

CITY OF SALISBURY
WORK SESSION
MARCH 2, 2015

Public Officials Present

Council President Jacob R. Day
Council Vice President Laura Mitchell
Councilman Timothy K. Spies (left 4:20 p.m.)
James Ireton, Jr., Mayor (arrived at 5:00 p.m.)
Councilman John "Jack" R. Heath

Public Officials Not Present

Councilwoman Eugenie P. Shields

In Attendance

City Clerk Kimberly Nichols, City Administrator Tom Stevenson, Internal Services Director Keith Cordrey, Neighborhood Services & Code Compliance Director Susan Phillips, Public Works Director Mike Moulds, Deputy Director Public Works Amanda Pollack, Planning & Zoning Director Jack Lenox, City Attorney Mark Tilghman, interested citizens and members of the press.

On March 2, 2015, Salisbury City Council convened in a Work Session at 2:05 p.m. in Council Chambers, Room 301 of the Government Office Building.

Adult Entertainment Ordinance

City Attorney Mark Tilghman, Building, Permits and Inspections (BPI) Director William Holland and Planning & Zoning (P & Z) Director Jack Lenox joined Council to discuss the Adult Entertainment Ordinance.

Mr. Lenox reported that the drafted ordinance before Council was written to address the change in one of the criteria for considered what is an adult use, and this lowers the percentage to 15% from 20% of the total square floor footage the store has devoted to merchandise related to adult entertainment. This falls under BPI Director William Holland's Administrative section of the Zoning Code.

After Council discussion, unanimous consensus was reached to advance the proposed legislation to the March 19, 2015 Planning Commission for their recommendation, and to advance the legislation to the April 13, 2015 Legislative Session. The businesses will be directly notified about both the Planning Commission and City Council's public hearings.

Defining Weekday as Monday thru Friday

Mr. Holland reported receiving weekend construction noise complaints from residents in the South Division area, and the problem with the Code was the definition of a weekday. Most

consider a weekday as Monday through Friday, but previous legal opinion has defined it as Monday through Saturday. This enables Council to redefine a weekday to include Saturday and they could limit the duration of legal working hours.

Council agreed upon the following hours for operating construction businesses:

Weekdays (Monday through Friday) – 7:00 a.m. to 6:00 p.m.

Weekends (Saturday and Sunday) – 8:00 a.m. to 6:00 p.m.

Council reached unanimous consensus to advance the legislation to specify the hours permitted for construction work to be done, define the weekday as Monday through Friday, and insert the provision about permitting suspension of building permits and levying municipal infractions.

Proposed Charter Changes – Articles III, IV and V

City Administrator Tom Stevenson reviewed the following suggested changes with Council:

- SC3-1 Term - Delete outdated information – “The Mayor holding office on January 1, 1952, shall continue to hold office for the term for which he has been elected.”
- SC3-4 Powers - A (Ordinances) and D (Veto) should be consistent when revising the language in Article II (§SC2-12, §SC2-15, §SC2-16)
- Suggested adding SC4-6 Assistant City Administrator – The City Administrator shall be authorized to appoint an Assistant City Administrator subject to the confirmation of the Mayor. His compensation shall be determined by the City Council. The Assistant City Administrator shall perform such duties as the City Administrator shall require, and shall act as the City Administrator in the City Administrator’s absence.
- SC5-1 Enumerations – during Council’s February 23, 2015 meeting, a Charter Amendment was passed which changed this time period from three years to twenty years
- The Charter references ordinances and by-laws as resolutions, creating confusion. Mr. Stevenson said he had discussed this with City Clerk Nichols and it should be changed.
- ARTICLE V - General Powers § SC5-1. - Enumeration. Mr. Stevenson stated that in some areas of the Code it specifies that “in these sections we are authorized to own water systems and to franchise sewer systems.” Mr. Pick had recommended prior to leaving the City, that the language be changed stating “we are authorized to own sewer systems.”
- ARTICLE V - General Powers § SC5-1. – Enumeration. (28) Public utilities. To establish, own, control, operate, maintain and manage a wharf for the use of the city, a public market and a plant or plants and system or systems for supplying water to and for the city and the inhabitants thereof, and adjacent thereto, or any one (1) or more of them, and to exercise police power to regulate and control the use of the streets, alleys and highways and other public places of the city by electric, gas, telephone, telegraph, street railway, taxicab, bus, water, heating, sewer and drain companies, and to purchase or condemn, as hereafter provided, any property whatsoever, in fee simple or otherwise, for the purpose of establishing, owning, controlling, operating, maintaining or managing any such wharf or market or plant or plants and system or systems for water supply. Add “and sewers” at the end.
- ARTICLE V - General Powers § SC5-1. – Enumeration. (38) Enforcement of ordinances.

The Council has the power, pursuant to Article 23A, § 3(a) of the Annotated Code of Maryland, to provide that violations of ordinances and resolutions of the city shall be punishable as misdemeanors, unless otherwise specified as an infraction. No penalty for such violation shall exceed a fine of one thousand dollars (\$1000.) and imprisonment for six (6) months or such other limits as may be established by subsequent amendments to Article 23A, § 3(a). Any person subject to any fine, forfeiture or penalty has the right of appeal as is provided under the general laws of the State. The Council may provide that, if the violation is of a continuing nature and is persisted in, a conviction for one (1) violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding violation. Article 23A (Lines 91 and 96) should be stricken and read “Local Government Act” instead.

- Be consistent with language concerning ordinances or bylaws was recommended by the former City Clerk.

Council agreed with the changes suggested by Mr. Stevenson and the next few sections of the Charter will be reviewed in an upcoming work session.

To adopt “Revised” Departmental Directive Over Occupancy of Rental Property

Neighborhood Services & Code Compliance (NSCC) Director Susan Phillips and Mr. Tilghman joined Council at the table to discuss violation of occupancy provisions and the associated policy outlining the departmental directives. The following is a synopsis of Ms. Phillips’ discussion of the policy:

- Once a property is identified as being over occupied either by complaint or routine patrol, a citation is issued. If it is obvious by the way of evidence that the landlord is aware of the over occupancy, they would skip to number 3 and 4 of the policy.
- If there was evidence that the landlord was unaware of the over occupied unit, the procedures 2 through 4 would be followed.
- If there are multiple problems of multiple properties tied to the same owner, you could suspend the unit registration at that particular property, or if there is a pattern of non-compliance you could take 15.26.110 and impact the license – should that be codified?

The following comments were received from six (6) members of the public:

- Violations by landlords occur all the time and neighbors need relief
- The law needs something with some teeth in it to get them to realize they can’t continue
- Exceptions under State law are supposed to end at some point; these are not ending. We have more rentals than ever, and apartments popping up all over the place
- Constantly in battle with over occupied properties, which are not being taken care of
- After the recent snow storms, you could scan the street and identify which were rentals
- Students and landlords are not taking care of these rental properties
- Whatever can be done, please do it to back NSCC up
- The original purpose of the 4-2 legislation was to stop the rapid progression of conversions in the single family dwelling, not to be punitive or hurt those with exceptions for three or four

- On Druid Hill Avenue, there are 40 houses and since the 4-2 went into effect, 10 houses have been converted into rentals. That is 25% of a single-family neighborhood, and almost every one of them have had an occupancy issue.
- Neither one of the offender properties has been a Salisbury Area Property Owners Association (SAPOA) represented house
- SAPOA is generally managing their properties, but the issues are mainly with those who own one or two houses and don't live here
- Same thing has happened on W College Avenue. 9 houses have been converted since 4-2 and many were legal rental houses before that. Several have had occupancy issues.
- Monticello Avenue has 59 houses, and 19 have been converted to rentals since the 4-2 law. Almost every one of them have had occupancy issues.
- Students are being asked to lie about occupancy by their landlords
- <Those buying homes for their student children to live in> Realtors tell these out of town homebuyers to put the home in their name and their child's name, and they "fly under the radar". Rental fees are not being collected from these owners, either. It's not fair to the landlords in Salisbury who pay their license fees and are responsible property owners
- The 4-2 laws were very divisive in Salisbury, especially near the University.
- If 4-2 had not been enacted, the neighborhoods around the University would be 100% rental by now.
- Salisbury is 60 – 70% rentals and that is not healthy.
- Has lived in the same neighborhood all of speaker's life and the college was an asset
- Thanked Council for hearing the public's feedback
- These changes are not for the landlords who honor the 4-2 guidelines because they have nothing to lose because they diligently follow the guidelines in place
- The landlords that try to skirt the rules are presenting the problems
- Any proposed increase in fees, fines, timelines, etc. are being considered because of the ones who choose to not follow the rules
- Lives on West College Avenue, rents to 29 students within a ½ block area, and has been a landlord for 20 years
- Wants to see the neighborhoods healthy because it helps keep her property values up. She tries to keep her properties up because it keeps the neighborhood healthy. There is a rental house that is a house away from her home on West College Avenue, and the owner has always been a friend. She called this owner and reported that there were 3 young men living in the home having loud parties. She was told that they would take care of the parties, and they did. She waited about a week and called them to let them know they still had 3 tenants living there. The landlord stated they asked the tenants to park only 2 cars there; she responded that they were illegal and advised she would report them.
- Called the other landlords on her street and asked them to speak to the landlord, but nobody wanted to do so. She asked the current President of SAPOA to speak with the landlord, who has purchased 4 primary residence homes on her block, 2 of which have been charged with over occupancy in two years. Illegal competition is not good for her as a neighbor and business owner, and is ruining her neighborhood. She called the City and reported it, and told the landlord that they could expect to be contacted. Wrote the tenants a note and told them their house was over occupied and had been reported to the City. She discussed the situation with the tenants after they contacted her about the

situation, and they advised her that the house was advertised and shown as a 3-bedroom house, and the rent was priced for 3 individual people (\$1,500). When their parents signed the lease, the landlord told them they were only going to put 2 names on the lease because of this law. They signed a 2 year lease because it was so close to SU, but now that this has come out their landlord has made them move to another rental properties to honor the 2 year lease. The landlord is the most recent past president of SAPOA.

- Unregulated, unmanaged rentals destroy lifestyles
- Peer to peer policing does not work. There is no repercussion and it causes hard feelings
- Thanked the landlords who are following the law because every town needs rental properties
- Victimization of elder population by over occupied houses where professors live and students grow up
- People on streets off of Camden say there is a constant problem with the college parties and the residents can't sit on their porches or walk in their neighborhoods anymore
- College students should be responsible adults
- Property values are down but many people can't move away
- Think about those who built Salisbury
- This legislation has been thirty years in the making
- It's not the licensed landlords that we should be concerned with, it's the landlords that are not licensed to rent but are turning their homes into boarding houses
- How do you get these properties registered if they are unlicensed and renting out rooms?
- One person will buy, and four families will move in. They should be licensed. What are we going to do to get rid of these properties, or get them licensed and regulated?
- Lived on College Avenue for twenty years, and bought the house because they could not afford to rent. Since 1995, speaker has watched rentals consume W. College Avenue.
- Sees what is going on. The change in the neighborhood has not improved even since 4-2.
- Susan Phillips needs more employees and more clout behind the law
- Some of the over occupied houses might be collecting rent under the table. Her son has friends renting, and landlord was collecting cash rent, and the house was over occupied.
- Students fought back on Facebook when they realized they were being cheated, and didn't go to the IRS, but could have
- When 4-2 was enacted, she was not particularly in favor of it because her husband and she bought their house and fixed it up. Now they could not rent to more than two people even though it is a 4 bedroom, 2-bath house.
- Has been squeezed out of the market by the 4-2 law, and are living with the consequences of over occupancy and conversions.
- Responsible landlords have nothing to fear, and thanked the landlords who are in compliance
- This also deals with life safety issues (speaker works for Fire Department) including over occupancy matters that cause people to lose their lives during fires
- Free fire inspections by the City Fire Department back in the 1990's used to identify over occupancy problems
- Tenants do not care about over occupancy (they are paying their rent and going to class) The responsibility falls on the landlords and responsible neighbors to report these problems.
- Give Ms. Phillips the tools she needs to deal with this problem

Council comments included:

- Within what period of time are we determining whether or not there is a second offense?
- If a rental unit owner has multiple properties with multiple violations, we need a mechanism in place in which to hold that person accountable.
- Council has already passed the ordinance for first reading
- Quality of life is fundamental, as is the City's relationship with Salisbury University (SU)
- SU has overwhelmingly partnered with City on this this year
- Do we have a policy that helps hold those accountable who continually mock the law?
- This is a prime case of 95/5. We spend 95% of the time dealing with 5% of the population (or less).
- We don't want to see death in a fire, but the odds are against us in terms of the numbers
- Being a landlord is a business, and all businessmen are held to certain rules and laws. Ignorance is not excuse and never will be in the legal system
- City needs to take a strong stance, and if violators get nailed with significant enough penalties, that might control this problem eventually

Mr. Spies requested for NSCC to send reports to the Council members to keep them informed of violations in their districts. After discussion, Council decided that all Council members should see all of the violations Citywide.

After discussion, Council reached unanimous consensus to move the policy to legislative session and Ordinance No. 2313 to second reading on Monday, March 9, 2015.

Draft legislation to eliminate Primary Elections and Change the Number of Councilmanic Districts in the City

Mr. Tilghman discussed the plans to file jointly with the American Civil Liberties Union (ACLU) and the fact that the ACLU did not previously object to the redistricting legislation. Council discussion included:

- The City has an order to comply with redistricting, not to comply with the client.
- The City has done all it is required to do. What remains to do is a formality.
- The intent was to include this legislation originally in the creation of the (5) districts, but this was not included
- Asked Mr. Tilghman to confer with Mr. Gutierrez in regards to the change in the law regarding overseas ballots, and if that would change the swearing in date
- Filing deadline is associated with the General Election, not the Primary

Mr. Tilghman reported that basic changes would be made as a clean-up provision to the Code to SC 6-7 (to be eliminated), SC 6-15 (deals with tie elections), 1.08.020, 1.12.030, 1.12.040, 1.08.300 to eliminate the references to Primary Elections, and would all only reference in the future General Elections. He noted that to the extent that the Code disagrees with the Charter, the Charter always supersedes, and it is not mandatory to change the Code, but is being done to keep

it consistent with the Charter. The legislation discussed will advance to the March 23, 2015 Legislative Session.

Tri-County Council Annexation agreement

Building, Permitting and Inspections Director William Holland, Chris Jakubiak, President of Jakubiak Town and City Planning, and Jeff Harmon, P.E., Senior Associate at Becker Morgan Group, Inc. joined Council to discuss the Walston Switch Road/Tri-County Council Annexation, located east of Salisbury, north of Rt. 50, and across from Wor-Wic Community College.

Mr. Jakubiak reviewed the draft annexation agreement, draft annexation plan, and the discussed the survey of the property. The following is a summary of his review:

- The proposed zoning is Mixed Use - Non-Residential
- No residential development would be allowed on the parcel as it will remain entirely commercial, governmental, institutional
- There are two parcels of land contained in the annexation: 1 has existing use (buildings, out buildings, parking) and the other is a vacant parcel (not being developed but could later become developed)
- This annexation does not change those conditions but means that there will be two parcels, not one, brought into the City.
- Page 4 of the Annexation agreement – Section 8 deals with most of the development conditions that Council would place on the annexation. The owner agrees that any land for parcel 0740 (smaller parcel) would contain a plan for a planned landscape buffer designed to provide filtered views of the site and buildings from Rt. 50. Owner also agrees to pay development assessment to the City in the amount of \$13,000 prior to the issuance of a building permit on construction of parcel 0740. If that parcel were to develop in private commercial use the City would treat that parcel just as it treats the parcels across the street on the south side of Rt. 50. That development assessment would be available for the City to use in beautifying the existing neighborhoods.
- Page 5 – sub-section F - The applicant will comply with City departments for LEED design and seek to bring the building in compliance with LEED silver certification. This reflects a good faith effort towards meeting energy efficiency and environmental performance in building design. This model was used recently in the Smith/Merritt Mill Road Annexation.
- The owner would agree to build and extend the wastewater and public water facilities from the opposite side of Rt 50 under the highway and reuse the facilities to accommodate future connections on that side of Rt. 50.
- This annexation, unlike others, does not result in a positive fiscal impact because of Tri-County Council's public nature and tax exempt status. It has been City policy to support annexations that contribute positive fiscal impact, so this is an element Council shall need to consider. This does provide the extension of services to serve the municipal growth area in Salisbury as has other annexations.
- The next step will be to prepare a resolution to consider at Legislative Session and to establish a public hearing date.

Council discussion included the following:

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- The provision of water and wastewater service across Rt. 50 opens up opportunities for other connections in the commercial business park as well as in the neighborhoods where there are failing septic systems.
- Does not think that Parks and Recreation, schools, stormwater management, waste collection, or roads contribute to the negative impact number, but Policing, Fire and EMS do. Asked for discussion on what the calls for service have been like for the facility over the life span of being at that location. (Police are there about twice per month to respond to homeless people, theft or unruly customers. Fire department is there about once per quarter due to Fire alarms or inspections. Currently, the Sheriff's Department responds and the facility is served by Parsonsburg Volunteer Fire department)
- Mrs. Mitchell disclosed she currently serves as representative for Tri-County Council and has no conflict (as determined by Mr. Tilghman). Mr. Tilghman disclosed he currently serves as Legal Advisor to Tri-County Council and has had nothing to do with this annexation from the beginning. If a conflict existed, he would have re-assigned this.

Jeff Harmon, P.E., Senior Associate at Becker Morgan Group, Inc. discussed the following:

- They agreed to slide a casing pipe in thus allowing the City to install the larger pipe in the future when they need to. Currently, the smaller diameter pipe is appropriately sized for the Tri-County Council complex. When the City decides to make those connections and needs the additional capacity they will simply be able to remove the smaller diameter pipe inside the casing and slide into the larger diameter that they need.
- (Council question) Estimated flow – Will that amount require a new pump facility? Tri-County Council will build a new pump station on their property capable of pumping all the flows to serve their site as well as a little bit extra capacity for any future expansion on their site. The station needs to be located where all the existing pipes are and does not lend itself to connections to other areas. This is not a regional station as it only serves Tri-County Council property, but is sized to handle their flows, future flows, and bus wash.

Council reached unanimous consensus to allow the team to move forward with the development of the annexation resolution documents as discussed.

Following a ten-minute break, Council re-convened at 4:55 p.m. in Council Chambers.

MD SUN presentation

City Council was joined by Corey Ramsden, MD SUN Program Director and Anya Schoolman, Community Power Network Executive Director to explain the MD SUN program. MD SUN is a 501(c)(3) non-profit organization and are a project of the Community Power Network (CPN), a network of grass roots, local, state, and national organizations working to build and promote locally based renewable energy. They discussed the creation of the Solar Group to extend the benefits of solar power to Salisbury's residents through grassroots organizing, policy engagement, and ratepayer advocacy, and explained they assist homeowners go solar through the use of free technical assistance and other organizing support.

MD SUN helps Marylanders save money through solar power by providing:

- Helping create community-based renewable energy projects by providing resources, technical assistance, case studies, and connections to other practitioners
- Provides support for strategic planning, fundraising, list building, petitions, and other tools, and connect people to the experts
- A network for existing community groups to connect, collaborate, and grow

After discussion, President Day suggested for MD SUN to follow up with Administration to see if there could be an MOU agreed upon and if there is interest to move forward with the project.

Main Street Masterplan

Public Works Director Mike Moulds, Deputy Director Amanda Pollack, and Project Engineer Paul Mauser joined Council to discuss the Main Street Masterplan.

Mr. Moulds reported one of the challenges was that the City does not control the full right of way width on Main Street on the side to utilize the necessary width to add two 5-foot bike lanes. A traffic study was done and the average speed on Main St currently is 20 miles per hour, not the kind of speeds that would threaten safe shared bike lanes.

Ms. Pollack expanded on the presentation with the following information:

- The design currently includes a 12 foot shared lane and 8 foot parking lane in both directions, using approximately 40 feet of pavement.
- The project is presented with an alternative two – ten foot travel lanes, two – five foot bike lanes, and two – seven foot parking lanes (about 44 ft. of pavement) The four extra feet found by the right of way line goes right in front of the planters on the south side of Main Street.
- To get the extra four feet she suggested the planters could be removed a sidewalk directly up into the base of the buildings.
- The areas that cannot be changed based on how the buildings are made include stairs, glass vestibule and other structures. The proposal would be to keep the landscaped strip where all the trees, benches, streetlights, and trash cans are and if the sidewalk area was eliminated, there would not be a wide enough sidewalk unless the 4.5 feet of “blue” area is used. There would then be no benches, street lights, trees, planters, trash cans, etc.

Since last meeting, Ms. Pollack said they looked at the Old Court House owned by Wicomico County. Along this building on Main Street is a significant retaining wall, and to gain the four feet they could cut back and re-do part of the retaining wall. The trees and yard of the Court House would be impacted. At the Post Office property, the steps go right to the edge of the right of way, so the front of that building would require re-planning. Both of these would require historic approval (Court House property) and Federal approval (Post Office property).

President Day recapped that based upon what Council was saying, it would be too difficult to achieve bike ability on this stretch of Main Street, but this should not discourage the City from ensuring that we include dedicated bike lanes in every other project possible.

The following comments were provided by one member of the public:

- Clarified the minimum width recommended for the street of this speed is four feet (Five foot lanes are being suggested in the Plan which allow adequate space for parked cars)
- This is keeping for what is planned for West Main Street
- Proponent of this revised plan since the City has aspired to become more bike friendly, and this encourages those who are interested in cycling but worried about the safety aspects to get out there and try it
- A study was done in Los Angeles showing that cycling rates increased for areas where the City had dedicated bike lanes
- It's important for the City to have dedicated bike lanes and sees the good work being done for the Main Street design as being an example of everything that's going to be done in the rest of the City

Mr. Moulds added that Public Works would like to proceed with the design, and if approved the changes would require a budget amendment to pay property owners for the easements on East Main Street. The construction budget would also change because they would be tearing out the planters, necessitating aesthetic concerns that would require juggling additional construction costs. The dedicated bike lanes would require a change order for \$50,000.00 for the design.

After further discussion, Mrs. Mitchell and Mr. Heath did not support the revised plan described above (for safety reasons). They felt the street area was just too tight for two vehicles and two bikes, and accidents would surely occur. Mrs. Mitchell commented that delivery trucks already have space challenges when passing parked vehicles on Main Street. (Council did not reach consensus to accept the suggested changes)

The update was for Council information and to receive Council's input on adding the dedicated bike lanes on East Main Street as part of the Main Street Masterplan.

Plumbing Permit Fee Increase Recommendations

Mr. Holland joined Council at the table to discuss the recommendation to increase the plumbing permit fees. He explained that periodically the fees are reviewed to see if they are in line with what the permits cost to issue, and the last time the fees were adjusted was in 2006. He recommended increasing the plumbing permit by \$2 per fixture, place a gas permit fee in place and increase the well permit fee from \$25 to \$50. He also proposed a change in the use fee of \$50 in keeping with the new building codes.

Mr. Heath opined that in an economic situation where we need to encourage building and small businesses to success, there is question of the timing of this recommendation. Mrs. Mitchell asserted that if we are not covering our costs then we need to look at this, and all fees need to show the nexus in relation to their costs. Mr. Holland indicated the justification could be made and Mr. Stevenson had asked the department heads to prepare for the budget to see if all departmental fees covered their costs.

Mr. Day encouraged Mr. Stevenson to tie fees to needs and bring the proposal to administration as the economy is closely watched. The Economic Development Team consisting of the County,

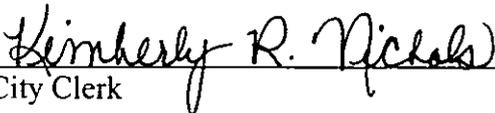
City and Chamber of Commerce, strive to be more user friendly and competitive, and easier to work with. After discussion, Council encouraged Mr. Holland to keep the suggestions and bring to administration during next years' budgeting process as we continue to await and see that the economy is rolling forward and people are investing in their homes and businesses again.

2003 CDA Bond Reallocation

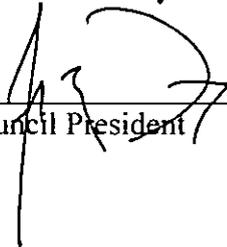
Internal Services Director Keith Cordrey joined Council to discuss the 2003 CDA Bond fund reallocation. Proceeds from the fund (\$75,000) will be redirected for the following projects: 1) City Park tennis court lighting improvements, and 2) Marina signage and fence improvements.

Council reached unanimous consensus to advance the legislation to the next Council meeting.

The Work Session adjourned at 5:58 p.m.



City Clerk



Council President