

Salisbury, North Carolina
January 18, 2011

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem Maggie A. Blackwell, Councilmen William (Pete) Kennedy, William Brian Miller (arrived 4:51 p.m.), and Paul B. Woodson, Jr.; 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, and announced Councilman Miller would be arriving late to the meeting.

RECOGNITION – SALISBURY-ROWAN UTILITIES PLATINUM 6 AND SILVER PEAK PERFORMANCE AWARDS

Mr. Jim Behmer, Salisbury-Rowan Utilities (SRU) Director, informed Council SRU has been recognized by the National Association of Clean Water Agencies for Outstanding Record of Compliance with National Pollutant Discharge Elimination System (NPDES) permit for 2009. He noted the waste water treatment plant was one of only 109 facilities nationwide, and one of six of the 300 facilities in North Carolina to receive the Platinum Award. He explained the award signifies five or more years of 100% NPDES permit compliance. He commended the employees with plant operations and Environmental Services Divisions for their success.

Mr. Behmer noted this is the second Platinum Award SRU has received, and is a Platinum 6 Award in recognition of more than six years of 100% compliance.

Mayor Kluttz presented the Platinum Award to Mr. Martin Trexler, Wastewater Treatment Operations Manager and Operator of Responsible Charge.

Mr. Behmer informed Council SRU also received the Silver Award for the Second Creek Wastewater Treatment Plant. He explained this award recognizes facilities that have received no more than five permit violations per calendar year. Mayor Kluttz then presented the Silver Award to Mr. Charles Wood, Senior Operator and Operator of Responsible Charge for Second Creek Wastewater Treatment Plant.

Mr. Behmer asked members of SRU staff to stand and be recognized for these accomplishments.

Mayor Kluttz congratulated the staff of SRU, and thanked Mr. Behmer for his leadership. She commented SRU continues to make Council very proud.

PROCLAMATIONS

Mayor Kluttz proclaimed the following observances:

CATHOLIC SCHOOLS WEEK

January 30 – February 5, 2011

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of January 4, 2011.

(b) Temporary Street Closure – East Liberty Street

Close the 100 block of East Liberty Street Saturday, January 22, 2011 from 3:00 p.m. until 12:00 midnight for the annual Waterworks Visual Art Center oyster roast.

(c) Temporary Street Closure – South Church Street

Close the 100 block of South Church Street Saturday, April 16, 2011 from 10:00 a.m. until 1:00 p.m. for the Salisbury Parks and Recreation Touch a Truck event.

(d) Temporary Street Closure – East Fisher Street

Close the 100 block of East Fisher Street Saturday, June 25, 2011 from 8:00 a.m. until

5:00 p.m. for the Salisbury-Rowan PFLAG PRIDE celebration.

Thereupon, Mr. Woodson made a **motion** to approve the Consent Agenda as presented. Ms. Blackwell seconded the motion. Messrs. Kennedy and Woodson, and Meses. Blackwell and Kluttz voted AYE. (4-0)

GOALS AND HIGHLIGHTS – HURLEY PARK ADVISORY BOARD

Ms. Jane Ritchie, Hurley Park Advisory Board member, and Ms. Daphne Beck, staff liaison, presented the Highlights and Goals for the Hurley Park Advisory Board.

Highlights for 2010-2011:

- Held Spring celebration
- Began renovation of Bracey Azalea Garden
- Hired contractor for Annex Bridge replacement
- Hosted 5 weddings and 2 employee appreciation lunches
- Continued routine maintenance

Level 1 Goals for 2011-2012:

- Continue Spring Celebration and Annual Lecture - \$2,000
- New and replacement plantings - \$7,000
- Upgrade irrigation system - \$3,900
- Replace 17 swale bridges - \$800

Level 2 Goals for 2011-2012:

- Create an updated irrigation map
- Add additional trash cans along Annandale Avenue

Ms. Ritchie thanked the Hurley Foundation for its continued support of Hurley Park, and noted the Foundation donates half of the park's expenses, which was more than \$44,000 last year.

Mayor Kluttz thanked the Hurley Park Advisory Board and staff for all they do for this beautiful asset for the City.

GOALS AND HIGHLIGHTS – TRANSPORTATION ADVISORY BOARD

Ms. Nancy Brandt, Chair of the Transportation Advisory Board, and Mr. Rodney Harrison, staff liaison, presented the Highlights and Goals for the Transportation Advisory Board.

Mr. Brandt reviewed the Highlights for 2010-2011:

- Five-year Community Transportation Service Plan
 - Steering Committee
- 32nd Annual Community Transportation Conference
- Benefits of Public Transportation
- Lash Drive Connector
- Shelter Locations
- North Carolina Metro Mayors Transportation Summit
- Review/Recommendations
 - Americans with Disabilities Act (ADA) Paratransit Application
 - Reduced fare application
 - CTP grant application – budget
 - Drug and Alcohol testing policy
- Route 1 – Rowan Cabarrus Community College/Spencer/Customer Service Center
- Transportation Advisory Board Goal Planning Session

Mr. Brandt then reviewed the Goals for the Transportation Advisory Board:

- Consistently provide exceptional service to all customers
- Evaluate fixed routes for efficiency, effectiveness as well as the feasibility to expand routes and services
- Better market and spread the word about public transit by “telling the story through a benefits campaign” to local elected bodies and the community at large
- Improve transit connectivity inside and outside the City of Salisbury by focusing on connecting customers to places
- Maintain transit infrastructure at a high level and improve the aesthetic appeal of shelters, bus stops, benches, and signs

Goal 1 – Consistently provide exceptional service to all customers

- Support Human Resources and Public Services initiatives
- Offer customer service training to all employees
- Conduct training on System Safety Program Plan
- Require each employee attend at least 1 training session

Goal 2 – Evaluate fixed routes for efficiency, effectiveness as well as the feasibility to expand routes and services

- Prioritize and take action on recommendations from the Five-Year Community Transportation Service Plan
- Monitor and evaluate service during trial periods
- Research alternative service delivery options
- Explore new funding sources

Goal 3 – Better market and spread the word about public transit by “telling the story through a benefits campaign” to local elected bodies and the community at large

- Participate in outreach programs
- Partner with Human Service agencies in educating clients about public transit options
- Improve website by making information easier to access

Goal 4 – Improve transit connectivity inside and outside the City of Salisbury by focusing on connecting customers to places

- Actively participate in monitoring and evaluating “Rowan Express” bus service from Salisbury to Kannapolis and “Rowan Express East”
- Explore the establishment of a transportation call center for all of Rowan County
- Research the feasibility of purchasing a system to monitor vehicles and assist with trip planning
- Continue the strong relationship with Rowan Transit System
- Participate in regional transportation meetings

Goal 5 – Maintain transit infrastructure at a high level and improve the aesthetic appeal of shelters, bus stops, benches, and signs

- Update capital improvement plan to support recommended service levels
- Improve bus stops by increasing shelters, benches, and trash cans throughout the system

Ms. Brandt noted the Fixed Route ridership has continued to increase over the past three years and reviewed the ridership figures:

	<u>Fixed Route</u>	<u>ADA</u>
FY2010	182,294	7,587
FY2009	176,856	8,381
FY2008	170,521	8,665

Mayor Kluttz commented the Transportation Advisory Board has done an exceptional job during its first year of existence. She thanked the Board and staff for their work.

Councilman Woodson asked why the ridership for Americans with Disabilities Act (ADA) service had decreased. Mr. Harrison responded the process for qualification for the ADA services has been improved in order to ensure those who used this specialized service were qualified.

GOALS AND HIGHLIGHTS – TREE BOARD

Mr. Jack Burke, Chair of the Salisbury Tree Board, and Mr. Mark Martin, staff liaison presented the Highlights and Goals for the Tree Board:

Highlights 2010:

- Conducted Arbor Day, West Miller Street - planted 6 crabapple trees – Status: Complete
- Trees planted as part of East Innes Streetscape improvement project (Phase II) – Status: Complete
- Trees replaced Plaza Building Courtyard, 3 Cherry Trees – Status: Complete
- Tree City USA 24 Years
- Park Avenue tree planting project, 60 Crepe Myrtles – Status: Ongoing
- New Customer Service Center Office Plantings – Status: Complete
- City GIS Division tree inventory Phase I, over 1,000 trees inventoried – Status: Ongoing

Goals 2011:

- Provide funding for downtown dead tree replacement - \$4,000 (contracted)
- Provide funding for Neighborhood Tree Planting projects and dead tree replacement - \$7,500
- Sponsor a Fall Conference on the economic benefits of Urban Forestry in partnership with local and state organizations - \$2,000
- Continue educational training for tree trimmers and the general public - \$2,000
 - Purchase classified advertising
 - Newspaper articles
 - Handouts in water bills
 - Utilize Access Channel 16 and social networking sites
- Continue to seek grants and alternative funding for urban forestry programming
- Continue maintenance of Brown Wiseman Boxwood property
- Continue to participate in Arbor Day and Tree City USA programs

Mayor Kluttz thanked Mr. Burke, members of the Tree Board, and staff for all they do for the City of Salisbury.

SPECIAL USE PERMIT SUP-07-2010 NASHVILLE NIGHTS

SUP-07-2010 Nashville Nights, 125 East Innes Street

(a) Swearing In

Mayor Kluttz indicated this case is special zoning and all people who wish to testify during the public hearing must be sworn in. She then asked those who wished to speak to come

forward, and she administered the oath to the following:

Mr. David Phillips	Mr. Dick Palmore
Ms. Karen Littleton	Mr. Bob Bartlett

(b) Ex Parte Disclosure

Mayor Kluttz stated if any Council member has had discussion with anyone regarding this matter it must be disclosed. Councilman Woodson stated he did not have conversations, but people have asked him when the business would open, but not regarding how he would vote. There were no other ex parte disclosures.

(c) Mayor Kluttz convened a public hearing, after due notice thereof, to receive testimony regarding SUP-07-2010.

Mr. David Phillips, Zoning Administrator, indicated this request is for a Special Use Permit (SUP) for 125 East Innes Street. He pointed out the SUP Decision-Making Rules:

- The zoning ordinance (LDO) must spell out the standards for granting a Special Use Permit, and those decision-making standards cannot be developed on a case-by-case basis
- The decision to grant or deny the SUP, or to impose conditions on the approval, must be based solely on the LDO standards
- The standards must provide sufficient guidance for decision. The applicant, neighbors, and board all need to know what the ordinance requires for approval

Mr. Phillips then reviewed the Production of Evidence:

- The burden is on the applicant to present sufficient evidence to allow the board to make findings that the required standards will be met
- The burden is on an opponent to present sufficient evidence that a standard will not be met
- If insufficient evidence is presented that the required standards will be met, then the SUP must be denied
- If uncontradicted evidence is presented that all of the standards will be met, then the SUP must be issued
- If uncontradicted evidence is presented that even one of the general or specific standards will not be met, then the SUP must be denied
- If there is conflicting evidence, the board decides what the facts are and decides accordingly

Mr. Phillips noted the Standards for Decision, and pointed out all SUP requests must meet the first three general standards, and for a bar/nightclub use a fourth Standard must also be met:

1. The use meets all required principles and specifications of the Ordinance and any

adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and

2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.
4. No such facility shall be located within 500 feet of any lot containing a school.

Mr. Phillips indicated a Special Use Permit request was brought to Council November 16, 2010, for a bar/nightclub use at 127 East Innes Street for Nashville Nights. He stated this SUP was approved by Council with the condition the guidelines presented be adopted as part of the permit.

Mr. Phillips stated the request before Council today is for the same establishment, but for space at 125 East Innes Street. He explained the petitioner encountered concerns regarding the Fire Codes, which will prohibit the use of the upper floors at 127 East Innes Street. He noted since the second floor is not usable, the petitioner is seeking to use the space next door at 125 East Innes Street, and join the two spaces by a pass-through.

Mr. Phillips reviewed photographs of 127 and 125 East Innes Street. He referred to the application and noted the applicants state how they are meeting all of the guidelines for a Special Use Permit. He indicated the applicants also request the guidelines adopted as part of the first Special Use Permit, be adopted with this location.

Mr. Phillips stated the request went to the Planning Board where a courtesy hearing was held, and the Planning Board recommended approval of the Special Use Permit. He noted there was no one present to speak in opposition at the courtesy hearing.

Mr. Phillips displayed a drawing of the proposed use for the two spaces, and noted the 127 East Innes Street space is proposed for the bar use, with the nightclub use in 125 East Innes Street. He pointed out the proposed pass-through for the two spaces.

Mr. Phillips reiterated the Planning Board recommended approval of the SUP, and added staff also believes all requirements have been met.

Mayor Kluttz indicated she understands the site plan has not been reviewed by the Salisbury Fire Marshall. Mr. Phillips responded this is correct. He explained the applicant was advised to have the use approved prior to submitting the building plans for review. He stated if the use is approved, the applicant will submit a plan to the City, as well as to Rowan County Building Code Enforcement. He noted as part of that process, the plans submitted for County review are also submitted to the Fire Department for their review. He added the plan will then be reviewed separately in regards to City zoning. Mr. Phillips stated a Certificate of Occupancy will not be issued until the County has signed-off on their part, which includes approval from the Fire Department.

Councilman Woodson stated he thinks Mr. Phillips is indicating if Council approves the Special Use Permit, nothing will happen until all approvals are received. Mr. Phillips agreed, and stated the applicant is still required to submit the building plans for the proposed renovations, and must meet all of the Codes.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive testimony regarding SUP-07-2010.

Ms. Karen Littleton, 316 North Deerfield Circle, Salisbury, North Carolina, requested a Special Use Permit for 125 East Innes Street. She noted after receiving approval from Council on November 16, 2010, they started working in earnest with City Inspections and a City Fire Captain on the plans for Nashville Nights at 127 East Innes Street. She stated per the Codes it has been determined they cannot use the second floor without major changes to the façade of the building, or without installation of a fire sprinkler system. She indicated they did not want to change the historical structure, and chose not to pursue the addition of two outside entrances from the second floor. She added since they do not own the building, they do not feel it would be feasible to take on the expense of adding a sprinkler system. Ms. Littleton stated after further research she requests Council allow a Special Use Permit for 125 East Innes Street. She noted at one time 125, 127 and 129 East Innes Street were home to Western Auto, and the three buildings were connected by pass-throughs that have since been closed. She indicated they propose to open the entrance between 125 and 127 East Innes Street, and this would allow each side to be accessible to Nashville Nights, and secured by a fuse-link fire door or a magnetic fire door controlled by the smoke detector system. She stated in case of fire, each side would have access to two outside entrances. Ms. Littleton indicated the noise level should not be impacted by the move since the only windows not buffered by storage or restrooms, are those facing East Innes Street. She stated she thinks having all of Nashville Nights on one floor will allow them to maintain a more watchful eye for security. She noted she has provided a preliminary drawing of how the two buildings will look when adjoined, and added these are the dimensions presented to the Code Officers and Fire Captain. She thanked Council for their consideration.

Mr. Bob Bartlett, 140 Greenbrier Creek Place, Salisbury, North Carolina, stated he is a native of Salisbury who has been back since 1992. He stated he wished to speak to peace, law and order, happy homes, and safety for all residents of Salisbury. He requested Council deny the opening of this saloon because it is another bar that can add to crime, alcoholism, ill health, fights, and drunks all in the name of social drinking. He stated the bar has the potential to rob children of mothers and fathers, who could be out spending the money that feeds and clothes them. He indicated it produces noise and possible crimes affecting surrounding businesses and neighborhoods. Mr. Bartlett stated at an earlier meeting a Planning Board member stated bars had created undesirable things in the City's streets. He indicated the Planning Board member described an example of walking by a bar and it reeked of urine where people had exited the building and relieved themselves on the sidewalks and alleys bordering the club. He stated drinking drivers leave the bars and fill the streets with more threats of injury or death to those who meet them on the road. He commented it increases the load on emergency medical responders, police, courts, and jails, which costs more in taxes. Mr. Bartlett stated this bar may set up another potential disagreement between patrons who drink too much, get into arguments and possibly end up killing each other as in the recent Bench Warmer's Saloon case. Mr.

Bartlett stated when the concept of a bar is born it is to make money on the misery of people. He added the request for a bar then goes to the Planning Board for review, citizens oppose, but the Planning Board continues and he does not have time to come to all of the meetings. He noted Council then approves the bar, and it opens. He stated people will drink and fight and then the taxpayers will have to pay for medical personnel, fire and police. He asked Council to deny the request to extend this bar.

There being no one else present to offer testimony, Mayor Kluttz closed the public hearing.

Mayor Kluttz stated Council has already approved this use on one side, but she has a concern that the Fire Department has not seen the new plan yet. She noted she understands the permit will not be issued until the Fire Marshall reviews the plan, but she is not sure how Council can vote on the Findings of Fact when one of the findings relates to the public health, safety, and welfare. She indicated she has concerns, and thinks the Fire Department should see the plan before Council votes on the Findings of Fact. Mayor Kluttz stated she would rather make sure the plan meets the Fire Code before voting on the permit.

Mayor Kluttz recognized a speaker from the floor who had been sworn in at the beginning of the case.

Mr. Dick Palmore, 1011 Mocksville Avenue, Salisbury, North Carolina stated they went through all of the concerns with Captain Stevens, and he is the one who helped formulate this plan. He added the only thing Captain Stevens is waiting on is the architect to finish the plans, but the architect could not do anything until they knew they would be able to do the project. He stated once the architect is finished, the plan will go to Captain Stevens, who has already basically approved everything. He noted Captain Stevens recommended what he wanted them to do, and they have agreed with the items, such as the fire doors.

Mayor Kluttz asked Fire Marshall, Battalion Chief Terry Smith, to come forward and answer a question. Mayor Kluttz then administered the oath to Chief Smith.

Mayor Kluttz asked Chief Smith to explain the situation with the Fire Department and his review of this plan.

Chief Smith stated there have been several questions from City staff about the plan, and he noted he has not seen a final plan and is waiting on the architectural drawings. He noted once he has the architectural drawings he can determine if the Fire Code will be met. He stated he has talked on the telephone with the proposed business owners, and Captain Stevens has spoken with them, but until final architectural drawings are submitted a final decision cannot be made.

Mayor Pro Tem Blackwell asked Chief Smith to identify Captain Stevens so the public can understand who is being referred to. Chief Smith stated Captain Stevens is the Assistant Fire Marshall and Plans Reviewer for the City.

Mayor Kluttz clarified the plan has not been approved to use this second structure. Chief

Smith responded that it has not. He stated he has met with Mr. Phillips who provided a drawing of the plan, but it was the first time he had seen it and he still has not seen professionally designed architectural plans.

Mayor Kluttz asked if this could be tabled for two weeks until the Fire Marshall's office can review the plans, and make sure the Fire Department approves it as it has been laid out, before Council votes on the request. She asked Council if they would be agreeable to table this until the Fire Department can approve the plans.

By consensus, Council agreed to table the Special Use Permit request until the Fire Department approves the plan.

Mayor Kluttz apologized for delaying the vote, but noted Council wants to make sure everything is approved before voting.

Mr. Phillips pointed out this case is still pending and any ex parte discussion is not allowed. City Attorney Rivers Lawther clarified that any ex parte communication must be disclosed.

Councilman Kennedy noted he did not see the conditions that were placed on the other Special Use Permit included in the information for this request. Mr. Phillips stated the only condition placed on the SUP were the guidelines and membership.

Mr. Woodson stated he thinks the reason Council passed the SUP last time was because the owners agreed to very strict guidelines. He commented Mr. Bartlett's comments make him think.

Mr. Kennedy state the guidelines in the packet are not the same as previously approved by Council. Mr. Woodson noted the original guidelines stated people would be scanned for guns and weapons, and tagged for how many drinks they had. He commented Council is very concerned about the bar because there has been trouble from bars in the past.

Mayor Kluttz asked Mr. Phillips to ensure he has the exact restrictions Council placed on the first Special Use Permit. Mr. Phillips stated he will verify the guidelines are the same. Mayor Kluttz asked that the Fire Marshall also have a chance to approve the plan, and then Council will consider the request at its next meeting.

**Councilman Miller arrived at the meeting 4:51 p.m.

LAND DEVELOPMENT DISTRICT MAP AMENDMENT LDOTA-11-2010 – POLE DISPLAYS (POLE BANNERS)

(a) Mr. Preston Mitchell, Senior Planner, discussed a request to amend the Land Development Ordinance (LDO) regarding Pole Displays. He referred to the banners that hang on the historic light poles in the downtown area, and stated they are excellent examples of Pole

Displays in the Downtown Mixed Use (DMX) district. He noted the LDO currently permits Pole Displays in the DMX district, within shopping centers, and in the Institutional Campus districts.

Mr. Mitchell indicated the request is to add Hospital Services (HS) district to the list of permitted areas. He noted this would allow Rowan Regional Medical Center and the Hefner Veterans Administration Hospital to erect Pole Banners on their light poles. He pointed out Rowan Regional Medical owns its own light poles and will not have to work with a third party for the banner placement. Mr. Mitchell stated Rowan Regional Medical Center would like to place Pole Banners on its campus celebrating its 75th Anniversary, and the amendment would allow the Medical Center to proceed.

Mr. Mitchell noted the amendment also makes minor changes to the LDO in regards to the content of banners. He explained the City must be careful in regards to regulating content on signs, and the language referencing content has been stricken from the LDO. He noted the Planning Board unanimously supported the request.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments regarding Land Development Ordinance text amendment LDOTA-11-2010.

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

Councilman Woodson commented he thinks this request would add to the streetscape and he supports the request.

(c) Mr. Woodson stated the City Council hereby 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 Comprehensive Plan, and that adoption of the Ordinance is reasonable and in the public interest. Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending section 12.9 (Special Sign Provisions) of the Land Development Ordinance of the City of Salisbury, North Carolina related to Pole Displays (Pole Banners). Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 12.9 (SPECIAL SIGN PROVISIONS) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA RELATED TO POLE DISPLAYS (POLE BANNERS).

(The above Ordinance is recorded in full in Ordinance Book No. 23 at Page Nos. 7-8, and is known as Ordinance 2011-04.)

LAND DEVELOPMENT ORDINANCE TEXT AMENDMENT LDOTA-10-2010 – MAJOR AUTO REPAIR IN DMX

Mayor Kluttz indicated this Ordinance was approved by Council at its January 4, 2011 meeting by a vote of 3-2. She noted because of the 3-2 vote, the Ordinance requires a second

reading to be ratified.

Mr. Woodson stated the City Council hereby 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 Comprehensive Plan, and that adoption of the Ordinance is reasonable and in the public interest. Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending Section 2.7 (Uses Permitted by District), Section 3.3 (Additional Standards by Use), and Chapter 18 (Definitions) of the Land Development Ordinance of the City of Salisbury, North Carolina related to Major Automobile Repair in the DMX District. Mr. Kennedy seconded the motion. Messrs. Kennedy and Woodson, and Ms. Kluttz voted AYE. Ms. Blackwell and Mr. Miller voted NO. (3-2)

AN ORDINANCE AMENDING SECTION 2.7 (USES PERMITTED BY DISTRICT), SECTION 3.3 (ADDITIONAL STANDARDS BY USE), AND CHAPTER 18 (DEFINITIONS) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA RELATED TO MAJOR AUTOMOBILE REPAIR IN THE DMX DISTRICT.

(The above Ordinance is recorded in full in Ordinance Book No. 23 at Page No. 6, and is known as Ordinance 2011-03.)

**It was necessary to have a second reading on the above ordinance due to the lack of an affirmative vote of two-thirds of all members of the City Council.*

REQUEST - USE OF RIGHT-OF-WAY AND SIDEWALK OLD MOCKSVILLE ROAD

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding a request to use a portion of the public right-of-way on Old Mocksville Road. She stated Rowan Regional Medical Center (RRMC) will begin interior renovations April 1, 2011, which are expected to last through November 2011. She noted RRMC needs to use a mobile Cath Lab during this renovation period. Ms. Brindle referred to a site plan for Old Mocksville Road, and pointed out an existing pedestrian access. She indicated RRMC would like to place the mobile Cath Lab in the area of the pedestrian access. She explained the Cath Lab would be placed approximately five feet onto the sidewalk, but the sidewalk would still be accessible. She noted there would also be 25 feet left on Old Mocksville Road, which would allow for two-way traffic.

Mr. Brindle indicated staff has reviewed the plan, and recommends Council approve the request.

Mayor Kluttz clarified this use is temporary while renovations take place inside RRMC. Ms. Brindle confirmed the use would be during renovations from April 1, 2011 through November 2011.

Thereupon, Mr. Kennedy made a **motion** to approve the use of a portion of the right-of-way and sidewalk along Mocksville Avenue beginning April 1, 2011 through November 30, 2011, for the placement of a Mobile Cath Lab during renovations at Rowan Regional Medical

Facility. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

REQUEST – ENCROACHMENT OVER PUBLIC ALLEY 131 EAST INNES STREET

Ms. Wendy Brindle, Traffic Engineer, indicated Sections 22-18 and 22-19 of the City Code permit Council to allow projections over the public right-of-way if certain findings are found. She noted Section 22-18 states the encroachment must not hinder, obstruct, delay or endanger the use of the public right-of-way. She added inside the primary fire limits the structure should be made of non-combustible material, cannot obstruct the view of any motorist using the alley, cannot extend over the public property more than five feet, cannot be any closer than two feet to a curb, and must have a clear height of eight feet.

Ms. Brindle indicated a request has been received from 131 East Innes Street for a projection over the alley behind the building. She stated the obstruction would be an exhaust fan that would extend less than three feet from the building, and would maintain a clear height of 8 feet. She displayed an elevation plan of the building, and pointed out the proposed exhaust fan. She also noted an existing fire escape on the building above the proposed location for the exhaust fan.

Ms. Brindle stated Section 22-19 of the City Code requires the petitioner agree in writing to maintain the projection in good repair and accept responsibility for any injury or death. She noted this letter has been provided.

Mr. Brindle commented staff recommends Council approve the request, and noted a similar request was approved for a restaurant in the same block. Mayor Kluttz clarified the request is for renovations at the former Hardiman's Building. Ms. Brindle confirmed this is correct.

Councilman Miller asked Ms. Brindle to point out the location of the fire escape on the rear wall of the building. Mr. Gray Stout, architect, responded the fire escape is located in the center of the back wall.

Thereupon, Ms. Blackwell made a **motion** approve an encroachment over a public alley located behind 131 East Innes Street in accordance with Section 22-18 and 22-19 of the City Code. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

AUTHORIZE CITY MANAGER TO EXECUTE QUITCLAIM DEED – HORAH STREET RAILROAD CROSSING CLOSING

Ms. Wendy Brindle, Traffic Engineer, indicated Council approved the permanent closure of the Horah Street railroad crossing at its January 5, 2010 meeting. She noted since that time staff has been executing agreements with the North Carolina Department of Transportation and

the North Carolina Railroad to put the closure in place. She stated the North Carolina Railroad has requested the City execute a Quitclaim Deed for the right-of-way. Ms Brindle noted she sent the request to the City Attorney who advised it was merely a formality, and recommended it be presented to Council to authorize the City Manager to sign.

Councilman Kennedy commented he hopes this will finalize the closing at Horah Street.

Thereupon, Mr. Kennedy made a **motion** to authorize the City Manager to execute a Quitclaim Deed with the North Carolina Railroad regarding the East Horah Street railroad crossing. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

RESOLUTION – AWARD CONTRACT FOR GODWIN DIESEL PUMP

Mr. Jim Behmer, Salisbury-Rowan Utilities (SRU) Director, informed Council SRU would like to purchase an emergency diesel pump to be used at the Yadkin River pump station facility. He noted there was an emergency two years ago where repairs were required at the facility, as well as with Duke Power's transformer. He stated Godwin Pumps of America brought a similar pump to be used during the emergency. Mr. Behmer commented by having a similar pump onsite SRU would be able to respond to its 51,500 customers more quickly without interrupting service.

Mr. Behmer stated SRU and Godwin Pumps performed performance tests on the pump SRU would like to purchase, and he requested Council adopt a Resolution to award a sole source contract with Godwin Pumps of America to purchase the emergency pump.

Councilman Woodson commented SRU staff did an outstanding job two years ago when the pump was required. Mr. Behmer noted having the pump onsite will reduce the response time by half a day, as well as defer the \$8,000 set-up cost required by using a borrowed pump.

City Manager David Treme asked if the pump will have additional uses. Mr. Behmer responded SRU will be able to use the pump at the water treatment plant facility if there is a similar electrical issue.

Councilman Kennedy asked if the pump was included in the current budget. Mr. Behmer confirmed the pump was included in the current budget.

Thereupon, Mr. Kennedy made a **motion** to adopt a Resolution awarding a contract to Godwin Pumps of America, Inc. in the amount of \$137,756.26 for the purchase of 5 million gallon per day (MGD) Godwin Diesel Pump for use by the Salisbury-Rowan Utilities Department. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

RESOLUTION AUTHORIZING THE PURCHASE OF A 5 MGD GODWIN DIESEL PUMP FOR SALISBURY-ROWAN UTILITIES.

(The above Resolution is recorded in full in Resolution Book No. 14 at Page No. 1, and is known as Ordinance 2011-01.)

PUBLIC COMMENT

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

COMMENTS FROM THE CITY MANAGER

(a) Request from ABC Board

City Manager David Treme presented information from Mr. Terry Osborne, Executive Director of the Rowan-Salisbury ABC Board, for Council's information and future consideration. He noted Mr. Osborne is requesting elected officials adopt a Resolution in support of North Carolina's current public Alcoholic Beverage Control system, as opposed to privatizing the existing system.

Mr. Treme indicated there has been much discussion regarding this issue through the North Carolina League of Municipalities and Metropolitan Mayor's Coalition. He added the discussion has been in regards to the benefits or detriments between a public or private system. He commented it might be beneficial to discuss this with the City's ABC Board representative to determine the thoughts of the Board.

Mr. Treme noted he shares Mr. Osborne's request with Council for future consideration at Council's discretion.

MAYOR'S ANNOUNCEMENTS

(a) 10th Annual Wedding Extravaganza

Mayor Kluttz announced the Salisbury Parks and Recreation Department will host the 10th annual Wedding Extravaganza, Saturday, January 22, 2011 from 10:00 a.m. until 3:00 p.m. at the Civic Center, 315 Dr. Martin Luther King, Jr. Avenue.

(b) Relay for Life Fundraiser at O'Charleys

Mayor Kluttz announced the City of Salisbury's Relay for Life Team will host a breakfast fundraiser Saturday, January 22, 2011 from 8:00 a.m. until 10:00 a.m. at O'Charley's, 123 North Arlington Street. Tickets are \$5.00 and may be purchased by calling 704-638-5260.

(c) City Council Retreat

Mayor Kluttz announced the Salisbury City Council will hold its 26th Annual Future Directions and Goal Setting Retreat February 10-11, 2011.

(d) Dr. Martin Luther King, Jr. Holiday Celebrations

Mayor Kluttz congratulated everyone involved in the Dr. Martin Luther King, Jr. Holiday celebrations. She commented the events were very successful, beginning with the event at the Veterans Administration Hospital Friday, January 14, 2011, to the Humanitarian Awards held at Mt. Zion Missionary Baptist Church Sunday, January 16, 2011. She stated the breakfast held Monday, January 17, 2011 was the best yet, and she congratulated the Salisbury-Rowan Human Relations Council and the Dr. Martin Luther King, Jr. Breakfast Committee. She noted the estimated attendance was 600, and she was impressed the entire City Council and Rowan County Board of Commissioners were present. Mayor Kluttz stated the ceremony at the Freedman's Cemetery, parade, and celebration at the Civic Center were also held Monday, January 17, 2011, and were very successful.

Mayor Kluttz pointed out Dr. Martin Luther King, Jr. Day has been a City holiday since 1999, and the events have grown in numbers and diversity of participants. She added it is very exciting to see the community come together to celebrate this important day.

Councilman Kennedy commented the J.F. Hurley YMCA was a great location for the Dr. Martin Luther King, Jr. Breakfast, and he thinks this was an excellent choice.

Mayor Kluttz noted the Black Achievers Club and Livingstone College students assisted with the breakfast. Mayor Pro Tem Blackwell stated the youth group from St. Luke's Episcopal Church also helped with the set-up. Ms. Blackwell added she is very proud to be the liaison to the Salisbury-Rowan Human Relations Council, and proud of their tireless work.

CLOSED SESSION

Mayor Kluttz asked for a motion to go into closed session concerning a personnel matter as allowed by NCGS 143-318.11(a)(6).

Thereupon, Ms. Blackwell made a **motion** to go into closed session concerning a personnel matter as allowed by NCGS 143-318.11(a)(6). Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

RETURN TO OPEN SESSION

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

Mayor Kluttz announced Council discussed City Manager David Treme's evaluation which was conducted at Council's January 4, 2011 meeting. She noted Mr. Treme received an exemplary evaluation, and recognizing Council is unable to offer a pay raise at this time because of the economy, Council agreed to approve a 25-year Career Performance recognition for the invaluable service he has given to the City.

Mayor Kluttz noted the following paragraph has been added to Mr. Treme's contract under Section 4. Salary:

"Further, the City Council agrees that at the retirement or death of the City Manager, the City Manager, or his estate, shall receive a payment equal to three months salary in recognition of his loyal and superior performance as City Manager for over 25 years. In addition, the City Manager may accrue an additional three months salary payment if he remains in his position until December 31, 2012. If he should die after having worked through December 31, 2012, his estate shall be entitled to receive the payment."

Thereupon, Mr. Woodson made a motion to add the paragraph to City Manager Treme's contract. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

Mayor Kluttz commented Council is very grateful for what Mr. Treme has done for them and the City, and she hopes he will be with the City for a very long time.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Ms. Blackwell. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 6:42 p.m.

Susan W. Kluttz, Mayor

Myra B. Heard, City Clerk