

Salisbury, North Carolina
June 15, 2010

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem Maggie A. Blackwell, Councilmen William (Pete) Kennedy, William Brian Miller, 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 Woodson.

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.

PROCLAMATIONS

Mayor Kluttz proclaimed the following observances:

NATIONAL HOMEOWNERSHIP MONTH	June 2010
J.C. PRICE HIGH SCHOOL DAY	June 19, 2010
PARKS AND RECREATION MONTH	July 2010

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of June 1, 2010.

(b) Budget Ordinance Amendment

Adopt a budget Ordinance amendment to the FY2009-2010 budget in the amount of \$39,100 to appropriate special project funds received by the Community Planning Services Department.

AN ORDINANCE AMENDING THE 2009-2010 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE PLANNING AND COMMUNITY DEVELOPMENT DONATIONS.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 56, and is known as Ordinance 2010-28.)

(c) Budget Ordinance Amendment

Adopt a budget Ordinance amendment to the FY2009-2010 budget in the amount of \$2,576 to appropriate a PEG Channel Grant received from the North Carolina Rural Economic Development Center, Inc. and the e-NC Authority.

AN ORDINANCE AMENDING THE 2009-2010 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE PLANNING PEG CHANNEL GRANT.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 57, and is known as Ordinance 2010-29.)

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

LAND DEVELOPMENT ORDINANCE AMENDMENT – LDOZ-06-2010, DYKE MESSINGER

(a) Mr. Preston Mitchell, Senior Planner, addressed Council regarding Land Development district map LDOZ-06-2010 Dyke Messinger. Mr. Mitchell indicated that the petition is a request to rezone 26 acres along Henderson Grove Church Road from Light Industrial (LI) district to Heavy Industrial (HI) district. He reviewed aerial photographs of the site which is adjacent to South Main Street and Parkdale Mills, and noted that the site is undeveloped. He indicated that the property is currently zoned LI with a varied amount of Commercial, Corridor

Mixed-Use, Rural Residential, and Single-Family Residential zoning. Mr. Mitchell indicated that the property on the opposite side of the proposed site, along Henderson Grove Church Road, was recently rezoned HI by Council, and if the proposed request is approved, the site will be the second undeveloped HI zoned property in the City.

Mr. Mitchell reviewed low-level aerial photographs of the site, pointing out the Leatherman site, which was recently rezoned HI. He reviewed the policies of the Vision 2020 Comprehensive Plan pertaining to this request:

- Policy C-16: Commercial or other development that would jeopardize the public health, safety, and welfare of an existing residential neighborhood shall not be permitted. However, new mixed-use developments, planned from the outset, which allow for a compatible mixture of uses with a pedestrian scale and design, are encouraged. Further, business may be approved adjoining (and therefore convenient to) an existing residential area, when such businesses can be shown to clearly satisfy design considerations similar to a newly planned, pedestrian-scaled, mixed-use development.
- Policy I-7: To encourage economic development, the City of Salisbury shall continue to invest in infrastructure and services that sustain and enhance the area's already high quality of life, image and cultural identity.
- Policy I-8: The Interstate 85 corridor, including the roadways feeding into the interstate, shall be a focus of coordinated land use policy and capital investments for the development of quality industry.

Mr. Mitchell also reviewed the permitted uses for HI districts:

- No residential/No lodging
- No Retail/Fueling/Bars and Restaurants
- Business Support/Professional Services
- Equipment Rental/Heavy Vehicle and Equipment Sales
- Vehicle Services: Major and Minor Repair
- Indoor/Outdoor Amusement
- Indoor/Outdoor Recreation
- Cultural/Community Facilities
- Light/Neighborhood/Heavy Manufacturing
- Metal Fabrication/Machining/Welding
- Wholesaling/Storage/Distribution

Mr. Mitchell reviewed staff and Planning Board recommendations:

- Staff recommends that the petition is consistent with the Vision 2020 Plan.
- The Planning Board voted 5-2 to recommend approval and stated that the petition is consistent with the Vision 2020 Plan.

Councilman Woodson asked Mr. Mitchell to explain the objections to the request by the two dissenting Planning Board members. Mr. Mitchell indicated that one objection was a concern with the area growing in an industrial capacity, and losing its rural character. He explained that the other concern regarded the intensive uses that are permitted in an HI zoned area.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on the proposed Land Development Ordinance amendment LDOZ-06-2010.

Mr. Eddie Lanter, 931 Faith Road, stated that he is in favor of the zoning, pointing out that he and Mr. Dyke Messinger are partners on the project. He stated he would like to have the property zoned HI because the property across the street has been zoned HI. He indicated that there are no immediate plans for the property, but the property could become the future site of their business, and could attract other businesses to Salisbury, and create jobs in the area.

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

(c) Mr. Kennedy stated that the City Council hereby finds and determines that adoption of an Ordinance to rezone the property described 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. Kennedy made a **motion** to adopt an Ordinance amending the Land Development district map of the City of Salisbury, North Carolina, by rezoning approximately 26 acres, identified as Tax Map and Parcel 400-065, from Light Industrial district to Heavy Industrial district. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 26 ACRES, IDENTIFIED AS TAX MAP AND PARCEL 400-065, FROM LIGHT INDUSTRIAL DISTRICT TO HEAVY INDUSTRIAL DISTRICT.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 58-59, and is known as Ordinance 2010-30.)

**LAND DEVELOPMENT ORDINANCE AMENDMENT – LDOZ-07-2010,
LIVINGSTONE COLLEGE**

(a) Mr. Preston Mitchell, Senior Planner, addressed Council regarding Land Development district map LDOZ-07-2010 Livingstone College. Mr. Mitchell indicated that the petition is a request to rezone one-half acre located at 721 Old Plank Road from Urban Residential (UR-8) district to Institutional Campus (IC) district. Mr. Mitchell reviewed aerial photographs of the area indicating the site which contains a single-family home, located across from Livingstone College. Mr. Mitchell indicated that the Livingstone Campus and the property adjacent are zoned IC.

Mr. Mitchell presented an on-site video report indicating the property's location at 721 Old Plank Road. He noted that the property was recently purchased by Livingstone College to be used for collegiate purposes. Mr. Mitchell indicated that the request from Livingstone College is to rezone the property to IC in order to be consistent with the main campus. He noted that the area along Old Plank Road is primarily a single-family residential area.

Mr. Mitchell reviewed the permitted uses in IC districts:

- All Residential and Lodging types
- Retail up to 10,000 square feet and Restaurants
- Banks/Business Support/Professional Services
- Child/Adult Day Care and Medical Uses
- Cultural/Outdoor Recreation
- Indoor/Outdoor Facilities
- Theaters (Live/Film)
- Laundry/Neighborhood Manufacturing/Research and Development
- Public/Private Institutions (schools, hospitals, etc.)

Mr. Mitchell reviewed staff and Planning Board recommendations:

- Staff recommends that there are no specific applicable policies and that the petition is not inconsistent with the Vision 2020 Plan.
- Planning Board voted unanimously to recommend approval and stated that the petition is not inconsistent with the Vision 2020 Plan.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on the proposed Land Development Ordinance amendment LDOZ-07-2010.

Mr. State Alexander, Livingstone College, 701 West Monroe Street, stated that he is in favor of the petition and urged Council's support.

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

(c) Mr. Woodson stated that the City Council hereby finds and determines that adoption of an Ordinance to rezone the property described 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 and the college. Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending the Land Development district map of the City of Salisbury, North Carolina, by rezoning approximately one-half acre, identified as Tax Map and Parcel 009-337, from Urban Residential district to Institutional Campus district. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY ONE-HALF ACRE, IDENTIFIED AS TAX MAP AND PARCEL 009-337, FROM URBAN RESIDENTIAL DISTRICT TO INSTITUTIONAL CAMPUS DISTRICT.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 60-61, and is known as Ordinance 2010-31.)

SPECIAL USE PERMIT – SALISBURY WINE SHOP, 106 SOUTH MAIN STREET

SUP-03-2010 Salisbury Wine Shop

(a) Swearing In

Mayor Kluttz swore in the following persons to testify in this case:

Mr. David Phillips
Mr. Robert Potter

(b) Ex Parte Disclosure

Mayor Kluttz asked Council members to disclose any discussions they have had regarding this case or if they have been provided any information. Mayor Kluttz disclosed that she met the applicant Sunday, June 12, 2010, who advise her he would be attending the Council meeting today. There were no other ex parte disclosures.

(c) Receive Testimony

Mr. David Phillips, Zoning Administrator, stated this is a request for a Special Use Permit (SUP) to be located at 106 South Main Street. He reviewed the decision-making rules in issuing an SUP:

- 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 application, neighbors, and board all need to know what the ordinance requires for approval

Mr. Phillips also reviewed the necessary 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. Philips noted there are four basic standards that must 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 explained that in the LDO the definition of school is a public or private primary or secondary school. He added that the definition does not include daycares or similar uses.

Mr. Phillips reviewed a vicinity map, and noted the location of the site on South Main Street. He indicated that the site is located within the Downtown Mixed Use (DMX) district, and is currently being renovated for a retail establishment. He stated that the establishment will sell wine and other types of alcohol, and the applicant would also like to allow the consumption of alcohol onsite. Mr. Phillips commented that the consumption of alcohol could be for wine tastings, or just sitting, relaxing, reading the paper and having a glass of wine. He stated that based on the LDO definition, if the alcohol consumption is not associated with a restaurant then it falls under a bar/nightclub/tavern definition, where a SUP is required to be issued.

Mr. Phillips displayed an aerial photograph of downtown, and noted the building's location near the City square. He stated that no changes to the exterior of the building will be made, and noted that the changes will be strictly to the interior. Mr. Phillips indicated that the application provided to Council stated how the applicants felt they met the criteria of the standards. He noted that a public hearing is now required. He stated that the property was posted, a notice was posted at City Hall, and all required procedures have been followed.

Mayor Kluttz then opened the floor to receive testimony from the public:

Mr. Bob Potter stated he is President of the Salisbury Wine Shop, and noted that Stephanie McMillan, who is Vice-President, is also present. He requested they be granted a Special Use Permit to allow the service of beer and wine at their wine shop. He stated that the wine will be an unfortified wine. Mr. Potter explained his and Ms. McMillan's background in the wine industry, and noted both previously worked at Childress Vineyards. He stated that Ms. McMillan took care of wine tastings and paired wines for special occasions and the vineyards

café. Mr. Potter stated he was part of the wine making team, and took care of the process from beginning to end. He indicated that, although they are not yet open for business, they plan to sell boutique wines and custom crafted beer. He explained that a boutique wine is one that comes from a small production facility, while a custom crafted beer is what was formally known as a micro-brew beer. He noted that these beers come from small production facilities as well. Mr. Potter stated that a customer may not be familiar with the quality and taste of these beverages, so they would like to offer beer and wine tastings to allow the customer to make an informed decision. He stated that they have obtained their ABC permit to allow for this use. Mr. Potter stated that the shop will have a seating area in the back known as “the library.” He explained that this area will have books and magazines, and is an area where customers can have wine or beer, and browse through the books in a relaxed atmosphere. He noted that if a bottle of wine is not finished, the bottle can be resealed so the customer can take it with them. Mr. Potter stated that their goal is to provide a place where customers can drink wine and beer, and try it before purchasing more in quantity. He stated that the wine shop can be a meeting place for book clubs and other groups who seek a relaxed atmosphere. He added that he thinks this business will be a benefit to the people of Salisbury.

There being no one else present to provide testimony, Mayor Klutz closed the public hearing.

(d) Findings of Fact

Councilman Woodson stated he thinks this will be a nice addition to the downtown and he wished Mr. Potter much success. Mr. Woodson then offered the following Findings of Fact:

1. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent of the following:
 - City Staff testified the site will meet all applicable regulations of the City of Salisbury
 - The applicants testified they will meet all North Carolina ABC and ALE laws and regulations
2. The proposed plan as submitted and approved will be visually and functionally compatible with the surrounding area and will be a nice addition to the downtown:
 - City Staff testified the use will be located in an existing building that Council finds to be visually and functionally compatible to the surrounding area and fits in very nicely with the buildings on each side
3. The public health, safety and welfare will be assured and the purposed development will not substantially injure the value of adjoining property and associated uses if located where purposed as evidenced by the following testimony:
 - The applicants testified they have been through North Carolina ABC training, they are fully aware of issues related with alcohol consumption, and they will provide careful monitoring of patrons; and Council finds the public health, safety and welfare will be assured

- City Staff testified the site is located in the DMX district, and Council finds previous sale of malt beverages and unfortified wine in the DMX district have not substantially injured the value of adjoining property
4. The proposed establishment is not located within 500 feet of any lot containing a school

Mr. Woodson stated he felt everything was in order for the applicant to open the business.

(e) Thereupon, Mr. Woodson made a **motion** to issue a Special Use Permit for a bar use allowing the sale and consumption of alcoholic beverages within an existing retail establishment for Salisbury Wine Shop. Mr. Miller seconded the motion. Messrs Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

HISTORIC SALISBURY FOUNDATION – REPORT REGARDING ELLIS STREET (SHOBER BRIDGE)

Mr. Jack Thomson, Executive Director, Historic Salisbury Foundation, and Ms. Susan Sides, Vice-President, Historic Salisbury Foundation, addressed Council regarding the Ellis Street (Shober) Bridge. Ms. Sides thanked Council for the opportunity to make a presentation supporting the rehabilitation of the historic Shober Bridge.

Mr. David Bergstone, Old Salem Museum and Gardens, Winston Salem, North Carolina, reviewed the historic status of the bridge and explained the rehabilitation process:

- Bridge was built over the western North Carolina Railroad and completed in 1857
- Named for Colonel Frances Shober, Post Civil War North Carolina Congressman
- Bridge was widened to allow two tracks in 1932
- 1926 the current configuration of the bridge was created
- February 1993 a consultant hired by the City found the bridge was not historic
- 1995 nomination to National Register of Historic Places was submitted
- 1997 bridge received a Local Register of Historic Places designation
- 1999 was listed on the Federal National Register of Historic Places, with the bridge listed as a contributing resource
- Connector to houses on north side of track
- Only overpass built over the western North Carolina Railroad in Salisbury
- Bridge has not been significantly altered in 80 years, and the changes appear to be minor
- Bridge can be rehabilitated according to Secretary of the Interior standards, and retain its historic designation

Mr. Thomson stated that a major determinant of a historic structure is whether it has an association with a historic event. Mr. Thomson pointed out that August 29, 1962, five members of the Hodge-Taylor family were photographed walking across Shober Bridge on their way to

Frank B. John School, which marked the first integration of a white school in Rowan County. He indicated that this walk across Shober Bridge is an important part of the history of the bridge, and the City of Salisbury. He stated that this dramatic image documents an event in the City's history which should not be overlooked, but remembered and celebrated.

Mr. David Fischetti, President of DCF Engineering, Inc. stated that in March 2006, he inspected the Shober Bridge, and found that it conformed to the 1926 plans. He stated that the abutments and pedestals are in fairly good condition and that the cross section of the bridge provides lateral stability. He stated that in his opinion, the bridge can be made safe and rehabilitated in accordance with the Secretary of Interior standards for historic properties. He pointed out that there are non-invasive methods that can be used to precisely determine the amount of decay in each timber, which would allow only the decayed timbers to be replaced. He pointed out that he feels very safe in saying the bridge can be rehabilitated.

Ms. Robin Curran, Attorney with Poyner-Spruill, stated she has been retained by the Historic Salisbury Foundation. Mr. Curran noted that the Shober Bridge is an important historic resource to Salisbury and has been placed on the National Register of Historic Places. She indicated that being placed on the Register affords protection from the destruction of the property, and noted that there are three methods of protection for these structures:

- Section 4(f) of the United States Transportation Act
- Section 106 of the National Historic Preservation Act
- North Carolina General Statutes - Historic District and Landmark Provision

She noted that any of the methods can be used when there is a proposal to destroy a structure that is on the Register, or located in a historic district.

Ms. Curran stated with respect to 4(f), her client's position is that the 4(f) determination was not complete in this case, and available alternatives were not considered. She indicated that HSF will pursue all available legal remedies to preserve the Shober Bridge, and noted there are numerous cases pursued in Federal Court, where the 4(f) determination was shown to be incomplete.

Ms. Curran explained that Section 4(f) is a National policy, pursuant to the United States Code that indicates special efforts be made to protect historic sites and buildings. She indicated that Section 4(f) states the site cannot be destroyed unless it can be shown that there is no feasible and prudent alternative, and that all possible planning has been done to minimize harm to the site. Ms. Curran stated that despite the findings of the report prepared by URS Corporation (URS), there are feasible and prudent alternatives to rehabilitate the bridge, and maintain its character without having to replace it. She stated that she feels the URS study did not attempt to devise a plan that would comply with the Secretary of Interior standards for rehabilitation. She noted that URS did not have Mr. Fischetti's alternative plan, which shows these standards can be met and the historic character of the bridge can be maintained. Ms. Curran stated that she believes there could be a compromise between the URS study and Mr. Fischetti's study, to find other alternatives that will preserve the historic integrity of the bridge and meet sufficiency requirements. She indicated that HSF is confident a more detailed and

proper 4(f) review would show that the bridge can be rehabilitated to meet the prudent standards, and requests a review be completed.

Ms. Curran noted that Section 106 requires an analysis of the effects the Federal undertaking has on a historic property, and have all parties work together to minimize the impact. She also noted that North Carolina General Statutes require the destruction of the Shoher Bridge, and construction of its replacement to receive Certificates of Appropriateness from the North Carolina Historic Preservation Commission. Ms. Curran pointed out that the Certificate of Appropriateness could be delayed up to one year, and require a new bridge to conform to the nature of the Historic District.

Ms. Curran indicated that it is her position that Norfolk Southern Railroad does not have the ability to prevent the City from rehabilitating the bridge, and any argument that Norfolk Southern Railroad can prevent the rehabilitation, and require a new bridge is not correct.

Ms. Curran concluded by stating HSF would stress to Council that there is a reasonable and prudent alternative, and that Council should pursue this matter and consider these options before moving forward with any plan that would destroy the bridge.

Ms. Sue McHugh, President, Historic Neighborhood Alliance, stated that HSF's statements defined the Alliance's position to rehabilitate the Shoher Bridge. She indicated that, as a neighborhood activist and devotee of Salisbury, she believes the rehabilitation of the bridge goes beyond the structure, and speaks to the overriding preservation culture in a community that has preserved over 100 historic structures. She pointed out that several members of the community are in attendance to show their support for the rehabilitation of the Shoher Bridge. Mayor Kluttz asked those in support of rehabilitation to stand. Ms. McHugh stated that the rehabilitation option preserves the bridge, its legacy, the character and quality of the Ellis Street Graded School Historic District and Neighborhood, and the Historic Preservation culture of Salisbury.

Mayor Kluttz thanked the participants for an excellent presentation. She indicated that it is exciting to see citizens who care about historic preservation. She stated that this presentation is for information only, and the issue is currently assigned to a Council Committee consisting of Mayor Pro Tem Maggie Blackwell and Councilman Paul Woodson. She stated that no decision has been made about the bridge at this time, because the Council Committee is waiting for information from Norfolk Southern Railroad regarding its plans for two or three tracks.

Mayor Kluttz pointed out that Council has a history of supporting historic preservation and understands the historic significance of the Shoher Bridge. She indicated that she lived in the neighborhood for 25 years, and crossed the bridge to visit the neighborhood grocery store. Mayor Kluttz stated the bridge is part of the transportation system, and Council has a responsibility to citizens in that area to make sure they are safe, and that fire and emergency vehicles can respond to the area. She expressed that she thinks it is Council's responsibility to oversee the budget for the City and make decisions using as much information as possible, and to do otherwise would be irresponsible. She thanked the HSF for providing this information to Council and the public.

Councilman Woodson stated that he appreciates the attendance and support for the Shoher Bridge. He stated that the he was under the assumption the Railroad controlled specific aspects of the bridge.

EMPIRE PROPERTIES – TERMINATION OF DEVELOPMENT AGREEMENT

Mr. Randy Hemann, Executive Director, Downtown Salisbury, Inc. (DSI) addressed Council regarding a Termination of Development Agreement with Empire Properties. Mr. Hemann stated that Downtown Salisbury, Inc. remains hopeful about the Empire Hotel project. He indicated that DSI had a yearlong due diligence period with Empire Properties, and received good feasibility from the due diligence period. He pointed out that due to the current economy the project cannot move forward at this time. He noted that DSI has changed its focus to raising funds for the revolving fund and appreciates the donations from the Robertson and Woodson Foundations. He stated that DSI will continue to look for a development partner, and is hopeful that when the timing is right the Empire Hotel project will be successful. Mr. Hemann requested Council approve the Termination of Development Agreement.

Councilman Miller stated he is disappointed that the project has not moved forward, considering the amount of time that has been put into it. He pointed out that the current economic condition is unprecedented in his lifetime, and indicated that the City is far better off with this scenario than it would have been otherwise.

Mr. Miller stated that the goal of DSI is to allow the building to continue to operate as first floor retail. He noted that DSI's aim is to retire the debt incurred when purchasing the building, and to redevelop it when the opportunity presents itself. Mr. Miller indicated he thinks the proposed Conference Center can make the Empire Hotel more viable.

Mr. Miller noted that he and Mr. Hemann visited each member of the loan pool to share information regarding the termination of development, and give them an opportunity to ask questions. He pointed out that each member of the loan pool has remained committed to the process. He also noted that BB&T is willing to join the loan pool, and will join as a full partner and contribute at the same level as the original members. He concluded by stating that with the donations and the additional funding from BB&T, DSI will begin to reduce the principal on the building, and move forward with confidence that the project will be a success.

Mayor Kluttz stated that she is disappointed the project is not taking place at this time, and noted that Salisbury is lucky this historic structure has been preserved. Mayor Kluttz expressed her confidence in DSI, and stated that she is very optimistic about the project. She thanked the DSI Board, staff, and loan pool members for their work on the project.

Thereupon, Ms. Blackwell made a **motion** to authorize the Mayor and City Clerk to execute a Termination of Development Agreement with Empire Properties. Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

AGREEMENT – NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Mr. Barry King, Fibrant Service Delivery Manager, addressed Council regarding an agreement with the North Carolina Department of Transportation (NCDOT) allowing the City to connect its fiber to the existing traffic control system. Mr. King stated that the City approached NCDOT to discuss attaching the City's fiber to the traffic control system installed by NCDOT several years ago. He indicated that NCDOT reviewed the request and has submitted an agreement for Council's approval. He requested Council authorize the agreement.

Councilman Kennedy asked if attaching the fiber to the existing traffic controls will help camera location throughout the City. Mr. King indicated that the issue has been discussed, and at this time staff is concentrating on residential deployment of fiber, but camera installation is part of the long-term plans.

Thereupon, Mr. Miller made a **motion** to authorize the Mayor and City Clerk to execute an agreement with North Carolina Department of Transportation, allowing the City to connect its fiber to the existing traffic control system. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Kluttz voted AYE. (5-0)

LEASE CONTRACT – DUKE ENERGY CAROLINA, LLC

Mr. John Sofley, Management Services Director, addressed Council regarding a lease contract with Duke Energy Carolinas, LLC, allowing Duke Energy to place antennas on a City owned tower. Mr. Sofley indicated that the City was approached by Duke Energy regarding the placement of antennas on a City owned tower in Granite Quarry. He stated that staff worked with Duke Energy to determine if their needs conflict with the current and future needs of the City, and staff feels that Duke Energy can be accommodated. He pointed out that Duke Energy is requesting to place five antennas on the tower for their internal communications. He indicated that staff negotiated a contract with Duke Energy that stipulates:

- The City will lease five antenna points at a cost of \$1,250 per month per antenna
- A one-time payment of \$33,000 to purchase a backup generator and switchgear to be located at the site
- Monthly rental fees will be adjusted annually by the Consumer Pricing Index or 3%, whichever is greater
- The initial lease term is 10 years, with two 5 year renewal options
- Duke Energy will provide all insurance coverage and hold the City harmless for any potential loss

Mr. Sofley requested Council approve the lease agreement retroactive to June 1, 2010. He indicated that this will generate an additional \$75,000 for the current fiscal year.

Thereupon, Mr. Woodson made a **motion** to approve a lease contract with Duke Energy Carolinas, LLC retroactive to June 1, 2010, for an initial 10 year term, to place five antennas on a telecommunication tower located on Hill Street, Granite Quarry, North Carolina, and a related

parcel of property to place related equipment. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

PRESENTATION – GREENWAY MARKING SYSTEM

Mr. Stephen Brown, Parks and Recreation Maintenance Manager, and Ms. Elaney Hasselman, Parks and Recreation Marketing and Community Relations Manager, addressed Council regarding the Greenway Marking System. Ms. Hasselman indicated that staff received a grant from the North Carolina Adopt-A-Trail Grant through the North Carolina Department of Natural Resources. She stated that the \$3,750 grant funded trail markers in the existing sections of the Salisbury Greenway, 7,000 trail brochures, and five trail kiosks. She indicated that with the help of the Geographical Information System (GIS) division, staff and interns have collected data and are coordinating with Rowan County emergency services to enhance emergency response to the Greenway.

Mr. Brown stated that staff has created green trail markers for the main trail, and blue trail markers for the connectors at Kelsey Scott Park and Brenner Avenue. He indicated that GPS was used to mark the exact location of the markers.

Ms. Hasselman indicated that the GIS division assisted staff in creating a comprehensive Greenway trail map for the new brochures. She stated that the Greenway map indicates the current system and connectors, as well as proposed sidewalks, street connections and parks that are in the vicinity of the Greenway trail. She pointed out that the brochures were made in-house by City employees, and are available at several locations throughout the City.

Mr. Brown indicated that there are two trail kiosks located at Forest Hills Park and Prescott Park, and one at Memorial Park. He stated that staff designed, built, and installed the kiosks at a cost of \$1,620.

Ms. Hasselman stated that she hopes citizens will celebrate Recreation Month by taking a walk on the Greenway, and enjoying one of the many programs offered through the Parks and Recreation Department. She indicated that a complete listing of all Parks and Recreation programs is located on the City's website.

Mayor Kluttz congratulated the Parks and Recreation Department for receiving the grant and commended them for the in-house construction. She indicated that these additions to the Greenway are a great advantage for walkers and public safety.

APPOINTMENTS TO DIXONVILLE CEMETERY MEMORIAL PROJECT TASK FORCE

Dixonville Cemetery Memorial Project Task Force Appointments

Upon a recommendation by Mayor Kluttz, seconded by Mr. Miller and with Messrs. Kennedy, Miller, Woodson and Mses. Blackwell and Kluttz voting AYE, the following appointments were made to the Dixonville Cemetery Memorial Project Task Force:

Ms. Emily Perry	Mr. Floyd Carr
Ms. Betty Dan Spencer	Mr. Ronald Woodruff, Sr.
Mr. William H. Woodruff	Ms. Sarah Robinson
Ms. Eleanor Qadirah	Ms. Sarah Russell
Mr. William Peoples	Mr. Fred Evans
Ms. Linda Davis, staff	Ms. Gail Elder-White, staff

Mayor Kluttz recommended Mr. Fred Evans as Chairman of the task force.

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Planning Board

Upon a **motion** by Mr. Miller, seconded by Mr. Kennedy, and with Messrs. Kennedy, Miller, Woodson and Mses. Blackwell and Kluttz voting AYE, the following appointment was made to fulfill an unexpired term on the Planning Board:

Mr. Will Hasselman	Term Expires: 03/31/2011
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Upon a **motion** by Mr. Kennedy, seconded by Miller, and with Messrs. Kennedy, Miller, Woodson and Mses. Blackwell and Kluttz voting AYE, the following appointment was made to fulfill an unexpired term on the Planning Board:

Ms. Patricia Ricks	Term Expires: 03/31/2011
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PUBLIC COMMENT SESSION

Mayor Kluttz opened the floor to receive public comment.

Mr. James Carli, 419 South Ellis Street, stated that he has been a resident of Salisbury for the past 30 years, and for the last 10 years in the West Square Historic District. Mr. Carli indicated that he has had the opportunity, as a Civil Engineer, to review proposals from URS and Mr. David Fischetti. He pointed out that both recommendations were good, and both were similar. He stated that with a compromise between the two proposals, he feels the Shoher Bridge

can be rehabilitated. He indicated he feels the City has not maintained the bridge very well, and although the bridge was originally painted white, it has not been painted in 30 years. He stated he is upset the bridge was shut down for six months, and was back in operation five days after repairs began. He concluded by stating that Shober Bridge is a historic landmark worth saving.

Mr. William Peoples, 522 North Fulton Street, stated that he is not a member of the Historic Salisbury Foundation, but believes in its cause. He indicated that there is a safety issue involving the bridge, and that he is concerned that there is not a fire station on the north side of Salisbury. He pointed out that if the bridge cannot hold a fire truck, and a train is sitting on the tracks, it would take too long for fire trucks to reach the north side of Salisbury to put out a fire where the majority of the houses are wooden. He indicated the north side of Salisbury would be in jeopardy of totally losing structures. He expressed that if the bridge cannot be rehabilitated to support a fire truck, Council should consider building a fire station on the north side of Salisbury.

Mr. Pete Hoffman, 416 West Kerr Street, stated that he is pleased Council is a steward of the budget. He noted that when cost estimates were given on rehabilitation versus replacing the Shober Bridge, the replacement cost was discounted on the assumption that it could receive Federal funding. He added that the rehabilitation cost was not discounted, based on the assumption that it could not receive Federal funds. He indicated that if there is a rehabilitation option that can meet Federal funding requirements, the cost estimates would differ greatly. Mr. Hoffman stated that rehabilitating the Shober Bridge may be the more prudent option when factoring the cost of construction if Federal funding and possible alternative funding is available. He stated that he has requested a public document regarding Norfolk Southern Railway's ability to veto the rehabilitation of the Shober Bridge, and to date has not received that document.

Ms. Gwen Matthews, 313 North Ellis Street, thanked the citizens of Salisbury and Rowan County for their support of rehabilitating the Shober Bridge. She stated that the Neighborhood Association appreciates those who have placed signs in their yards, the 211 people that have signed the online petition, and those supporters in attendance. Ms. Matthews indicated that the support of the citizens has shown that Shober Bridge is more than a one neighborhood issue, but is an issue of concern to the entire City. She pointed out that in March 1999, City Council voted unanimously to accept the recommendation of the Ellis Street Grade School and its contributing structures to the National Register of Historic Places. She also pointed out that on January 19, 2010, Council voted to accept the nomination of J.C. Price High School to the National Register. She stated that if Council justifies the demolition of a historic bridge, what would stop a future Council from tearing down J.C. Price High School. Ms. Matthews commented that saving Shober Bridge will set a precedent in Historic Salisbury, and will be an exclamation point for historic preservation in the City.

Mr. Doug Robinson, West Henderson Street, stated that he and residents of the area have formed a grass roots coalition to address traffic safety, crime, and absentee owned properties in the West Henderson neighborhood. He stated that, with the assistance of the Salisbury Police Department, crime in the neighborhood has been reduced, and the Code Enforcement Department has helped the neighborhood address chronic rental home issues. He indicated that the coalition has not been as successful in addressing traffic concerns, and noted that Salisbury Police have done their best to curb vehicular speeding, but has acknowledged the difficulty of

safely patrolling the street due to the topography in the area. He indicated that the coalition met with the traffic engineering department, which performed a traffic study validating that vehicles routinely exceed speed limits on West Henderson Street. He stated that he met with City staff on several occasions and requested multi-way stops at several intersections with an expense not to exceed \$3,000. He noted that the traffic engineering department did not recommend the multi-way stops, but chose to recommend traffic circles at a minimum cost of \$6,000 each. He thanked the City Manager and staff for the time spent discussing and researching the neighborhood's request, and for approving the installation of high visibility pedestrian crossings. Mr. Robinson requested additional funds be allocated to install a sidewalk from West Henderson Street to Lake Drive to ensure the safety of children going to City Park. He also requested a sidewalk from West Henderson Street to Grove Street for residents to safely walk to Rowan Regional Hospital. He concluded by asking Council to put the neighborhood concerns to rest by installing four-way stops at several intersections on West Henderson Street.

Mr. Frank Justin, West Henderson Street, thanked Council for recognizing the ongoing traffic problems on West Henderson Street, and for providing pedestrian crossings. He noted that at an April 29, 2010, meeting residents were briefed on the proposed traffic circles being offered by the traffic department. Mr. Justin explained that he feels that vote results were not accurate and should not be accepted. He stated that recent replies to the West Henderson Street questionnaire do not support traffic circles, and those results should be sufficient to prove that the residents of West Henderson Street support the more fiscally responsible multi-way stops. He presented Council with copies of the signed votes. He stated that the residents of West Henderson Street respectfully request Council treat them equally and grant the neighborhood the long awaited multi-way stops.

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

COMMENTS FROM THE CITY MANAGER

(a) **Capital Project Ordinance for Meadowbrook Water Line Replacement**

City Manager David Treme addressed Council regarding a Capital Project Ordinance for the Meadowbrook water line replacement project. He indicated that the water line replacement was approved by Council several months ago, but there is financial work needed to bring the Ordinance into compliance with the accepted financial principles. He stated that the water line issues in the Meadowbrook area were vast, and the City has spent approximately \$500,000 to make those repairs. Mr. Treme requested Council approve the Capital Project Ordinance for the Meadowbrook waterline replacement.

Thereupon, Mr. Kennedy made a **motion** to approve the Meadowbrook waterline replacement Capital Project Ordinance. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

(b) Rowan County Health Department Memorandum of Understanding

City Manager David Treme indicated that the City has an annual Memorandum of Understanding (MOU) for Point of Dispensing Site from the Rowan County Health Department. He stated that the MOU would allow the Civic Center to be used as a site where the Rowan County Health Department will be able to dispense inoculations in the event of an emergency. Mr. Treme recommended Council authorize the City Manager to execute the MOU for the next fiscal year.

Thereupon, Mr. Woodson made a **motion** to authorize the City Manager to execute a Memorandum of Understanding for mass dispensing site with the Rowan County Health Department. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Kluttz voted AYE. (5-0)

(c) OctoberTour

City Manager David Treme presented Council with a list of requests from the Historic Salisbury Foundation regarding the 2010 OctoberTour. He noted the list included requests for road closings and maintenance in the downtown area, and within the neighborhood. Mr. Treme stated he wanted to make Council aware of the requests, and if Council agrees, staff will proceed as it has in the past.

By consensus, Council agreed to approve the request from Historic Salisbury Foundation regarding OctoberTour.

(d) Street Closure – 1300 Block of West Bank Street

City Manager David Treme indicated that there has been a request to close the 1300 block of West Bank Street Saturday, June 19, 2010, from 10:00 a.m. until 4:00 p.m. for the J.C. Price High School reunion.

Thereupon, Mr. Kennedy made a **motion** to close the 1300 block of West Bank Street Saturday, June 19, 2010, from 10:00 a.m. until 4:00 p.m. for the J.C. Price High School Reunion. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Kluttz voted AYE. (5-0)

(e) Adopt final FY2010-2011 Budget Ordinance

City Manager David Treme indicated that Council held a Budget Workshop Monday, June 14, 2010. He stated that Council decided to reduce limb collection to every two weeks for a four-month trial period, which would generate approximately \$100,000 worth of income. He indicated that the General Fund will continue to absorb the cost of three police officers salaries and any associated costs for those positions. Mr. Treme stated that Council did not support his recommendation to reduce funding to Special Community Efforts Groups by 10%. He pointed out that there has been a 10% increase in the recycling fee based on a contract increase, and an average 5.57% water/sewer rate increase. He indicated that there is no tax increase for the City

of Salisbury, but pointed out that a provision for business licenses for internet cafés has been assessed. Mr. Treme submitted the FY2010-2011 Budget Ordinance for Council's approval.

Councilman Kennedy stated that he noticed a request to install sidewalks on Old Wilkesboro Road has been omitted. He indicated that he would like to see the budget amended once funds are received to install the sidewalks.

Mayor Kluttz stated that Council had a comprehensive discussion at its Budget Workshop meeting, and that each Council member had an opportunity to speak with staff regarding their budget concerns.

Councilman Woodson stated that staff has done a great job on the budget, and he is in agreement with everything discussed in the General Fund. He indicated he does not support the water/sewer rate increase. He noted that many citizens have spoken to him about the water/sewer rate increase, and he referred to a young homeowner who told him she could not afford to water the grass for her new home. He commented he feels the water rate should not be increased this year because of the economy and unemployment. Mr. Woodson stated that he cannot support the budget because of the water/sewer rate increase.

Mayor Kluttz stated that no member of Council wants to raise water/sewer rates. She indicated that Mr. Behmer presented Council with a comprehensive explanation for the increase, and she thinks Council has the responsibility to make sure citizens have adequate, quality water. She pointed out that inadequate funding would be irresponsible, and she thinks Council has no choice in this matter.

Mayor Pro Tem Blackwell commented that she is sympathetic with Mr. Woodson's opinion. She indicated that she lives in a working class neighborhood, and encouraged neighbors to give feedback regarding the proposed water rate increase. She noted that there were no concerns expressed to her. She stated that she also solicited feedback from her Facebook page, but received no feedback, and that she will support the budget.

Councilman Miller stated that he will also support the budget, and he understands there are people in the community who cannot afford to water their grass, but the City has to maintain where utility revenue exceeds cost. He pointed out that Council does not want to increase the rate, but the cost to provide the water service has increased. Mr. Miller noted that if Council is not prudent about the short-term decisions, there will be long-term consequences. He stated that he knows a tremendous amount of work went into creating the budget, and he supports it.

Councilman Kennedy indicated that he supports the budget, and while he does not like the increase, he thinks Council must be good stewards of resources. He stated that he does not want citizens to be without water.

Thereupon, Mr. Miller made a **motion** to adopt the budget Ordinance of the City of Salisbury for the fiscal year beginning July 1, 2010, and ending June 30, 2011. Ms. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Mses. Blackwell and Kluttz voted AYE with Mr. Woodson voting NO. (4-1)

BUDGET ORDINANCE OF THE CITY OF SALISBURY FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, AND ENDING JUNE 30, 2011.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 62-78, and is known as Ordinance 2010-32.)

Mayor Kluttz thanked City Manager David Treme and staff for their work preparing the budget. She stated that Salisbury fared much better than many cities in the State.

Mr. Treme indicated he thinks staff met the perimeters that were given by Council. He thanked staff for assisting with the budget, and noted that he thinks the budget is a sound financial plan.

MAYOR'S ANNOUNCEMENTS

(a) Juneteenth Celebration

Mayor Kluttz announced that the Annual Juneteenth Celebration will be held Saturday, June 19, 2010, at Kelsey Scott Park, 1920 Old Wilkesboro Road, from 10:00 a.m. until 7:00 p.m. The parade will begin at 9:00 a.m. at the corner of Monroe Street and South Main Street. The motto for this year is "Bringing a Community of Family and Friends Together." This event is free to the public and all citizens are encouraged to attend.

(b) All American Fishing Derby

Mayor Kluttz announced that the Salisbury Parks and Recreation Department will hold the All American Fishing Derby Saturday, June 19, 2010, from 9:00 a.m. until 12:00 noon at the Salisbury Community Park, 935 Hurley School Road. For information regarding transportation, contact the Miller Recreation Center by calling 704-638-5297. The event is free to all children.

(c) Salisbury-Rowan READS!

Mayor Kluttz announced that the Salisbury-Rowan READS! program will take place Wednesday evenings this summer from 5:00 p.m. until 7:00 p.m. at the following locations:

- July 14, 2010 Rowan Public Library, 201 West Fisher Street, Salisbury
- July 21, 2010 East Branch Public Library, 110 Broad Street, Rockwell
- July 28, 2010 Spencer Library Park, Fourth Street, Spencer
- August 4, 2010 South Branch Public Library, 920 Kimball Road, China Grove
- August 11, 2010 Cleveland Elementary School, 107 School Street, Cleveland

(d) J.C. Price High School Reunion

Mayor Kluttz announced that the J.C. Price National Alumni Reunion meeting and celebration of J.C. Price High School's entry into the National Historic Register will be held Saturday, June 19, 2010, at 1:00 p.m. at J.C. Price High School, 1400 West Bank Street.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Kennedy. Mr. Woodson seconded the motion. All Council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:59 p.m.

Susan W. Kluttz, Mayor

Myra B. Heard, City Clerk