

Salisbury, North Carolina
October 15, 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 recognized Mr. Marshall Brady, member of the Salisbury Youth Council, and invited him to lead those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Woodson welcomed all visitors present.

INTRODUCTION – DR. LYNN MOODY

Mayor Woodson welcomed new Rowan-Salisbury School System Superintendent Dr. Lynn Moody to Rowan County and the City of Salisbury. He stated Council is eager to work with Dr. Moody and the School System.

Mayor Pro Tem Blackwell extended a warm welcome to Dr. Moody. She noted students are the City's future and Council's priority. She pointed out Council is excited about Dr. Moody's credentials and will do all it can to work with the School System.

Councilmember Kennedy welcomed Dr. Moody to the Rowan-Salisbury School System.

Councilmember Miller stated he is pleased to formally meet Dr. Moody. He noted he is excited about her qualifications and all she will do for the School System. He emphasized Council is an advocate and eager to partner with the Rowan-Salisbury School System.

Councilmember Alexander noted she is impressed with Dr. Moody's accomplishments and the qualifications she brings to the School System. She stated communication and bridge building are needed in the community.

Mayor Woodson wished Dr. Moody many years of success.

Dr. Moody thanked Council for its warm welcome. She noted she looks forward to a strong partnership with Council. She stated opportunities and challenge-based learning will help students solve real-world problems. She added she would like to learn more about the Salisbury Youth Council and how the School System can partner with them. She emphasized one of her first priorities is to hire a principal for Salisbury High School. She added finding a principal for the high school will be of critical importance in the coming weeks. She indicated the School Board will be open for community input regarding the leadership skills needed for the position.

PROCLAMATION

Mayor to proclaim the following observance:

ROWAN JAZZ AND BLUES SOCIETY DAY

October 19, 2013

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular Meeting of October 1, 2013.

(b) 2013 Byrne Justice Assistance Grant

Adopt a Budget **ORDINANCE** amendment to the FY2013-2014 budget in the amount of \$21,092 to appropriate a 2013 Byrne Justice Assistance Grant.

ORDINANCE AMENDING THE 2013-2014 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE 2013 BYRNE JUSTICE ASSISTANCE GRANT.

(The above Ordinance is recorded in full in Ordinance Book No. 24 at Page No. 241, and is known as Ordinance 2013-40)

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)

ANTENNA LEASE – NEW CINGULAR WIRELESS PSC, LLC

Assistant City Manager John Sofley explained the City periodically receives requests from companies who want to place antennas on high spots within the City. He added many of the City's water tanks and the Plaza currently have antennas located on them.

Mr. Sofley noted he received a request from AT&T to place six antennas on the water tank located at 405 North Jackson Street. He explained the proposed contract has an initial five year term with the ability to extend it five additional years. He pointed out the proposed contract limits the terms to 10 years and six antennas. He added AT&T will renegotiate with the City if more antennas are needed or to extend the contract beyond 10 years.

Mr. Sofley stated the lease rate is competitive based upon municipal lease rates along the I-85 corridor. He pointed out the payments will total \$330,000 over the ten year period.

Mr. Sofley indicated the lease includes a provision requiring AT&T to use Fibrant for its backhaul. He explained backhaul is how antennas transmit information to a point where the carrier, AT&T, can receive it. He added AT&T has fiber throughout the community, and Fibrant will be used to connect AT&T's antennas to its fiber. He explained the cost to AT&T for backhaul services is yet to be determined.

Mr. Sofley indicated the contract requires AT&T to provide indemnification and insurance as required by the City. He noted staff recommends approval of the contract. He added it is an upgrade from previous contracts and a model for future agreements.

Councilmember Alexander pointed out the City would not have the opportunity for backhaul revenue without Fibrant. Mr. Sofley stated that is correct.

Mayor Pro Tem Blackwell explained staff is negotiating the backhaul fee which will result in additional revenue for the City through the Fibrant fund.

Councilmember Miller asked about the magnitude of the backhaul. Mr. Sofley noted AT&T has fiber in the area, and staff expects the revenue to be minimal at \$500 or less per month.

City Manager Doug Paris stated the revenue is substantial when compared to residential subscribers because the City does not incur video or telephone programming costs. He added it will allow the City to take advantage of a revenue stream in the cellular market.

Councilmember Kennedy pointed out the agreement will help residents who subscribe to AT&T wireless service.

Mayor Woodson stated the contract is a good source of revenue. He commended staff for limiting the contract to 10 years.

Thereupon, Ms. Blackwell made a **motion** to approve a lease contract with New Cingular Wireless PSC, LLC (AT&T) for a five year initial term for \$2,500 per month with a five year renewal option at \$3,000 per month based upon mutual agreement, to use the water tank located at 405 North Jackson Street for wireless service. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voted AYE. (5-0)

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Alternate Methods of Design Commission

Upon a motion by Ms. Alexander, seconded by Mr. Kennedy, and with Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voting AYE, the following appointment was made as an alternate member to the Alternate Methods of Design Commission:

Mr. Alex Bost

Term Expires 03/31/16

PUBLIC COMMENTS

Mayor Woodson opened the floor to receive public comment.

Ms. Dee Dee Wright, 418 South Caldwell Street, asked why Fibrant does not service apartment complexes which would produce additional revenue for the utility.

City Manager Doug Paris stated the situation has been discussed, and the current budget includes funding that will work to bring Fibrant to apartment complexes. He added staff is currently testing a solution it hopes will allow Fibrant to enter the market while producing revenue for the City and its citizens.

Mayor Woodson explained when a business is launched, a market base must be determined. He pointed out wiring a hospital or apartment complex is very expensive, and the decision was made to enter the market servicing residential and small businesses customers. He noted as the business expands the plan is to add larger customers.

Ms. Wright indicated if citizens were better informed they could be more supportive of future endeavors.

Mr. Jeffrey Hoy, 510 Maupin Avenue, commended Council and staff for its continued efforts to bring the Central School Office Building to the downtown area.

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

CITY MANAGER'S COMMENTS

(a) First Quarter Financial Update

City Manager Doug Paris asked Assistant City Manager John Sofley to present the first quarter financial update. Mr. Sofley stated on February 6, 2012, the City received a letter from the Local Government Commission (LGC) identifying two areas of concerns:

- The City's Fund Balance "appears to be much lower than comparable units"
- Fibrant "shows signs of financial stress"

Mr. Sofley explained based on the LGC findings Council implemented:

- Fiscal notes for items presented to Council with financial impact
- Return on Investment analysis for major City-involved projects
- Quarterly financial reports
- Fibrant Sweet Spot strategy

Mr. Sofley reviewed the Fund Balance growth and pointed out in 2010, when the City received the letter from the LGC, the Fund Balance was at 11 percent. He added the current estimated Fund Balance has doubled to 24.8 percent. He stated the Fund Balance has grown from \$3.8 million in 2010 to an estimated \$8.4 million for the current year. He noted as a result of actions taken by Council to increase the Fund Balance, the City is more in line with comparable municipalities. He added the City's Fund Balance is lower than most municipalities, but the gap is closing.

Mr. Sofley stated as a result of Council's action, Standard and Poor upgraded the City's debt rating on August 27, 2013, to reflect a General Bond rating of AA- and a Certificate of Participation (COP) rating of A+.

Mayor Woodson asked Mr. Sofley to explain bond ratings and its significance to the City. Mr. Sofley explained in the financial market a bond rating is an indication of the financial strength of a company or government unit, with AAA being the highest possible rating. He added a company with a lower debt rating will pay higher interest rates due to increased risk.

Mr. Sofley explained Sweet Spot strategies were implemented by staff to increase Fibrant's financial sustainability by:

- Renegotiating COP debt
- Renegotiating contracts
- Bringing labor in-house and eliminating outside contracts
- Consolidating operations to eliminate duplicate functions
- Increasing network reliability

Mr. Sofley reviewed Fibrant revenues versus expenses for the first quarter and noted for the first time Fibrant generated enough revenue to sustain its expenses. He pointed out revenues were at \$1,192,156 and expenses were at \$1,184,400, which included a \$592,000 debt service payment. He emphasized managing costs is an ongoing process.

Mayor Pro Tem Blackwell pointed out Fibrant was in the black by approximately \$8,000. Mr. Paris stated it is not time to celebrate but to maintain focus. He added Fibrant's sustainability is a direct result of the Sweet Spot strategies and a team effort.

Mr. Sofley announced Fibrant will upgrade its speed for residential and non-dedicated commercial internet accounts at no cost to the customer. He added the upgrade is planned for Monday, October 21, 2013. He reviewed the upgraded speeds:

	<u>Current Speed</u>	<u>Upgraded Speed</u>
<u>Residential</u>	15 x 15	20 x 20
	25 x 25	30 x 30
<u>Commercial (non-dedicated)</u>	6 x 1	12 x 2
	12 x 2	15 x 2
	15 x 6	20 x 6

Mr. Sofley noted in September 2013, Fibrant exceeded 2,600 customers and continues to grow despite a fixed service area.

Mayor Woodson asked if there are plans to extend Fibrant beyond the City limits. Mr. Sofley indicated North Carolina General Statutes limit Fibrant's ability to extend its service area. He added there is a significant investment in the City that needs to be maximized before monies are invested in other places. He recommended maximizing the existing investment, and he pointed out apartment complexes within the City should be serviced first.

Mr. Sofley reviewed Fibrant's monthly billings which continue to grow. He added at the current rate, staff anticipates billing over \$4.2 million in the current fiscal year.

Mr. Sofley stated uptime for the first quarter averaged 99.99 percent, and he noted the system was down only at night for planned upgrades. He indicated the average revenue per user remained solid.

Mr. Sofley reviewed the Water and Sewer Fund revenue for the first quarter. He pointed out billings are at 24 percent, or \$5,718,147, of the budgeted \$23,891,874. He noted expenditures are at 18 percent, or \$4,217,326 expended. He pointed out the utility will incur one-time expenditures later in the year.

Mr. Sofley explained Transit revenues for the first quarter are at 24 percent, or \$28,619, of the budgeted \$118,104. He stated expenditures for the first quarter are at 18 percent, or \$214,368, of the budgeted \$1,163,757.

Mr. Sofley reviewed the Stormwater budget for the first quarter. He noted revenue is at 25 percent billed, or \$289,169, of the budgeted \$1,157,669 and expenditures are at 15 percent, or \$175,802. He added collection is at 96 percent, which is up from 93 percent last year.

Mayor Woodson thanked Mr. Sofley for the report and stated he is very proud of Fibrant's positive cash flow and all that has been accomplished.

Councilmember Alexander indicated during Council's Retreat she noted advertising improvements were needed. She stated it is exciting to see commercials featuring hometown businesses that use Fibrant.

Councilmember Miller thanked Mr. Sofley for the feedback. He stated the quarterly updates are important and keep citizens informed. He noted the quarterly information should be made readily available to the public.

Mr. Paris stated the presentation will be available on the website, and staff is working to develop a more polished version for the public.

(b) 329 South Main Street

City Manager Doug Paris stated a difference of opinion with the Rowan County Board of Commissioners was featured in the *Salisbury Post* today regarding City-owned property at 329 South Main Street. He indicated he forwarded the corrected information to Council via email.

Mr. Paris noted the City received a letter from the North Carolina Department of Environment and Natural Resources (NCDENR) indicating the site can be developed. He pointed out staff did not have any problems securing financing or construction bids for the property. He added financing and construction bids were over \$3 million less than the total budgeted project amount.

Mr. Paris indicated the Local Government Commission (LGC) did not have any issues regarding environmental aspects of the site. He explained the LGC contacted NCDENR who explained the site was able to be developed. He noted the information in the newspaper was incorrect, and staff wanted to share corrected information with Council.

Mayor Woodson stated a letter of No Further Action from NCDENR is not required to build on the site.

Mr. Paris noted the site is ready for construction as referenced in the letter from Architect Bill Burgin. He stated a letter of No Further Action from NCDENR would allow the last remaining well to be closed. He emphasized NCDENR has cleared the site to be developed, and he added the LGC, and the bank that offered financing, had no environmental concerns. Mr. Paris stated a structure could be built on the property today. He pointed out the vapor barrier discussed in the *Salisbury Post* was included in the bid that came in \$1 million under budget.

Councilmember Alexander indicated there has been discussion regarding building settlement, but the structural system goes deep into the ground preventing settlement issues. She explained there is no reason to pave over the site because the bad soil has been removed. She pointed out the site is ready and is a great way to recycle downtown property. She noted this is evidently a political issue, and she would like to discuss if the County Commissioner's words have slandered the title to the property.

Mayor Woodson emphasized if the County Commissioners do not want the property, their comments are hurting the City's options for redevelopment or resale. Ms. Alexander stated the County Commissioners are slandering the property title with no legitimate basis. She pointed out lawsuits are instigated for this behavior. Mayor Pro Tem Blackwell asked about the magnitude of those damages. Ms. Alexander stated damages are determined by the court system.

Ms. Alexander pointed out the School System, the City, and the State spent over \$1.3 million on the project. She noted County Commissioners are blocking economic development for personal reasons. She encouraged Council to protect its asset.

Mr. Paris stated if there is a Council consensus staff could look into the possibility of legal action.

Councilmember Kennedy asked if the contradictory information Council received in its email was in *the Salisbury Post*. Ms. Alexander stated the contradictory information was in the *Salisbury Post*. She pointed out the County Commissioners are contradicting pertinent information backed up by professionals. She added County Commissioners are continuing to send out incorrect information which is damaging the community's reputation.

Councilmember Miller pointed out the fear of a lawsuit will not impact some of the County Commissioners' reasoning. He added, in the spirit of being fiscally conservative, County Commissioners are wasting County resources. Mr. Miller emphasized the City is willing to donate the land and parking, and funds were spent on the planning process. He indicated the current opportunity for financing and the contractor's current bid may be lost. Mr. Miller pointed out if another private funding source occurs, that financing source will not have access to the same interest rates as the City. He asked if the sole reason this parcel has been deemed unsuitable by County Commissioners is that it does not have a letter of No Further Action.

Mr. Paris pointed out a No Further Action letter does not determine if the property can be developed. Mr. Miller questioned if it would change the County Commissioners' minds if the City received a letter of No Further Action or if they would find another reason not to support the project.

Ms. Alexander suggested seeking a professional opinion to determine if the incorrect information from the County Commissioners constitutes Slander of Title.

Mr. Kennedy stated he does not support legal action. He emphasized only one Commissioner's comments were featured in the newspaper. He added the comments have been refuted, and he has reservations regarding legal action.

Ms. Alexander stated she is not proposing the City sue, but seek a legal opinion.

Mayor Woodson asked Mr. Paris to consider the request and discuss it with staff, and Council can discuss it at its next meeting.

Mr. Paris clarified staff would explore whether or not the misrepresentation is an issue that will impact the City's ability to develop the site. He added if the Central School Office Building is not placed on the site, continued negative talk could influence future development, ultimately hurting the taxpayers. He emphasized before any action is taken he would bring the information back to Council for further discussion, provided Council is agreeable to allow staff to explore the option.

Mayor Woodson stated Council is committed to the development of South Main Street. He pointed out Council has a business-friendly attitude, and if the Central School Office Building cannot be built on the site, Council would like to use it for other purposes. He added he has been overwhelmed by Rowan County citizens who are in support of the project.

Mr. Paris clarified Rowan County would not take on risk regarding the Central School Office Building, the risk would be assumed by the Rowan County Board of Education. He stated as City Manager, he is very comfortable with the site.

Mr. Miller pointed out there is no environmental risk, no construction risk, and no funding risk.

Ms. Blackwell asked if Council would consider providing an indemnification to the School Board and the anonymous funding source for the building, holding both parties harmless for the property. She added lacking a letter of No Further Action, the indemnification is the highest level of guarantee and would undermine the political argument that the ground is contaminated. She added she is confident in the report received from the State to indemnify the site and guarantee the land. She asked Council for its consensus.

Ms. Alexander agreed with Ms. Blackwell and noted it is an excellent idea.

Mr. Paris stated the City has offered indemnification of the property and a 100-year lease. He noted an indemnification would reaffirm prior action by Council. He added it is important to resolve the issue.

Mr. Miller stated an indemnification is a great idea, but questioned how the City can have the item placed on the County Commissioners' Agenda.

Mr. Paris stated the City would have to rely on the Rowan County Board of Education and the private funding source to ensure the item is brought before the County Commission. He added the City's role is to provide support if it wants to pursue this option.

Mr. Kennedy stated the City should challenge Rowan County citizens to approach the County Commissioners. He noted it is up to the citizens to contact their Commissioners if they want the Central School Office Building.

By consensus Council agreed on indemnification of the property at 329 South Main Street.

MAYOR'S ANNOUNCEMENTS

(a) "Movies in the Park"

Mayor Woodson announced the Salisbury Parks and Recreation Department will host "Movies in the Park" at City Park Friday, October 18, 2013. The movie will begin at 8:00 p.m. Bring a blanket or chair to watch the featured movie "Hotel Transylvania." The free event is sponsored by Fibrant and open to the public. Halloween costumes are encouraged.

(b) 15th Annual Rowan Blues and Jazz Festival

Mayor Woodson announced the 15th annual Rowan Blues and Jazz Festival will be held Saturday, October 19, 2013 from 2:00 p.m. until 11:00 p.m. in downtown Salisbury in the 200 block of West Fisher Street.

(c) Fall Spruce-up Week

Mayor Woodson announced the Community Appearance Commission and the Public Services Department will sponsor Fall Spruce-up week October 21-25, 2013. The Public Services Department will provide special trash collection service, including pick-up of unwanted appliances, tires without rims, and additional household trash. Please call 704-638-5260 with questions or to arrange for special pick-ups.

(d) Halloween Funfest

Mayor Woodson announced the annual Halloween Funfest sponsored by the Parks and Recreation Department will be held Saturday, October 26, 2013 from 3:00 p.m. until 6:00 p.m. in the Salisbury Post parking lot located at the intersection of South Church Street and West Fisher Street. Tickets are \$5 for an unlimited game and ride band or \$.50 per ticket.

(e) 2013 BlockWork

Mayor Woodson announced the Community Appearance Commission will sponsor the BlockWork Neighborhood Improvement Project Saturday, October 26, 2013 from 8:30 a.m. until 4:30 p.m. in the 700 and 800 blocks of East Franklin Street. If you are interested in volunteering for all or part of the day, please contact the Community Planning Office at 704-638-5242.

(f) 7th Annual Autumn Craft Show and Community Fun Day

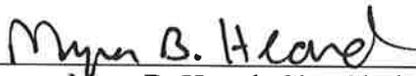
Mayor Woodson announced the Salisbury Parks and Recreation Department will host the 7th Annual Autumn Craft Show and Community Fun Day Saturday, November 2, 2013 from 10:00 a.m. until 4:00 p.m. at the Civic Center located at 315 South Martin Luther King, Jr. Avenue. The event features local and area craft exhibitors and includes games, a bounce house, music, food and door prizes. For more information contact the Salisbury Civic Center at 704-638-5275.

ADJOURNMENT

Motion to adjourn the meeting was made by Ms. Blackwell seconded by Ms. Alexander. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:07 p.m.



Paul B. Woodson, Jr., Mayor



Myra B. Heard, City Clerk