMA to be placed in public places such as the public library. Other suggestions for distribution included school libraries and neighborhood organizations. Mr. Fesperman responded that he felt certain that could be accomplished.

Mr. Fesperman commented that the Fire Department works very closely with the Police Department for total public safety, and that each is aware of what the other is doing. He closed his presentation by stating that at this point there are no threats to Salisbury or Rowan County.

Mayor Klutz thanked Mr. Fesperman for bringing this presentation forth, and recognized the fact that he had taken the initiative to present it to both the County Fire Department and the County Rescue Squad, and that both had unanimously endorsed his program on March 20, 2003.

COMMENTS FROM CITY MANAGER

(a) Planning Board recommendations and comments

Council received the Planning Board recommendations and comments from their March 25, 2003 meeting.

(b) Acting City Clerk

City Manager Treme informed Council that City Clerk Myra Heard would be attending a training opportunity during the week of

April 7-11, 2003, and recommended Council appoint Ms. Swannetta Fink as Acting City Clerk during her absence.

Thereupon, Mr. Woodson made a **motion** to appoint Swannetta Fink as Acting City Clerk during the week of April 7-11, 2003. Councilman Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

(c) City Offices Closing - April 11, 2003

City Manager Treme informed Council that due to the parade and with your concurrence, I have established that we should probably close our City Offices at 12:00 p.m. on April 11, 2003, due to the 250 Fest Parade.

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(d) South Church Street Closing - March 28, 2003

City Manager Treme informed Council that on Friday, March 28, a representative from the First United Methodist Church requested the closing of a portion of South Church Street in order to conduct a health fair, and that he and Chief Wilhem went out on a limb and gave the authorization. He noted that he thought it might be nice to come back and ask permission from the Council.

Thereupon, Mr. Burgin made a **motion** to permit the closing of South Church Street for a health fair. Councilman Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

(e) Level One Mandatory Water Restrictions

City Manager Treme informed City Council that effective today, due to the completion of the "critical path" items in the Clearwell Piping & Finished Water Pumps Project, our water treatment plant is returned back to its full 12 million gallon per day capacity. Therefore, Mr. Treme said he has removed the Level One Mandatory Water Restrictions and is restoring the system to normal operating conditions.

MAYOR'S ANNOUNCEMENTS

(a) Friends of the Institute of Government - Southwest Regional Meeting

Mayor Kluttz announced that the Friends of the Institute of Government Southwest Regional dinner meeting will be held at Lowe's Motor Speedway, Thursday, April 3, 2003, from 5:00 p.m. to 7:30 p.m. Food Lion will be the major sponsor and will be hosting 200 area local elected and appointed officials.

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CLOSED SESSION

Mayor Kluttz informed Council that she would entertain a motion for the Council to go into closed session to consult with an attorney as allowed by NCGS 143-318.11(3) and a personnel matter as allowed by NCGS 143-318.11(6).

Thereupon, Mr. Burgin made a **motion** to go into closed session to consult with an attorney as allowed by NCGS 143-318.11(3) and a personnel matter as allowed by NCGS 143-318.11(6). Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Mrs. Kluttz voted AYE. (5-0).

RETURN TO OPEN SESSION

Councilman Burgin **moved** to return to open session. Councilman Kennedy seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson and Mrs. Kluttz voted AYE. (5-0).

Mayor Kluttz announced that no action was taken in closed session.

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ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Burgin, seconded by Mr. Kennedy. All Council members agreed unanimously to adjourn. The meeting was adjourned at 7:36 p.m.

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Mayor

City Clerk

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