

Salisbury, North Carolina  
April 21, 2009

## **REGULAR MEETING**

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

**ABSENT:** None

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Councilman Kennedy.

## **PLEDGE OF ALLEGIANCE**

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

## **RECOGNITION OF VISITORS**

Mayor Kluttz recognized all visitors present.

## **ADDITIONS/DELETIONS TO THE AGENDA**

Mayor Kluttz noted the following changes to the Agenda:

Add – Council to consider a public hearing for May 5, 2009 regarding an Economic Development Incentive Grant for Project Stick.

Add to Close Session item – Consult with an attorney as allowed by North Carolina General Statute 143-318.11(3).

**RECOGNITION - 2008-2009 RETIREES AND EMPLOYEES**

Mayor Kluttz indicated that Council is pleased to recognize retirees and employees for their service to the City.

Mr. Joe Eagle, Personnel Analyst II, introduced the following employees who reached a service milestone in their careers with the City of Salisbury:

5 Years of Service

Ms. Kelly Baker  
Mr. Adam Bouk  
Mr. Randall Correll  
Mr. Paul Durham  
Mr. Daniel Fleming  
Ms. Janet Gapen  
Ms. Jeannette Hardin  
Mr. Michael Kluttz  
Mr. Cory Orbison  
Mr. Jason Parks  
Mr. Ruth Vaughn  
Ms. Karen Wilkinson  
Ms. Deborah Young

Mr. Stacy Bias  
Mr. Preston Cleaton  
Ms. Melissa Drye  
Ms. Yvonne Etheridge  
Mr. Tyler Forrest  
Mr. Charles Hand  
Mr. Eddie Hendrix  
Mr. Mark Lewis  
Mr. Michael Otten  
Mr. Jimmy Phillips  
Mr. Patrick Schmeltzer  
Mr. Richard Willis

10 Years of Service

Ms. Clara Bost  
Mr. Wade Furches  
Ms. Cynthia Gilmore  
Mr. Guy McGuire  
Mr. Jeffrey Parker  
Mr. Alson Siler  
Mr. Jack Wilson

Mr. Anthony Dito  
Mr. John Garrison  
Mr. Hubert Goodman  
Mr. Joseph Miller  
Mr. Kevin Rainey  
Mr. Rufus Smith

15 Years of Service

Mr. Joel Baker  
Mr. Robert Holmes  
Ms. Karen Ingram  
Mr. Brian Moore

Ms. Ann Cooper  
Mr. Mark Hunter  
Mr. Wiley Lamm  
Mr. James Woods

20 Years of Service

Ms. Rebecca Albrecht  
Mr. Dennis Bowersox  
Mr. William Elliott  
Mr. Daniel Mikkelson

Ms. Daphne Beck  
Mr. Michael Crowell  
Mr. Jerry Kepley  
Mr. Linn Russell

25 Years of Service

Mr. Timothy Arey  
Mr. James Frick  
Mr. Mark Shue

Mr. Alan Armour  
Mr. Michael Morgan  
Mr. Leon Smith

30 Years of Service

Mr. James Geter

35 Years of Service

Mr. Myron Michael

Mr. Dewey Peck

Mr. Eagle then recognized the employees who retired during the last year:

Mr. James Barber  
Mr. Gareth Overcash  
Mr. Joey Smith

Mr. Jerry Greene  
Mr. Kenny Payne  
Mr. James Wise

Mayor Kluttz congratulated and thanked the employees for their service.

**POSITIVE YOUTH INITIATIVES – RCCC EARLY COLLEGE PROGRAM**

Mayor Kluttz recognized individuals with the Rowan County Early College High School Program and introduced Mr. Tim Foley, Rowan-Cabarrus Community College (RCCC) Academic Vice-President; Ms. Cindy Misenheimer, Principal of Rowan County Early College High School; Ms. Carolyn Bayer, Rowan County Early College High School Liaison; and Ms. Brianna Miller, Rowan County Early College High School student.

Mr. Foley stated that the early college concept is part of the Early College High School Initiative and that there are approximately 160 Early College Programs across the United States with 70 in North Carolina. He explained that the program is for ninth through twelfth graders who attend classes on the RCCC campus. The students take college level courses and graduate with a high school diploma and either an Associate's Degree or two years of transferrable credits to a university or college.

Ms. Misenheimer explained that the students in the Rowan County Early College High School Program take high school classes as well as college level classes. She noted that the application process is extensive and targets first generation college students. She added that the program has a capacity of 400 students total for all grades.

Ms. Bayer commented that she is a RCCC employee and works as the liaison between RCCC colleagues and the Rowan County Early College High School Program. She noted that she currently teaches a course to the students and in the future will advise them on achieving transferrable college credits needed to succeed in their career paths.

Ms. Miller stated that she is a freshman with the Rowan County Early College Program and that she chose the program because it would be an opportunity to get a head start on her education and career. She explained that she likes the project based learning and smaller classrooms.

Mayor Kluttz stated that it is important to see all students graduate and this is an excellent opportunity for those who want to be on a fast track or seek an alternative to traditional high schools. She thanked RCCC and Rowan-Salisbury schools for providing this opportunity for students.

Councilman Kennedy asked if the students were provided extracurricular activities. Ms. Bayer indicated that the students are offered activities such as a Junior Civitan Club, student government, newsletter, and yearbook.

### **RECOGNITION OF WINNERS – RECYCLING POSTER ART CONTEST**

Mayor Kluttz recognized Ms. Karen Wilkinson, Public Information and Communications Manager, and Mr. Tony Cinquemani, Public Services Director, to announce the winners of the Public Services Department Recycling Poster Art Contest.

Mr. Cinquemani stated that this is the second annual Recycling Poster Art Contest. He noted that over 100 entries were received from Rowan County school students.

Ms. Wilkinson explained that the theme of the contest was “Think Green! Reduce, Reuse, And Recycle.” She pointed out that the winners will receive a framed certificate, a prize pack, Wal-Mart gift cards, and all entries will appear on Access16. Mr. Cinquemani and Ms. Wilkinson announced the winners and Mayor Kluttz presented them with their certificate.

#### **Grades K-2**

1<sup>st</sup> Place – Ms. Gracie Morgan, Mt. Ulla Elementary

2<sup>nd</sup> Place – Mr. Steven Shuping, Bostian Elementary

3<sup>rd</sup> Place – Mr. Bryson Bibber, Bostian Elementary

#### **Grades 3-5**

1<sup>st</sup> Place – Mr. Jordan Honeycutt, Mt. Ulla Elementary

2<sup>nd</sup> Place – Mr. Josh Wright, Mt. Ulla Elementary

3<sup>rd</sup> Place – Mr. Zachary Honeycutt, Mt. Ulla Elementary

#### **Grades 6-8**

1<sup>st</sup> Place – Mr. Joshua Laser, Knox Middle School

2<sup>nd</sup> Place – Mr. Jordan Oglesby, Knox Middle School

3<sup>rd</sup> Place – Ms. Amelia Nock, North Rowan Middle School

Grades 9-12

1<sup>st</sup> Place – Ms. Autumn Baker, West Rowan High School

2<sup>nd</sup> Place – Mr. Patrick Michael, North Hills Christian School

3<sup>rd</sup> Place – Mr. Drew Fortune, West Rowan high School

Mayor Kluttz congratulated the winners and expressed her pride in the students who entered the contest and for their interest in recycling.

**PROCLAMATION**

Mayor Kluttz proclaimed the following observance:

BETTER HEARING AND SPEECH MONTH

May, 2009

**CONSENT AGENDA**

(a) Approval of Minutes

Approve Minutes of the Regular meeting of April 7, 2009.

(b) Flexible Benefit Plan Amendment

Adopt a RESOLUTION to amend Section 125 Flexible Benefit Plan to add additional HIPPA Special Enrollment Events pursuant to the provisions of the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009.

RESOLUTION TO AMEND SECTION 125 FLEXIBLE SPENDING ACCOUNT PLAN

(The above Resolution is recorded in full in Resolution Book No. 13 at Page Nos. 22-25, and is known as Resolution No. 2009-12.)

(c) Temporary Street Closure

Close the 100 block of East Liberty Street Saturday, April 25, 2009 from 5:00 p.m. until 10:00 p.m. for Rowan Helping Ministries' Celebrate! Pass The Plate! Fundraiser.

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

## **PUBLIC HEARING – PROJECT STICK**

Mayor Kluttz announced that she has been made aware of a company who is seeking a location to expand its operations and Salisbury is currently under consideration. She noted that it is estimated the company could bring 103 new jobs that pay an average of \$50,000 to Rowan County. She stated that a public hearing needs to be scheduled to hear the proposal and consider incentives for the project.

Thereupon, Mr. Woodson made a **motion** to set an Economic Development Commission Public Hearing for May 5, 2009 for Project Stick. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **ZONING MAP AMENDMENT – CD-8-02-2009**

(a) Mr. Preston Mitchell, Senior Planner, explained that this request is a petition filed by the City as owners of property located at 1415 South Martin Luther King, Jr. Avenue. He reviewed aerial views of the proposed site located along the south side of Martin Luther King, Jr. Avenue adjacent to Klumac Road and noted that a Customer Service Facility is planned for the site. Mr. Mitchell pointed out that the area is zoned Corridor Mixed Use (CMX). He noted that the site is four and one half acres with three street frontages along Martin Luther King, Jr. Avenue, Harris Street and Hillsboro Street.

Mr. Mitchell explained that the petition does not seek to change the base zoning but to place an overlay allowing for the development of the Customer Service facility. He explained the Conditional District Overlay:

- Conditional District Overlays are found in the Land Development Ordinance
  - Section 2.6
  - Section 15.21
- The City of Salisbury is the owner of the property and therefore meets the requirement of being the petitioner
- Content of Petition
  - Rezoning petition required
  - Master Plan required
- Fair and Reasonable Conditions
  - Can be added by City Council on any conditional district project
- Revisions and Amendments are options if plan is approved
- Conditional District can be rescinded

Mr. Mitchell reviewed the site plan for the property along with a rendering of the proposed building. He pointed out that the service center building will be located on the corner of Harris Street and Martin Luther King, Jr. Avenue and will have parking along Martin Luther King, Jr. Avenue, with a service area along Hillsboro Street. He reviewed ground photographs of the area. He noted that the service center will house the Wellness Clinic on the first floor with office space on the main floor. He added that there are two

main entrances; one located at the corner of Martin Luther King, Jr. Avenue and Harris Street, and one in the courtyard area of the site. Mr. Mitchell explained the alternative design options available through the Conditional District process:

- Industrial Standards - do not apply
- Building Orientation to Street – building meets standards based on orientation to Martin Luther King, Jr. Avenue and Harris Street
- Building Materials – plan proposes an alternative building material for the rear service side
  - Vertical metal siding
- Building Design Standards - plan proposes an alternative design in terms of blank sections of wall
  - Fiber To The Home headend equipment must be located within a bunker type setting
- Building Dimensional Standards – plan meets all standards
- Street Cross Sections – no changes proposed
- Street Connectivity and Stub Standards – no changes proposed
- Parking – plan proposes two changes
  - No inter-lot connections to adjacent properties because they are developed residentially
  - A 36 foot driveway throat along Hillsboro Street as opposed to 24 feet

Mr. Mitchell reviewed the cross-sections of the streets surrounding the proposed building and indicated that on-street parking is proposed along Martin Luther King, Jr. Avenue. He reviewed the Vision 2020 Comprehensive Plan as it relates to the site plan:

- Policy C-16 - Commercial or other development that would jeopardize the public health, safety, and welfare of existing residential neighborhood shall not be permitted. However, new mixed-use developments, planned from the outset, which allow for a compatible mixture of uses with a pedestrian scale and design, are encouraged. Further, businesses may be approved adjoining (and therefore convenient to) an existing residential area, when such businesses can be shown to clearly satisfy design considerations similar to a newly planned, pedestrian-scaled, mixed-use development.

Mr. Mitchell stated that staff feels the design considerations takes into account the existing institutional zoning across the street, Lutheran Services for the Aging, as well as the scale of the development in relation to the residential area.

- Policy C-18 – New commercial buildings shall pull up to the street; parking shall be placed to the rear or side of the structure.

Mr. Mitchell indicated that the plan satisfies this policy.

- Policy C-19 – When appropriate, the use of all around architecture shall be required. That is, in some instances, it may be necessary to avoid designing a

noticeable “service side” to a building, such as when a building abuts a residential or streetscape exposure, or other public space.

Mr. Mitchell indicated that the service side of the building will be along Hillsboro Street; however, the plan uses decorative walls and additional landscaping to screen this area.

- Policy CC-1 – New and expanding businesses shall employ architectural standards consistent with Salisbury’s architectural character and shall avoid standard prototype designs otherwise employed in “Anywhere USA.”

Mr. Mitchell stated that staff feels the design of this building falls within the architectural character of Salisbury.

- Policy N-11 – Architecturally compatible, residentially scaled office and institutional development may be permitted to locate along the sides of neighborhood planning areas.

Mr. Mitchell stated that the City does not want to displace existing housing and damage existing neighborhoods. He indicated that staff feels this site plan will not damage the neighborhood and added that the rehabilitation of the Lutheran Home for the Aging and the construction of the Salisbury Customer Service Center will improve the neighborhood. He explained that appropriately designed and scaled office or institutional uses along the periphery of a neighborhood planning area can serve as a useful buffer and such uses can also provide the opportunity for jobs within walking distance for nearby residents.

Mr. Mitchell pointed out that because the site has three street frontages, sidewalks will be required along all three streets. He explained that the City Code allows a private developer the opportunity to build the same linear footage of sidewalk somewhere within close proximity of the site plan, or pay in lieu of construction of the sidewalks. He noted that for this project sidewalks are proposed to be constructed along Martin Luther King, Jr. Avenue. He noted that different options are being considered in regards to sidewalk construction along Harris Street and Hillsboro Street. These options include constructing 800 linear feet of sidewalk on Martin Luther King, Jr. Avenue; or paying in lieu at an estimated cost of \$20,000 based on the current average per linear foot cost.

Mr. Mitchell stated that the Technical Review Committee voted six to one in favor of recommending that on the project side of Harris Street the street be constructed to meet current City street construction standards. This recommendation was made by the Fire Department based on their concern regarding ingress and egress along Harris Street. He reviewed the recommendations made by the Planning Board:

- Met on March 24, 2009
- Unanimous (seven to one, one recusal) recommendation that the petition is consistent with the Vision 2020 Comprehensive Plan
  - Recommend conditional approval for the rezoning and master plan
    - Project side of Harris Street to be constructed to City Street Standards
    - Transit must be provided within one block of site
    -

Mr. Mitchell pointed out that the two Planning Board recommendations as well as the sidewalk issue have been included in the proposed Ordinance.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments regarding zoning map amendment CD-8-02-2009.

Mr. John Sofley, Management Services Director, stated that staff has worked very hard with the architect to make sure the facility meets all requirements of the Land Development Ordinance. He pointed out that staff has also worked with the Public Services Transit Division to provide a bus stop in the area.

Ms. Sally Pearson, 1331 Hillsboro Street, stated that she is concerned about the amount of traffic that the proposed site will generate.

Mr. Robert Boone, 1605 South Main Street, stated that he is not opposed or in favor of the project but feels this is the wrong location for the facility. He added that he feels wireless communication will make fiber obsolete. He noted that he thinks the City-owned property located at 300 South Main Street is an excellent location for this facility.

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

Mayor Kluttz asked Mr. Mitchell to address some of the concerns raised during the public hearing.

Mr. Mitchell stated that the City conducted a traffic analysis and projected the site could generate 725 vehicles per day and that most vehicles will use Martin Luther King, Jr. Avenue. He added that the City's Traffic Engineer stated that this amount of traffic will not negatively affect the current level of service for the surrounding streets.

Councilman Lewis stated that meetings were held several years ago regarding this neighborhood and whether this area should be rezoned back to Residential from Light Industrial (M-1). He indicated that the neighborhood did not want to rezone to Residential because they felt the M-1 zoning increased their property values. He pointed out that when property is zoned for business an increase in traffic will occur when the property is developed. He pointed out that he believes Governmental and Institution development will have the least impact on the neighborhood.

Mr. Lewis stated that he likes the location of the facility because the neighborhood is in transition. He added that when the street was renamed Martin Luther King, Jr. Avenue, Council made a commitment to improve the street and the area and he is pleased with the improvements made to the Lutheran Services for the Aging building, the Sports Complex renovation and the Rufty Homes Senior Center expansion. He indicated that he cannot think of a better location for this quality of a building.

Mr. Lewis pointed out that he feels wireless will never replace fiber optic, but will serve as a compliment to fiber optic. He noted that he has no doubts about the City's decisions regarding implementation of Fiber to The Home.

Mayor Pro Tem Woodson stated that he travels Martin Luther King, Jr. Avenue every day and sees very little traffic along the street. He indicated that it is his understanding that wireless works well but not for high definition television, which is presently in high demand. He noted that the City studied the feasibility of Fiber to the Home for three years and he feels comfortable with their decision.

Councilman Kennedy stated that citizens currently have a difficult time getting into the customer service center located on Main Street due to minimal parking. He indicated that he feels the proposed building will be great for both the City and neighborhood.

(c) Councilman Burgin stated that the City Council hereby finds and determines that adoption of an Ordinance to rezone the property described herein to establish a Conditional District Overlay is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan and that adoption of the Ordinance is reasonable and in the public interest. Thereupon, Mr. Burgin made a **motion** to adopt an Ordinance amending the Land Development Ordinance and the Land Development District Map of the City of Salisbury, North Carolina, by rezoning approximately 4.5 acres, identified as Tax Map and Parcel 017-07101, by establishing a Conditional District Overlay to permit the development of a 26,000 square foot City of Salisbury Customer Service Center; identifying the development documents; providing an effective date; and for other purposes. Mr. Kennedy seconded the motion. Mayor Kluttz stated that she feels Fiber To The Home has made Salisbury the envy of many cities and that the building will be an asset to Martin Luther King, Jr. Avenue and the neighborhood. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE AND THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 4.5 ACRES, IDENTIFIED AS TAX MAP & PARCEL 017-07101, BY ESTABLISHING A CONDITIONAL DISTRICT OVERLAY TO PERMIT THE DEVELOPMENT OF A 26,000 SQ. FT. CITY OF SALISBURY CUSTOMER SERVICE CENTER; IDENTIFYING THE DEVELOPMENT DOCUMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 64-66, and is known as Ordinance 2009-24.)

**LAND DEVELOPMENT ORDINANCE TEXT AMENDMENT – LDOTA-06-2009**

(a) Mr. Preston Mitchell, Senior Planner, addressed Council regarding sidewalk requirements for infill lots. Mr. Mitchell reviewed the history of the zoning code and indicated that a specific element of the Vision 2020 plan is to have a pedestrian friendly City. He stated that the Land Development Ordinance (LDO) requires sidewalks along any street where there is new development. He indicated that staff was aware that the LDO would require revisions as situations arose and that several individuals have expressed concern with this sidewalk requirement. Mr. Mitchell noted that staff and the Technical Review Committee (TRC) have reviewed the issue and recommends relaxing requirements for infill lots along publicly maintained streets. He indicated that the infill provision requires new homes be consistent with homes in the area. He noted that staff proposes to require sidewalks based on the infill provisions. Mr. Mitchell then gave examples of what the infill provision will require:

- No sidewalk is required for interior lots where there is no sidewalk within 300 feet from the property line in either direction
- No sidewalk is required for corner lots where there is no sidewalk within 300 feet from the property line of each street face
- Payments can be made into the Sidewalk Payment In Lieu Program instead of building a sidewalk

He pointed out that the Planning Board supports the amendment unanimously.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments regarding Land Development Ordinance Text Amendment LDOTA-06-2009.

Mr. Richard Miller, 480 Beck Road, stated that he does not know the exact content of the provision but would like the same principle applied to industrial sites. He stated that he recently completed a development at 124 Circle M Drive and has been discussing the sidewalk ordinance with the Zoning Board since April 2008. He pointed out that small businesses are core to the survival of the economic community in Salisbury. He indicated that few small businesses ask for government consideration and requiring small businesses to invest in sidewalk space could discourage businesses from developing in the area. He requested to have this provision applied to the Circle M Industrial Park to discourage pedestrian traffic because of the volume of freight traffic.

Ms. Karen Alexander, KKA Architecture, 419 South Fulton Street, stated that she fully supports the adoption of the text amendment. She stated that she feels it is excellent for small developers and property owners who are faced with large development

expenses. She stated that she agrees with Mr. Miller that the provision should be reviewed for industrial areas.

Mr. Wayne Miller, 124 Circle M Drive, stated that he is leasing property in an industrial area and supports a text amendment that would not promote pedestrian traffic in industrial areas. He stated that the provision would allow businesses to operate safely and successfully.

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

Mayor Pro Tem Woodson asked Mr. Mitchell if a developer would be required to add sidewalks if a corner lot had a sidewalk located less than 300 feet from the property line on one side, but not the other. Mr. Mitchell indicated that the sidewalk would only be required on the side where the sidewalk is located less than 300 feet from the property line. He also indicated that on an interior lot with the same issue, a sidewalk will be required for both sides of the frontage, even if the sidewalk is located only on one side. Mr. Mitchell stated that this can be clarified in the proposed text amendment.

Councilman Kennedy stated that he supports the text amendment and if there are no sidewalks near the property then sidewalks should not be required. He agreed that the Planning Board should review the provision for industrial areas.

Councilman Burgin stated that when the LDO was developed it was discussed and determined that all new developments would have sidewalks. He commented that this is part of the cost of development and it is a high level of demand for new development. He noted that there was discussion at that time about exempting infill lots and it was noted that infill development should be held to the same requirements as new developments and the option of Payment in Lieu was added. Mr. Burgin stated that he is hesitant to exempt the residential areas from sidewalk requirements but would like Council's actions to reflect what the citizens want. He indicated that there were several developers on the LDO Committee who concluded that if sidewalks are expected for new development then they should be expected for infill lots.

Mr. Burgin commented that he has received calls from citizens who feel the City's Payment of Lieu Program is up to 20% higher than the actual cost of constructing sidewalks. He added that this may be a problem that needs to be addressed. Mr. Burgin stated that he is open to reviewing the requirements for industrial development but is comfortable with the way the Ordinance is currently written for residential development.

Councilman Kennedy stated that many infill lots are owned by private individuals who have owned the lots for many years and have saved to build a home and a sidewalk is an extra expense for them. He stated that he feels this provision should be relaxed for infill lots.

Mayor Pro Tem Woodson asked if the in lieu of payment goes into a sidewalk fund. Mr. Mitchell indicated that the payments are being put into a sidewalk fund. Mr. Lewis noted that the money also goes into Pedestrian Benefits Zones, which means the money is used for sidewalk improvements in the area where the development is occurring.

Mr. Mitchell commented that from the Planning staff perspective it is very important to have sidewalks throughout the City, but staff has had an issue with curbs and gutters. He indicated that a majority of the existing residential areas do not have curbs and gutters, but have swells. He stated that adding a curb and gutter between two swells could cause drainage problems. He noted that if the requirement is relaxed staff can proceed to address the curb and gutter situation.

Councilman Lewis stated that he would recommend the Planning Board review the Heavy Industrial and Light Industrial properties. He stated that there is an economic advantage for those who build on an infill lot and do not pay for sidewalks and that he feels this will encourage infill development. He indicated he is a proponent of sidewalks but understands that there will always be exceptions.

Mr. Mitchell requested that staff be allowed to adjust the text in the amendment to reflect Mr. Woodson's question regarding requirements for corner lots and bring back to Council for adoption.

(c) Thereupon, Mr. Lewis made a **motion** to lay this on the table until the next scheduled meeting. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **LAND DEVELOPMENT ORDINANCE TEXT AMENDMENT – LDOTA-08-2009**

(a) Mr. Preston Mitchell, Senior Planner, addressed Council regarding gas station canopy lighting. Mr. Mitchell stated that the Land Development Ordinance (LDO) requires lighting under gas station canopies to be recessed, not to exceed 10 foot candles at the canopy edge, and not to exceed a one foot candle at the property line. He indicated that staff has received complaints from several new and redeveloped gas stations regarding the safety of the 10 foot candle standard. He noted that staff contacted the Illuminating Engineering Society of North America and requested assistance on the principles of gas station canopy lighting design. He stated that it was agreed the requirement in the Ordinance with 10 foot candles under the edge and one at the property line was not standard throughout the industry and that instead of using the edge as the measurement staff should use the underneath of the canopy. He indicated that staff recommends the one foot candle remain at the property line, that the recessed lighting under canopy remain, and that 50 foot candles underneath the canopy replace 10 foot candles at the canopy edge.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments regarding Land Development Ordinance Text Amendment LDOTA-08-2009.

Mr. Jay Dees, 121 East Kerr Street, stated that he commends staff for looking at the realities of the Land Development Ordinance. He stated that the intent of this Ordinance is for safety issues and the one foot candle at the perimeter is the key. He noted that this is a safety issue for the gas stations and motorists. He again commended staff for their work.

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

Councilman Burgin stated that he feels the one foot candle at the property edge is essential. He added that if fifty foot candles under the canopy is what is needed to provide safety and make the businesses successful then he can support the recommendation.

(c) Mayor Pro Tem Woodson stated that the City Council finds and determines that adoption of an Ordinance to amend the Land Development Ordinance of the City of Salisbury as underlined or stricken herein is consistent with the goals, objectives and policies of the Vision 2020 Plan and that adoption of this ordinance is reasonable and in the public interest. Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending Section 11.3 (Outdoor Lighting Provisions) of the Land Development Ordinance of the City of Salisbury, North Carolina. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 11.3 (OUTDOOR LIGHTING PROVISIONS) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 67-68, and is known as Ordinance 2009-25.)

**PRESENTATION – GOOSE AND DUCK EDUCATION PROGRAM**

Ms. Elaney Hassleman, Parks and Recreation Marketing and Community Relations Manager, and Salisbury High School student Braxton Whitaker addressed Council regarding Canada Geese in City Park. Ms. Hassleman stated that staff has received complaints about the geese and the Parks and Recreation Department has decided to establish a Duck and Goose education program to address the problem. She introduced Mr. Whitaker who explained problems created by feeding the geese.

Mr. Whitaker explained that the problems associated with the geese at the park include their aggressive behavior, defecation production, disruptive migration and their dependence on humans for food. He added that feeding geese can cause poor nutrition, delayed migration, disease, and unnatural behavior. He noted that bread is the main food

people feed to the geese and it has no nutritional value. He explained that this can cause unnaturally growth in young geese which can lead to “Angel Wing.” This condition is caused when the wings and flight feathers grow too quickly causing the end feathers to stick out, permanently grounding the bird for life. He indicated that a solution to the problem is to stop feeding the geese unhealthy and unnatural foods, and to provide a less goose friendly habitat.

Ms. Hassleman stated that each year the City spends approximately \$18,000 on maintenance and staff to control the geese problem. She noted that the geese eat four pounds of grass each day and pointed out that there is no grass around City Park lake because every time it is seeded the seed is eaten. She indicated that geese excrete two pounds of waste per day and because of the number of birds located at the park it has created quite a problem for maintenance. Ms. Hassleman stated that staff is looking forward to educating the public regarding the goose issue and that Mr. Whitaker has agreed to assist the City in the creation of an educational video and by working with the summer camp program.

Councilman Burgin stated that he is amazed that Mr. Whitaker is so young and has this amount of knowledge on this issue. He added that he appreciates Mr. Whitaker’s help with this problem.

Mayor Kluttz stated that she feels this information will be surprising for people in the community. She indicated that educating the public on this issue is essential. Mayor Kluttz thanked Mr. Whitaker for sharing his knowledge.

### **CONSIDERATIONS FOR SPEED LIMIT REDUCTIONS**

Mr. Dan Mikkelson, Engineering and Development Director, addressed Council regarding a request to reduce the speed limit on Circle Drive. Mr. Mikkelson reviewed an aerial photograph of Circle Drive and pointed out that it is adjacent to Grove Street extension. He noted that staff received a petition from the residents requesting the speed limit be reduced to 25 miles per hour. He indicated that the traffic engineer has evaluated the area and recommends the speed reduction.

Councilman Kennedy stated that he is familiar with this area and has noticed cars parked on the side of the road and feels the speed reduction is a good idea.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 13-336, Article X, Chapter 13 of the Code of the City of Salisbury, relating to speed limits generally. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **AN ORDINANCE AMENDING SECTION 13-336, ARTICLE X, CHAPTER 13 OF THE CODE OF THE CITY OF SALISBURY, RELATING TO SPEED LIMITS - GENERALLY**

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 69, and is known as Ordinance 2009-26.)

## **PARKING MODIFICATIONS – FLORIAL STREET**

Mr. Dan Mikkelson, Engineering and Development Director, addressed Council regarding a recommendation for parking modifications on Florial Street, which is located off of Bringle Ferry Road. Mr. Mikkelson displayed an aerial photograph of the area and indicated that Florial Street is very narrow. He noted that staff reviewed the area and found that when cars park along the curb near the intersection it is difficult to enter Florial Street from Bringle Ferry Road. He indicated that the Fire Department felt having cars parked close to the intersection would restrict emergency access. Mr. Mikkelson indicated that staff recommends Council adopt an Ordinance to restrict parking within 50 feet of the intersection.

Councilman Kennedy stated that he received a call from a resident of Florial Street who had a medical emergency and medical assistance could not get to her home because cars were parked too close to the intersection.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 13-338, Article X, Chapter 13 of the Code of the City of Salisbury, relating to parking prohibited at all times. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

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

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 70, and is known as Ordinance 2009-27.)

## **MUNICIPAL AGREEMENTS – CMAQ FAST TRACK PROJECTS**

Mr. Dan Mikkelson, Engineering and Development Director, addressed Council regarding Congestion Mitigation Air Quality (CMAQ) Fast Track Projects. Mr. Mikkelson stated that Council previously authorized staff to apply for Fast Track funding through CMAQ. He indicated that staff has received agreements from the North Carolina Department of Transportation (NCDOT) for three CMAQ Fast Track sidewalk projects:

- Project C-4908 B Sports Complex area sidewalks
- Project C-4908 C Salisbury High School area sidewalks
- Project C-4909 Statesville Boulevard area sidewalks

Mr. Mikkelson noted that NCDOT will reimburse the City 100% of the cost of these projects. He recommended Council authorize the Mayor to execute the agreements.

Councilman Lewis asked what notification process will be used to inform property owners about the sidewalk construction. Mr. Mikkelson stated that staff will

make direct contact in the Salisbury High School project, and there will be a neighborhood meeting at the Rufty-Homes Senior Center for the Sports Complex project, and a meeting at a neighborhood church for the Statesville Boulevard project. He indicated that all property owners adjacent to the projects will be contacted by mail regarding the meetings.

Councilman Burgin asked where the Statesville Boulevard area sidewalk project will be located. Mr. Mikkelson indicated that it will be constructed from Innes Street to Jake Alexander Boulevard on both sides of the street.

Thereupon, Mr. Lewis made a **motion** to authorize the Mayor and City Clerk to execute Municipal Agreements for Project C-4908 B Sports Complex area sidewalks, Project C-4908 C Salisbury High School area sidewalks, and Project C-4909 Statesville Boulevard sidewalks with the North Carolina Department of Transportation regarding Congestion Mitigation and Air Quality (CMAQ) fast-track projects. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

### **APPOINTMENTS TO TRANSPORTATION ADVISORY BOARD**

Mayor Klutz recommended the following for appointment to the Transportation Advisory Board:

#### 3 year term

- Mr. Clyde Fahnstock, Director, Rowan County Senior Services
- Ms. Laura Schmidt, Certified Orientation Mobility Specialist, VA Hospital
- Mr. Phil Conrad, Planner, Cabarrus-Rowan MPO
- Mr. Preston Mitchell, Senior Planner, City of Salisbury

#### 2 year term

- Mr. Dustin Wilson, Land Management Director, Town of Spencer
- Mr. Sam Faust, Assistant Director, Salisbury Housing Authority
- Ms. Julia Rustin, General Manager MV Contract Transportation, Inc.
- Ms. Nancy Brandt, Program Administrator, Rowan County DSS

#### 1 year term

- Ms. Barbara Mallett, Alderman, Town of East Spencer
- Mr. Archie Reid, Public, Lash Drive Community
- Ms. Betty Tomlin, Public, Transit Rider

#### Council Liaison

- Councilman William Pete Kennedy

#### Staff Liaison

- Mr. Rodney Harrison, Transit Division Manager

Thereupon, Mr. Woodson made a **motion** to appoint members as read by the Mayor. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **BOARDS AND COMMISSIONS APPOINTMENTS**

This item was postponed

## **PUBLIC COMMENT**

Mayor Kluttz opened the floor to receive public comment.

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

## **COMMENTS FROM THE CITY MANAGER**

### (a) Report on Olive Garden Grease Trap

City Manager David Treme recognized Mr. Jim Behmer, Utilities Director, to provide an update Council on the size of the grease trap for the Olive Garden. Mr. Behmer indicated that staff performed calculations based on the Fat, Oils, and Grease (FOG) program for the grease trap at the Olive Garden. He explained that what was originally specified for the Olive Garden was a 1500 gallon interceptor, but the calculation using the FOG formula specifies a 2000 gallon grease interceptor. He explained that staff attempted to verify the size in the field, but could not determine capacity because the interceptor had not yet been pumped out. He added that once the interceptor is pumped the amount removed can be measured to confirm the size of the interceptor. He added that it appears to be a larger interceptor than what was originally specified.

Councilman Burgin thanked staff for providing the information. He commented that he thought the size of the trap was based on the waste line leaving the plumbing but through staff's report found that the size is actually based on the trap at the sink.

### (b) Update regarding Cultural Arts Festival

City Manager David Treme asked Mr. Joe Morris, Planning Director, to update Council regarding the Cultural Arts Festival. Mr. Morris indicated that the Cultural Arts Festival will be held May 1-3, 2009 and reviewed the following:

#### Documentation Requested and Received

- Certificate of Liability Insurance
- Release and Hold Harmless Agreement

- Public Street Festival and Special Event Application
- Coordination with Public Services and Police Departments
- Specialty Market Business License

Mr. Morris noted that the BBQ Festival portion of the event will be held in the parking area on Depot Street and Gateway Park. He added that the Art Festival portion of the event will be held at the Gateway Building parking lot.

Mr. Morris also reviewed recommendations for future events:

- Public Information Campaign
- Staff training and “single portal” application process
- Consider adopting a fee to capture actual costs
- “Pre-certify” festival venues to accommodate events based on estimated attendance.

Mr. Morris indicated staff has found that some of the requirements for Street Festivals require quite a bit of staff time and expense and that a fee is proposed to help offset some of these costs. He noted that staff is still trying to determine the recommended amount for the fee. He noted that staff will continue to work on these recommendations and bring information back to Council at a later date.

Councilman Lewis stated that he appreciates the work done to develop this process.

Councilman Burgin suggested staff process several more permits in order to determine an accurate rate for the fee before the fee is established.

(c) Animal Control

Mr. Doug Paris, Assistant to City Manager, updated Council regarding a proposal to combine City and County Animal Control operations. He stated that the Rowan County Board of Health recently passed a Resolution to allow the City of Salisbury and Rowan County to consolidate their Animal Control departments. He noted that the plan is still being developed and more information will be brought back to Council. Mr. Paris clarified that both the City Council and the Board of Commissioners will have to approve the consolidation.

Councilman Burgin asked if the consolidation of City and County services will affect the Dangerous Dog Appeal Board. Mr. Treme indicated that the consolidation could possibly eliminate the Dangerous Dog Appeal Board.

(d) Airport Development Zone

Mr. Doug Paris, Assistant to City Manager, informed Council that during the Rowan County Board of Commissioners meeting, Commissioner Chad Mitchell

presented an update to the Board regarding the Airport Committee's recommendation to enter into discussions with the City to create an Airport Development Zone.

Mayor Kluttz stated that during the Joint City-County meeting there was a commitment by both Boards to work more closely together. She stated she is encouraged and optimistic.

### **MAYOR'S ANNOUNCEMENTS**

(a) **Salisbury-Rowan Layoff Assistance Day**

Mayor Kluttz announced that the Salisbury-Rowan County Layoff Assistance Day will be held Friday, April 24, 2009 from 9:00 a.m. until 1:00 p.m. at the Hurley Family YMCA located at 828 Jake Alexander Boulevard.

(b) **Comments from Councilman Lewis**

Councilman Lewis referred to the Payment in Lieu of Sidewalk Program and commented that he believes the fee should be part of the schedule of fees adopted by Council when it adopts the annual budget. He added that he would also like to see the justification for how the fee per linear foot is determined and commented that he has received comments from citizens objecting to the current \$25 per linear foot fee.

(c) **Comments from Mayor Pro Tem Woodson**

Mayor Pro Tem Woodson asked if Council should endorse the I-85 bridge project. There was discussion about previous Resolutions that may have been adopted and City Manager David Treme indicated that staff will check to see what has been previously adopted by Council.

### **CLOSED SESSION**

Thereupon, Mr. Woodson made a **motion** to go into closed session concerning the acquisition of property located on Tax Map 325C Parcel 370 as allowed by NCGS 143-318.11(5) and to consult with an attorney as allowed by NCGS 143-318.11(3) Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **RETURN TO OPEN SESSION**

Thereupon, Mr. Burgin made a **motion** to return to open session. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

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

**ADJOURNMENT**

**Motion** to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 7:02 p.m.

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Susan W. Kluttz, Mayor

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Myra B. Heard, City Clerk