

Salisbury, North Carolina
February 16, 2016

REGULAR MEETING

PRESENT: Mayor Karen Kirks Alexander, Presiding; Mayor Pro Tem Maggie A. Blackwell; Council Members Kenneth Hardin, William Brian Miller, and David Post; City Manager W. Lane Bailey; City Clerk Myra B. Heard, and City Attorney F. Rivers Lawther, Jr.

ABSENT: None.

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

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Alexander welcomed all visitors present.

CONSENT AGENDA

Mayor Alexander added one item to the Consent Agenda.

(a) Resolution – Central Park Regional Bicycle Plan

Adopt a Resolution regarding the Central Park Regional Bicycle Plan.

RESOLUTION TO ADOPT THE CENTRAL PARK REGIONAL BICYCLE PLAN.

(The above Resolution is recorded in full in Resolution Book No. 15 at Page No 5, and is known as Resolution 2016-04.)

(b) Approval of Minutes

Approve Minutes of the Regular meetings of February 2, 2016.

(c) Budget Ordinance – Forfeiture Funds

Adopt a Budget Ordinance amendment to the FY2015-2016 budget in the amount of \$7,200 to appropriate Restricted Forfeiture funds.

ORDINANCE AMENDING THE 2015-2016 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE RESTRICTED FORFEITURE FUNDS.

(The above Ordinance is recorded in full in Ordinance Book No. 25 at Page No.7, and is known as Ordinance 2016-07.)

(d) JC Price Memorial Week Celebration

Approve a temporary use, with conditions, for a carnival to operate at the J.C. Price Legion Post, 1433 Old Wilkesboro Road for its annual Memorial Week Celebration May 27 – June 4, 2016.

(e) Alley Closing – 400 Block North Lee Street

Receive a petition to close an alley in the 400 block of North Lee Street and adopt a Resolution setting a public hearing for March 15, 2016.

RESOLUTION PERTAINING TO THE PROPOSED CLOSING OF AN ALLEY IN THE 400 BLOCK OF NORTH LEE STREET.

(The above Resolution is recorded in full in Resolution Book No. 15 at Page No. 6, and is known as Resolution 2016-05.)

(e) Charity Yard Sale

Designate Emerald Avenue as a one-way street at 12:00 noon Friday, May 27, 2016 until 4:00 p.m. Saturday, May 28, 2016 and at 12:00 noon Friday, October 7, 2016 until 4:00 p.m. Saturday, October 8, 2016 for a charity yard sale.

Thereupon, Mr. Miller made a **motion** to adopt the Consent Agenda as presented. Mr. Post seconded the motion. Messrs. Hardin, Miller and Post, and Meses. Alexander and Blackwell voted AYE. (5-0)

HIGHLIGHTS AND GOALS – ALTERNATE METHODS OF DESIGN COMMISSION

Alternate Methods of Design Commission Member Rodney Queen and Planning and Development Services Manager Preston Mitchell presented the Alternate Methods of Design Commission highlights and goals. Mr. Queen explained the Alternate Methods of Design Commission:

- Considers requests for alternate methods of compliance to certain sections of the Land Development Ordinance (LDO)
- May approve, or assist in finding, alternate ways to meet the spirit and intent of the LDO
- Does not replace the Zoning Board of Adjustment (ZBA) variances; however, the quasi-judicial process is replicated
- Members must have experience, education, or licensure in design, construction, or development

Mr. Queen presented the FY2015-2016 Goals:

- Develop an Application and Submittal Guide for prospective applicants to reduce confusion associated with the quasi-judicial process
 - Ensure simple, effective evidence submittal
 - Simplify and improve finding of fact language
- Review for possible recommendation to the Planning Board and Council all LDO design provisions eligible for alternate methods of compliance
- Conduct board training of the quasi-judicial process

Mr. Queen then reviewed the FY2016-2017 goals:

- Complete the Application and Submittal Guide for prospective applicants
- Review for possible recommendation to the Planning Board and Council all LDO design provisions eligible for alternate methods of compliance
- Conduct board training of the quasi-judicial process

Councilmember Miller noted two of the four board members have terms expiring in March. He asked if the members can be reappointed. Mr. Mitchell stated both members are eligible for reappointment.

HIGHLIGHTS AND GOALS – HISTORIC PRESERVATION COMMISSION

Ms. Lisa Cartner, Vice-Chair of the Historic Preservation Commission (HPC), and Ms. Catherine Garner, staff liaison, presented the HPC 2015 highlights and 2016 goals. Ms. Garner noted two major events for 2015: the Historic Preservation Incentive Grant Program and the adoption of the updated Historic District Design Guidelines.

Ms. Cartner reviewed the 2015 highlights:

- Historic District Design Guidelines
 - Formally adopted by Council May 2015
 - First complete revision since 2001
 - Four categories of work:
 - Routine Maintenance and Repairs – no Certificate of Appropriateness (COA) required
 - Minor Works – approved by staff
 - Minor Works – approved by Committee
 - Major Works – approved by the HPC
- Historic Preservation Incentive Grant Program
 - 12 completed projects
 - \$17,100 City investment
 - \$54,217.26 private investment

Ms. Cartner noted the 2016-2017 HPC goals:

- Promote historic districts
 - Continue the Historic Preservation Incentive Grant - \$50,000
 - Convene Master Plan Implementation Team
- Improve procedures
 - Continue to improve COA tracking and enforcement
 - Increase public education and outreach
- Plan for preservation
 - Develop a local heritage community program for resources currently ineligible for the National Register of Historic Places

Mayor Pro Tem Blackwell asked if the HPC received feedback from homeowners regarding the Historic District Design Guidelines. Ms. Garner noted citizens support staff approving more items which leads to quicker turnaround times. Ms. Cartner noted the guidelines are posted online making it easier for citizens to find the information they need.

Mayor Alexander thanked Ms. Cartner and Ms. Garner for their presentation.

HIGHLIGHTS AND GOALS – PLANNING BOARD

Mr. Carl Repsher, Planning Board Chair, and Mr. Preston Mitchell, staff liaison, presented the highlights and goals for the Planning Board. Mr. Repsher reviewed 2015 case work:

- Conditional District Overlays
 - West End Plaza
 - Home 2 Hotel
 - Arc of Rowan
 - Rowan-Salisbury School System Administrative Building Amendment
 - Rowan-Cabarrus Community College Solar Farm
 - Richard’s BBQ
- Rezonings
 - Vanhoy
 - Eastern Area Gateway Plan – Faith Road
 - Sanders
 - Eastern Area Gateway Plan – Jake Alexander Boulevard
 - Sedberry
 - West Liberty Street
- Text Amendments
 - Daycare facilities – meet State standards
 - Design provisions – fine tuning
 - Front yard garden structures – Novant Health
 - Sign Ordinance rewrite – ongoing
- Special Use Permits (SUP)
 - Literary Bookpost – alcohol SUP
 - 114 Oakwood Avenue – daycare SUP
 - 433 Willow Road – daycare SUP
 - Firehouse Brew Pit – alcohol SUP

Mr. Repsher noted the I-85 Economic Initiative progressed to the Rowan County Board of Commissioners. He pointed out the South Main Street Corridor has been delayed.

Mr. Repsher reviewed the 2016-2017 goals:

- Establish a Goals Performance Committee
- Establish a Small Area Plan for the Brooklyn South Square Neighborhood
- Update the Vision 2020 Comprehensive Plan.

Mayor Alexander thanked Mr. Repsher and members of the Planning Board for all they do for the City.

HIGHLIGHTS AND GOALS – ZONING BOARD OF ADJUSTMENT

Mr. Frank Thomason, Zoning Board of Adjustment (ZBA) Chair, and Mr. Preston Mitchell, staff liaison, presented the Highlights and Goals for the ZBA. Mr. Thomason reviewed the responsibilities of the ZBA:

- To hear and decide appeals from any order, decision, determination, or interpretation made by the Administrator pursuant to or regarding these regulations
- To hear and decide appeals from any order, decision, determination, or interpretation made by the Technical Review Committee (TRC) or the Historic Preservation Commission (HPC) pursuant to or regarding these regulations
- To hear and decide petitions for variances from the requirements of these regulations
- To change the use of or expand certain nonconformities

Mr. Thomason reviewed the 2015 highlights:

- Held two meetings

Mr. Thomason reviewed the 2016 goals:

- Continue training ZBA members as workshops become available
- Schedule training seminar for Board members regarding quasi-judicial and legislative proceedings

Mayor Alexander thanked Mr. Thomason and members of the ZBA for the important service they provide to the community.

COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM FUNDS

Planning and Development Services Manager Janet Gapen and Planner Catherine Garner addressed Council regarding the use of 2016-2017 Community Development Block Grant (CDBG) and HOME Program funds. Ms. Garner reviewed the estimated funding for the coming fiscal year:

CDBG	\$316,468
HOME Program	\$90,352
<u>Program Income</u>	<u>\$35,000</u>
Total	\$441,820

Ms. Garner pointed out the estimated funding is based on funding received during the current fiscal year, and she noted the exact funding will be determined once the Federal budget is approved.

Ms. Garner noted there are four designated neighborhoods for public infrastructure funding which includes sidewalks, parks and other facilities:

- Jersey City
- West End
- East End
- Park Avenue

Ms. Garner pointed out the housing funds are available through the Community Development Corporation (CDC) to anyone City-wide who meets the income limits. She reviewed the eligible activities and priorities established by the 2015-2019 Consolidated Plan:

- Owner-occupied housing rehabilitation
- Emergency rehabilitation
- Acquisition rehabilitation for homeownership – vacant, abandoned, foreclosed housing
- Sidewalks, public infrastructure, and park improvements
- Public services (15 percent cap)

(b) Mayor Alexander convened a public hearing, after due notice thereof, to receive comments regarding the use of 2016-2017 CDBG and HOME Program funds.

Ms. Krista Woolly, Executive Director Community Care Clinic, presented highlights of the Community Care Clinic. She noted the Clinic hosted its second Mission of Mercy Dental Clinic at Catawba College. She pointed out every \$1 donated to the Clinic will provide \$8 of care. She noted in 2015 the Medical Clinic had 2,200 medical visits, the Dental Clinic had 1,700 dental visits, and 21,000 prescriptions were filled. She thanked Council for its continued partnership with the Community Care Clinic, and she requested \$10,000 to provide increased dental care in 2016.

Ms. Renee Bradshaw, Executive Director Family Crisis Council, noted City grants fund 54 percent of the night advocate position. She explained the night advocate assists guests, answers crisis calls, and assists law enforcement officers as needed. She stated the Family Crisis Council is requesting the same funding as last year, approximately \$11,000. She commented in 2015 the Family Crisis Council provided 198 women and children with shelter and safety, and answered 760 crisis calls. She stated 14,535 services were provided by the Family Crisis Council through its information advocacy referral, counseling, and transportation services. She thanked Council for its continued support of the Family Crisis Council.

Ms. Chris Mueller, Rowan Helping Ministries, thanked Council for providing CDBG funding to Rowan Helping Ministries during the past year. She explained the funding helped provide the homeless shelter with part-time staff. She noted approximately 500 guests were served at the shelter during the past year. She pointed out the part-time staff provides evening, weekend, and nighttime supervision which is critical to creating a safe, supportive environment. She stated Rowan Helping Ministries has four full-time case managers who meet with shelter guests to create a plan for independent life, refer them to community services, and connect them to onsite resources. She pointed out the shelter currently houses 72 guests, and she indicated 30 guests are employed and 15 guests are ready to find housing. She added two of the four families living at the

shelter are employed and searching for housing. She requested \$25,000 for the continued support of Rowan Helping Ministries.

Councilmember Hardin asked if Rowan Helping Ministries serves the veteran population. Ms. Mueller noted the veteran population is served through a Veterans Administration (VA) contract, and she pointed out veterans who are not under the VA contract are also served. She stated the VA Hospital is a wonderful partner for Rowan Helping Ministries.

Mayor Alexander thanked Ms. Wholly, Ms. Bradshaw, and Ms. Mueller for all they do for the community.

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

Ms. Gapen noted staff will present a proposed budget to Council at its April 5, 2016 meeting.

DOWNTOWN MUNICIPAL SERVICE DISTRICT EXTENSION

Downtown Salisbury, Inc. (DSI) Executive Director Paula Bohland and Planner Catherine Garner addressed Council regarding a proposed extension of the Downtown Municipal Service District (MSD). Ms. Garner reviewed the requirements for expansion of the MSD:

- North Carolina General Statutes 160A-538
 - Area must be contiguous to the existing district boundary
 - Annexation request comes from 100 percent of property owners in the proposed area
 - Report must be prepared and on file in the City Clerk's office

Ms. Garner noted the report was made available on February 2, 2016, and she added the annexation request is from the sole property owner in the area, Rowan Investment Company. She pointed out the proposed area of MSD expansion is on the east side of the 400 block of North Lee Street and includes 10 parcels.

Ms. Bohland explained property owners in the MSD pay an additional tax for services that enhance their municipal services. She reviewed the services provided by DSI and the City:

- Services provided by DSI, Inc.
 - Marketing
 - Economic development
 - Advocacy and public policy
 - Special events
 - Assist property owners with incentives

- Services provided by the City
 - Trash and cleanup services after events
 - Dedicated police presence
 - Graffiti removal
 - Landscaping
 - Streetscape maintenance
 - Streetlights

Ms. Bohland noted the request meets the requirements to extend the MSD.

Councilmember Post asked how the MSD tax is disbursed. Ms. Bohland explained DSI receives an annual allocation from the City, which is collected through the County from the tax office. City Manager Lane Bailey explained the funds pass through the City but are not included in the City Budget.

Councilmember Miller pointed out the request is for voluntary inclusion in the MSD.

(b) Mayor Alexander convened a public hearing, after due notice thereof, to receive comments regarding the expansion of the MSD.

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

Thereupon, Mr. Miller made a **motion** to adopt Resolution extending the Downtown Municipal Service District. Ms. Blackwell seconded the motion. Messrs. Hardin, Miller and Post, and Mses. Alexander and Blackwell voted AYE. (5-0)

RESOLUTION EXTENDING THE DOWNTOWN MUNICIPAL SERVICE DISTRICT.

(The above Resolution is recorded in full in Resolution Book No. 15 at Page No. 7, and is known as Resolution 2016-06.)

Z-01-2016 - 1428 JAKE ALEXANDER BOULEVARD SOUTH

Planning and Development Services Manager Preston Mitchell explained staff received a request to rezone one parcel from Corridor Mixed-Use (CMX) to Highway Business (HB), and to remove the existing General Development (GD) A-Overlay. He indicated the property is approximately 1.3 acres and located on South Jake Alexander Boulevard between the Sheetz gas station and Interstate 85. He noted the petitioner is the Alcoholic Beverage Commission (ABC) Board of Rowan County.

Mr. Mitchell indicated the surrounding properties are zoned CMX, and he pointed out the zoning transitions to HB near Interstate 85. He noted the GD-A Overlay was established under the previous Ordinance and is recognized by the Land Development Ordinance (LDO).

Mr. Mitchell noted the surrounding development is predominately commercial, and he commented Jake Alexander Boulevard is a five-lane major through fare. He pointed out HB is the intended use along Jake Alexander Boulevard and is automobile dominant. He added pedestrian oriented building types are excluded from HB zoning.

Mr. Mitchell stated the Planning Board heard the case at its January 26, 2016 meeting and recommended unanimous approval.

Councilmember Miller asked if CMX zoning is still appropriate in the area. Mr. Mitchell indicated the triangle between Old Concord Road, Interstate 85, and Jake Alexander Boulevard is best suited for HB or Light Industrial (LI) zoning. Mr. Miller suggested the Planning Board conduct a small area study to review the area zoning.

Mr. Miller referenced the site plan which includes an interconnectivity lane in the back of the property. He asked if the interconnectivity lane is part of the official record. Mr. Mitchell noted it is not, and he pointed out the item before Council is a general rezoning, and it is not appropriate to consider the site plan.

Councilmember Hardin stated he supports what is being done in the area. He asked if the development could be an aesthetic catalyst for the corridor. Mr. Terry Osborne, ABC Commission General Manager, agreed, and he added the ABC Board discussed purchasing the lot between the proposed site and the Sheetz gas station.

Mr. Hardin noted the HB zoning is automobile dominant. He asked if the increased automobile traffic will create congestive issues. Mr. Osborne stated traffic congestion is being considered. He pointed out the current ABC location is too small and police officers are needed to direct traffic almost every weekend. He noted the current location's ingress and egress has become a safety hazard. Mr. Hardin asked about the petitioners plan to replace the trees removed during construction. Mr. Osborne indicated the ABC Board will adhere to all City requirements.

Councilmember Post asked if the area currently zoned CMX, south of Jake Alexander Boulevard, would be included in the study by the Planning Board. Mr. Mitchell pointed out a common boundary would be established since there are residential areas once you cross Jake Alexander Boulevard onto Old Concord Road.

Mr. Post asked how the proposed ABC location would be different from the current location across the street. Mr. Mitchell stated the primary use would be ABC retail and the secondary use would be warehousing. He explained the HB rezoning request is based on site design and not warehousing. He asked Council to focus on the rights and entitlements of CMX zoning as opposed to HB zoning. Mr. Post asked if an ABC store can operate in a CMX zoning. Mr. Mitchell noted an ABC store can operate in CMX zoning but there would be different size, setback, design, and parking location requirements. Mr. Miller stated the petitioner determined HB zoning would better meet the needs of the business.

(b) Mayor Alexander convened a public hearing, after due notice thereof, to receive comments regarding Land Development District Map Amendment Z-01-2016.

Mr. Terry Osborne, ABC Commission General Manager, stated the ABC store on Jake Alexander Boulevard needs a larger sales area and additional warehouse space. He noted the proposed location would resolve both issues with 4,700 square feet of retail space and 3,000 square feet of warehouse space. He pointed out the project was approved by the North Carolina ABC Commission.

Mr. Marnie Hedrick, ABC Board Member, noted the ABC Board carefully considered the request and unanimously agreed a new space is needed. He added the proposed facility would enhance the neighborhood.

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

Mr. Post commented Council is changing the zoning on one lot in a multi-acre area. He noted HB appears to be the correct zoning, and he pointed out the entire area should be considered for rezoning to eliminate future issues.

Mr. Miller asked if the action before Council could be considered spot zoning. Mr. Mitchell noted it would not. He pointed out the rezoning would need to be egregious or extreme to be considered spot zoning.

Mayor Alexander pointed out there is little difference between CMX and HB zoning, so rezoning the one parcel would not be considered spot zoning. Mr. Mitchell agreed, and he pointed out the difference in CMX and HB zoning is in the design. He clarified both CMX and HB allow for the proposed usage, but the petitioner needs the HB design accommodations.

Mayor Alexander noted the recommendation received a unanimous recommendation from the Planning Board. Mr. Mitchell agreed.

Mr. Miller stated the City Council hereby finds and determines that adoption of an Ordinance to rezone the property as described herein, as requested, is reasonable, in the public interest, and not inconsistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan because according to the proposed petition, geographic location, surrounding development pattern, and observations provided by City planning staff, there are no policies directly related to this petition. Therefore, Mr. Miller made a **motion** to adopt an Ordinance amending the Land Development District Map of the City of Salisbury, North Carolina, by rezoning one parcel at 1428 Jake Alexander Boulevard South from Corridor Mixed-Use (CMX) district to Highway Business (HB) district and repealing the General Development-A Overlay. Mr. Post seconded the motion.

Mayor Alexander disclosed she serves as the Council liaison to the ABC Board.

Messrs. Hardin, Miller and Post, and Mses. Alexander and Blackwell voted AYE. (5-0)

ORDINANCE AMENDING THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, REZONING ONE PARCEL AT 1428 JAKE ALEXANDER BOULEVARD SOUTH FROM CORRIDOR MIXED-USE (CMX) DISTRICT TO HIGHWAY BUSINESS (HB) DISTRICT AND REPEALING THE GENERAL DEVELOPMENT-A OVERLAY.

(The above Ordinance is recorded in full in Ordinance Book No. at Page No. 8, and is known as Ordinance 2016-08)

Thereupon Mr. Miller made a **motion** to ask the Planning Board to consider the area Council viewed on the map for HB rezoning. Mr. Post seconded the motion and added the request is also to remove the GD-A Overlay. Mr. Miller accepted the amendment to his motion. Messrs. Hardin, Miller and Post, and Mses. Alexander and Blackwell voted AYE. (5-0)

SPECIAL USE PERMIT – 113 SOUTH LEE STREET

SUP-04-2015 – 113 South Lee Street

(a) Swearing In

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

Mr. Preston Mitchell
Mr. Todd Littleton
Mr. Chris Ostle
Ms. Judy Kandle
Mr. Jeff Wilson
Ms. Kimberly Crowley
Mr. Rex Rexroad
Mr. John Muscadini
Ms. Rose Meeks

(b) Ex Parte Disclosure

Mayor Alexander asked Council members if anyone had knowledge of this case they wished to disclose. She noted she heard through community gossip the item was coming before Council, and she pointed out she did not receive any specific information. There were no other ex parte disclosures.

Planning and Development Services Manager Preston Mitchell indicated the Special Use Permit (SUP) is for property located at 113 South Lee Street and would allow the sale and on-site consumption of alcohol. He stated the Land Development Ordinance (LDO) defines the use as a bar/tavern/night club because the location is not associated with a restaurant. He explained a

business that is not a restaurant and sells alcoholic beverages for on-site consumption must go through the SUP process.

Mr. Mitchell noted the property is zoned Downtown Mixed-Use (DMX) and is in a Local Historic Overlay (LHO) District.

Mr. Mitchell reviewed 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. Mitchell presented the standards for decision required for the SUP:

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
4. No such facility shall be located within five hundred feet of any lot containing a school

Mr. Mitchell testified there is no school located within 500 feet of the location.

Mr. Mitchell clarified Council must determine if the SUP request will meet the Code and Vision 2020 Comprehensive Plan requirements, if it is visually and functionally compatible to the surrounding area, and that the public health, safety, and welfare be assured.

Mr. Mitchell noted the proposed site is located in the 100 block of South Lee Street, just south of East Innes Street and behind City Hall. He pointed out the zoning is Downtown Mixed-Use (DMX) with a Local Historic Overlay (LHO).

Mr. Mitchell stated the applicant requested to temporarily move his bar into the Firehouse Building until development on the former location is finished or a restaurant could be developed in the new location. He stated staff issued a temporary use permit to allow the applicant to open

the Benchwarmers bar in the Firehouse Building. He pointed out since that time the name of the business changed to the Firehouse Brew Pit. He explained the temporary use permit was issued for six months and then extended for an additional six months.

Mr. Mitchell noted when the temporary use permit was near expiration staff realized construction was incomplete and informed the applicant it was time to sunset the temporary use permit and to apply for an SUP. He explained conditions can be applied to the SUP and Council could handle issues as they arise. He added the applicant moved forward with the application process and since that time has also submitted documents to upfit the Firehouse Building as a restaurant. Mr. Mitchell stated the petitioner has two simultaneous applications, an SUP permit and a request to upfit the kitchen to operate a restaurant. He noted the applicant needs to proceed with the SUP to keep the business open. He pointed out staff granted an extension on the temporary use permit until March 1, 2016 with two conditions: the door that leads to the shared courtyard must be closed after 10:00 p.m. to patrons and no police incident reports be generated by any activity that takes place at the location. He clarified if an incident takes place where a police officer generates a report, then the temporary use permit will be revoked. He pointed out staff encouraged the applicant to move forward with the SUP request. He explained the ABC permit was issued by the ABC Board subject to the temporary use permit.

Mr. Mitchell displayed a map of the area, and he pointed out the proposed site and its proximity to the East Innes Street. He also displayed photographs of the establishment and surrounding businesses. He stated an adjacent property owner, the Firehouse Urban Lofts Association, petitioned the Historic Preservation Commission (HPC) to erect a fence that would separate its courtyard from the Firehouse Brew Pit, and the HPC granted the request.

Mr. Mitchell noted the applicant is not proposing any exterior changes to the building or adding any parking or landscaping, so the use would meet all the specifications of the Ordinance related to DMX zoning. He pointed out DMX zoning does not require off-street parking, and the landscape requirements are minimal. He commented the use, if approved with the SUP, is permitted in DMX zoning. He stated the use meets all required principles and specifications of the Ordinance and the intent of the Vision 2020 Comprehensive Plan for continued development, redevelopment, and growth of the downtown.

Councilmember Hardin clarified the business is a carryover from a previous business, Benchwarmers. Mr. Mitchell explained the applicant wanted to temporarily relocate Benchwarmers to the Firehouse Building so staff issued the temporary use permit. He commented the applicant opened the bar and changed the name of the business to the Firehouse Brew Pit.

Councilmember Post asked when the temporary use permit was originally issued. Mr. Mitchell noted the temporary use permit was issued January 14, 2015. Mr. Post then asked about the timing regarding the permit to open the restaurant. Mr. Mitchell explained when plans are submitted staff reviews them, and the plans go back to the designer who makes corrections and resubmits them to staff. He added the plans are being considered at this time.

Mr. Post pointed out an SUP is more restrictive than a standard request. He asked what will happen to the SUP if the restaurant request is granted. Mr. Mitchell noted an SUP and restaurant permit cannot exist simultaneously. He explained if the SUP is granted it will run indefinitely with the land. He pointed out the SUP can be altered or revoked by Council. He explained if Council grants the SUP with conditions, staff can bring the applicant back before Council if the conditions are broken or the location has repeated Code or police violations.

(c) Mayor Alexander convened a public hearing, after due notice thereof, to receive testimony regarding SUP-04-2015.

Mr. Post stated an SUP can be revoked, and he asked if it is legally permissible to approve an SUP with a time limit. Mr. Mitchell noted an SUP can be issued with conditions or denied, but the sunset period cannot be applied.

Councilmember Miller pointed out the temporary use permit had conditions regarding calls to the Police Department, and he noted the SUP could have similar conditions. He asked if the SUP would be removed if a restaurant is approved for the location. He questioned if the Code would provide Council with options if nuisance violations occur on a frequent basis.

Mr. Mitchell clarified if the applicant proceeds with the restaurant and the SUP is granted, Council would revoke the SUP. He explained Council could not apply conditions to the restaurant since it is a by-right use, and he noted the Police Department would enforce noise and code violations.

Mayor Alexander stated Council would receive testimony. She asked those in support of the SUP to speak first.

Mr. Todd Littleton, 525 Pebble Point, explained the Benchwarmers building is currently under construction, and he noted he moved to the Firehouse building to keep the business open and people employed. He indicated he plans to operate a restaurant in the Firehouse building that will serve barbeque and beer, so he changed the name to the Firehouse Brew Pit. He pointed out his capital is currently invested in the Benchwarmers building located on East Fisher Street. He noted if he could get a six-month extension on his temporary use permit, he would pull the SUP request. He indicated problems at the location were brought to his attention at the first Planning Board meeting where neighbors voiced their concerns. He stated the majority of the problems arise from the shared courtyard and the rear exit which allows patrons to enter the complex property. He acknowledged there were issues regarding patrons urinating, vomiting, and an instance of sexual contact in an outside staircase. He pointed out the Firehouse Urban Lofts installed fencing, and he is installing the rest of the fence that will separate the bar from the complex. He stated the Firehouse Brew Pit courtyard is closed until the access issues are resolved. He stated the business opened May 2015, and there have been nine police calls to the business in the eight months it has been in operation. He commented the majority of the police calls were for events taking place off the property. He added the business has worked to address the issues it is aware of. He commented he spoke to a Police Department liaison who confirmed the Firehouse Brew Pit is not an issue.

Mr. Chris Ostle, 321 Brown Street, Rockwell, noted the SUP permit requires members-only usage, and the business will have the contact information of anyone who walks through the door. He stated Benchwarmers has been in business for a long time, and the owners know their clientele. He added the business has worked to eliminate some of the problems it had at Benchwarmers, including blocking patrons who caused problems in the past, to create a more upscale establishment at the Fire House building. He added the location is within Alcohol Law Enforcement (ALE) compliance, and he pointed out the ALE officers visit the facility bi-weekly. He noted the company tries to work with the Police Department to increase safety in the area and often notifies the Police Department of crimes taking place off the property. He commented the establishment works hard to ensure a safe atmosphere, and he noted no one has used the back door since the fence was installed.

Mr. Littleton explained Benchwarmers was a private club for 20 years. He stated the bar has never been cited for underage drinking, and he added any violations incurred were membership violations. He noted 20 years is a long time to run this type of establishment, and when problems arise they are addressed immediately. He noted police were used for security at Benchwarmers, but he indicated he does not see the need for police presence at the Fire House Building. He added it is hurtful that neighbors deem the establishment unsafe.

Ms. Ostle noted the establishment also caters to corporate customers. He added staff works hard to keep the bar safe, and fights are not allowed in the bar.

Mr. Littleton pointed out an area of fence installed by the Fire House Loft, and he noted the remainder of fence he is installing will include a locked gate with staff only access. He commented the courtyard will be enclosed and controlled.

Mayor Pro Tem Blackwell thanked Mr. Littleton for his testimony. She pointed out it is an alcohol problem, not a fence problem, when people urinate, vomit, and commit lewd acts in public. She stated if the business is 100 percent compliant with ALE recommendations it cuts patrons off before they exhibit irresponsible behavior. Mr. Littleton noted the establishment cannot control everyone, and he added his staff is trained, and the facility operates within the ALE law.

Mr. Ostle noted the sexual act took place at approximately 5:00 p.m. in the afternoon, and he pointed out the patrons were removed from the bar. He noted staff is doing all it can to eliminate patrons that exhibit unacceptable behaviors, and he pointed out the problems cannot be exclusive to this establishment.

Mr. Post stated the business met the first two and one-half requirements. He noted he has not heard any testimony regarding whether the establishment affects the value of neighboring properties. Ms. Blackwell pointed out Council can only receive value testimony from a certified real estate professional. Mr. Mitchell clarified property value statements are based upon expert testimony. Mr. Mitchell noted at the final Planning Board hearing, the Planning Board recommended denial of the SUP based on the applicant's inability to prove standard three has been met. He explained since one standard was not met, the Planning Board was obligated to recommend denial of the SUP. He noted if Council does not feel the standard has been met it can

request the applicant obtain the evidence. He explained Council would keep the hearing open and make its decision at a future meeting. Mr. Post asked how postponing a decision would affect the March 1, 2016 deadline. Ms. Blackwell pointed out Council's next meeting will be held March 1, 2016.

Mr. Littleton noted his tax value has increased by \$45,000 since the business moved to its current location. Mayor Alexander pointed out standard three is referring to the effect the business will have on adjoining properties.

Councilmember Hardin stated the business, formerly known as Benchwarmers, is now known as the Firehouse Brew Pit. He asked if the business is taking its clientele from Benchwarmers to the new location. Mr. Littleton noted the clientele has changed. Mr. Hardin pointed out the facility has memberships and is also a public entity. Mr. Littleton stated the facility is a private club. Mr. Hardin questioned if the business controls everyone who enters the establishment, and he asked if patrons can come in from the street.

Mr. Hardin pointed out the applicant took offense to being called unsafe yet nine calls were made to the Police Department in eight months. Mr. Littleton noted some of the calls were to report incidents occurring across the street, such as a lady being chased and a guy walking down the street shooting a gun. He explained of the nine calls listed to 113 South Lee Street, three were noise complaints and the rest were lockouts or someone running out on a tab. He added he does not want the same types of behaviors to be carried from Benchwarmers to the new location. Mr. Hardin asked Mr. Littleton who he spoke with at the Police Department that said his business was not an issue in the community. Mr. Littleton stated he spoke to Police Captain Melonie Thompson. He noted he asked Capt. Thompson if his business came up in conversations and meetings, and she told him it did not. Mr. Hardin noted the business said it met ALE and Police Department specific standards. He questioned what specific standards the business met. Mr. Littleton noted the SUP requires the business operate as a members only bar, and the ALE must check to ensure each bar patron is a member. He commented ALE can pick anyone out of the crowd and request their membership card. He indicated all liquor must be stamped to show it was purchased through the ABC store. He added the ALE can walk through every aspect of the business to ensure compliance. Mr. Hardin noted the business has met operational requirements but not safety issues. Mr. Littleton noted ALE does not monitor safety issues, and he indicated the ALE expects the establishment to cut people off when they drink too much. Mr. Hardin noted the business seems to be minimizing the issues that occurred by pointing out how they are operating. Mr. Littleton stated he cannot control what patrons do when they leave the premise. He added he has never had problems with law enforcement or any other entities. Mr. Hardin asked about the number of police calls that took place while the business operated at Benchwarmers. Mr. Littleton indicated he did not have the number.

Ms. Blackwell asked if the Fire Department signed off on the gates being locked and if the locked gates leave adequate means of emergency egress. Mr. Mitchell commented he is unaware but will find out.

Mayor Alexander asked those in opposition of the SUP to address Council.

Ms. Judy Kandle, 303 West Marsh Street, stated she owns one of the commercial spaces in the Firehouse Urban Lofts and will serve as spokesperson for the group. She explained Benchwarmers moved from its previous location that backed up to an alley to its new space on South Lee Street that spills into a public court yard. She pointed out picnic tables in the side yard create problems for residents of the Firehouse Urban Lofts. She provided police reports from the Firehouse Brew Pit, and she pointed out many of the disturbances occur long after the Noise Ordinance has gone into effect. She indicated the Firehouse Urban Lofts include a residential community living next to the disturbances. She referenced a call to the Police Department from a bartender requesting a police escort to their car. She then presented Council with a report of Fire House Brew Pit police calls from the time the permit went into effect. She pointed out the times on the report, and she noted the same types of disturbances moved from Benchwarmers to the current location. She referenced a police report for February 11, 2016, and she noted the neighbors do not feel there has been limited police involvement at the location. She noted at the Planning Board meeting Mr. Littleton was asked about police surveillance or participation at the location, and it was noted off duty police officers are required. She presented a letter from Capt. Thompson confirming that the Firehouse Brew Pit has not hired off-duty police officers since it opened to the public. She explained the establishment is known as a private club to the ALE and a bar/tavern to the City. She presented information from Downtown Salisbury, Inc. (DSI) regarding a New Year's Eve celebration where Firehouse Brew Pit offered free admission when it should have offered free membership. Ms. Kandle presented an ABC suspension letter for Firehouse Brew Pit dated September 2015, and she pointed out the business received a fine and was closed for three days for not checking patron membership. She pointed out in the 10 months the Fire House Brew Pit has been in operation she has not seen outside trash or recycling receptacles as required by City Ordinance. She presented Council with a copy of the recycling compliance form.

Mr. Jeff Wilson, 518 Maupin Avenue, Property Manager for Firehouse Urban Lofts and a real estate broker, stated since the Firehouse Brew Pit has been open, eight of 10 residential units have expressed concerns. He referenced a tape showing bar patrons trespassing on condo property and displaying unacceptable behaviors. He noted the adjoining fence will help with safety, but it will not solve the trespassing issue. He stated there has been a membership issue with the business at its current location. He referenced a police call regarding a patron leaving the bar without paying their tab, and he questioned how a member of a private club walks out on a \$100 bar tab. He pointed out if everyone is a member they should have been able to call the member and remind them to pay their bill.

Ms. Kimberly Crowley, 125 South Lee Street, stated she has lived in the Firehouse Urban Lofts for eight years. She pointed out since Firehouse Brew Pit opened she has seen and heard things that did not take place before their arrival. She indicated many of the issues began when the patio tables were installed. She stated she saw a patron sitting on the picnic table with an off leash dog, and she added the dogs are allowed to go inside the bar. She stated her fiancé is Cuban and they heard derogatory comments coming from bar patrons. She noted she witnessed people having sex at the side of the building, and she notified the bartender who did not ask the customers to leave. She added she has pulled into the complex at night and witnessed customers of the Firehouse Brew Pit using the back lot to access the bar. She commented she does not feel safe when she gets out of her car. She added the noise is indescribable at times and the disturbances are nightly. She acknowledged the Firehouse Brew Pit has made an effort recently to keep patrons inside the bar.

Mr. Hardin asked Ms. Kandle about the New Year's Eve brochure. Ms. Kandle explained a public business should advertise differently than a private club. She pointed out a business can advertise free admission but not a private club.

Mr. Rex Rexroad, 127 South Lee Street, indicated he has lived at the Firehouse Urban lofts since August 2015. He noted he visited the City a year earlier and decided to make Salisbury his home. He stated the vibrant downtown, restaurants, and shopping makes the City an ideal place for retirees. He explained if the Firehouse Brew Pit had been at its current locations when he visited the City he may have moved to a different location. He stated he has witnessed early morning verbal altercations at the Firehouse Brew Pit, and he pointed out alcohol induced arguments are one step away from violence. He added he has also witnessed public urination, individuals passing out on the fire escape, and patrons from the Firehouse Brew Pit trespassing on Firehouse Urban Loft property in the early morning hours. He commented he has never seen employees or security personnel, but only the patrons who were drinking. He added the described conditions are not what downtown planners had in mind, and he pointed out a bar that is open 16 hours a day beside his property makes it less desirable. He asked Council to deny the SUP request.

Mr. John Muscadini, 210 East Fisher Street, owner of La Cava, Salty Caper, and New Sarum Brewery, noted he believes in the downtown and he is pro-business. He stated he lives in the Firehouse Urban Lofts. He noted he was walking to his apartment with his young grandchildren during the day and they heard foul language coming from the bar. He indicated when the Firehouse Brew Pit opened one of the managers at the Salty Caper noted he would need security at the restaurant so he reduced the hours of operation. He pointed out the Salty Caper has seen a decline in family business. He noted he also serves as Treasurer of the Firehouse Urban Lofts, and he pointed out the residents spent over \$10,000 to install fencing.

Ms. Judy Kandle read an affidavit from Firehouse Urban Lofts President Nicholas Alfieri detailing undesirable behaviors he witnessed in the courtyard of the Firehouse Brew Pit.

Ms. Kandle stated the Firehouse Urban Loft residents do not support an SUP for the Firehouse Brew Pit. She pointed out the SUP would stay with the property and is very difficult to revoke. She added the residents also understand Mr. Littleton is trying to run a business. She referenced the SUP application, and she pointed out Nashville Nights and the former location of Benchwarmers also have SUP permits. She stated an additional SUP in a three block radius for private clubs is setting a less than stellar precedence. She recommended the issuance of a temporary use permit with conditions until the restaurant is running so Mr. Littleton can maintain his business. She presented a Safety and Security Conditions List for a Temporary Use Permit. She stated the Firehouse Urban Loft residents want to see the Firehouse Brew Pit succeed, but not at the expense of leaving a negative impression on citizens and visitors. She read a statement from Firehouse Urban Loft resident Susan Hurt, PHD, JD requesting Council take action.

Ms. Rose Meeks Jones, 211 East Fisher Street, stated she is a former downtown business owner and downtown resident for seven years. She referenced a fist fight that took place in the back parking lot, and she described other unbecoming behavior of Firehouse Brew Pit patrons. She stated as a former alcohol business owner she knows firsthand the business owner is responsible for what happens in the establishment and on its premises. She pointed out the ALE

permits declare outdoor seating where alcohol is served as part of the premises. She added the incidents that have taken place result from a lack of onsite supervision. She added she has visited the Firehouse Brew Pit several times since it opened and has never signed anything or purchased a membership card. She added she has never seen anyone asked for a membership card or cut off from alcohol. She commented she wants the business to succeed, but there are issues that must be addressed.

Mr. Post asked if there are options other than closing the business on March 1, 2016 if the SUP is denied. Mr. Mitchell noted the business owner would need to move forward with his request for a restaurant or staff would need to extend the temporary use permit. Mr. Post asked if Council could request staff extend the temporary use permit. Mr. Mitchell indicated it would be inappropriate for Council to request staff extend the temporary use permit. He explained the temporary use permit was issued to help the petitioner. He stated he met with Mr. Littleton and Capt. Thompson when staff became aware of the police reports and incidents that occurred at the location. He stated staff recommended Mr. Littleton move forward with an SUP request that is issued and guided by Council. He added he could meet with staff to determine if there is evidence to support extending the temporary use permit. He pointed out there was a delay in the issuance of the temporary use permit from January until the move-in date, so additional time could be considered. He added it is staff's desire to get out from under the temporary use permit and for the establishment to be a restaurant as properly permitted or to be issued an SUP by Council.

Mr. Miller clarified because there were two six-month subsequent temporary use permits and the business did not occupy the premise until May the temporary use permit could be valid until May 2016. He noted an additional temporary use permit would not be issued, and it could give the applicant time to address the issues. Mr. Mitchell stated a temporary use permit has been issued, and he pointed out the burden is on the applicant to meet all the standards and the burden is on the opponents to produce evidence to the contrary. He noted the SUP request should not hinge upon an extension of the temporary use permit. Mr. Miller asked if there is a start and end date listed on the temporary use permit or if it is effective for six months. He questioned if there are rules in the Code regarding patrons congregating with open beverages in front of businesses and on sidewalks. Mr. Mitchell indicated he would have to defer that question to the Police Department.

Mr. Miller stated the petitioner has not helped himself, and Council is now in an impossible situation. He noted the petitioner has a business to run and ultimately must control the situation. He added there is no place in the downtown where the referenced behaviors are acceptable.

Mayor Pro Tem Blackwell noted people believe if a person lives downtown, they should be prepared for a noisy environment. She added she has significant concerns regarding the management of this business. She stated the decision is difficult, and Council never wants to terminate a thriving business. She pointed out Mr. Littleton has 17 employees, and the City needs all the jobs it can get. She noted she is concerned that Mr. Ostle stated under oath the business had a great relationship with the Police Department and the ALE, yet written testimony contradicted the statement. She agreed with Mr. Miller, and she noted this is not the quality of life Council wants for its citizens. She noted she is open to conditions from other Council members but is inclined to deny an SUP for this business.

Mr. Hardin agreed with Mr. Miller and Ms. Blackwell. He noted he was disappointed in the lack of honesty regarding the real issues, and he pointed out the petitioner seemed to minimize the severity of the issues. He added there seems to be a lack of accountability and control at the establishment. He stated no one should live in a situation that could be harmful or is not desirable. He pointed out Mr. Littleton does not represent himself as a good community business partner, and he does not support the SUP request.

Mr. Post noted the evidence supports the first two requirements being met, and he pointed out the third standard has not been met. He added he does not like the SUP being attached to the land, and he cautioned Council must be careful when it grants an SUP. He stated the applicant provided no evidence regarding surrounding property values. He commented the Planning Board voted unanimously to table the issue since the petitioner had not met the burden on item three and asked the petitioner to address the issues and come back to Planning Board. He commended the neighborhood for their diligence and willingness to work with the petitioner. He noted the petitioner has not met the legal burden of the SUP.

Mr. Miller added whether the property value is consistent, harmed, or improved is irrelevant because the public health safety and welfare has been compromised. He asked if item three could be separated into separate requirements. Mr. Mitchell noted item three cannot be separated at this time, but the change could be considered for a future text amendment.

Mr. Miller clarified the SUP request does not appear to have Council's support, and staff does not want to extend the temporary use permit. He added he sensed a possible temporary solution in the interpretation of the time of the second six-month temporary use permit that has already been issued. He commented if a temporary solution is possible that will not change an existing permit, Council can deny the SUP. He questioned if Council could add conditions to the temporary use permit already in force.

Mr. Mitchell stated it would be inappropriate for Council to recommend or add conditions to a staff issued temporary use permit. He added any zoning permit issued by the City is good for six months unless otherwise stated. He noted staff can extend the temporary use permit, and he pointed out it was extended once which made it active for one year. He noted the temporary use permit states it is valid during construction of the other building. He asked Council to consider whether the standards for the SUP request have been met.

Thereupon, Mr. Miller made a **motion** for the following Finding of Fact:

The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit as evidenced by the following testimony:

- The site characteristics currently fit within the surrounding area

Mr. Post seconded the motion. Messrs. Hardin, Miller and Post, and Mses. Alexander and Blackwell voted AYE. (5-0)

Mr. Miller made a **motion** for the following Finding of Fact:

The proposal as submitted and approved will be visually and functionally compatible to the surrounding area as evidenced by the following testimony:

- The use will be located within an existing commercial building that is visually and functionally compatible to the surrounding area

Mr. Post seconded the motion. Messrs. Hardin, Miller and Post, and Meses. Alexander and Blackwell voted AYE. (5-0)

Mr. Miller made a **motion** for the following Finding of Fact:

The public health, safety and welfare will not be assured, and sufficient evidences does not exist to say whether the purposed development will or will not substantially injure the value of adjoining property and associated uses if located where proposed as evidenced by the following testimony:

- No evidence has been submitted by a qualified, licensed property appraiser indicating that this, or other uses with alcohol sales, has been injurious to surrounding property values. Eye witness testimony regarding conduct and behavior of patrons of the establishment are contrary to the public health, safety, and welfare

Ms. Blackwell seconded the motion.

Mr. Post suggested including adjacent residents to Mr. Miller's motion. Mr. Miller accepted the amendment. Messrs. Hardin, Miller and Post, and Meses. Alexander and Blackwell voted AYE. (5-0)

Mr. Miller made a **motion** for the following Finding of Fact:

The proposed establishment is not located within five hundred feet of any lot containing a school, public or private.

Mr. Post seconded the motion. Messrs. Hardin, Miller and Post, and Meses. Alexander and Blackwell voted AYE. (5-0)

Mr. Miller stated he did not have any additional Conditions.

Mr. Miller made a **motion** that the suggested findings do not support the general requirements as required by the Salisbury Land Development Ordinance. Ms. Blackwell seconded the motion. Messrs. Hardin, Miller and Post, and Meses. Alexander and Blackwell voted AYE. (5-0)

Thereupon Mr. Miller made a **motion to deny** Special Use Permit SUP-04-2015 to permit a bar/tavern located at 113 South Lee Street based on all general standards of the Salisbury Land Development Ordinance not being met. Ms. Blackwell seconded the motion. Messrs. Hardin, Miller and Post, and Meses. Alexander and Blackwell voted AYE. (5-0)

Mr. Mitchell noted staff will follow up with the petitioner.

PARKING RESTRICTION – KING STREET

Traffic Engineering Coordinator Vickie Eddleman explained Catawba College and City staff held two neighborhood meetings over the last year. She stated event parking was brought up as an issue for the neighborhood. She noted staff received a request to restrict parking along the north side of King Street from Lantz to Summit Avenues. She pointed out Catawba College is working to promote on-campus parking and alert drivers to available parking spaces. She recognized Catawba College President Brien Lewis and Athletic Director Larry Leckonby who were in the audience to answer Council's questions.

Ms. Eddleman explained the request to restrict parking along the north side of King Street is being brought before Council as a safety concern. She stated the Fire Department has an alternate route it can use, but the Police Department must have access to the area to protect the general public.

Ms. Eddleman displayed photographs taken by a concerned citizen, and she pointed out the dangerous situations created for vehicles and pedestrians when vehicles are parked on both sides of King Street.

Councilmember Post asked if limiting parking along King Street was addressed during the community meetings. City Engineer Wendy Brindle noted many scenarios were brought to staff's attention by the community, and staff worked to address the concerns. She explained when staff receives a request to limit parking it reaches out to property owners who would be directly affected by the change. She stated Catawba College owns the majority of the property on King Street and two additional parcels are owned by Mr. David Wood. She explained Mr. Wood was not contacted because one of his parcels is vacant and the other faces Lantz Avenue. She pointed out there would not be a direct impact to Mr. Wood's property by restricting parking on one side of King Street.

Councilmember Hardin questioned if area signage could be altered without changing the Ordinance. Ms. Brindle explained a change is only enforceable if it is noted in the City Code. She pointed out only residential parking is allowed on Lantz Avenue. She noted Catawba College and the neighborhood have agreed to allow parking on one side of Lantz Avenue during special events. She explained the events would require special signage or the Police Department would enforce the Code as it is written.

Mayor Alexander asked Mr. Lewis to address Council.

Mr. Lewis thanked staff for working to make the area safer. He noted the College supports the request and is doing all it can to promote on-campus parking.

Mr. Post commented if parking is limited on King Street it will cause problems in other areas. He stated he would like to table this item until Catawba College develops a parking plan.

Councilmember Miller recommended the College work with Urban Design Planner Lynn Raker to develop a more efficient use for its gravel parking lot. Ms. Brindle explained the College does not want to pave the lot, and staff is looking at designs to improve the parking space. She pointed out the College has cleared everything from the parking lot. She indicated once staff provides the parking plan the College will consider ways to implement it.

Councilmember Hardin asked who will enforce parking violations in the area. He noted he does not want police officers pulled from their work to monitor parking. Ms. Brindle explained the College will ask parking violators to move their vehicles before contacting the Police Department.

Thereupon, Mr. Miller made a **motion** to adopt an Ordinance amending Section 338, Article X, Chapter 13, of the Code of the City of Salisbury, relating to parking prohibited at all times. Ms. Blackwell seconded the motion. Mr. Miller and Mses. Alexander and Blackwell voted AYE. Messrs. Hardin and Post voted NAY. (3-2)

ORDINANCE AMENDING SECTION 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. 25 at Page No. 6, and is known as Ordinance 2016-06.)

COUNCILMEMBER DAVID POST EXCUSED

Councilmember Post asked to be excused from the meeting.

Thereupon Ms. Blackwell made a **motion** to excuse Mr. Post from the meeting. Mr. Miller seconded the motion. Messrs. Hardin, Miller and Post, and Mses. Alexander and Blackwell voted AYE. (5-0)

CONTRACT – GILBERT ENGINEERING COMPANY

Salisbury Rowan Utilities Director (SRU) Jim Behmer and SRU Engineering Manager Jason Wilson addressed Council regarding the Centerview Lift Station Outfall Project. Mr. Wilson noted in 2011 the City assumed ownership of a lift station in China Grove. He explained in 2010 staff evaluated the facility and found it to be substandard. He pointed out minor improvements have been made, and he indicated staff plans to eliminate the lift station and install gravity sewer to increase efficiency.

Mr. Wilson stated four qualified utility contractors bid the project, and he noted the low bid was \$869,132.25 submitted by Gilbert Engineering Company of Statesville, North Carolina. He stated \$250,000 was budgeted for the project in FY2016. He noted China Gove is allocating their \$50,000 annual extension funding toward the project. He asked Council to consider allocating over-budgeted revenues of \$569,132 to complete the project.

Mr. Behmer pointed out it would cost approximately \$300,000 to upgrade the existing lift station.

Mr. Miller asked if the project would be completed in the current fiscal year. Mr. Wilson noted the company will have 120 days to complete the project which should begin on March 1, 2016.

Thereupon, Mr. Miller made a **motion** to award a contract in the amount of \$869,132.25 to Gilbert Engineering Company of Statesville, North Carolina for construction of the Centerview Lift Station Outfall Project. Mr. Hardin seconded the motion. Messrs. Hardin and Miller and Mses. Alexander and Blackwell voted AYE. (4-0)

PUBLIC COMMENTS

Mayor Alexander opened the floor to receive public comments.

Mr. John Morrison, Milford Hills Community, Statesville Boulevard, stated on January 9, 2015 a customer service employee was terminated for misappropriation of City funds, unsatisfactory work quality, and failure to follow department procedures. He noted the employee's final check was held, and if he did not pay back the misappropriated funds the City planned to proceed with legal action. He pointed out the State Bureau of Investigation (SBI) is currently investigating the matter. He asked Council to keep the citizens informed, and he pointed out losses are passed on to the consumer.

Ms. Dee Dee Wright, 418 South Caldwell Street, thanked the Fire Department for coming out during the snow to check a broken light. She noted Council's Retreat is traditionally for planning and hearing from the community and she was unaware action would be taken regarding the Knox Middle School co-principals. She requested benchmarks comparing the work done by former Principal Snyder and the work being done by the co-principals. She questioned taxpayers supplementing a salary for two principals when they were not given the opportunity for input.

Mayor Pro Tem Blackwell noted two years ago the City partnered with another donor to share a portion of the co-principals' salaries. She explained the other donor was unable to participate this year and the City increased its portion to cover the agreed upon salaries. She added the co-principals did not receive a raise. She stated the students at Knox Middle School are tomorrow's taxpayers and they deserve the City's investment.

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

CITY MANAGER'S COMMENTS

(a) On-going SBI Investigation

City Manager Lane Bailey noted the issue raised during public comments is being handled by the State Bureau of Investigation (SBI). He added it would be inappropriate for the Salisbury Police Department to investigate a case that involves City funds. He apologized for the time it is taking, and he pointed out investigations can be lengthy. He noted the City is providing the SBI with additional information as it is needed.

(b) Salisbury-Rowan Utilities Water Update

City Manager Lane Bailey postponed the Salisbury-Rowan Utilities Water Update.

MAYOR'S ANNOUNCEMENTS

(a) Public Comment Sessions

Beginning March 1, 2016 City Council meetings will begin at 5:00 p.m. Public Comment sessions will be held at each meeting at approximately 6:00 p.m., or at the end of the meeting, whichever comes first.

(b) Council Work Session

Council will hold a work session to review notes from the Retreat and continue its discussion regarding a vision statement.

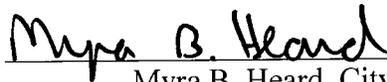
Councilmember Miller noted the work session will take place on March 1, 2016 at 4:00 p.m. in Council Chambers.

ADJOURNMENT

Motion to adjourn the meeting was made by Ms. Blackwell seconded by Mr. Hardin. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 8:15 p.m.



Karen Kirks Alexander, Mayor



Myra B. Heard, City Clerk