

Salisbury, North Carolina
August 20, 2013

REGULAR MEETING

PRESENT: Mayor Paul B. Woodson Jr., Presiding; Council Members Mayor Pro Tem Maggie A. Blackwell, Karen Kirks Alexander, William (Pete) Kennedy, and William Brian Miller; City Manager Doug Paris; City Clerk Myra B. Heard; and City Attorney F. Rivers Lawther, Jr.

ABSENT: None

Salisbury City Council met in Council Chambers in City Hall located at 217 South Main Street. The meeting was called to order by Mayor Woodson at 4:00 p.m. The invocation was given by Councilmember Kennedy.

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Woodson welcomed all visitors present.

Councilmember Kennedy recognized students from Livingstone College who were in the audience.

RECOGNITION – STREET MAINTENANCE AND STORMWATER UTILITY MANAGER CRAIG POWERS

Public Services Director Tony Cinquemani introduced members of the North Carolina Chapter of American Public Works Association (APWA): Mr. Steve Nichols, Vice-President of Telics; and Mr. Keith Pugh, City Engineer for the City of High Point. Mr. Pugh explained APWA represents 29,000 public works professionals in North America. He stated the North Carolina Chapter of APWA presents the Robert S. Hopson Leadership Service Award annually to recognize outstanding service and achievement in local government.

Mr. Pugh acknowledged Street Maintenance and Stormwater Utility Manager Craig Powers, and noted his achievements within the City and community including obtaining his Professional Engineer's license, becoming a certified storm water Best Management Practices (BMP) Reviewer, winning the City's highest customer service award, and graduating in the inaugural class of the City Manager's Leadership Academy (CMLA). Mr. Pugh presented Mr. Powers with the 2013 Robert S. Hopson Leadership Service Award, and indicated he is the 21st recipient of the award.

Mr. Powers stated he is grateful to serve his hometown and work with a great staff.

Mayor Woodson thanked Mr. Pugh and Mr. Nichols for their presentation, and he thanked Mr. Powers for all he does for the City.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Special Meetings of July 18, 2013 and August 12, 2013, and the Regular Meeting of August 6, 2013.

Thereupon, Mr. Miller made a **motion** to adopt the Consent Agenda as presented. Ms. Alexander seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voted AYE. (5-0)

SEWER USE ORDINANCE AMENDMENT

Salisbury-Rowan Utilities (SRU) Environmental Services Manager Sonja Basinger and Pretreatment Program Coordinator Aaron Otten addressed Council regarding Sewer Use Ordinance amendments. Ms. Basinger explained the State recently updated its Sewer Use Ordinance model to address revisions to the North Carolina Administrative Code, section 0900 that governs local pretreatment programs. She noted the City is required to implement the changes into its Sewer Use Ordinance. She stated staff reviewed Chapter 25 of the City Code and made necessary updates.

Ms. Basinger pointed out the Sewer Use Ordinance:

- Establishes safe and proper use of the sanitary sewer by all users
- Allows the City to implement Federal and State-mandated requirements for local industrial pretreatment programs

Ms. Basinger noted staff is working to educate citizens regarding proper use of the sanitary sewer. She reviewed items that should never enter sewer lines:

- Paper products
- Wipes – all types
- Cigarettes
- Medications
- Personal Hygiene
- Disposable diapers
- Syringes/needles
- Latex gloves

Mr. Otten explained the Sewer Use Ordinance Model incorporates minimum Federal and State requirements and optional provisions. He reviewed the proposed amendments to Chapter 25 of the City Code:

- Article I
 - Definitions – removed obsolete/unused terms, clarified others making it easier to understand
- Article VIII (Sewer Use Ordinance)
 - Prohibited discharges
 - Reduced from 31 prohibitions to 23
 - Relaxed upper range of pH that can be discharged to the sewer from 9 to 10
 - Local limits revised to reflect the State model
 - Sampling and analysis requirements for industrial users
 - Reduced the amount of sampling for industrial users and SRU
 - Adjudicatory hearings updated to clarify appeals
 - Hazardous waste notification requirements
 - Definition of significant non-compliance revised
- Section 25-38
 - Sewer service charges, surcharges, and analytical charges
 - Includes the authority to collect fees associated with administration of the pretreatment program
 - No new fees were established

Mr. Otten explained the State has accepted the changes to the Ordinance and the Enforcement Response Plan, contingent upon Council's approval. He pointed out the changes will not impact regulated industries.

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive comments regarding adopting an Ordinance to amend Chapter 25, Articles I and VIII, and Sections 25-38 of the Code of the City of Salisbury, related to updates to the Sewer Use Ordinance.

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

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Articles I and VIII, and Sections 25-38 of Chapter 25 of the Code of the City of Salisbury. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voted AYE. (5-0)

ORDINANCE AMENDING ARTICLES I AND VIII AND SECTION 25-38 OF CHAPTER 25 OF THE CODE OF THE CITY OF SALISBURY

(The above Ordinance is recorded in full in Ordinance Book No. 24 at Page No. 172-217, and is known as Ordinance 2013-35)

Mayor Woodson thanked Ms. Basinger and Mr. Otten for their presentation.

COUNCIL COMMITTEE REPORT – TA-04-2013 (TREE CANOPY PRESERVATION AND ENHANCEMENT ORDINANCE)

Planning and Development Services Manager Preston Mitchell addressed Council regarding a Tree Canopy Preservation and Enhancement Ordinance. He reviewed five areas of concentration:

- Clarifying applicability of the Landscape Code
- Involuntary versus voluntary tree removal
 - Payment in-lieu of tree planting replacement
- Overall tree canopy for landscape plans
- Clearing/clear-cutting provisions
- Replanting provisions

Mr. Mitchell explained why the Landscape Ordinance changed:

- The Land Development Ordinance (LDO) Committee directive was to consider enhanced tree preservation standards following LDO adoption
 - December 2007 (nearly 6 years ago)
- A Tree Board subcommittee formed in 2010 to consider enhanced tree preservation standards

Mr. Mitchell stated the Tree Board's goal is to protect, preserve and enhance the community's tree canopy while supporting the rights of property owners to participate in positive planned growth. He emphasized the Tree Board wants to encourage a business friendly

approach and does not intend to harm or slow development in the City. He pointed out it is extremely important to protect the City's tree canopy.

Mr. Mitchell explained applicability concerns arose during the drafting process:

- Applies
 - Expansion of existing development and new development requiring site plan review/approval
 - Major subdivisions involving street construction and where adjacent zoning is of greater intensity
- Does not apply
 - Development of house type on existing platted lot
 - Exception plats and minor subdivisions
 - Valid/permitted forestry/harvesting activities
 - Existing development expansion below certain threshold

Mr. Mitchell noted there are two types of tree removal, involuntary and voluntary:

- Involuntary tree removal
 - Required trees (part of Landscape Plan) that fall due to natural damage, destruction, or death shall be replaced with tree of same point value as original
- Voluntary tree removal
 - Requires free Tree Removal Permit from One Stop Development Shop
 - Removed required trees shall be replaced with same, or exceeded, current minimum size/height for species
 - Permanent removal of required tree may pay in-lieu based on current minimum size/height of same species, with value determined annually with budget Ordinance (estimated at \$150/tree)

Mr. Mitchell explained if a citizen wishes to permanently remove a tree they can elect to pay in-lieu of tree replacement. He noted the money is put into a fund, and at the appropriate time the City will plant trees in desirable locations. He reviewed the overall Tree Canopy:

- Development requiring a Landscape Plan will provide a minimum 30 percent overall tree canopy
 - All development does not require a Landscape Plan
- The tree canopy includes trees required in street yard, planting (buffer) yard, or parking lot
 - All trees count towards the 30 percent minimum
 - Shade, ornamental and preserved
- 1 tree per 500 square feet gross surface area
- Percentage of canopy calculated using gross acreage
- Example using a 2.5 acre site:
 - $108,900 \text{ square feet} \times 30 \text{ percent} = 32,670/500 \text{ square feet} = 65 \text{ trees}$
 - May include yard, parking, on-site best management practices for Stormwater, and preserved trees

Mr. Mitchell reviewed current provisions and proposed LDO provisions for clearing and clear-cutting:

- Current Provisions
 - No City provisions regulating clear-cutting
 - Rowan County
 - May require cutting plan for clearing over one acre
 - Will require an Erosion Control Plan if grubbing over one acre
- Proposed City (LDO) Provisions
 - Defines clear-cutting as removal/destruction of 25 percent or more development site trees four inches or greater
 - Does not prohibit surgical or random removal
 - Clearing (as defined) not permitted unless part of approved development plan
 - Up to 10 percent of the existing tree canopy may be cleared and not subject to tree replacement
 - Any amount of clearing (as defined) may include grubbing, but all debris must always be removed from site
 - Will be available for alternate methods

Mr. Mitchell explained the proposed amendments to replanting:

- Cleared with no substantial progress
 - In 180 days following loss of vesting, replanting must occur as either
 - Shade trees (minimum specifications) planted at 36 per acre
 - Seedlings (North Carolina Cooperative Extension) planted at one tree per 10 foot by 10 foot
 - Payment in-lieu
- Cleared with substantial progress
 - After one year uninterrupted construction inactivity
 - Grading and installation of surface/subsurface infrastructure
 - If project viability unknown and project deemed dead by developer, replanting shall consist of required Street Yard trees on Landscape Plan

Mr. Mitchell pointed out substantial progress requires one or more of the following construction activities occur:

- Permitted grading on a continuous basis
 - Cannot be discontinued for more than 30 days
- Approval/installation of infrastructure or obtaining a building permit for building foundations

Mr. Mitchell explained vesting is the duration that an approved plan may remain unchanged and is typically two to five years. He indicated the vesting period may be longer with activity. He pointed out if a vesting period ends and the site is not developed within 180 days, there would be a provision to replant the site. He noted if the project begins and then stops for any reason, street trees are required.

Mr. Mitchell noted infrastructure includes roads, drives, sidewalks, utilities, and Stormwater devices. He reviewed several sites and their tree canopy requirements:

- Dodd Brown nine acre site is vested until 2017
 - 30 percent canopy rule requires 235 trees while the Pinnacle IV Plan, under the old Code provides for 190 trees
 - Deficit would need to be made up
 - Considered cleared with no substantial progress must replant shade, seedlings or payment in-lieu by July 1, 2017
- Family Dollar 1.25 acre site on West Jake Alexander Boulevard would require 33 trees under the 30 percent canopy rule
 - Family Dollar plan provides 24 trees
 - Deficit would need to be made up
 - Cleared with substantial progress, if project stopped would have to plant street yard trees along Jake Alexander Boulevard after one year of uninterrupted inactivity

Mayor Woodson referenced the Family Dollar site, and noted it would require 33 trees instead of 24 if the proposed Ordinance was in place. Mr. Mitchell agreed.

Mayor Woodson stated Council must make sure it does not approve an Ordinance that could require a business to reduce the size of its building to meet parking and tree requirements. He pointed out if a business has to reduce the size of its building, it may leave the City.

Councilmember Miller explained the payment in-lieu provision allows a property owner to pay instead of planting the exact number of trees. He pointed out the estimated cost per tree is \$150. He referenced the Family Dollar site and noted if the site plan allows 30 trees instead of the required 33, the payment in-lieu option could be used without redesigning the parcel. He stated Family Dollar requires an investment of \$800,000 to \$1.2 million and the payment in-lieu would not hinder the project.

Mr. Mitchell noted the proposed revisions are directly related to the LDO, which reduced parking requirements and opened up space. He explained a property owner can get an automatic reduction in the number of parking spaces for landscaping. He pointed out there are credits, provisions and buffers built into the Code. He indicated most site designs meet the minimum number of trees. He explained the 30 percent tree canopy is identified as the best percentage that will grow the tree canopy without being punitive. He emphasized staff has not found a business that had to reduce its square footage to accommodate trees.

Mayor Woodson stated the parking requirements in the old code were significantly higher. He pointed out a property owner can receive credit or a reduction in the number of parking spaces through landscaping.

Mr. Mitchell noted when the LDO was written it was determined that parking spaces should be market driven, and business owners should determine the number of parking spaces.

Mr. Miller indicated citizens and community leaders were asked how the provisions would affect industrial development. He explained the goal is to put regulations in place to prevent clear-cutting. He stated Rowan County is in a nonattainment area and until the problem is solved it will impact economic development. He pointed out as a Committee, the goal was to be sensitive to economic and business concerns while developing the proposal. He thanked members of the Tree Board for their work on the project. He noted the Committee worked to develop a user friendly recommendation that puts requirements in place while expanding the tree canopy.

Councilmember Alexander noted members of the Tree Board, local developers, and staff attended the Committee meetings and provided input. She pointed out the Committee worked to encourage development but prevent clear-cutting on property that remains dormant. She added clear-cutting is a detriment to the community both visually and environmentally, and the Committee felt putting something back was important, even street trees. She asked Mr. Mitchell to review development of a half-acre site.

Mr. Mitchell referenced Vogue Cleaners and noted the site was developed many years ago. He explained if it was developed today the minimum requirement would be 14 trees. He indicated the 30 percent tree canopy would require 15 trees, a difference of one tree. He pointed out the current site has 9 trees and is grandfathered. He stated if the site was developed today with the reduction in parking requirement and the exact square footage, 15 trees would be required.

Mr. Miller noted some may interpret this proposal as an environmental effort, but it gives tools and options to the development community. He stated the Rowan County Chamber of Commerce has requested this presentation at its Local Affairs Committee meeting in September. He pointed out the Committee is seeking Council's consensus for the presentation. He indicated the Committee needs community input regarding the proposed changes. By consensus, Council agreed.

Mayor Woodson asked if the provision for uninterrupted activity was increased from six-months to one-year. Mr. Mitchell stated that is correct.

Mr. Miller emphasized the Alternate Methods of Compliance Commission will help find solutions for problems developers may face, and Council wants to work with property owners.

Mayor Pro Tem Blackwell recognized Mr. Rodney Queen, Ms. Linda Jones and Mr. Robert Van Geons who were in the audience, and she thanked them for their input.

Thereupon, Ms. Alexander made a **motion** to set a public hearing for September 17, 2013 to receive comments regarding a Tree Canopy Preservation and Enhancement Ordinance. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voted AYE. (5-0)

Mayor Woodson encouraged the public to comment on the proposed Ordinance and noted it helps Council make important decisions. He thanked everyone who worked on the project.

Mr. Mitchell noted citizens can review a copy of the proposed Ordinance or obtain a copy of the executive summary by contacting the One-Stop Shop.

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Zoning Board of Adjustment - Alternate

Upon a motion by Mr. Woodson, seconded by Mr. Miller, and with Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voting AYE, the following appointment was made as an Alternate to the Zoning Board of Adjustment:

Mr. Max Kent

Term Expires 03/31/16

Mayor Woodson commended Mayor Pro Tem Blackwell for her work on the Boards and Commissions. He encouraged citizens interested in serving on a Board or Commission to apply.

PUBLIC COMMENTS

Mayor Woodson opened the floor to receive public comment.

Mr. Rodney Queen encouraged citizens to serve on City Committees. He pointed out the Alternate Methods of Design Commission will save time and will encourage development. He explained serving on a committee takes a small amount of time, and citizens gain knowledge and help Council make informed decisions.

Mr. Tarik Woods, 708 South Church Street, and Mr. Quson Brown, 1220 Celebration Drive, asked citizens to apply for the City's Boards and Commissions.

There being no one else to speak, Mayor Woodson closed the public comment session.

CITY MANAGER'S COMMENTS

(a) City Engineer Wendy Brindle

City Manager Doug Paris announced Ms. Wendy Brindle's appointment to City Engineer. He stated Ms. Brindle is an 18-year veteran of the City. He noted her accomplishments include leading the first closed loop traffic signal system, the I-85 Corridor Improvement Project, and the downtown East Innes Bridge Replacement Project. He indicated staff is excited about her leadership for the future.

(b) Temporary Use of Right-of-Way

City Engineer Wendy Brindle stated Servpro of North Cabarrus County is working at Cartucci's restaurant located at 105 East Fisher Street. She explained staff issued a two-week permit for the use of public parking spaces. She noted Servpro is removing debris from the fire at Cartucci's and will need the parking spaces for an additional month.

Thereupon, Ms. Blackwell made a **motion** to approve a permit for Servpro of North Cabarrus County to locate equipment on East Fisher Street adjacent to 105 East Fisher Street until September 30, 2013, in accordance with Section 22-50 of the City Code. Mr. Kennedy seconded the motion.

Councilmember Miller pointed out there will be a band on Fisher Street Friday September 20, 2013 for Kids' Night Out. Ms. Brindle stated she will make Servpro aware. She explained Servpro is using a vehicle instead of a dumpster, and it should be easy to move to accommodate the event.

Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voted AYE.
(5-0)

(c) Development in the City

City Manager Doug Paris noted Council challenged its economic development partner agencies to work together. He pointed out since that time the City and its economic development partner agencies have worked to retain and grow current businesses.

Mr. Paris explained Integro Technologies was prepared to relocate to another county, but now there is a \$4 million investment in downtown with average wages nearly double the median household income. Mr. Paris stated another business explored relocation but stayed in the City due to a program created by Council in partnership with its economic development partners.

Mr. Paris presented Council and Salisbury-Rowan Economic Development Commission (EDC) Executive Director Robert Van Geon with a framed photograph of the City Council press conference announcing the relocation of Integro Technologies to South Main Street.

Mr. Van Geons noted the EDC looked for potential locations for Integro Technologies, but the 300 block of South Main Street was the site that worked best. He added it would not have been possible without the proactive and progressive approach of Council and staff.

Mayor Pro Tem Blackwell pointed out in addition to keeping these jobs in Rowan County, the EDC also worked to keep The Driveshaft in the community.

Mr. Van Geons stated the expansion of Hydraulic Depot and Turnkey Technologies is great for the City. He pointed out approximately 100,000 square feet of older buildings are now occupied and thriving.

Mayor Woodson referenced Universal Forest Products and Freshhouse Foods and pointed out good things are happening in the City.

Mr. Van Geons indicated Freshhouse Foods has completed its renovations and the parking lot is filled with employees.

Councilmember Kennedy thanked Mr. Van Geons for all he does for the City.

Councilmember Miller stated he appreciates Mr. Van Geons' work and noted the EDC is an important resource for potential development.

Mayor Woodson stated there has been discussion that the Hutton Company was considering a large shopping complex in the area.

Mr. Van Geons noted the EDC is continuing to work with the Hutton Company, and several well known retailers have expressed interest in the potential project. He stated the EDC has hired a Marketing Specialist. He thanked Council for its support but emphasized the progress is due to the work of elected officials on the City and County level.

Councilmember Alexander stated she is excited about the small business incubator Integro Technologies will create. She pointed out the City envisioned a business incubator and is pleased the Integro building will include it at no cost to the City.

Mayor Woodson indicated the business incubator will help recruit college graduates to the City.

Mr. Van Geons noted the EDC has received a tremendous reception and willingness to partner from local colleges. He added based on the inquiries from potential businesses, the coming years should be productive.

(d) Civic Park Apartments

City Manager Doug Paris asked Community Planning Services Director Janet Gapen to address Council regarding tax credits for Civic Park Apartments.

Ms Gapen announced the North Carolina Housing Finance Agency awarded tax credits for construction of the Civic Park Apartments. She stated construction should begin by the first of the year and will be completed by early 2015. She explained it will be the first phase for Civic Park Apartments with a second phase to follow. She noted staff will seek funding for the second phase. She added the first phase will include 80 units consisting of 36 public housing units and 44 affordable housing units. She stated the redevelopment of Civic Park Apartments is a great way to kick-off the West End revitalization.

(e) Sale of the Bernhardt Building

City Manager Doug Paris noted staff is excited about the sale and redevelopment of the Bernhardt building. He added there is also talk of residential and retail redevelopment of a larger property in the downtown area.

(f) Update – Local Government Commission

Councilmember Miller asked Mr. Paris for an update regarding the Local Government Commission (LGC) approval for financing of the Central School Office Building. City Manager Doug Paris stated it will be September before staff has an answer, but feels it has a strong case for LGC approval. He pointed out the building is for economic development, and the City has legal authority to lease the facility. He noted every step on this project has been challenging.

Mr. Miller stated he has heard people from the County are lobbying against the project. He noted the County could use the inspection process to delay the project. He added Council had a goal to facilitate a quick plan review process and inspections that was put on hold due to improvements in the Rowan County Inspection Department. He indicated he would like to ask staff to revisit this and make a recommendation to Council.

Mayor Woodson agreed with Mr. Miller and pointed out upon approval by the LGC, the building should be completed within a year so the School System can move in.

Mr. Paris stated the City experienced delays in the inspection process when it built the Customer Service Center. He noted an incorrect ruling added \$1 million to the project. He indicated staff will work to facilitate a quick plan review process and inspection plan to present to Council.

MAYOR'S ANNOUNCEMENTS

(a) River Dance Fund Raiser

Mayor Woodson announced he attended a River Dance fund raiser Saturday night. He noted he met an out-of-town couple who complimented the City and its proactive leaders.

CLOSED SESSION

Mayor Woodson asked for a motion to go into closed session to consult with an attorney as allowed by NCGS 143-318.11(a)(3).

Thereupon, Mr. Kennedy made a **motion** to go into closed session to consult with an attorney as allowed by NCGS 143-318.11(a)(3). Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, and 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. Miller seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

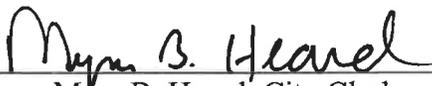
Mayor Woodson announced no action was taken in closed session.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Miller seconded by Ms. Alexander. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:58 p.m.



Paul B. Woodson, Jr., Mayor



Myra B. Heard, City Clerk