

Salisbury, North Carolina
July 21, 2009

REGULAR MEETING

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

ABSENT: None

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

PLEDGE OF ALLEGIANCE

Mayor Kluttz announced that the local 991st Army Reserve Transportation Unit has returned safely from its second tour in Iraq and thanked them for their service to the Country and City before leading those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

REPORT – SALISBURY-ROWAN READS!

Mayor Kluttz stated that she is very excited to report on the first of five Salisbury-Rowan READS! events that took place Wednesday, July 15, 2009 at the Salisbury branch of the Rowan Public Library. She thanked Ms. Karen Wilkinson, Public Information

Officer, for coordinating the events. Ms. Wilkinson showed a video regarding the program.

Mayor Kluttz pointed out that each Council member and County Commissioner attended the event and read to the children. She indicated that these events are a result of a joint meeting between City Council and the Rowan County Commissioners who agreed to collaborate on a common project to benefit the community.

Mayor Kluttz stated that during Council's February retreat, Dr. Suzanne Morse noted that reading scores in Rowan County were below average and statistics indicate that if a child is not reading at grade level by third grade they rarely catch up and are more likely to drop out of school. She indicated that the events will continue through the next four Wednesdays. She stated that the first event was held at the Salisbury branch of the Rowan Public Library with nearly 700 attending and 300 new library cards being issued. Mayor Kluttz stated that the purpose of these events is to encourage community awareness in order to promote reading to children and that all Rowan County municipalities are participating.

Mayor Kluttz noted that the next event will be held July 22, 2009 at Spencer Library Park from 5:00 p.m. – 7:00 p.m. and will be hosted by Spencer Mayor Jody Everhart and East Spencer Mayor Erma Jefferies. She indicated that Mayors Don Bringle (China Grove), Dennis Brown (Landis) and Bob Misenheimer (Kannapolis) will partner for the July 29, 2009 event to be held at the South Branch of Rowan Public Library. She also indicated that Mayors Beau Taylor (Rockwell), Mary Ponds (Granite Quarry), and William Johnson (Faith) will partner for the August 5, 2009 event to be held at the East Branch of Rowan Public Library and that the August 12, 2009 event will be hosted by Mayor Jim Brown of Cleveland at Cleveland Town Hall.

Mayor Kluttz stated that she is grateful to the School-Rowan School Board and Superintendent Dr. Judy Grissom for their assistance. She also thanked the Rowan County Board of Commissioners, all Rowan County municipal Mayors, the Rowan Public Library, Ms. Wilkinson and all City employees who have helped make these events possible.

Mayor Kluttz announced that Councilman Lewis needed to leave at 5:30 due to a prior commitment.

CONSENT AGENDA

(a) Approval of Minutes

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

(b) Alley Closure – 100 Block of East Bank Street

RESOLUTION PERTAINING TO THE PROPOSED CLOSING OF ALLEY IN THE

100 BLOCK OF EAST BANK STREET AND SETTING A PUBLIC HEARING FOR
AUGUST 18, 2009.

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 36, and is known as Resolution 2009-20.)

(c) Temporary Street Closures

Approve closing the 100-500 blocks of North Main Street, 100-200 blocks of East Council Street, 200 block of Depot Street, 100-200 blocks of East Liberty Street, 100 block of West Cemetery Street, 400 block of North Church Street, and the 100 block of West Kerr Street Thursday, August 6, 2009 from 5:00 p.m. until 11:00 p.m. for the Crossroads Classic Bike Race.

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

VOLUNTARY ANNEXATION – NORTH HILLS CHRISTIAN SCHOOL

(a) Mr. Patrick Ritchie, Staff Engineer, addressed Council regarding the voluntary annexation of North Hills Christian School. Mr. Ritchie indicated Council should conduct a public hearing and if it wishes to proceed, adopt an Ordinance annexing North Hills Christian School effective December 31, 2009. He reviewed an aerial photograph and pointed out the area located on West Innes Street, noting that this will be a satellite annexation which is not contiguous to the City limits.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on the proposed voluntary annexation of North Hills Christian School.

Mr. Matt Mitchell, Head of North Hills Christian School, 1051 Glennbriar Court, stated that the school requested annexation because it is in the process of implementing a multi-phased technology enhanced learning program and the addition of Fiber To The Home (FTTH) will greatly benefit the school.

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

Mayor Pro Tem Woodson stated that Council is delighted North Hills Christian School wants to be annexed and is excited about FTTH. He added that he hopes the program works well.

(c) Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance to extend the corporate limits of the City of Salisbury, North Carolina, to include 17.119 acres (North Hills Christian Academy) effective December 31, 2009. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SALISBURY, NORTH CAROLINA, TO INCLUDE 17.119 ACRES (NORTH HILLS CHRISTIAN SCHOOL.)

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 130-131, and is known as Ordinance 2009-42.)

SPECIAL USE PERMIT – SUP-03-09 LOOKING GLASS ARTIST COLLECTIVE

SUP-03-09 Looking Glass Artist Collective, 405 North Lee Street

(a) Swearing In

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

Mr. David Phillips
Ms. Sarah Hall

(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. There were no ex parte disclosures.

(c) Receive Testimony

Development Services Manager David Phillips stated that the application before Council is a request for a Special Use Permit for 405 North Lee Street. He reviewed a map of the area pointing out the property in question.

Mr. Phillips stated that the rules for this case state that the Land Development Ordinance (LDO) must spell out the conditions for granting a Special Use Permit. He noted that Council must have sufficient evidence to approve or deny the Permit. He stated that if enough evidence is provided that the application meets the criteria then Council is required to approve the Special Use Permit. He stated that it is up to the applicant to provide the burden of proof that they meet the requirements. Mr. Phillips stated that opponents must provide similar evidence as to why the Permit should be denied. He added that Council will make its decision based on the evidence given during the public hearing.

Mr. Phillips informed Council that there are three general criteria that must be met regarding the Standards for Decision. These include:

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.

2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area.
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.

Mr. Phillips stated that there is an additional standard that must be met in addition to the three general standards since this request falls under the definition of Bar/Nightclub/Tavern. He explained that the definition of a Bar/Nightclub/Tavern states that no such facility shall be located within 500 feet of any lot containing a school. Mr. Phillips stated that staff found no public or private schools within 500 feet of this location.

Mr. Phillips reviewed an aerial map of the site and noted its location on Lee Street, adjacent to Kerr Street. He also displayed ground photographs of the site and noted that it is part of the area now known as the RailWalk area.

Mr. Phillips stated that the memo given to Council contained evidence from the applicant regarding how the four standards have been addressed. He stated that Council has Findings of Fact regarding these standards that it will be required to justify to approve.

Mayor Kluttz opened the floor to received public comment.

Ms. Sarah Hall, President of the Look Glass Artist Collective, 257 Annandale Avenue, stated that even though the Collective is being designated as a nightclub, it does not plan on operating as a nightclub or bar or anything of that nature. She stated that the Collective wants to be able to offer wine and beer during intermission and before and after shows. She stated that volunteers who work at the Collective have received training as required and all laws will be followed.

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

Councilman Lewis stated that he has visited the facility a number of times and knows what they do, adding that if they want to serve alcohol before a show or at intermission, it makes perfect sense.

(d) Findings of Fact

Mr. Lewis 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 and preserves its spirit.
2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area.

3. The public health, safety and welfare will be assured and the proposed development will not substantially injure the value of adjoining property associated uses if located where proposed.
4. The proposed establishment is not located within 500' of any lot containing a school.

(e) Thereupon, Mr. Mr. Lewis made a **motion** to issue a Special Use Permit to allow on-site alcohol consumption at Looking Glass Artist Collective located at 405 North Lee Street. Mr. Woodson seconded the motion. Mayor Kluttz stated she thinks the Looking Glass Artist Collective is a tremendous asset to the City. She added that it is exciting to see the expansion of the art community and she feels it is a great addition to the downtown evening events. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

DISTRICT MAP AMENDMENT – CD-6-04-2009 WESTRIDGE VILLAGE, LLC

Councilman Burgin asked to recuse himself due to a conflict of interest.

Thereupon, Mr. Kennedy made a **motion** to excuse Councilman Burgin. Mr. Lewis seconded the motion. Messrs. Kennedy, Lewis, Woodson and Ms. Kluttz voted AYE (4-0)

(a) Mr. Preston Mitchell, Senior Planner, addressed Council regarding Land Development district map amendment CD-6-04-2009 Westridge Village, LLC. He stated that Westridge Development is the developer for the second phase of Westridge Place to be located behind Salisbury Mall. He reviewed aerial photographs of the 10 acre area and indicated that the site is currently zoned Highway Business (HB), which is one of the most intense commercial retail zoning classifications. He stated that the request is to change the base zoning from HB to Residential Mixed-Use (RMX), which would be more compatible with the proposed development.

Mr. Mitchell reviewed the Conditional District (CD) Overlay and the petitioner's requirements. He also reviewed the site plan, noting the ingress and egress through the mall property, along with ground photographs of the site and adjacent properties. He explained the alternative designs that are available to a CD:

- Industrial Standards of Chapter 2
- Building orientation to street/Recreational open spaces
- Building materials
- Building design standards
- Building dimensional standards
- Street cross sections
- Street connectivity and stub standards
- Parking
- Private lighting

Mr. Mitchell indicated that the developer is requesting two alternatives – Building Orientation to Street or Recreation Open Space and Parking. He noted that there is no public street frontage required when there are 10 or more acres and there will be parking in front of the buildings.

Mr. Mitchell pointed out that the Technical Review Committee (TRC) and the Planning Board voted unanimously in favor of the plan.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on district map amendment CD-6-04-2009.

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

Councilman Kennedy stated that he opposed phase one of this development because of the ingress and egress on roads he thought were too narrow, but since this plan has a permanent easement from the mall he can support the amendment. Councilman Lewis stated that the easement improves the situation dramatically.

(c) Mayor Pro Tem Woodson stated that the City Council hereby finds and determines that adoption of an Ordinance to rezone the property as described herein and establish a Conditional District Overlay is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan and that adoption of the Ordinance is reasonable and in the public interest. Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending the Land Development Ordinance and the Land Development District Map of the City of Salisbury, North Carolina by rezoning approximately 10 acres, identified as a portion of Tax Map & Parcel 331-023A, from Highway Business (HB) to Residential Mixed-Use (RMX) and to establish a Conditional District (CD) Overlay to permit the development of a 48-unit apartment complex; identifying the development documents; identifying development conditions; providing an effective date; and for other purposes. Mr. Kennedy seconded the motion. Messrs. Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (4-0)

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE AND THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NROTH CAROLINA, BY REZONING APPROXIMATELY 10 ACRES, IDENTIFIED AS A PORTION OF TAX MAP & PARCEL 331-023A, FROM HIGHWAY BUSINESS (HB) TO RESIDENTIAL MIXED-USE (RMX) AND TO ESTABLISH A CONDITIONAL DISTRICT OVERLAY TO PERMIT THE DEVELOPMENT DOCUMENTS; IDENTIFYING DEVELOPMENT CONDITIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (PETITION NO. CD-6-04-2009).

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 132-134, and is known as Ordinance 2009-43.)

DISTRICT MAP AMENDMENT – CD-8-05-2009

(a) Mr. Preston Mitchell, Senior Planner, addressed Council regarding Land Development district map amendment CD-8-05-2009 John Leatherman, Joan Leatherman, and Trustee. He stated that the site is located along Jake Alexander Boulevard south of NC-150 (Mooresville Road). Mr. Mitchell displayed an aerial photograph of the property and noted that although the development is proposed for one lot, both lots are under the Conditional District (CD) Overlay. He stated that the applicants are requesting an amendment to the existing CD Overlay to include both lots. He explained that if approved, the new Ordinance and site plan will replace an Ordinance adopted in 2001 and allow for the development of Taco Bell on the vacant lot.

Mr. Preston Mitchell reviewed the history of the properties:

- Z-12S-95 (2/6/96)
 - Council rezoned corner lot (Tax Map 202) from Limited Light Industrial (LLI-2) to Limited Business (B-7-S), limiting to 45 uses and 14 development conditions
- Z-9S-99 (5/4/99)
 - Council rezoned non-corner lot (Tax Map 210) from Office/Institutional (B-1) with a General Development (GD-A) to B-7-S with setback conditions
- Z-24S-01 (11-20-01)
 - Council adjusted permitted uses and development conditions to current

Mr. Mitchell explained that the applicant is requesting to repeal the 2001 Ordinance and replace it with the proposed Ordinance. He reviewed the 2001 Ordinance and indicated that the site meets all of the requirements and permitted uses of the 2001 Ordinance. He noted that permitted uses do not include drive-in restaurants, but this is considered a drive-thru restaurant which is allowed. Mr. Mitchell pointed out that the difference between drive-in and drive-thru restaurants is a drive-thru restaurant has indoor seating and a drive-in restaurant is an establishment similar to Sonic restaurants.

Mr. Mitchell displayed the proposed site plan and pointed out the Duke Energy easement running through the property. He stated that the development meets all standards of the Land Development Ordinance and explained the alternative designs available to a CD:

- Industrial Standards of Chapter 2
- Building orientation to street/Recreational open spaces
- Building materials
- Building design standards
- Building dimensional standards
- Street cross sections
- Street connectivity and stub standards

- Parking
- Private lighting
-

Mr. Mitchell indicated that the applicants have not proposed any alternative designs and would only like to amend the CD to include the site plan. He reviewed the Vision 2020 Plan as it relates to this request:

Vision 2020 Comprehensive Plan

- Policy C-8: The City shall encourage appropriate landscaping and reconfiguration of large, un-landscaped parking areas. Landscaped pedestrian walkways from car to store or across a parking area shall be encouraged.
- Policy C-10: The City shall encourage the consolidation of commercial driveways onto major streets and the connection of adjacent parking lots.
- Policy N-12: Appropriate commercial and other services may be permitted to locate at the corner of neighborhood planning area.

Mr. Mitchell stated that the Technical Review Committee (TRC) voted unanimously to recommend provisional approval, subject to providing a standard sidewalk within the Jake Alexander Boulevard right-of-way. He indicated that the need for sidewalks in this area was rated for priority using the Sidewalk Priority Index (SPI). Mr. Mitchell noted that based on the scoring, the Planning Board unanimously recommended payment-in-lieu of sidewalks versus installation and approval of the rezoning and master plan as submitted.

Councilman Lewis asked if the only issue for Council’s consideration is the site plan review. Mr. Mitchell indicated that this was correct.

Mayor Pro Tem Woodson asked about the proximity of the fence located at the rear of the site. Mr. Mitchell stated that the proposed set back from the fence line would be 128 feet. Mr. Woodson asked if there will be pole lighting. Mr. Mitchell indicated that the proposed outdoor lighting consists of five pole lights and all lighting will face Jake Alexander Boulevard and will not exceed a one foot candle at the property line.

Councilman Kennedy asked if the new Land Development Ordinance will replace the compromise that was made between the neighborhood and the developer in 2001. Mr. Mitchell stated that he can only speak to the 2001 Ordinance and its relation with this site plan.

Councilman Burgin stated that the site plan is consistent with the compromise except there will be two restaurants on the corner property instead of one.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on district map amendment CD-08-05-2009.

Mr. Blake Jarman, 231 D Avenue, stated that he is in favor of the Taco Bell. He stated that he lives in the neighborhood and feels this would be a good place for a Taco Bell.

Mr. Cory Baker, Kimley Horn Associates, 4651 Charlotte Park Drive, Charlotte, stated that the site meets both the previous and current Ordinance and the developer has not requested exceptions. He indicated that additional landscaping was added to screen the back area of the site. He pointed out that this request is not a rezoning but a site plan approval because there was no site plan associated with the previously approved Ordinance.

Mr. Glenn Ketner, 121 East Kerr Street, stated that he represents the property owner and that this request is the product of the new Land Development Ordinance. He stated that the applicant has met every requirement and has received favorable TRC and Planning Board recommendations. He indicated that he feels the use will fit nicely and requested Council's approval.

Mayor Kluttz asked those opposed to speak.

Ms. Nance Reid, 1946 Rosemont Street, stated that Rosemont Street borders this property on the east and in 2001 the neighborhood compromised with Mr. Leatherman that there was to be only one restaurant in the development and the businesses would not be opened at night. She asked Council to uphold the obligations to the Rosemont Street neighbors as they did in 2001.

Mr. Donald Osborne, 195 Scott Trace, on behalf of Alan Burke, CPA, stated that his business is located adjacent to the proposed zoning. He indicated that there is a road behind the entire development that was built as a private drive designed to accommodate very light traffic. He stated that allowing Taco Bell ingress and egress onto the private drive would essentially turn the drive into a public road. He stated that if the request is adopted the ingress and egress should be onto Jake Alexander Boulevard, which is designed to handle traffic.

Mr. Mike Clawson, 807 Mooresville Road, stated that his residence is very close to the proposed site and that a fast food establishment would bring noise, lights, pests, and rodents. He indicated that this site plan does not follow the original agreement the neighborhood reached with Mr. Leatherman. He pointed out that Duke Energy has removed trees along it's right-of-way that served a noise barrier. He requested that Council not adopt the Ordinance.

Mayor Kluttz asked neighbors in opposition to the Ordinance to stand. Approximately 10 residents stood in opposition.

Ms. Gretta Saunders, 1832 Rosemont, stated that many people in the neighborhood are working or are elderly and could not attend the meeting. She stated that the neighborhood does not need this restaurant.

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

Councilman Burgin stated that the proposed Ordinance is not a request to change the base zoning and that all Council is being asked to consider is the site plan review. He added that he thinks all conditions from the adopted 2001 zoning Ordinance have been met. He stated that he supports the amendment.

Mayor Kluttz asked if patrons will use the private drive to access the restaurant. Mr. Mitchell responded that the private drive will be used as an ingress and egress. He indicated that the private drive will not become a public street and that all businesses will continue to have access onto Mooresville Road. He pointed out that there will be a right-in, right-out access onto Jake Alexander Boulevard.

Mayor Kluttz stated she understands that the neighborhood made an agreement with the developer, but Council cannot use that agreement as part of its decision because Council was not part of the agreement.

Councilman Kennedy stated that by approving the CD he thinks it will make the private drive a public road. He added that rezoning the area will not only permit the Taco Bell, but could allow other restaurants into the area. He stated that he opposes the amendment and supports the neighborhood.

Councilman Lewis stated that the initial rezoning of the property was actually in 1999. He noted that all of the property except the corner parcel was zoned B-1 and the corner was developed, while the other areas were not. He stated that in 2001 Mr. Leatherman asked to rezone the small property in question to the same zoning as the corner lot. Mr. Lewis indicated at that time this use became a permitted use for the property and it cannot be changed now. He stated that the issue before Council is simply a site plan review and not usage. Mr. Lewis pointed out that he does not think this is fair to the neighborhood because residents did not know what issue was before Council. He suggested that this issue be assigned to a Council Committee and stated he feels the neighborhood needs a chance to review the site plan.

Mayor Pro Tem Woodson stated that he feels a decision should not be made today and agrees with having a Council Committee work with the neighborhood and developer. He stated that anything that will create jobs in the City is needed, but he is not ready to make a decision today. He stated that he feels something should be worked out with both parties.

Mayor Kluttz agreed with Mr. Lewis that there is confusion with this issue. She stated that she believes zoning should not be changed without a compelling reason, but this is not about zoning but about the site plan. Mayor Kluttz agreed to appoint a Council Committee and appointed Mayor Pro Tem Woodson and Councilman Kennedy to serve on the Council Committee.

Councilman Burgin stated that if Mayor Pro Tem Woodson is unable to serve on the Committee due to the time of the meeting, he will take his place and serve on the Committee.

It was decided that the Council Committee will meet Friday, July 24, 2009 at 10:00 a.m. at City Hall.

SECOND READING – CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR TAXI OWNERS dba TRIAD TRANSPORT SERVICE

The first reading of the request for the Certificate of Public Convenience and Necessity for Taxi Owners for Triad Transport Service was heard at Council's July 7, 2009 meeting. A Certificate of Public Convenience and Necessity for Taxi Owners constitutes a franchise and a second reading is required.

Thereupon, Mr. Kennedy made a **motion** to approve the second reading for a Certificate of Public Convenience and Necessity for Taxi Owners for Cedric O'Brian Macon, dba Triad Transport. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

Mayor Kluttz thanked Mr. Macon for providing the City with a much needed service.

ACCEPTANCE OF PUBLIC STREETS AND UTILITIES – SACRED HEART CHURCH AND SCHOOL

Mr. Patrick Ritchie, Staff Engineer, addressed Council regarding the acceptance of public streets and utilities at Sacred Heart Church and School. He indicated that the streets and public utilities may be accepted for maintenance by the City of Salisbury when the following items have been completed:

- The connection of the street to Jake Alexander Boulevard is approved by North Carolina Department of Transportation
- The final subdivision plat has been recorded
- The two storm water retention ponds have received certification from the engineer
- Record drawings have been received for the streets and drainage

Mr. Ritchie stated that he discovered a problem with the storm water retention pond and indicated he would hold the final plat until the leak has been addressed to staff's satisfaction. He also stated that once the leak has been addressed the plat can be released for recording and the streets will be put into the City system.

Thereupon, Mr. Burgin made a **motion** to adopt an Ordinance amending Section

13-332, Article X, Chapter 13, of the Code of the City of Salisbury, relating to stop signs, subject to the recording of the Subdivision Plat for Sacred Heart Church and School as presented. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-332, ARTICLE X, CHAPTER 13, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO STOP SIGNS

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 135, and is known as Ordinance 2009-44.)

AWARD CONTRACT – CAROLINA SITEWORKS, INC

Mr. Craig Powers, Civil Engineer, stated that the City has received proposals for sidewalk installation along the south side of West Miller Street from North Main Street to Jackson Street. He displayed photographs of the street and explained that West Miller Street is currently wide enough to accommodate two driving lanes and a parking lane. He noted that the parking lane will be eliminated in order to install the sidewalk and a planting area.

Mr. Powers pointed out that there were elevation constraints on the north side of West Miller Street which prohibited sidewalks for that area. He noted that a slip lane and median will be removed to accommodate the sidewalks. He added that these will also provide traffic calming.

Mr. Powers reviewed photographs of similar sidewalk projects that were completed on Grove Street in 2000 and Horah Street in 2006. He explained that the sidewalks are an extension of the Greenway and the next phase will be the installation of a sidewalk along the back side of City Park connecting to Hurley Park. He noted that the City received a Fit Community Grant to pay for the sidewalk.

Mr. Powers indicated that the City received 10 bids with the lowest bid being submitted by Carolina Siteworks, Inc. in the amount of \$67,087.35. He noted that staff recommends Council award the contract to Carolina Siteworks, Inc.

Thereupon, Mr. Lewis made a **motion** to award a contract in the amount of \$67,087.35 to Carolina Siteworks, Inc. for construction of sidewalks along West Miller Street. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

EXCUSE OF COUNCILMAN LEWIS

Councilman Lewis asked that he be excused from the meeting.

Thereupon, Mr. Kennedy made a **motion** to excuse Councilman Lewis from the meeting. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Woodson, and Ms. Kluttz voted AYE. (4-0)

AWARD CONTRACT – DELL COMPUTER CORPORATION

Mr. Dewey Peck, Purchasing Manager, stated that each year the City replaces one-third of its computers in order to keep all computers under a three year warranty. He indicated that staff reviewed the bid specifications and found that Dell computers are better computers and recommends the contract be awarded to Dell.

Councilman Kennedy asked where the 114 computers will be housed. Mr. Peck responded that they would be housed throughout the City.

Thereupon, Mr. Kennedy made a **motion** to award a contract in the amount of \$87,207.72 to Dell Computer Corporation for the purchase of City Computers. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Woodson, and Ms. Klutz voted AYE. (4-0)

AWARD CONTRACT – KEMIRA CHEMICAL COMPANY

Mr. Dewey Peck, Purchasing Manager, addressed Council regarding a sole source contract with Kemira Chemical Company. He stated that Kemira is a chemical provider the City has used in the past to purchase chemicals for the water treatment process.

Mr. Jim Behmer, Salisbury-Rowan Utilities Director, explained that PAX stands for poly aluminum chloride and is a liquid coagulant used in the aqua flow process and allows water to be treated in 12 minutes instead of four hours. He indicated that the chemical is purchased in bulk and staff has found it to be best for Salisbury-Rowan Utilities' current process.

Mr. Peck indicated that the funds for the chemical are in the Salisbury-Rowan Utilities FY2009-2010 Budget.

Councilman Burgin asked how long this amount of PAX XLS will last. Mr. Behmer responded that it will last approximately one year.

Thereupon, Mr. Burgin made a **motion** to adopt a Resolution authorizing the award of a contract in the amount of \$238,000 to purchase PAX XLS water chemicals for use by the Salisbury-Rowan Water Utility Department. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Woodson, and Ms. Klutz voted AYE. (4-0)

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO PURCHASE PAX XLS WATER CHEMICALS FOR USE BY THE SALISBURY-ROWAN WATER UTILITY DEPARTMENT

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 37, and is known as Resolution 2009-21.)

RESOLUTION – CITY MANAGER AUTHORITY TO AWARD CONTRACTS

Mr. Dewey Peck, Purchasing Manager, addressed Council regarding a Resolution granting the City Manager authority to award purchasing contracts exceeding \$90,000 with a limit of \$200,000. He noted that the Resolution included in Council's packet was incorrect and read a corrected Resolution. He indicated that a majority of cities Salisbury's size have already granted this authority. Mr. Peck stated that staff recommends approval of the Resolution.

Thereupon, Mr. Burgin made a **motion** to adopt a Resolution granting the City Manager the authority to award contracts in excess of \$90,000 but not to exceed \$200,000. Mr. Woodson seconded the motion. Mr. Kennedy asked if contracts such as the two previously approved at today's meeting could be approved by the City Manager. Mr. Peck answered that approval would be at the City Manager's discretion. Mr. Burgin stated that the West Miller Street sidewalks would require Council approval because of the construction involved, but the Dell contract for the computers could be approved by the City Manager. Messrs. Burgin, Kennedy, Woodson, and Ms. Kluttz voted AYE. (4-0)

RESOLUTION GRANTING THE CITY MANAGER THE AUTHORITY TO AWARD CONTRACTS EXCEEDING \$90,000.

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 38, and is known as Resolution 2009-22.)

PUBLIC COMMENT

Mayor Kluttz opened the floor to receive public comment.

Mr. William Peoples, 522 North Fulton Street, presented pictures of City streets and their conditions to Council. He pointed out grass growing out of asphalt and concrete sidewalks. He noted Brenner Avenue where new sidewalks and street lights were installed and stated he cannot understand the purpose of installing the sidewalks if the grass is not kept from growing out of it. He pointed out that the sidewalks along East Horah Street, Railroad Street, North Long Street, Brenner Avenue and North Fulton Street are not being maintained and that it makes the City look bad. He indicated that the problem does not exist in the downtown area and he feels the neighborhoods should receive equal attention.

Mr. Peoples stated that he recently identified 20 street lights that are out in delicate neighborhoods. He questioned who should locate the street lights that are out and stated that they should be checked after 8:00 p.m. He pointed out that in the two block area of East Innes Street between Main Street and the East Innes Street bridge, there are six decorative lights that have burned out. He commented that if the City wants downtown to be visible and the neighborhoods to be safe, the City needs street lights.

Ms. Lorraine Reidda, 418 East Fisher Street, stated that she had a concern regarding heavy traffic and excessive speed on East Fisher Street. She noted that the neighborhood would like to have a traffic sign posted stating the speed limit. She pointed out that the neighborhood presented the possibility of a four-way stop, but was told that it was not conducive for this area. Ms. Reidda stated that she is also concerned about the conditions of property located at 422 East Fisher Street and noted that it attracts a large number of vagrants.

Ms. Susan McHune, 910 North Main Street, stated that she is President of the Old North Salisbury Association. She noted that she is excited about the grant for the West Miller Street improvements. She added that this will give access to parks and safe walking areas. She stated that she hopes this is the first step toward further accomplishments of the North Main Street Plan. She indicated that she is optimistic that the plan will move forward and thanked Council for their consideration.

Mr. Charles Black, 112 Celtic Circle, stated that he is concerned about street gangs in the Westwood subdivision. He noted that approximately a year ago he started a petition to get street lights put in the neighborhood but to date none have been installed. He pointed out that his neighborhood was annexed and the residents have been paying taxes for two years but have not realized any of the benefits of the annexation except for the installation of speed signs. Mr. Black indicated that he is running for City Council.

Mr. Bill Godair, 415 Scottsdale Drive, stated that he wished to tell Council how much he appreciates them. He pointed out that he feels Council has a tough job and that they represent the City very well. He noted that he is thankful for their strong leadership and for working out differences behind the scene rather than in the public forum.

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

Mayor Pro Tem Woodson stated that he feels the City can do a better job of maintaining street lights and he would like to challenge the City to improve on their maintenance.

Councilman Kennedy stated that he would like to comment on Ms. Reidda's comments. He pointed out that he owns the property at 422 East Fisher Street and that the house has been vacant for approximately two months. He noted that he is getting the house ready for a good neighbor which will eliminate the problem of the vagrants.

Mayor Kluttz stated that she would like for the City to look into the street lighting complaints and asked the Traffic Division to investigate the speeding issue on East Fisher Street.

City Manager David Treme thanked Mr. Peoples and others who spoke to bring these matters to the City's attention. He stated that the City has already begun work on the grass growing through the sidewalks. He added that there are 185 miles of road and

the Public Services Department is currently short five to six employees. He pointed out that the City is currently working with Duke Energy to respond to the street light issue as quickly as possible.

COMMENTS FROM THE CITY MANAGER

(a) Council Candidate Information Session

City Manager David Treme announced that a Council Candidate Information Session has been scheduled for 5:00 p.m. August 6, 2009, in the Salisbury City Council Chamber. He noted that the City will invite all thirteen candidates in order to share information regarding City government.

(b) Fiber To The Home Update

City Manager David Treme stated that the Fiber To The Home (FTTH) utility project is underway and noted that the projected date of available service is June 2010. He recognized Mr. Mike Crowell, Broadband Services Manager, who presented an update on the project.

Mr. Crowell stated that construction is progressing very well and he feels Atlantic Engineering Group (AEG) is doing a good job. He reported that most of the work to date has been underground installation and AEG has just begun aerial construction. Mr. Crowell pointed out that 704-216-7567 has been established as a new hotline number for any FTTH questions or concerns citizens may have.

Mr. Crowell introduced Mr. Barry King, new Service Delivery Manager for FTTH. He explained that Mr. King will be responsible for the fiber plant from the headend to the home. He pointed out that Mr. King has been in the cable services business for 25 years. He noted that Mr. King can be reached at 704-216-7572.

Mr. King reviewed his background in the telecommunications industry and indicated he feels fortunate to become a part of this project. Mr. King pointed out that the objective of the FTTH utility is customer service and going forward he will ensure this takes place. He noted that FTTH will offer a superior product for a very good value, followed by excellent customer support.

Mr. Crowell stated that crews will begin trimming trees from power lines next week. He added that this is a safety issue and trimming the limbs will eliminate some of this problem. He noted that the crews will cut limbs from areas along the existing cable and he does not believe it will leave unsightly trees. He pointed out that Asplundh Tree Service has been contracted to perform this work.

Mayor Kluttz welcomed Mr. King to the City and stated that she is excited to have him join the City team.

(c) Street Resurfacing Schedule

City Manager David Treme stated that at the last Council meeting Councilman Kennedy discussed street resurfacing. He recognized Mr. Tony Cinquemani, Public Services Director, to present a report regarding streets to be repaved this year.

Mr. Cinquemani presented the street paving schedule and noted that they have completed six of the roads on the list during the last fiscal year. He pointed out that funds budgeted in FY2009-2010 will cover approximately 7.22 lane miles. He explained that a lane mile must be divided in half, so this will equal approximately 3.52 actual street miles to be repaved. He noted that one issue which affects the cost of repaving, and in turn affects the number of streets that can be paved, is how much work has to be done to the street prior to paving. Mr. Cinquemani stated that given the costs of repairs, he thinks the City will be able to repair and pave approximately five lane miles this fiscal year.

Mr. Cinquemani stated that funds will be requested in the FY 2010-2011 Budget for a survey of City streets through the Institute for Transportation Research and Education (ITRE). He noted that this survey helps determine the paving priority.

Councilman Kennedy asked Mr. Cinquemani to explain the street ratings. Mr. Cinquemani responded that the ratings are comprised of different conditions identified by ITRE during its last survey of the streets. He added that the ratings are based on the number of times the street has been patched, previously paved, and conditions that cause the pavement to deteriorate faster.

Mayor Pro Tem Woodson asked if North Road can be widened when it is paved. Mr. Cinquemani replied that staff will take a look at the road to see what will be required to widen North Road.

Mr. Treme pointed out that ITRE is associated with North Carolina State University. He stated that it has been five years since the City's roads have been evaluated and ITRE will conduct a survey next year that will give the City updated base-line data to help set paving priorities.

Mr. Treme indicated that cuts in the State budget can negatively impact local government. He noted that the State's Powell Bill Fund helps support the City streets and has been cut in the past. He added that there is a State proposal to turn State owned streets over to local municipalities, and if this is approved he is not sure how the City will be compensated. Mr. Treme noted that the uncertainties of the unadopted State budget could have an impact on the City's budget.

(d) International Association of Fire Chief's Development Task Force

City Manager David Treme noted that Battalion Chief David Morris has been invited to serve on the International Association of Fire Chief's Development Task Force for personnel. He noted that the City is honored that the Salisbury's Fire Department has been recognized for its work and that Chief Morris has been asked to serve on this task force.

(e) Construction in 300 block of North Lee Street

City Manager David Treme stated that construction in the 300 block of North Lee Street between Liberty Street and Kerr Street will close one lane of traffic on Monday, July 27, 2009 and possibly on Tuesday, July 28, 2009. One lane will be closed again on Monday, August 3, 2009 and Tuesday, August 4, 2009 to complete construction in that area.

(f) Water and Sewer Additions to School Mobile Unit

Councilman Bill Burgin requested a staff report regarding progress on the City's goal of obtaining water/sewer permitting authority. He stated that the City cannot approve its own water and sewer system additions and clients must get approval from the State's Mooresville, North Carolina office. He pointed out that City water/sewer permitting authority is a goal of Council and he would like to hear an update with a projected time for completion.

City Manager David Treme stated that within the next 45 to 60 days staff will have the application seeking permitting authority ready to submit to the State for consideration. He noted that the application will cover Salisbury and other areas of Rowan County that are not independent systems.

Mr. Burgin commented that he feels the City should have the right to approve requests that are basic to its own utility system.

MAYOR'S ANNOUNCEMENTS

(a) Read to Your Child Days: Salisbury-Rowan READS!

Mayor Kluttz announced that the City of Salisbury and Rowan County will sponsor "Read to Your Child Days: Salisbury-Rowan READS!" every Wednesday through August 12, 2009 from 5:00 p.m. – 7:00 p.m. at the following locations:

- July 22 – Spencer Library
- July 29 – South Rowan Branch, Rowan Public Library
- August 5 – East Rowan Branch, Rowan Public Library
- August 12 – Cleveland Town Hall

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 6:20 p.m.

Susan Kluttz, Mayor

Myra Heard, City Clerk