

**CITY OF LAURINBURG  
COUNCIL MEETING  
SEPTEMBER 19, 2006  
MUNICIPAL BUILDING  
7:00 P.M.**

**Minutes**

The City Council of the City of Laurinburg held its regular monthly meeting September 19, 2006 at 7:00 p.m. in the council room of the Municipal Building. The following Councilmembers were present: Rembert DeBerry, Lisa D. Griswold, Curtis B. Leak, Thomas W. Parker, III, and Herbert M. Rainer, Jr.

Also present were Craig F. Honeycutt, City Manager, Dolores A. Hammond, City Clerk, and Charles L. Hicks, Jr., Assistant City Attorney.

Councilmember DeBerry gave the invocation.

**APPROVAL OF MINUTES**

Motion was made by Councilmember Griswold, seconded by Councilmember Leak, and unanimously carried to approve the proposed minutes from the regular meeting held August 22, 2006.

**PUBLIC HEARINGS**

Mayor Slaughter stated that there are two public hearings to be held. She asked the Assistant City Attorney to remind Council the nature as well as procedural protocol for each of the hearings.

Assistant City Attorney Charles L. Hicks, Jr. explained there are two items on the agenda that require public hearings, but they are two uniquely different proceedings. He then explained that the first public hearing is a request to rezone property from Residential-6 to Residential-6 Mobile Home. He stated that this request is a legislative type hearing before Council. He informed Council that the central issue is, "Does the proposed amendment to our zoning ordinance advance the public health, safety, or welfare". Mr. Hicks explained that the matter would be considered following a public hearing at which persons who are interested in the rezoning will have the opportunity to come forth and address Council. He further explained that this hearing is not a quasi-judicial hearing as the second hearing is. He then explained that the difference between the hearings is that the second hearing concerns a request for a conditional use permit. He stated that in such hearings Council is governed by different sections of the City's Unified Development Ordinance as well as different sections of the North Carolina General Statutes. Mr. Hicks explained that the request for a conditional use permit is a quasi-judicial hearing that is conducted by Council as if sitting as judge and jury in a trial. He further explained that in such hearings the proponents and opponents have the right to present evidence. He continued by explaining that evidence is presented under oath and that parties have an opportunity to cross-examine the evidence or witnesses against them. He also explained that any decision that is made by Council must be made based upon competent evidence that is presented before Council in the hearing and that matters not presented at the hearing should not be considered by Council. Mr. Hicks stated that these are distinctly two different types of hearings and that the rules are different for each. He further stated that he wanted to remind Council of the difference in the hearings and to do so publicly to make certain that the people who are present, and will see these hearings take place, will realize that there are two different type proceedings.

**PUBLIC HEARING ON REQUEST TO REZONE PROPERTY LOCATED AT 10425 TURNPIKE ROAD**

Mayor Slaughter explained that this public hearing is to consider Ordinance No. O-2006-14 which rezones from Residential-6 to Residential-6 Mobile Home property located at 10425 Turnpike Road. She then declared the public hearing open.

Mr. Tommy Locklear appeared before Council on behalf of his mother, Vera McCall, to request the rezoning of property located at 10425 Turnpike Road from Residential-6 to Residential-6 Mobile Home. He explained that his mother is in poor health, that family lives near the subject property who is able to assist in her care, and that the reason for the rezoning request is so that his mother can purchase the property and locate and move into a new doublewide mobile home on the property. Mr. Locklear explained the plans to purchase the property, which sits off the main road about 100-feet, are contingent upon the outcome of the rezoning request. He then explained that a mobile home was previously located on the lot. He also explained that the property is not in the city limits but is in the City's Extraterritorial Jurisdiction. He informed Council that a well and septic tank is already on the property. He also explained that the mobile home will be located adjacent to a dirt road (Ridgeway Dr.) and that Ms. McCall's sons will maintain the road. He then stated that he felt that locating a new doublewide home on the property would not negatively affect the value of either the property or the surrounding property.

Angel Hernandez appeared before Council and spoke in favor of the request. Ms. Hernandez stated that she is the daughter of Ms. McCall and explained Ms. McCall's health problems. She informed Council that she is asking to have the property rezoned so that family living in the area can better take care of her mother.

Ms. Judy McCormick, 10601 Turnpike Road, appeared before Council to oppose the request. She stated that by it is her understanding that this area is zoned Residential-6 which allows site built homes and modular homes. She then stated that she feels that property values would decrease with the location of a mobile home on the lot. She explained that there are many properties in the neighborhood that need correcting and cleaning up. She then stated that there are vacant lots in the area and that if a mobile home is permitted to locate at this location, then what is to stop other mobile homes from locating in the area. She stated that there is land in the area that could be considered for future development and that the location of any more mobile homes in the area would bring the property values down and limit the development potential of the property in the area.

Upon question by Councilmember Leak, Mr. Bill Peele, City Zoning Officer, stated that water and sewer is available in the area.

Upon question by Councilmember DeBerry, Mr. Peele stated that Ridgeway Drive is undeveloped and is an easement that provides access to the property in question and one other lot in the area.

Councilmember Leak asked for clarity in the difference between doublewide mobile homes and modular homes.

Mr. Peele explained that the difference depends on which building code is used. He stated that the North Carolina State Building Code governs modular and site built homes. He continued by stating that single and doublewide homes are governed under the Housing and Urban Development standards which are less restrictive. He explained that both types of homes can be on wheels or delivered on flat bed trailers.

Upon question by Councilmember DeBerry, Mr. Peele explained that underpinning the home (with a solid masonry foundation) is a requirement under Residential - 6 Mobile Home by the City as well as the county.

Mayor Slaughter declared the public hearing closed.

Councilmember Parker stated that this request concerns how the property should be zoned and not the personal circumstances of the applicant and that it would not be in the public interest to rezone the property.

Councilmember Rainer stated he visited the area and found there to be mobile homes already located in the area. He explained that there is nothing relatively new in the area and that a new doublewide mobile home would improve the area. He then stated that he did not feel as though the property values would decrease.

Councilmember Griswold concurred with Councilmember Parker regarding the current zoning classification of the land and indicated that a denial of the request would maintain the City's overall zoning plan. She also stated that she felt that if this property were to be rezoned, it would be spot zoning.

Following further discussion, motion was made by Councilmember Parker to deny the rezoning request at 10425

Turnpike Road from Residential-6 to Residential-6 Mobile Home stating this action being reasonable and in the public interest. Councilmember Griswold seconded the motion and it was denied by the following vote.

Ayes: Griswold, Parker  
Nays: Leak, DeBerry, Rainer

Councilmember Griswold stated that she felt that acting favorably upon the request would set a precedent by stepping outside what is proper for consideration.

Councilmember DeBerry moved for the adoption of Ordinance No. O-2006-14 which rezones from Residential-6 to Residential-6 Mobile Home property located at 10425 Turnpike Road. Councilmember Leak seconded the motion, and it was approved by the following vote:

Ayes: DeBerry, Leak, Rainer  
Nays: Griswold, Parker  
(Ordinance No. O-2006-14 on file in the City Clerk's Office)

### **PUBLIC HEARING ON REQUEST FOR A CONDITIONAL USE PERMIT TO OPERATE A SALVAGE YARD AND METAL RECYCLING CENTER AT 10461 BARNES BRIDGE ROAD**

Mayor Slaughter explained that this public hearing is to consider a request for a conditional use permit to operate a salvage yard and metal recycling center located at 10461 Barnes Bridge Road. Mayor Slaughter asked the Assistant City Attorney to reiterate the rules to conduct this public hearing.

Mr. Hicks stated that this is a quasi-judicial public hearing. He explained that Council sits as judge and jury. He then explained matters that are evidence and presented before Council are to be submitted under oath. Mr. Hicks then stated that the proponents and opponents of the proposed measure are to have an opportunity to cross-examine the evidence and witnesses that are presented against them. He explained that it should be competent evidence. He further explained that since this is a conditional use permit, if Council finds that the request and the requested permit are within its jurisdiction; that the application is complete; and that the development will comply with the requirements of the Chapter, then that is the initial determination that is to be made by Council. He continued by explaining that if Council makes that determination then the permit should be granted unless Council goes further to find that, more probably than not, the development will either (1) materially endanger the public health or safety; (2) substantially injure the value of adjoining or abutting property; (3) not be in harmony with the area in which it is to be located; or (4) not be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Council. Mr. Hicks reiterated that the only matters that should be considered by Council are evidentiary matters which are presented before the Council tonight.

Mayor Slaughter then declared the public hearing open.

Mr. Bill Moser, first being duly sworn, stated that his firm represents Mr. Troy Martin and the Martin family and filed the proposed conditional use permit request on their behalf. Mr. Moser gave a brief history of the Martin family. Mr. Moser explained that he had asked the Martins to keep a daily log of how many customers they had at the Hamlet location. He also stated that he asked them to keep gross pay out and the number of vehicles entering the premises. Mr. Moser informed Council that during the month of July, and they were closed the first week of July, the plant averaged about 60 customers a day, and during the month of August, the plant averaged about 50 per day. He explained that the plant is open from 8:00 a.m.-5:00 p.m. He then explained that there is not a heavy traffic, and there are not cars backed up on the highway to enter the premises.

Mr. Moser stated that the question has been raised about salvaged or used vehicles. He informed Council that the business received approximately ten vehicles per day on average in July and approximately eight vehicles per day on average in August. He then stated that the vehicles are not shredded at the Hamlet location and they would not be shredded, if Council saw fit to permit the conditional use, at the Laurinburg location. He then explained the process that happens to the vehicles once they are received at the plant. He stated that Mr. Martin and his family would be

making a substantial investment in this piece of property for the purchase, and then a substantial investment in making renovations. He then explained that although the restrictions require a green growth barrier, the Martins are prepared to erect a fence that has slatted barrier or green strips that are in many chain link fences. He continued by stating that the Martin family has every intention to continue to be good neighbors in this community. Mr. Moser stated that the property is zoned industrial and that there are many options for a piece of property zoned industrial. He explained that local people do not own the property and at some point, they are going to sell this industrial piece of property, if not to the Martins, to someone else. He then stated that probably the most overriding factor is that the pay out for the Hamlet site in July and August was approximately \$200,000.00 a month for scrap and salvage. He further commented that, it is his understanding, if that were an average pay out, there would be 2-3 million dollars pumped into the county on an annual basis plus the salary that the operation would pay its employees. He concluded by emphasizing that the Martins live here, they were raised here, they want to be good citizens, and they want to have a business that will not create a problem for anyone.

Mr. Troy Martin, first being duly sworn, stated that several months ago he came to see Mr. Peele, City Zoning Officer, with a request to zone a piece of property. He stated that he did not know what he was getting into. He explained that the proposal is to zone the property for a metal recycling center. He then explained that he would like to rejuvenate this county and the only way he knows how to do that is for people to go to work. He stated that he feels that there would be a lot of money coming into the county from customers that would sell scrap to them as well as the monies paid to the county by the company. He then stated that it would benefit his company and Laurinburg. Mr. Martin concluded by stating that his sons would provide additional information to Council unless there are questions for him.

Mark Martin, first being duly sworn, appeared before Council in favor of this request. He explained that he runs the Cheraw operation and helped get the Hamlet operation started. He stated that representatives from the City as well as others from the community had visited the Hamlet site. He then stated that they had furnished Mr. Moser financial information from the Hamlet yard and that the gross revenue from the facility will probably be between 2.4 and 3 million dollars per year. He then stated that July and August are slower months. He also explained that there is a competitor in Hamlet so there are actually two yards there. He further stated that if there were not another yard there that they do not know what the amount of revenue would be. He stated that he feels that the Laurinburg yard would actually generate more revenue than the Hamlet yard.

Mr. Martin proceeded to explain that the reason they are considering purchasing of the 34-acres of property is because that the site was available at a reasonable price and there are already warehouse facilities erected on the property. He also stated that with the proposed location more scrap would come from the Wagram, North Carolina and Robeson County area. He explained that this proposed site is considered a feeder yard and a shredder will not be on the property. He continued by stating that there are many concerns about the amount of pollution that will be at the yard. He explained that vehicles would account for between 5 and 10 percent of the business of the yard. He stated that most of the business is loose scrap. Mr. Martin then explained the procedure that occurs when a car comes into the facility. He stated that a hole is in the gas tank, oil pan, and transmission pan, and fluid has to be drained out of the radiator when it comes into the yard. He then explained that most of the time they require that the radiator hose be cut so that they know fluids in the vehicle have been drained. He also stated that, when a car comes in, someone at the yard would cut off the catalytic converter. He also explained that they would check everything, and if the car has not previously been properly drained, then they will drain it. Mr. Martin then informed Council that one of the key advantages of this particular site is that the old kilns that are located on the property already have drainage capabilities. Mr. Martin then explained that noise would not be a problem. He stated that a concern is the decrease in property values, but because it is an old abandoned sawmill, a person can now ride by and see that there is nothing going on. He then stated that, with the proposed site, they would be required to erect a 20-foot barrier so that no one will be able to see anything on the property from the road. He continued by stating that one other issue that concerns people is the potential for fires. He explained that the proposed site is a feeder yard and that nothing will be stockpiled; therefore, there is less potential for fires. He continued by stating that another issue is mercury. He then explained that mercury does not find its way into water when cars are crushed, but rather when the vehicles are ground. Mr. Martin stated that the State of North Carolina has passed a law that requires that mercury switches in a vehicle have to be removed when it comes into the facility, and if they have not previously been removed, someone at the yard has to remove them. Mr. Martin then stated that he, his brother, and sister live in Scotland County, and his brother would manage the proposed facility.

Upon question by Councilmember DeBerry, Mr. Mark Martin explained that as a feeder yard, the proposed facility would actually supply material to the Cheraw yard or to another shredder. A feeder yard is a facility that receives materials just like a collection site. He then explained that the material is left at the site, sorted and then loaded onto trucks and shipped elsewhere. He stated that 70 percent of the material collected would be taken to the Cheraw yard, and the other 30 percent (washer, dryers, white goods, and cars) would go to a shredding site in Darlington, South Carolina.

Upon question by Councilmember Rainer, Mr. Martin explained the draining process if vehicles have not been drained of fluids and the type barrier proposed for the site. He stated that the barrier would consist of trees similar to a Cypress tree at a height of 20-feet.

Upon question by Councilmember Parker, Mr. Martin stated that South Carolina does not require the monitoring of wells. He stated that the Cheraw site is located on an old landfill, and the plant has a storm water plan which is checked periodically by someone from the State. He informed Council that a full assessment of the site would be conducted once the request is approved.

Councilmember Griswold asked about the type of inspection process that is in place to insure compliance with State laws at the proposed site.

Mark Martin explained that the South Carolina Department of Health and Environment Control (DHEC) randomly inspect sites. He stated that DHEC might inspect three-four times a year or once every two years. He then explained that citizens could call the State and inquire as to when an inspection had been conducted, and then they might schedule an inspection.

Upon question by Councilmember Griswold, Mr. Martin stated that the Cheraw location does not have a shredder. He explained that the location has a shear that processes loose type material with no waste involved. He then reported that there are two reasons why you cannot put a shredder in Scotland County. The first reason is, to run a shredder competitively; it takes grinding of between 20,000 and 25,000 tons per month. The expected tonnage at this proposed location is only between 1,000-2,000 tons per month. Second, there needs to be rail access to a site with a shredder in order to be financially feasible, and the proposed site does not have rail.

Councilmember Griswold asked why this particular site was chosen and if there is not another industrial location available in Scotland County.

Mr. Mark Martin explained that this location was offered to them for \$450,000.00. He then explained that the warehouses on this location would cost probably one-half million dollars to construct and that the property would cost probably another \$300,000.00. He stated that this site is in a good area and is a perfect fit for the Martin business. He then stated that if this same site was available elsewhere then that site would have been chosen, but the opportunity was not available elsewhere. It also being located on the South Carolina line is why this particular site was chosen.

Mr. Martin concluded by stating that there has been a loss of many jobs in Scotland County, that this proposed business would generate jobs, and that it has the potential to be a five million dollar business that would benefit the community.

Mayor Slaughter thanked Mr. Mark Martin for the information presented to Council.

Mr. Ken Martin, first being duly sworn, appeared before Council in favor of this request. He informed Council that he is the son of Mr. Troy Martin and is the attorney in the family. He explained that he would like to address some of the benefits and concerns regarding the scrap yard business. He stated that he feels that both the scarp yards that his family owns have been a great help to local law enforcement. He explained that they have helped law enforcement by providing them with information about customers if local law enforcement has a question or concern about particular materials or vehicles that they have purchased. He also explained that he believes that there is a junk car law in Laurinburg/Scotland County and that the close proximity of the salvage yard will be a benefit to enforcement of that

law so that junk vehicles will not be a problem in Scotland County.

Mr. Ken Martin continued by referencing a pamphlet that is provided by the State that explains mercury switch law and the details required by salvage yards to comply with the handling of mercury switches. Mr. Martin explained that he feels that Scotland County is growing and that a salvage yard is necessary in Scotland County. He then stated that he feels that others also think it is necessary but do not want it located in their back yard.

Upon question by Councilmember Griswold, Mr. Ken Martin explained that if a mercury switch cannot be removed from the car, the vehicle has to be identified as still having the mercury switch and a log of these vehicles have to be kept. Mr. Martin stated that he assumes that the vehicles will be inspected by the State; the State will determine that the switches cannot be removed, and then the plant operators will be told how to dispose of the vehicle.

Mayor Slaughter thanked Mr. Ken Martin for the information presented to Council.

Mr. Troy Martin, in response to a question asked concerning the monitoring of wells, stated that in 1989, the Environmental Protection Agency sent two vanloads of college students from Georgia Tech University to the yard, and they stayed there two days drilling wells and looking for hazardous waste. He stated that when they left the plant was given an A+.

Mr. Robert Currie, first being duly sworn, appeared before Council in favor of this request. Mr. Currie stated that he had visited the Hamlet location and found that the noise was minimal. He also reported that unless a person knows where the facility is located that it would be very hard to find. Mr. Currie thanked Council for its time.

Ms. Bessie Martin, first being duly sworn, spoke in favor of this request. She stated that she lives right beside the proposed facility and has no complaints. Ms. Martin informed Council that Mr. Troy Martin is her brother-in-law.

Mr. Nick Sojka, attorney at law, approached Council and suggested that all speakers that oppose this request be sworn in collectively in order to save time. Mr. Sojka explained that two different families interested in this matter, Mr. and Mrs. John A. Jackson, Jr. and Mr. and Mrs. Buddy McCarter, have retained his services regarding the proposed request. He stated that at an appropriate time he would like to address Council more on the burden of proof and the standard that Council will have to consider when considering all the evidence in this matter.

Mr. John A. Jackson, Jr., first being duly sworn, informed Council that he is a lifelong resident of Laurinburg even though he currently lives outside the city limits (in Scotch Meadows subdivision). Mr. Jackson explained that he and a group of residents of Laurinburg have been actively working the last couple of weeks to find out as much information as possible about the proposed salvage yard. He then stated that he would like to share that information with Council.

He stated that he would like to use a Power point presentation and pictures. Mr. Jackson then stated that he had read Section 54(d) of the City of Laurinburg Unified Development Ordinance. He explained that his understanding of the ordinance means that Council may deny the permit if it concludes, based on information submitted at the hearing, that if completed as proposed, the development, more probably than not, will clearly endanger the public health or safety. He stated that Council may also deny the development if, more probably than not, it will substantially injure adjoining or abutting property; council may deny the request if it concludes, based on information submitted at this public hearing, that more probably than not it will not be in harmony with the area in which it is to be located or it will not be in the general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Council. Mr. Jackson explained that he would address five areas, which includes noise, pollutants, fire hazards, aesthetics, and the resulting drop in property values as a result from the other four items. Mr. Jackson referenced the Mayor of Fulton, New York who reported to *Recycling Today* that “the dust, mud, and noise (from this type of business) have had an adverse effect on the quality of life in that neighborhood for years”. “We have tried to do things to remedy that before but it didn’t work.” Mr. Jackson then referenced a Philadelphia compliance and enforcement program that stated, “metal scrap yards and auto salvage yards are by their very nature businesses which create excessive noise.” He then reported that he had found these statements to be true from his visit to the Martin’s facilities. He then referenced a picture of a bus that arrived at the Hamlet plant and the way it was handled. He stated that it was picked up by a crane and then slammed to the ground repeatedly.

Mr. Jackson then addressed the issue of pollutants. He stated that he understands that there are pollutants commonly associated with salvage yards which include mercury, chlorine, propane, acetylene, ammonia, ethylene oxide, and sulfur dioxide. He reported to Council that the Environmental Protection Agency (EPA) responded to a release of chlorine at a Fayetteville site that occurred when the property owner attempted to salvage the metal in a compressed gas cylinder by cutting it with a torch. He stated that the EPA oversaw the disposal of six drums of Freon, three leaking chlorine cylinders, and two leaking sulfur dioxide cylinders. He then stated that three months later on the very same site in Fayetteville, NC, the EPA found 642 compressed gas cylinders or propane tanks that were not empty.

Mr. Jackson then referenced a picture of the Martin facility in Hamlet in which there are compressed gas tanks. He stated that he did not know whether they have any propane or other solvents in them. He then referred to a picture of a typical car crusher and explained that there is concern about mercury switches located in the vehicle. Mr. Jackson stated that he is of the understanding that one gram of mercury (amount of mercury that is in a bullet-sized switch), is enough to contaminate a 20-acre lake. He then referenced a spokesman for the National Wildlife Federation that stated, "we need to be as drastic at cutting mercury as we have been in cutting lead".

Mr. Jackson discussed fuel tanks located on the Hamlet yard and the possible leakage into the ground water. Mr. Jackson then discussed the potential problem of fires associated with scrap yards due to flammable materials in the debris collected by the yard. He referenced fires that have occurred within the vicinity of North and South Carolina which includes Darlington County, York County, Hemingway, South Carolina, and Cheraw Metal and Iron Works, which is owned by the Martins. He stated that a fire that occurred in Darlington County in May 2006 had multiple explosions, an injured fireman, and it took some 27 hours to extinguish. He also informed Council that a fire had occurred at the Cheraw Iron & Metal Works business, owned by the Martins, in April 2004. He then stated that there are two daycare centers located within one mile of the proposed site. He explained that at the Hemingway, SC fire it took more than 60 firefighters from five department departments to handle and it burned all night.

Mr. Jackson stated that at this time, he would like to introduce Mr. Jim Mason, local real estate appraiser, to address the concern of property values.

Mr. Jim Mason, first being duly sworn, stated that he lives at 1205 Sheppard Avenue, Laurinburg, North Carolina, and is the owner and operator of the Mason Company, an appraisal and property management firm. Mr. Mason then listed his qualifications as a real estate appraiser. He explained that when asked to review the request that he immediately checked on how the surrounding property was zoned. He stated that the property surrounding the proposed site is zoned Residential-20 Mobile Home, Residential-15, and Residential-20. He also informed Council that along US 15-401 there is a section that is zoned general business.

Mr. Mason stated that there are a number of houses located directly across the street from this proposed site and that Scotch Meadows Subdivision is located approximately 475 feet from property line to property line. He advised Council that the proposed site had been in operation as a hardwood production plant for probably 30 years or more before the county had zoning restrictions. Mr. Mason explained that there are two different businesses with the proposed use being more offensive to the residential property than the original use. He then stated that a metal salvage facility, in his opinion, does not need to be adjacent to residential property and it can do nothing but hurt the overall values in this neighborhood. He further stated that a salvage yard is really a glorified name for a junkyard even if there are trees around it or fences around it and does not need to be around residential property. He stated that the traffic, noise, and the unsightliness all go along with a salvage yard.

Mr. Mason pointed out that in the area there is a Carolina Bay which is a naturally occurring condition existing only in North and South Carolina. He explained that the characteristics of these bays are that they have high water tables, they hold water, and they are not suitable for septic tanks because the land will not perk. A Carolina Bay abuts the property in question, which leads him to believe that, if there is contamination on the property, it will be easier spread into the groundwater (due to the water table being higher). Mr. Mason continued by stating that, based on his experience, the proposed salvage yard would have a negative effect on the property values, and it appears that there could be a greater likelihood of the spread of pollutants due to the high water table. He continued by stating that he is not against a recycling center, but there is a place for it and being located next to a residential neighborhood is not the place. He concluded his remarks by stating that the purpose of zoning laws is to protect the continuity of existing neighborhoods

which will ensure the quiet enjoyment of the surrounding residential property owners.

Councilmember Griswold asked Mr. Mason if it is his professional opinion that the location of a salvage yard on the subject property and the proximity to all of the residences in the area would substantially injure the value of the properties in that area.

Mr. Mason stated that, in his opinion, there would be a decrease in value of the surrounding residential property, but he could not say how much.

Upon further discussion, Mr. Mason reiterated that the stigma of a salvage yard would affect property values as well as any fires that may occur on the property. He also stated that lending institutions would probably have a hard time loaning full value to property in that area.

Upon question by Councilmember Rainer, Mr. Mark Martin stated that the Cheraw site is a processing yard.

Upon question by Councilmember Griswold, Mr. Mark Martin explained that the reason fires occur at a salvage yard is that tons of feedstock are stored on property. He then explained that the Cheraw plant location had about 4,000-5,000 tons on the ground when its fire occurred. He stated that the fires in the Hemingway and Darlington areas had 30,000-45,000 tons of stock material on the properties. He then stated that at the Hamlet yard there are probably about 60-80 tons of cars and appliances on the property.

Mr. Mark Martin also explained that any time torches are being used there is a possibility of a fire, but most of the time it can be extinguished without calling the Fire Department. He then explained that at feeder yards there is not a problem with major fires.

Upon question by Councilmember Griswold, Mr. Mark Martin explained that when draining the materials the oil companies might come by at least once a month or so to collect the material. He also explained that depending on the amount of material collected the companies are called to collect what has been drained.

Upon question by Councilmember Rainer, no one was able to provide a date as to when the sawmill, which was previously located on the property in question, began its operation. There was a general discussion that the sawmill may have been located on the property for at least 30-35 years and that Scotch Meadows subdivision was in existence prior to the sawmill.

Mr. Nick Sojka asked if he could ask a few questions for clarification and the questions would be directed to Mr. Mason.

Mr. Sojka inquired as to whether Mr. Mason's opinion was that a decrease in value of the nearby residential property would occur if the request for conditional use permit were approved and the operation was located upon the premises.

Mr. Mason replied yes.

Mr. Sojka referred to a map and stated that there are residential areas around the proposed location and that Scotch Meadows is 475 feet from the property line of the subject property. He asked Mr. Mason if his opinion when he talked about a decrease in property values was that only the homes closest to the proposed location would be affected or was he referring to the neighborhood as a whole?

Mr. Mason replied that he was referring to the whole neighborhood.

Upon further questioning by Mr. Sokja, Mr. Mason stated that the proposed location of the salvage yard would have a definite negative effect on property values for the whole neighborhood but that he did not know how much.

Mr. Mason, answering further questions, stated that, based upon his appraising experience, Scotch Meadows is the largest single concentration of high-end residential housing in Scotland County. He also stated that the average price of a home in Scotch Meadows is between \$180,000.00 and \$190,000.00. He continued by stating that the stigma of a

salvage yard in a particular area would radiate out to other surrounding areas as well as the neighborhood across the street from the proposed salvage yard and would have a negative effect on property values. Mr. Mason stated that this area is a gateway into Scotland County. He then stated that there is development in the area and with the location of a salvage yard, it could stop any further development. He further stated that in his opinion zoning is in place to protect the existing property owners.

Mr. Troy Martin asked Mr. Mason what affect the seven empty casinos located near the area have on property values in the area.

Mr. Mason replied that they also have a negative effect on the area.

Upon question by Councilmember Griswold, Mr. Mason stated that there is property adjoining the subject property that has not been developed but could eventually be developed. He then stated that in his opinion the location of a salvage yard could potentially stop any development in that area.

Mr. Jackson then resumed his presentation by describing how salvage would be brought onto the site and that there would be a significant number of trucks hauling material to the site. He stated that it would be very easy for the materials to fall off the truck and get into the roadways and cause accidents or cause tires to be cut. He then reiterated that the location of a salvage yard would materially endanger the public health or safety because of harmful pollutants commonly associated with scrap yards and the probable risk of significant fires. Mr. Jackson then introduced Dr. John K. Mahon who is a medial doctor practicing neurology in Laurinburg.

Dr. John K. Mahon, first being duly sworn, informed Council that he has been practicing medicine in the community for 3 ½ years. He gave a brief history about his medical background. Dr. Mahon stated that he would like to address the neurological problems that could develop from the possible contaminants at the proposed facility. He then referred to a neurology book entitled "*Neuro Toxicology*" as a resource of neurological problems. Dr. Mahon then discussed property values and the recruitment of physicians to the area. He explained that the decrease in property values could deter others from considering locating in the area and that this could affect the community from an economic standpoint.

He then explained that he is originally from the coal mining regions and has witnessed the physical scarring of land where it can lay flat for fifty years and never be reclaimed. He stated that acid could get into the water and that sulfuric acid is present in every battery. He then suggested that it would pollute the water because of the high water table in the area. He then addressed lead and mercury and stated that mercury is not only present in switches but also CD players and every electronic piece of equipment in a vehicle. He then referred to other contaminants that could pollute the area such as lead seeping into the water as well as lead fumes, which he stated is the most toxic form of lead intoxication. He also stated that this type of business could cause or result in the creation of methane gas, which is an explosive gas. Dr. Mahon concluded by stating that there is potential for smoke, toxins, and changes in the biologic environment and perhaps emotional problems for citizens if this proposed facility is allowed to operate.

Following Dr. Mahon's testimony, Councilmember Griswold asked "Would, in your professional medical opinion, the location of a salvage yard materially endanger the public health or safety?"

Dr. Mahon replied yes.

Mr. Jackson then concluded his presentation by commenting that, from the information presented to Council, the location of this proposed salvage yard would materially endanger the public health and safety, would injure the value of adjoining property, would not be in keeping with the residential nature of the community and would not be in conformity with the land use plan. Mr. Jackson stated that Council should deny the request for a conditional use permit to operate a scrap metal salvage yard on Barnes Bridge Road. He then thanked Council for its patience. Mr. Nick Sojka stated that he had brief remarks he would like to make and that the remarks are directed to some of the evidence that Council has already heard and what he believes is Council's standard to be applied when considering that evidence.

Mr. Sojka stated that he is an attorney representing Mr. and Mrs. Buddy McCarter and Mr. and Mrs. John A. Jackson. He then referred to an Environmental Protection Agency (EPA) report regarding Woody's Salvage Yard located in Cumberland County that was the subject of an environmental cleanup. This report makes reference to tanks and hazardous materials in salvage yards.

Mr. Sojka then stated that he would address some of the statements that were previously made by the proponents of the request. He referred to the statement that was made that the operation was good for law enforcement. He then stated that he had heard in some of the comments made that people who may be dealing with scrap yards may, in fact, be thieves who want to dispose of stolen materials and that is why a log of the materials received may have helped law enforcement. He further submitted respectfully to Council that having a market for stolen materials in an area where there is known drug activity is not necessarily a helpful thing and may be a danger to public health and safety and the public welfare.

He continued by stating that one other comment made was the notion that this may in some way be a necessary evil for our community. He explained that Scotland County has been here for a long time and while there may have been another facility like this before, he is not aware of one. He then explained that he did not hear any data or real factual information that would suggest that a community this size would need this type facility. He further stated that this is a good economic opportunity for the Martins and it sounds like they were offered the property at a price that was agreeable to them. He also stated that whether or not this is something that is necessary for our community would be overstating the point.

Mr. Sojka explained that the balance of his remarks is about the legal standard that Council has when considering this proposed request. He referred to the City's ordinance that states that even if the permit issuing board finds that the application complies with all other provisions of this chapter, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed the development more probably than not (1) will materially endanger the public health or safety; (2) will substantially injure the value of the adjoining or abutting property; (3) will not be in harmony with the area in which it is to be located; or (4) will not be in general conformity with the land use plan, etc.

Mr. Sojka stated that if the Council finds that more probably than not, one of above-mentioned conditions apply and that if the evidence is before Council, then Council is fully justified in denying this request. He explained 50.1% is all the burden of proof that is needed to deny a conditional use request. He further explained that all that is needed is for Council to find one of the four points listed to deny a request. He stated that, for Council's analysis, if it concentrates on the first two - (1) materially endanger the public health or safety; or (2) will substantially injure the value of the adjoining or abutting property - there is more than enough evidence before Council to support a decision in favor of denying the request.

Mr. Sojka also stated that Council has heard from a neurologist and was presented a laundry list of toxins that a yard such as a salvage yard can introduce. He further stated evidence of fires was presented as well as the opinion of Mr. Jim Mason regarding property values.

Mr. Sojka then stated that he would like to leave Council with one last thing and that concerns what is considered under the law to be "competent material substantial evidence" justifying any decision counsel might make. He then explained that term does not mean evidence that rises to the level of evidence that attorneys have to present in an actual court trial. He further explained that the basis for his explanation is a case from the North Carolina Supreme Court, "Humble Oil Co. vs. the Town of Chapel Hill". In that case, it was stated by Chief Justice Susie Sharpe that "since boards of Aldermen and City Councils are generally composed of laymen, who may or may not have the benefit of legal advice, they cannot reasonably be held to the standards required of judicial bodies, for that reason". He then pointed out that Chief Justice Sharpe, following the foregoing statement, noted that even though there are statutes which require for the rules of evidence as applied in the general court of justice to be followed in proceedings before State agencies, those rules are not made applicable to county and municipal agencies. He informed Council that what the statements mean is that Council is not bound by formal rules of evidence like in a court. He stated that he feels this is important information because what Council hears and what it has heard from citizens, taxpayers who come to speak before Council, are things that could be considered as hearsay. Mr. Sojka then stated, under the law, "competent

evidence” is the kind of evidence that reasonable people rely upon as they go about their everyday affairs and make important decisions. He then cited a case that “substantial evidence is that which a reasonable mind might accept as adequate to support a conclusion.” He then argued that, while purely speculative opinions are not competent evidence, evidence which is based on reliable sources like the EPA report, based upon expert opinion, is. Mr. Sojka continued by stating that Council, in his opinion, has gotten lots of valuable information at this hearing, and it is information that Council should fully consider. He also stated that, based on the first two grounds as before mentioned, whatever standard Council ultimately accepts there is more than sufficient evidence to deny the proposed request and that the decision would be upheld if litigated. He concluded by stating that he hopes that when Council considers this request it is on the merits and that Council does not feel bound by artificial distinctions based on the rules of evidence.

Ann Rogers, first being duly sworn, appeared before Council in opposition to the request. Ms. Rogers stated that she is a resident of the south end of Laurinburg and after hearing comments presented, she stated that she heard the phrase “living the American dream”. Ms. Rogers explained that she does not feel that she is one of those “living the American dream” having experienced problems in the area including water contamination some years ago. She then explained to Council that she is present to echo the voices of the African American residents on the south end of town and that they are in opposition of the salvage yard. Ms. Rogers then stated that the location of the salvage yard would devalue property in the area.

Mr. John Thomas, first being duly sworn, appeared before Council to oppose the conditional use permit request. Mr. Thomas stated that he is concerned about the safety of the children in the area because of the potential increase in traffic.

Mr. Verd Odom, first being duly sworn, appeared before Council to oppose the request. Mr. Odom stated that he had been studying about mercury for the past two weeks and thinks it has been trivialized about how dangerous it is. He read a couple of statements from the Department of Health and Environmental Control which were as follows: “Some forms of mercury are more dangerous than others but all are toxics. Exposure to mercury even in small amounts may cause serious health problems.” “Mercury can be released into the environment when vehicles are crushed or shredded”.

Mr. Odom explained that he is from Marlboro County and because this proposed site is close to the South Carolina line. he has concerns about the vehicles being crushed and the toxins finding their way into Panther Creek. He stated that the proposed site is less than 1,000 feet from Panther Creek and explained that the toxins could affect Panther Creek, which runs into Red Bluff Lake, which flows into the Little Pee Dee River and eventually into the coastal waters. He further stated that if there were any contamination of the water from the proposed facility it would not only affect Scotland County but Marlboro County as well. Mr. Odom concluded by stating that this proposed facility is not good for the environment; it is not good for the people of Scotland or Marlboro counties.

Mayor Slaughter asked if there was anyone else that would like to speak against this request. Having no further speakers against the request, she asked if there was anyone that wished to rebut any of the testimony that was given.

Ms. Anna Martin Jordan, first being duly sworn, appeared before Council to rebut previous testimony opposing the conditional use permit request to operate a salvage yard. Ms. Jordan stated that she is the daughter of Mr. Troy Martin. She then stated that she could rebut Mr. Jackson’s presentation better than anybody else could because she works at the Hamlet yard six days a week. She explained that tanks on the yard have no valves in them, which means that they are empty. She also explained that some of the tanks referenced on the Hamlet yard were located there before they acquired the property and that they are just metal. She then stated that her family does not run or participate in illegal activity. She continued by stating that fires were frequently referred to and that there was recently an electrical fire at Campbell Soup. She questioned whether every electrical company should be held responsible for its fire. Ms. Jordan explained that the bus situation referred to at the Hamlet yard was videotaped close to the activity where the noise is naturally louder because the closer you are to something the louder it is. She then addressed the mercury switches and stated that the State of North Carolina has a law that mercury switches have to be removed from each vehicle. She stated that if there was as much mercury in the headlights or CD players as mentioned previously, then the State would probably require them to be removed before crushing. She then referred to the comments concerning debris falling out of the vehicles. She stated that people are paid for the metal they bring to the yard and if something

falls out of the vehicle, they would probably stop and pick it up. She further stated that she does not believe property values will decrease. She explained that her parent's house is located within ½ mile from one of their sites and that their property value has not decreased. Ms. Jordan then discussed vehicles and out buildings on people's property and that there could be a perception that if it is not the current model year and certain brand of building it could decrease property values. She further explained that while working at the Hamlet yard, she is on the telephone a lot during the day and has no problem hearing the person because of the noise. She concluded by stating that there are homes located next to the Hamlet yard, and there have been no complaints about noise.

Mr. Mark Martin stated that when the persons opposed spoke on the proposed request that he heard a lot of ifs, what ifs, and maybes. He then stated that there is one thing that is a simple fact and that is that this proposed facility will bring jobs to Scotland County and will bring money to Scotland County. He explained that when the operation begins there will be 15-20 jobs and within a year 30 jobs. Mr. Martin stated that there has not been an environmental violation at either of their yards. He reiterated that the comments regarding fires were mostly at shredder yards and that this proposed site will not have a shredder. Mr. Martin then explained that a petition had been sent out regarding the proposed site and that in a six-day period there were 1,788 signatures in favor of the request. He then stated that 90% of the signatures were from residents of Scotland County. Mr. Martin discussed mercury switches and noted that because accidents occur on a regular basis, if mercury was so easy to seep into the water, then it would not be allowed to be put in vehicles. Mr. Martin concluded by stating there has been a lot of ifs and maybes discussed but that the proposed facility would be good for the county.

Upon question by Councilmember Parker, Mr. Martin stated that there are 16-17 fulltime employees at the Hamlet location and the rate of pay is around \$10.50-\$11.00 per hour. He then stated that the largest thing about the scrap yard is that it could eventually put around five million dollars into the economy.

Mr. Robert Currie once again addressed Council to reiterate that he had visited the Hamlet site and unless a person knows where the site is located that no one could see it from the road. He concluded by stating that the Martins are offering the citizens an opportunity to dispose of materials in a legally regulated way.

Mr. Bill Peele, first being duly sworn, explained that Mr. William F. Moser, attorney for Cheraw Iron and Metal, Inc. has requested that a Conditional Use Permit be granted for the development of a salvage yard and metal recycling center at 10461 Barnes Bridge Road. The City staff reviewed the development plan that was submitted by Mr. Martin and they concluded that it was:

- Located within the City's planning jurisdiction;
- The submitted application is complete; and
- The development proposed in the application is in substantial compliance with the Unified Development Ordinance

He informed Council that Planning Board considered this request at its August 15, 2006 meeting and concurred with staff's recommendation by a 4-2 vote that a conditional use permit be granted in this matter.

Upon question by Councilmember Griswold, Mr. Peele stated that the proposed site is zoned industrial.

Upon further question by Councilmember Griswold, Mr. Peele explained that when the Scotland County Commissioners assigned that property to the City's extraterritorial jurisdiction in March 1996, there was an operating sawmill on the property. He further explained that the City had to assign a zoning classification to the property that was compatible with how the County had it zoned which was I-2, Heavy Industrial. He then explained that the County would handle a salvage yard by conditional use in its I-2 District as does the City in its Industrial zoning.

With there being no further comments, Mayor Slaughter declared the public hearing closed.

Councilmember Griswold moved to deny the request for a conditional use permit to operate a salvage yard based for that the evidence before Council has established that:

The noise, potential hazardous materials, the stigma attached to a salvage yard, the increased traffic, the environmental concerns such as mercury, fires, and potential contamination will more likely than not:

1. Materially endanger the public health or safety; and
2. Substantially injure the value of the adjoining or abutting property; and
3. Will not be in harmony with the area in which it is to be located

Councilmember Parker seconded the motion.

A discussion ensued regarding the proposed salvage yard request. Councilmember Rainer stated that the Laurinburg Planning Board approved this request but wanted to know if the City had any professional documentation or any professional statements regarding this type of operation.

The City Manager explained that the City has its planning staff and the Unified Development Ordinance upon which to base its recommendations. He then explained that it is the City's responsibility, at least in his opinion, to consider the land use. He further explained that it is conforming to the City's Unified Development Ordinance and that is the basis upon which the Planning Board based its recommendation.

Following further discussion concerning the location of the salvage yard, Councilmember Griswold stated that the burden is not on the City to prove the facts but on the proponents and opponents. She explained that, in this situation, Council sits as a judiciary body and therefore makes its decision based upon the evidence presented at the public hearing.

Councilmember Rainer asked Councilmember Griswold to restate the motion.

Councilmember Griswold restated her motion and it was re-stated as set forth above.

Councilmember Parker stated that he had seconded her motion because he feels that there is substantial evidence to support the finding that the proposed use would injure of the value of adjoining or abutting property.

Councilmember Rainer stated that he could agree with the point that there are reasons to deny this request, but some of the things mentioned do not fit this type operation. He further stated that he agrees with the possible loss of property values to the surrounding residents.

Following further discussion, Councilmember Parker called for the question.

The motion to deny the request for a conditional use permit to operate a salvage yard and metal recycling center was approved by the following vote:

Ayes: Griswold, Leak, DeBerry, Parker, Rainer

Nays: None

## **DELEGATION**

*North Carolina Utilities Commission-Mr. Jerry Tweed*

Mr. Bill Grantmyre, attorney with the Public Staff of the North Carolina Utilities Commission, appeared before Council to obtain consent for the City of Laurinburg to provide wastewater service to the Springfield Village area residents without the City subsidizing the construction costs or any of the operational costs. Mr. Grantmyre stated that in attendance with him were Mr. Jerry Tweed, Public Staff Utilities Engineer; Ms. Belinda Hinson, Department of Environment, Health and Natural Resources (DEHNR) Fayetteville office; and Mr. Bobby Blow, DEHNR Raleigh office. Mr. Grantmyre explained that in April 2006 Springs Industries, Inc. submitted a request to abandon providing wastewater service to the 29 residences of Springfield Village because Springs Industries was losing money every year from the wastewater operation. He stated that he and Jerry Tweed had looked at the wastewater treatment plant and

determined that the system is very old and will soon need major renovations.

Mr. Grantmyre then stated that in the application to discontinue service, Springs Industries estimated that a rate of \$247.00 per month per customer would be necessary in order to continue operating the wastewater plant. Mr. Grantmyre explained that the Public Staff of the Utilities Commission estimated that the rates would probably need to be in the range of \$170.00 to \$200.00 per month per customer, which would be excessive for the 29 customers. He then explained that if the residents cannot afford the estimated rates, then the wastewater system may eventually fail, and these 29 customers would be without wastewater service to their homes. He added that whatever rate the City might charge would be much less than the rate Springs Industries estimated.

Mr. Grantmyre explained that the best solution would be interconnection to the City of Laurinburg's wastewater system with no subsidy necessary by the City. The current wastewater plant would be shut down and a force main with one lift station would be installed to connect the 29 customers to the City's wastewater system. He added that the Department of Environment and Natural Resources (DENR) supports this interconnection. He estimated the cost of the interconnection would be approximately \$540,000. Mr. Grantmyre added that grants were available to cover the cost of interconnection and Scotland County has offered its assistance in the grant application process.

The City Manager explained that Council's approval to explore the possibility of assuming Springfield Village's wastewater system is needed. He further explained that Staff has not developed rates for service. He added that there are some issues with respect to restoring/repair of some of the collector lines. He then stated that before Staff starts applying for grants, Staff would like assurance from Council that it will support taking over the wastewater system.

Mr. Amos Dawson, Attorney for Springs Industries, stated that Springs Industries cannot continue to operate the wastewater system at a loss, and eventually the State will grant the abandonment. He added that the only viable option is for connection to the City's wastewater system.

Mr. John Crumpton, Scotland County Manager, stated that the County is willing to assist without expending funds.

Following discussion, there was consensus among Council for Staff to move forward in exploring the possibility of providing wastewater service to the 29 residences of Springfield Village providing there is no cost to the City, and Springfield Village residents are willing to pay a differential rate of \$50.00 or more per month.

#### *Laurinburg Downtown Revitalization Corporation- Mr. Harley Norris*

Mr. Harley Norris, member of the Laurinburg Downtown Revitalization Corporation (LDRC), appeared before Council and stated that two seats on LDRC's Board of Directors needed to be filled.. He then stated that the LDRC Board recommends that Chip Morton and Gail McRae be appointed to the Board to replace outgoing members Nick Sojka and Councilmember Thomas Parker. He explained that the terms would be for two years. He then thanked Mr. Sojka and Councilmember Parker for their service on the Board.

Motion was made by Councilmember Parker, seconded by Councilmember Griswold, and unanimously carried to appoint Chip Morton and Gail McRae to the Board of Directors of the Laurinburg Downtown Revitalization Corporation.

### **RESOLUTION WHICH APPROVES THE SALE OF LAND AT THE CORNER OF DICKSON AND MCCALLUM STREETS**

The City Manager explained that at City Council's last meeting, Resolution R-2006-28 was tabled because Council had concerns about issues related to the sale of property by the City. He then explained that the concerns centered on issues of making certain that once the property was sold, the City had assurances that the property would not become dilapidated.

Previously, the Assistant City Attorney was directed by City Council to see exactly what options, if any, the City had with respect to the sale of this type of property.

The Assistant City Attorney explained that after consulting with City Staff and the City Attorney, it is his opinion that the mechanism for handling dilapidated structures already exists within the City's condemnation procedures and that any restrictions that the City placed on City sold property would do nothing but create additional costs in the permitting process.

Councilmember Parker moved for the adoption of Resolution No. R-2006-28, which approves the sale of land. Councilmember Griswold seconded the motion, and it was approved by the following vote:

Ayes: Parker, Rainer, Griswold, DeBerry

Nays: Leak

(Resolution No. R-2006-28 on file in the City Clerk's Office)

## **OLD MARKET FURNITURE BUILDING**

The City Manager explained that at the last meeting Council instructed Staff to come up with possible funding options for the restoration of the Market Furniture Building. He stated that in Council's agenda packet is information from the Department of Community Assistance about possible options for grant funding for renovations and a memo from Community Development Director Bill Riemer about possible demolition funds using Community Development Block Grant (CDBG) funds. He then stated that the City has been placed under a deadline by Mr. Phillip McRae of September 19 to make a decision on the property.

The City Manager explained that there are many grant opportunities including United States Department of Agriculture funds and private funds but that, without having a specific use for the building, it is very difficult to determine for which grant to apply. He further explained that he had talked with Nancy Walker, Laurinburg Housing Director, to determine if she would be interested in taking on the project as one similar to the one she is doing with Central School. He stated that if the City accepted the building, the first thing that would have to be done would be to fix the roof, which will cost between \$50,000.00 and \$100,000.00.

Mr. Bill Peele, City Building Inspector, stated that the problem with the building is that it is deteriorating from the roof down and that it is pretty dilapidated now. He added that his estimate for a roof was closer to \$100,000.00.

The City Manager stated that, if the building is accepted, staff believes the money would have to be expended immediately to fix the roof.

Councilmember Parker stated that he did not think Council should commit to a project that is not funded in the budget. He added that if Mr. McRae would be willing to grant the City an extension, he would consider that.

The City Manager explained that in order to obtain a grant, the City would have to own the property as well as have a specific use in mind in order to apply for it (i.e. the grant). He explained that Community Development Block Grants are available to tear the building down because it would be seen as a rehab of Bizzell Street.

Motion was made by Councilmember Parker to decline Mr. McRae's offer of the donation of the former Market Furniture Building. The motion was seconded by Councilmember Rainer, and discussion ensued.

Councilmember Griswold explained that Laurinburg Downtown Redevelopment Corporation (LDRC) would prefer that the City maintain the building, rehab it to its prior beauty and find a use that would draw people into the downtown. She added that LDRC mentioned the possibility of using the building for income-based housing on the top floors and some type of banquet hall on the first floor. She added that her personal preference would be for the City to accept the building and renovate it. She further added that she felt that the City should accept the building knowing that money could be obtained to tear it down but that we should then try to fix it.

The City Manager stated that there is no guarantee that the City can obtain funding to tear the building down, but CDBG is the best avenue for funding for the City.

Councilmember Parker explained that his reason for recommending that the City refuse the building is because the deadline is tomorrow. He added that he is in favor of accepting the building and renovating it if it can be done at no expense to the taxpayers. He further added that he would alter his opinion regarding conditional acceptance provided the City could obtain grant funds.

Mayor Slaughter called for the question and re-stated that there is a motion and a second on the floor to reject the gift of the Market Furniture Building. She asked the City Clerk to call the roll.

The motion was denied by the following vote:

Ayes: Parker, Rainer

Nays: Leak, DeBerry, Griswold

Motion was made by Councilmember Griswold to accept the gift of the Market Furniture Building. The motion was seconded by Councilmember Leak.

The Assistant City Attorney stated that before a vote is taken he would like to remind Council that if the City accepts the building, the City would have legal liability. He cautioned that the building is in a clear state of disrepair and the City would potentially have liability if someone were to be hurt because of it; therefore, the City would have to quickly expend money to secure the building.

A discussion ensued concerning possible grant funding. The City Manager stated that a specific use for the building would have to be defined in order to know for which grants to apply. The City Manager added that if the intent is to save the building, it is going to take some time; however, the roof will need to be fixed immediately. He explained that the funds for roof repair would come from Fund Balance since this is not a budgeted item and that if the City accepts the building, it will be a long-term project.

Mr. Bill Peele stated that the roof is not a simple problem. He explained that a professional would need to establish the integrity of the building and design a roof to stabilize the building. He added that the roof would cost approximately \$100,000.00 but that that figure does not include engineering to establish the integrity of the building.

Upon question by Mayor Slaughter, Mr. Peele stated that the estimate to tear the building down was \$220,000.00.

A discussion ensued concerning options for the building and the possibility of developing a park if the Market Furniture Building is demolished.

Councilmember Griswold expressed concern that not accepting the Market Furniture Building because it might cost the City money is not promoting the downtown area.

A discussion ensued concerning the inability of private agencies to obtain grant funds as opposed to the availability of grants to local governments.

Councilmember Parker explained that at an LDRC board meeting, Gail McRae stated that a grant could not be obtained because the McRaes did not initially get clear title in the gifting process. He then explained that the building dilapidated while the McRaes were trying to clear up the title.

Following further discussion, Councilmember Griswold stated she would like to amend her motion. The Assistant City Attorney stated that since there is a motion and second on the floor, it would simply be easier to vote down the existing motion and then make a new motion.

Mayor Slaughter called for the question, and the vote was as follows to accept the donation of the Old Market Furniture Building

Ayes: None

Nays: Griswold, Leak, DeBerry, Parker, Rainer

Motion was then made by Councilmember Griswold to accept the Market Furniture Building with the option of either renovating it or tearing it down, provided funds are available to do so. Councilmember Leak seconded the motion.

A discussion ensued concerning what would happen to the building if grant funds are not available. Councilmember Griswold explained that if the City does not take the property but then condemns it, the City would have a lien on the property for the funds it expended.

The Assistant City Attorney added that the City could sell the property to satisfy the lien.

A discussion ensued concerning clear title to the property. Councilmember Parker stated that there was some technicality with title to the property but that the McRaes now have clear title.

Councilmember Griswold re-stated her motion to include the proviso that the City be able to obtain clear title to the property. Councilmember Leak seconded the motion, and it was approved by the following vote:

Ayes: Parker, Griswold, Leak, DeBerry

Nays: Rainer

The City Manager stated that Staff will begin working on the Market Furniture Building, that he will work with LDRC to form a committee to look at options for the property and that he will contact the City's insurance company to ensure that the building can be insured.

Following discussion about the necessity of having safeguards for the building in place prior to acceptance of the property, motion was made by Councilmember Parker to rescind the previous action of the Laurinburg City Council. The motion was seconded by Councilmember Griswold, and the vote was approved as follows:

Aye: Parker, Griswold, Leak, DeBerry, Rainer

Nays: None

Following further discussion, it was consensus of City Council that it would accept the gift of the Market Furniture Building with the option of renovating it or tearing it down, provided clear title can be obtained, funds are available, liability insurance can be obtained, and all necessary conditions are satisfied. It was further consensus to consider the matter at the next Council meeting. There was no formal motion or vote.

Councilmember Rainer stated that he did not want to accept the Market Furniture Building under any conditions.

### **AWARD OF BID FOR AN AUTOMATED GARBAGE TRUCK**

The City Manager explained that General Statute 143-129(g) entitled "Waiver of Bidding for Previously Bid Contracts" allows for an exception to the competitive bidding requirements. The City of Norfolk, Virginia bid this piece of equipment on May 4, 2006. The company, Lodal-South, Inc. of Rockingham, NC, has agreed to offer an extension of the City of Norfolk bid to the City of Laurinburg. The purchase amount of this piece of equipment is \$172,078.00 and is within the amount approved in the budget. The estimated delivery on this truck will be 220-260 days. A notice to bidders has been advertised in *The Laurinburg Exchange*. A copy of the notice is included in Council's packet along with information regarding the City of Norfolk, Virginia bid.

Motion was made by Councilmember Parker seconded by Councilmember Griswold, and unanimously carried to award to Lodal-South of Rockingham the contract to purchase an automated garbage truck in the amount of \$172,078.00

### **RESOLUTION PROCLAIMING PUBLIC POWER WEEK**

The City Manager explained that ElectriCities is celebrating public power during the week of October 1-7, 2006. He stated that ElectriCities is encouraging city-owned electric service members to proclaim that week as "Public Power Week." He stated that the proposed Resolution proclaims the week of October 1-7, 2006 as "Public Power Week in the City of Laurinburg."

He informed Council that the Consumer Billing Department will host a Customer Appreciation Day on Wednesday, October 4, 2006 from 8:00 a.m. until 5:00 p.m.

Councilmember Parker moved for the adoption of Resolution No. R-2006-30 which proclaims October 1-7, 2006 as Public Power Week in the City of Laurinburg. Councilmember Griswold seconded the motion, and it was approved by the following vote:

Ayes: Parker, Rainer, Griswold, Leak, DeBerry

Nays: None

(Resolution No. R-2006-30 is on file in the City Clerk's Office)

### **REVISION OF THE CITY OF LAURINBURG'S SCHEDULE OF FEES**

The City Manager explained that in Council's agenda packet is a revised schedule of fees to include fees for Wireless Broadband Internet services provided by the City of Laurinburg.

Motion was made by Councilmember Parker, seconded by Councilmember Griswold, and unanimously carried to revise the current schedule of fees proposed.

### **RESOLUTION APPROVING THE DONATION OF SURPLUS PROPERTY**

The City Manager explained that the Town of Maxton has requested the donation of a 2001 Ford Crown Victoria automobile that the City's Police Department has deemed as surplus. He stated that any donation to the Town of Maxton must be approved by the City Council.

A discussion ensued concerning the donation of surplus property to another municipality. Councilmember Parker expressed concern that Maxton is not located in Scotland County and that, previously, Council did not donate a surplus vehicle to the Town of Hamlet. He explained that he would not be opposed to selling the vehicle to the Town of Maxton at a low price, but he did not think the vehicle should be donated.

Councilmember Rainer moved for the adoption of Resolution No. R-2006-31, which approves the donation of surplus property vehicle by the City of Laurinburg to the Town of Maxton. Councilmember DeBerry seconded the motion, and it was approved by the following vote:

Ayes: Rainer, Griswold, Leak, DeBerry

Nays: Parker

(Resolution No. R-2006-31 is on file in the City Clerk's Office)

### **SURETY BOND RELEASE COVERING RENTAVISION OF BRUNSWICK, INC. (ADELPHIA)**

The City Manager reported that since the transfer of Adelphia to Time Warner Cable, Travelers Casualty has cancelled its bond covering Rentavision of Brunswick, Inc. (Adelphia). Time Warner Cable, Inc. has acquired a replacement franchise bond.

Motion was made by Councilmember Parker, seconded by Councilmember DeBerry, and unanimously carried to authorize the Mayor to execute the surety bond release to the Travelers Casualty and Surety Company of America.

### **GREENWAY MASTER PLAN UPDATE**

The City Manager explained that Bob Bell, Chairman of the Laurinburg/Scotland County Greenway Committee, would like to update Council on the status of the Laurinburg/Scotland County Greenway Master Plan. He stated that Scotland County had tabled the matter at its September 11, 2006 meeting.

Mr. Bell provided a brief history of the Laurinburg/Scotland County Greenway Committee. He explained that, after research, the Committee had contacted Greenways, Inc. of Durham for a proposal for assistance in developing a greenway plan. He stated that the total amount of the proposed contract with Greenways, Inc. is \$35,000.00, and the Committee is proposing that the fee be split between the City of Laurinburg and Scotland County. He then stated that the Committee is in the process of trying to find grants to help pay for the design phase of the greenways. Mr. Bell informed Council that the Parks and Recreation Advisory Board voted unanimously to support the recommendation to accept Greenways, Inc.'s proposal. He also stated that the Advisory Board had suggested a joint meeting with the County Commissioners, City Council, Parks and Recreation Advisory Committee and the Greenway Committee.

It was consensus among Council to meet jointly with the County Commissioners, the Parks and Recreation Advisory Committee and the Greenway Committee during the month of October.

The City Manager stated that he would try to set up a joint meeting sometime in October.

### **AGREEMENT BETWEEN THE CITY OF LAURINBURG AND CGI COMMUNICATIONS, INC.**

The City Manager reported that CGI Communications, Inc. has asked the City to participate in a Community Video Showcase & Website ID Banner program. He explained that this opportunity is being offered through CGI's partnership with the North Carolina League of Municipalities.

He then explained that this is a three-year promotional campaign conducted by CGI and that there is no charge to the City for this service. He further explained that a representative of CGI Communications would contact local businesses in order to solicit their participation in the display banner portion of the agreement. He continued by explaining that Council's agenda packet includes a copy of the proposed agreement, an explanation of the proposed costs to businesses that would choose to participate, and a draft letter from the City Manager that would be mailed to businesses.

Following a brief discussion, motion was made by Councilmember Parker, seconded by Councilmember Griswold, and unanimously carried to deny authorization for the City Manager to execute an agreement with CGI Communications, Inc.

### **RESOLUTION WHICH DONATES CITY OWNED PROPERTY TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND AUTHORIZES THE MAYOR TO SIGN TEMPORARY CONSTRUCTION AGREEMENTS**

The City Manager explained that as part of the North Carolina Department of Transportation's widening of Lauchwood Drive, additional right-of-way and construction easements are needed for the completion of the project. He stated that DOT needs additional right-of-way around the City's Water Treatment Plant to complete the project. He concluded by stating that this would be a donation of right-of-way for the project and that the donation would cause no undue problems for the Water Plant.

Councilmember Parker moved for the adoption of Resolution No. R-2006-32, which donates city owned property to the North Carolina Department of Transportation and authorizes the Mayor to sign temporary construction easements for the project. Councilmember Griswold seconded the motion, and it was approved by the following vote:

Ayes: Parker, Rainer, Griswold, Leak, DeBerry

Nays: None

(Resolution No. R-2006-32 is on file in the City Clerk's Office)

### **DICKSON AND NORTH MAIN STREETS**

The City Manager informed Council that Councilmember Rainer asked that the City begin looking at this intersection due to the lack of adequate road width at Dickson and North Main Streets. He stated that the current right-of-way on Dickson Street is only 30 feet at this location. He stated that North Main Street is a North Carolina Department of Transportation road and that Dickson is a City street. He stated that if directed by City Council, Staff would begin working with DOT to see what necessary right-of-way would be required to expand the right-of-way as well as the costs associated therewith.

Following a brief discussion, motion was made by Councilmember Parker, seconded by Councilmember Griswold, and unanimously carried to direct staff to work with the North Carolina Department of Transportation to determine the required right-of-way necessary and the associated costs to expand the intersection of Dickson Street and North Main Street.

## **NORTH CAROLINA LEAGUE OF MUNICIPALITIES VOTING DELEGATES**

The City Manager explained that under the NCLM Constitution and voting procedure, each member municipality sending delegates to the Annual Conference is required to designate one voting delegate and one alternate voting delegate. He informed Council that those attending the Annual Conference will be the Mayor, Councilmembers Leak and Rainer, the City Manager, and the City Clerk.

Mayor Slaughter suggested that the City Manager be designated the voting delegate and that, if Council agrees, she be designated as the alternate voting delegate.

Motion was made by Councilmember Parker, seconded by Councilmember Rainer, and unanimously carried to appoint the City Manager as the voting delegate and to appoint Mayor Slaughter as the alternate voting delegate at the NCLM Annual Conference.

## **LUMBER RIVER COUNCIL OF GOVERNMENTS**

The City Manager stated that the Lumber River Council of Governments Annual Dinner Meeting will be held Thursday, October 21, 2006 at the Southeastern North Carolina Agriculture Center. He asked that Councilmembers let the City Clerk know as soon as possible if they are planning to attend.

## **APPOINTMENTS**

Mayor Slaughter explained that, according to State law, Council is responsible for appointment of two members to the Local Firemen's Relief Fund Board as required by the N. C. Department of Insurance. She then explained that these appointments are vital to avoid member disqualification of eligibility to receive funds from the Local Firemen's Relief Fund. She stated that one appointment is for a two-year term and the other is a one-year term.

Mayor Slaughter stated that the City Manager and Mr. Jack Ficklin have expressed interest in continuing to serve on the Board.

Motion was made by Councilmember Parker, seconded by Councilmember Griswold, and unanimously carried to appoint the City Manager to a one-year term expiring in 2007 on the Local Firemen's Relief Fund Board and Jack Ficklin to a two-year term expiring in 2008.

## **PUBLIC COMMENT PERIOD**

Councilmember Parker requested that Harold Haywood, Sanitation Supervisor, determine if there is a way to rework the recycling schedule to accommodate the areas in the City where there is more participation in the recycling program.

## **ADJOURNMENT**

Motion was made by Councilmember DeBerry, seconded by Councilmember Parker, and unanimously carried to adjourn the meeting.

The meeting was adjourned at 11:40 p.m.

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Ann B. Slaughter, Mayor

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Dolores A. Hammond, MMC, City Clerk