

CITY OF SALISBURY
WORK SESSION
MARCH 26, 2012

Present

Council President Terry Cohen	Councilwoman Eugenie “Shanie” P. Shields (left at 8:25 p.m.)
Councilman Tim Spies	Councilwoman Laura Mitchell
Mayor James Ireton, Jr. (left at 7:45 p.m.)	

Absent

Council Vice President Deborah Campbell

In Attendance

City Clerk Kim Nichols, CMC, City Administrator John Pick, ICMA-CM, Building, Permitting and Inspections Director Bill Holland, Neighborhood Services and Code Compliance Director Tom Stevenson, Planning and Zoning Director Jack Lenox, and members of the public and press.

The City Council convened in a work session at 7:03 p.m. in Council Chambers following the adjournment of their regularly scheduled legislation session at 6:47 p.m.

Board of Zoning Appeals

City Attorney Mark Tilghman discussed his findings concerning the Board of Zoning Appeals (BOZA) hearing procedures after he met with members of the BOZA and Messers Stevenson, Holland, and Lenox. He recommended the following changes to the Code:

- revise the proposed Section 17.12.090A to agree with current state law
- both applicant and City are required to provide all of the documentation and evidence in advance, and hearsay evidence no later than 10 days prior to the hearing
- hearsay evidence may only be used to supplement or explain other evidence
- City Solicitor or Assistant City Solicitor shall advise The Board on all issues of law, evidentiary rulings and burden of proof
- improve method of notice to the public and neighbors within 200 feet of the property
- nonconforming uses could be certified as legal

Mr. Tilghman recommended clarifying in Building, Permitting, and Inspection’s letter to owners that they are responsible for proving to Mr. Holland that they are legal, as the current code does not clearly state this. He also recommended rules be established on how illegal non-conforming use cases are handled, notably on the procedure whereby the property owner is notified of the alleged violation. He conveyed BOZA’s members’ concern that once property owners were notified by Mr. Holland, they were not given adequate time to respond. Mr. Tilghman indicated the BOZA members stated they lacked guidance to enforce law.

Mrs. Shields expressed her concern for tenants of properties found to be illegal. Mayor Ireton suggested property owners pay for the relocation of their tenants. At Ms. Cohen’s reference to Albuquerque’s relocation program holding landowners responsible for moving expenses, Mr.

Tilghman suggested he could investigate the legality of the City initiating an escrow held for tenants. Mrs. Shields stated there were situations in which people may wish to purchase property, but due to the lack of records, they cannot prove use.

Mrs. Mitchell referenced the 10 days notification and evidence made available, noting that the BOZA is represented by the City Attorney, and many of the owners cannot afford to be legally represented. Therefore, she suggested leaving in “affidavits” and defining “hearsay,” to be clear. Mr. Holland indicated some affidavits had been extremely reliable in the past.

Council reached consensus to instruct Mr. Tilghman to prepare legislation to capture the ideas discussed and would hear from him in two weeks.

The work session adjourned at 8:27 p.m.

City Clerk

Council President