

Salisbury, North Carolina  
January 5, 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 Mayor Pro Tem Blackwell.

## **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.

## **RECOGNITION OF SALISBURY BATTALION CHIEFS CHRIS LYERLY AND JEFF YOUNGBLOOD**

Fire Chief Bob Parnell introduced Mr. Jeff Youngblood and Mr. Chris Lyerly who were both recently promoted to Battalion Chief. Chief Parnell stated that Chief Youngblood has held several positions in the Fire Department and is currently a Certified Fire Inspector III which is the highest attainable level. He also stated that Chief Youngblood is a State certified Fire Arson Investigator and has completed the North

Carolina Fire Officer Executive Development Program. He noted that Chief Youngblood is assigned to A shift.

Chief Parnell stated that Chief Lyerly has held several positions with the City and transferred to the Fire Department in 2000. Chief Parnell noted that Chief Lyerly has 25 years experience in fire service and has served as the Rowan County Assistant Fire Marshall and Assistant Fire Chief of a Rowan County Volunteer Fire Department. He indicated that Chief Lyerly is a State certified Fire Arson Investigator and has completed the North Carolina Fire Officer Executive Development Program. He also indicated that Chief Lyerly holds a certificate of higher learning from Coastal Carolina College in Fire Supervision and Incident Command. He noted that Chief Lyerly is assigned to C shift.

Chief Parnell thanked Council for recognizing these promotions in the Fire Department.

Mayor Kluttz congratulated Chief Youngblood and Chief Lyerly and stated that Council is proud of their achievement.

### **RECOGNITION OF SALISBURY POLICE DEPARTMENT AND POLICE DEPARTMENT – TOYS FOR TOTS**

Master Police Officer Mark Shue, Fire Engineer Chipper Thomas, and Mr. Arbe Arbelaez, Rowan County Toys for Tots Coordinator, addressed Council regarding the results of the Toys for Tots campaign. Officer Shue stated that this campaign was the second annual Toys for Tots campaign and this year it was an official Salisbury Police and Fire Department project. He pointed out that several officers stayed on the roof of Krispy Kreme for 60 hours to raise money for the project. He stated that despite the weather and the current economic situation approximately \$4,100 was raised to purchase toys for needy children. He noted that 100% of donations remain in the Salisbury-Rowan community.

Officer Shue thanked the Salisbury Police Department, Salisbury Fire Department, Salisbury Police Department Explorers, and Mr. Arbelaez.

Mr. Arbelaez stated that the campaign exceeded its goals for toys and that he is currently receiving donations for this year's campaign.

Mayor Kluttz stated that Council is very proud of those who participated in the project. She thanked the Police Department and Fire Department and commented that she is proud of how they represent the City and she presented both Departments with Certificates of Appreciation. She also thanked Mr. Arbelaez for coordinating these projects.

### **PROCLAMATION**

Mayor Kluttz proclaimed the following observance:

DR. MARTIN LUTHER KING, JR. DAY

January 18, 2010

## **CONSENT AGENDA**

### (a) Approval of Minutes

Approve Minutes of the Regular meeting of December 15, 2009.

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

## **HIGHLIGHTS AND GOALS – HURLEY PARK ADVISORY BOARD**

Ms. Elaine China, Chairperson, and Ms. Daphne Beck, staff liaison, reviewed the Hurley Park Board's Highlights for 2009 and their Goals for 2010-2011.

### Highlights for 2009

- Held Spring Celebration
- Held summer lecture and plant giveaway
- Continued maintenance of 45 gardens
- Hosted 7 weddings, a Girl Scout Pinning ceremony, the Rowan Regional Medical Center employee appreciation lunch and a park tour for the Rowan County Master Gardeners.

### Goals for 2010-2011

- Level One Goals
  - Annex Bridge Installation - \$14,000
  - Continue Spring Celebration and Summer Lecture - \$2,000
  - New and replacement plantings - \$5,000
- Level Two Goals
  - Continue updating Hurley Park website
  - Continue to seek funding through grants
  - Continue photo documentation of the park
  - Create a walking brochure of the park

Ms. China stated that the Spring Celebration will be held Sunday, April 11, 2010 from 2:00 p.m. until 4:00 p.m.

Mayor Kluttz thanked the Hurley Park Advisory Board for all they do for the City.

## **HIGHLIGHTS AND GOALS – ZONING BOARD OF ADJUSTMENTS**

Mr. Randy Reamer, Chairman and Mr. David Phillips, staff liaison, reviewed the Zoning Board of Adjustment's Highlights for 2009 and their Goals for 2010.

### Highlights for 2009

- No meetings held
- Appointment of new members
  - Scott Walker – City alternate
  - Sam Meredith – ETJ alternate
  - Frank Thomason – ETJ alternate

### Highlights for 2010

- Continue training opportunities for all Board members with assistance from Institute of Government and Centralina Council of Government

Mayor Kluttz stated that she is grateful for the work the Zoning Board does and it is important to have the right people available when they are needed.

## **CLOSING EAST HORAH STREET AT-GRADE RAILROAD CROSSING**

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding closing the East Horah Street at-grade railroad crossing. Ms. Brindle indicated that Council adopted a Resolution of Intent at its November 17, 2009 meeting and a public hearing was held at the December 15, 2009 meeting. She stated that due to staff error in posting an onsite notice, a second public hearing will be held today. Ms. Brindle reviewed the history of the site:

### History

- 1994 - Railroad Crossing Analysis Study
  - Closed nine at-grade crossings since 1996
  - Street improvements to improve access on east side of tracks
  - Recommendation for grade separation at Klumac Road
  - Recommendation to close either Horah Street or Monroe Street crossing
- North Carolina Department of Transportation (NCDOT) and Norfolk Southern Railroad (NSRR) - 2006 Recommend closing Horah Street crossing
  - April 2006 – Initial meeting with City
  - May 2007 – Meeting with First Calvary Baptist Church and surrounding neighbors
  - 2007/2008 – preparation of traffic study by consultant, Gannett Fleming to address church and neighborhood concerns
  - February 2009 – Meeting with First Calvary Baptist Church
  - May 2009 – Public Workshop at City Hall
  - August 2009 – Letter of commitment from NSRR for \$42,000 incentive payment if crossing is closed

Ms. Brindle reviewed issues that were raised by the public:

Issues Raised by the Public

- Why Horah Street instead of Monroe Street?
  - Limited sight distance
  - Train engineers have reported near miss collisions with vehicles at Horah Street
  - Proximity to separated crossing at East Bank Street
- Where will the traffic go?
  - Analysis projects traffic will primarily split between Bank and Monroe Streets
- Will there be pedestrian access to Lincoln Park?
  - Better pedestrian access if Monroe Street crossing remains open
  - Recommend crosswalks at Monroe and Long Streets
- What can be done to help the neighborhood?
  - \$42,000 incentive payment toward Lincoln Park improvements
  - Qualification of Quiet Zone between Klumac Road and Henderson Street
  - Upgrade of crossing arms at Monroe Street to four-quadrant gate
    - Removal of median barrier

Ms. Brindle displayed conceptual photographs of how the crossing might look if it is closed.

Ms. Brindle recommended Council adopt a Resolution accepting Offers of Dedication and adopt an Order to close the Horah Street at-grade railroad crossing, subject to utility easements. She also recommended that Council dedicate a \$42,000 incentive payment for upgrades to Lincoln Park, upgrade the crossing arms at Monroe Street and remove the median on Horah Street.

Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on the proposed Horah Street at-grade railroad crossing closing.

Mr. William Peoples, 522 North Fulton Street, indicated that he suggested the community receive monetary compensation if the railroad crossing at Horah Street is closed. He stated that he feels the incentive should be applied to the upgrade of the Lincoln Park pool. Mr. Peoples suggested there be a signed agreement between the North Carolina Department of Transportation (NCDOT) and the City requiring NCDOT to pave East Monroe Street from Long Street to Fulton Street. He commented that this summer he asked the City to repair a pothole on Monroe Street but the City could not repair it because the street belongs to NCDOT. He commented that Monroe Street is in disrepair but the City is unable to do anything because the street belongs to NCDOT.

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

Councilman Kennedy indicated that he has attended several meetings regarding the closing of the railroad crossing on Horah Street and he feels this is a safety issue and closing the crossing would be beneficial to the City.

(a) Thereupon, Mr. Kennedy made a **motion** to adopt a Resolution pertaining to the Acceptance of an Offer of Dedication for public use the Horah Street At-Grade Railroad Crossing. Mr. Woodson seconded the motion. Mr. Woodson stated that \$42,000 to upgrade Lincoln pool is a blessing for the City and commented that the suggestion to pave Monroe Street is a good idea. Mr. Woodson asked Mr. Dan Mikkelson, Director of Engineering and Development Services, if he could explore the possibility of NCDOT paving Monroe Street. Ms. Brindle indicated that she is unsure which division of NCDOT is responsible but staff will pursue the issue. City Manager David Treme noted that he believes it will be possible to have Monroe Street resurfaced without a written agreement and he has every confidence NCDOT will honor its commitment. Mayor Kluttz stated she feels the railroad crossing is a safety issue, especially with the addition of high speed rail and that she agrees Lincoln Park should receive the incentive funds. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

(b) Thereupon, Mr. Kennedy made a **motion** to adopt an Order to close the Horah Street At-Grade Railroad Crossing as allowed by NCGS 160A-299. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE (5-0).

<b>NORTH CAROLINA</b>	*	<b>BEFORE THE CITY COUNCIL OF</b>
<b>ROWAN COUNTY</b>	*	<b>THE CITY OF SALISBURY</b>
	*	<b>NORTH CAROLINA</b>
<b>IN THE MATTER OF:</b>	*	
	*	
<b>CLOSING OF THE HORAH</b>	*	<b>ORDER CLOSING OF STREET</b>
<b>STREET AT-GRADE RAILROAD</b>	*	<b>PURSUANT TO GENERAL</b>
<b>CROSSING</b>	*	<b>STATUTE OF NORTH CAROLINA</b>
	*	<b>SECTION 160A-299</b>

**THIS CAUSE**, coming on to be heard and being heard before the City Council of the City of Salisbury, Rowan County, North Carolina, at the regular meeting of said Council held on January 5, 2010, at 4:00 p.m., in the City Office Building at 217 South Main Street, Salisbury, North Carolina, and it appearing to the Council that all persons, firms and corporations owning property adjoining the street described in the Petition filed in this cause are parties to this proceeding; and it further appearing that said streets are not maintained by the Department of Transportation; and it further appearing that notice of this hearing was duly published in THE SALISBURY POST on November 20, November 27, December 4, December 11, and December 26, 2009.

And it further appearing to the Council and the Council finding as a fact, that the closing of the portion of street, as described in the Petition filed in this cause, is not

contrary to the public interest or the property rights of any individual, and that no individual owning property in the vicinity of said portion of street or in the subdivision in which they are located will be deprived of reasonable means of ingress and egress to his property by the closing of said portion of street; and it further appearing to this Council that the relief prayed in the Petition should be granted.

**IT IS NOW, THEREFORE, ORDERED AND DECREED** by the City Council of the City of Salisbury, Rowan County, North Carolina, pursuant to and in accordance with the authority vested in this Council by the General Statutes of North Carolina, Section 160A-299:

Horah Street from the west side of the Norfolk Southern Railroad to the west side of Railroad Street.

Be and the same is hereby forever closed subject to a 60' utility easement centered on the existing road and a 30' utility easement centered on an existing 2" pvc waterline.

This the 5<sup>th</sup> day of January, 2010

CITY COUNCIL OF THE CITY OF SALISBURY,  
NORTH CAROLINA

BY: \_\_\_\_\_ s/s Susan W. Kluttz  
Mayor

\_\_\_\_\_  
s/s Myra B. Heard  
City Clerk

(c) Thereupon, Mr. Kennedy made a **motion** to dedicate the \$42,000 incentive payment to upgrades at Lincoln Park, upgrade the crossing arms at Monroe Street, remove median barrier, and apply for Quiet Zone through Federal Railroad Administration. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE (5-0).

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 1, and is known as Resolution 2010-01.)

RESOLUTION PERTAINING TO THE ACCEPTANCE OF AN OFFER OF DEDICATION FOR PUBLIC USE THE HORAH STREET AT-GRADE RAILROAD CROSSING.

**REPLACEMENT OF THE ELLIS STREET BRIDGE**

Mr. Dan Mikkelson, Director of Engineering and Development Services, updated Council regarding the Ellis Street Bridge and stated that there has been a lot of activity regarding the Ellis Street Bridge project since the December 15, 2009 Council meeting.

He displayed an aerial photograph depicting the location of the Ellis Street (Shober) Bridge and surrounding streets. He reviewed the history of the project:

#### 1985

- Project qualified for 80% Federal funding
- National Environmental Policy Act (NEPA) Requirements
  - Involve the public
  - “Avoid, minimize or mitigate” adverse effects on historic properties
- The City’s Thoroughfare Plan recommended a new alignment that would connect Kerr Street to Mocksville Avenue.

#### 1996

- Typical Highway Engineer’s Recommendation:
  - Connect Kerr Street to Mocksville Avenue
    - 40 mph design
    - Disconnect Ellis Street
    - Build four cul-de-sacs
    - \$1.4 million
- Recommendation rejected by City Council after public hearing

Mr. Mikkelson indicated that City Council conducted a public hearing for the 1996 recommendation and after public comment, rejected the alignment. He noted that the North Carolina Department of Transportation (NCDOT) was willing to pay \$1.4 million for the project at that time. Mr. Mikkelson stated that as a result of the 1996 public hearing:

- City Council modified the project goals:
  - Maintain grade separation for public safety
  - Retain existing traffic patterns
  - Reduce impact on historic properties
  - Qualify for Federal participation
- Federal Highway Administration granted a design exception to allow the City to design the replacement bridge at 20 mph
  - Based on vertical curvature of the road
  - Based on sight distance to enable traffic to see and stop safely at 20 mph
  - Duplicated the existing bridge which has an advisory speed limit of 20 mph
- City amended the Thoroughfare Plan
  - Eliminated the connection of Kerr Street to Mocksville Avenue

#### 1999

- City Council conducted a public hearing
- Council voted to replace bridge in-place
  - 20 mph design
  - Clearance for two existing tracks
  - Increased fill on Ellis Street at highest point approximately four and one half feet with a 10 foot horizontal adjustment
- Completed the NEPA process



Mr. Mikkelson continued to review the most recent history of the Ellis Street Bridge project:

#### 2001

- Norfolk Southern Railroad (NSRR) officially requested the City build a bridge that would clear a future third track
  - City received feed-back from NCDOT, the State Historic Preservation Office and the Federal Highway Administration (review agencies)

#### 2002

- Review agencies, which includes the North Carolina Department of Transportation, State Historic Preservation Office, and the Federal Highway Administration, recommended that the City re-open the NEPA process
  - Consultant began preliminary design for three-track bridge

#### 2004

- Public hearing held regarding the three-track option
- City began amending environmental document
- Historic Salisbury Foundation (HSF) requested more attention to the rehabilitation of the bridge

#### 2006

- Consultant addressed what it would take to rehabilitate the bridge to the point that it could support a fire truck
- Review agencies reviewed the options of a two-track bridge, a three-track bridge, and what it would take to rehabilitate the bridge to support a fire truck
  - Determined that all of the three actions would have an effect on historic resources
  - NEPA did not prefer any of the three options and indicated that City Council had the responsibility of selecting from the three options to determine what is in the City's best interest
- HSF hired Mr. David Fischetti, a consulting engineer specializing in historic structures, and he proposed rehabilitation of the bridge to support a fire truck
- City Council requested more information regarding bridge rehabilitation

Mr. Mikkelson pointed out that staff prepared a scope of services that addressed Council's rehabilitation questions and identified conflicts between Mr. Fischetti's presentation and the proposal of the City's consultants. He added that the report was presented to Mr. Fischetti and staff requested he provide the City with a cost estimate of addressing the scope of services. Mr. Mikkelson pointed out that he made numerous attempts to contact Mr. Fischetti but was unable to receive the cost proposal from him.

Mr. Mikkelson reviewed the 2009 status of the Ellis Street Bridge:

- May – City lost authorized access to Federal funds due to lack of progress
- October – NCDOT advised the City to complete NEPA process or pay back \$171,000 in Federal funds spent to date in the planning process

- NCDOT expects City's response in February, 2010
  - Will consider a short extension
- December – NSRR has adopted a new strategic plan
  - Re-evaluating the City's request
  - City expects a response by early February, 2010

Mr. Mikkelson explained that public bridges are inspected every two years under a Federal requirement and the program is administered by NCDOT. He noted that the Ellis Street Bridge was inspected in early December 2009 and on December 29, 2009 the inspector met with staff on-site and advised the City to close the bridge due to damaged deck boards. He added that the damage has been marked and repairs must be completed before the bridge can be re-opened to vehicular traffic. Mr. Mikkelson noted that the repairs must be coordinated with NSRR and they are expected to be complete in March 2010. He pointed out that a contractor has been contacted regarding minor repairs to the bridge and the City is waiting for his cost estimates. He indicated that the City anticipates a low cost estimate and the repairs should not affect the long-term decision for the project. He added that if Council ultimately decides to replace the bridge, these minor repairs are necessary due to the time it will take to begin the replacement process.

Mr. Mikkelson pointed out that the Ellis Street Bridge currently has a five ton weight limit. He noted that both the City and Rowan-Salisbury School System have 12 buses each per day that use the Fulton Street at-grade railroad crossing instead of the Ellis Street Bridge. He stated that he feels this is an indication the City is not providing an appropriate level of service.

Mr. Mikkelson displayed a map of the Ellis Street Bridge area and explained that most ambulances approaching Rowan Regional Medical Center exceed the five ton weight limit. He pointed out that their preferred route from the Ellis Graded School Historic District to the hospital is to cross over the Fulton Street at-grade railroad crossing to Mocksville Avenue to the hospital. He indicated that if there is a train blocking the tracks on Fulton Street, the ambulance is forced to detour which adds 1.6 miles and approximately three minutes to their route to the hospital. Mr. Mikkelson also pointed out that the City's fire trucks exceed the five ton weight limit. He stated that if there is a structural fire north of the Ellis Street Bridge, the first responder must also be detoured adding two miles and approximately four minutes to their response time.

Mr. Mikkelson reviewed the options to avoid reimbursing the \$171,000 Federal funds:

- Commit to bridge replacement
  - Select two-track bridge and/or three-track bridge
  - Update cost estimate and commit to firm schedule
  - Request NCDOT to reauthorize Federal funds
  - Update environmental document
- Opt out of Federal funds
  - Select "do nothing" alternative
  - Request waiver of pay back
  - Evaluate whether or not to rehabilitate bridge to support five-ton vehicles
    - Rehabilitation would not qualify for Federal funds

Mr. Mikkelson stated that the City has the choice of building a new bridge and providing service, or in the interest of historic preservation, keep the current historic bridge and limit the services the bridge can provide.

Mr. Mikkelson compared the profiles of a two-track and three-track bridge:

- Three-track bridge
  - 152 feet in length with most of the length addition made to the south side of the bridge
  - Six feet of fill with added fill made to the north side of the railroad tracks
- Two-track bridge
  - 126 feet in length
  - Four and one-half feet of fill to the north side of the railroad tracks

Mr. Mikkelson reviewed a drawing of the three-track bridge expansion plan. He pointed out the project lines of no-cut no-fill along the south and north side of Ellis Street and indicated that the property located at 420 North Ellis Street would be most impacted from the three-track bridge expansion. He displayed a conceptual rendering of what the property might look like after the project is complete. He noted a six foot embankment in the front yard that will have a three-to-one slope toward the house. He pointed out the current driveway location close to the bridge and explained that it may have to be relocated. He noted that the project is required to provide vehicular access to the property and the project would cover the cost of relocating the driveway.

Mr. Mikkelson reviewed the Council goals pertaining to the Ellis Street Bridge project:

- Maintain grade separation for public safety
- Retain existing traffic patterns
- Reduce impact on historic properties
- Qualify for Federal participation

Mr. Mikkelson reviewed the bridge project options in relation to Council goals:

#### Three-track Bridge

- Maintain grade separation for public safety
- Does retain existing traffic patterns
- Does reduce impact on historic properties (staff is neutral)
  - Does have 20 mph design exception
  - Removal of existing bridge satisfies the review agencies but not the HSF
  - Has more impact than the two-track bridge
    - Staff recommends this option if endorsement is received from NSRR
- Qualifies for Federal participation

### Two-track Bridge

- Maintain grade separation for public safety
- Does retain existing traffic patterns
- Does reduce impact on historic properties (staff is neutral)
  - Does have 20 mph design exception
  - Removal of existing bridge satisfies the review agencies but not the HSF
  - Has less impact than the three-track bridge
- Qualifies for Federal participation

### “Do Nothing”

- Does not maintain grade separation for public safety, would not provide service to vehicles over five tons
- Does retain existing traffic patterns
- Does reduce impact on historic properties
- Qualifies for Federal participation by requesting waiver of payback

Councilman Miller questioned the likelihood of being granted the waiver of payback. Mr. Mikkelson stated that he feels confident the City would qualify for the waiver. He continued to review the project options:

### Rehabilitation

- There are questions regarding maintaining the grade separation for public safety
  - If the City can achieve an H-20 design which will require replacing some timber with steel
  - If the City can obtain a right of entry from NSRR
- Does retain existing traffic patterns
- Does reduce impact on historic properties
  - Questions if it requires some change of materials
  - Questions if it requires some approach fill if raised
- Does not qualify for Federal participation

Mr. Mikkelson indicated that NSRR will not willingly allow a large sum of money to be invested to take the existing bridge and upgrade it to something that it is not today. He pointed out that NSRR is primarily concerned that the bridge supports have a horizontal track clearance of seven and one-half feet. He noted that their standard for new construction with a crash wall requires 18 feet of clearance, and construction without a crash wall requires 25 feet of clearance. He added that NSRR is concerned about the possibility of a derailment under the bridge which would destroy the bridge support beams. Mr. Mikkelson reviewed the staff recommendation:

- Conduct a public hearing
- Consider NSRR response expected to be received by the City early February 2010
  - City will recommend a NSRR endorsement of a two-track or three-track bridge, but staff prefers the two-track bridge plan

- Council decision by the end of February 2010
- Update cost and schedule
- Request NCDOT to reauthorize Federal funds
- Update environmental document

Councilman Kennedy asked what impact the 1996 bridge plan from Kerr Street to Old Mocksville Road had on historic properties. Mr. Mikkelson stated that the 1996 plan had a small physical impact on historic properties. He explained that most of the embankment work would have taken place on the Rowan-Salisbury School System property and the adjacent vacant lot. He noted that the plan disconnected Ellis Street and forced traffic to take different routes creating a social impact on the neighborhood. He indicated that the current bridge would have been removed and a new bridge would have been built as an extension of Kerr Street.

Mayor Pro Tem Blackwell asked why neighbors were notified regarding the 1996 plan but not this time. Mr. Mikkelson indicated that in 1996 the City had a consultant who was responsible for community outreach and who prepared and mailed a flyer to everyone within one block of the bridge. He added that the City currently does not have a consultant. He indicated that he has previously met with Council and the Neighborhood Association and believes there has been enough discussion that people are aware of the public discussion. Ms. Blackwell asked if the consultant exceeded the requirement and set a false precedent for the neighbor's future expectations. Mr. Mikkelson stated that there is not a standard requirement for public notification.

Ms. Blackwell asked how long the repairs planned for March 2010 are anticipated to last. Mr. Mikkelson responded that he believes that repairs will be completed in early March 2010 and added that he feels the cost will be low.

Ms. Blackwell stated that there is a perception that the arch in the current bridge slows traffic and she asked if the new bridge would be flatter resulting in an increase of speed on Ellis Street. Mr. Mikkelson indicated that the bridge will not be wide, fast and smooth as depicted in the 1996 plan.

Ms. Blackwell asked if over the years of planning, there have been concerns raised regarding drainage issues for 420 Ellis Street. Mr. Mikkelson stated that at this point nothing leads him to believe there will be a drainage problem.

Ms. Blackwell asked if other municipalities are facing this two-track and three-track bridge problem. Mr. Mikkelson indicated that any municipality that crosses NSRR will be required to obtain a right of entry from them and NSRR will protect their rights for future tracks. He added that NSRR has adopted a new strategic plan which reviewed all rail route corridors and based on the classification of each corridor, they will determine the future requirement of track space.

Ms. Blackwell stated that staff has worked very hard on this project and she thanked Mr. Mikkelson for his efforts and for taking his personal time to attend neighborhood meetings.

Councilman Miller asked if Council could receive some preliminary cost comparisons between the three options. Mr. Mikkelson reviewed the relative total costs of each option:

<u>Option</u>	<u>Total Cost Estimate</u>	<u>City Share</u>	<u>Year of Estimate</u>
Two-Track Bridge	\$923,000	\$184,600	2003
Three-Track Bridge	943,360	188,720	2003
Rehabilitation	263,000	263,000	2006

(per David Fischetti)

Mr. Miller stated that Mr. Mikkelson previously pointed out that the City had issues with Mr. Fischetti's rehabilitation estimates and asked if additional costs were included in these issues. Mr. Mikkelson indicated that Mr. Fischetti's report was made on a preliminary investigation and the questions raised in the scope of services would have required a more detailed level of design. He added that he feels some of these conflicts would have resulted in a higher cost estimate.

Councilman Woodson asked if the rehabilitation option would simply reinforce the current timber bridge. Mr. Mikkelson explained that some of the timber would be replaced with steel and some wood decking would be replaced with glue-laminated panels.

Mayor Klutz convened a public hearing, after due notice and advertisement thereof, regarding the replacement of the Ellis Street Bridge.

Ms. Kathy Walters, 218 North Ellis Street, stated that she moved to Salisbury over 25 years ago and is delighted to live here and see the ongoing transformation of the historic neighborhoods and downtown area. She pointed out that the Ellis Street Graded School District is the newest local residential historic district. She added that the district is still fragile and must be protected. She noted that Shober Bridge serves the City well for both residents and medical emergencies. Ms. Walters indicated that she doubts the railroad can provide valid statistics to validate their future needs. She provided a picture of the old Ellis School and asked Council to preserve the bridge and not destroy the last remaining structure of the Ellis Street Graded School District.

Mr. Jack Thomson, Historic Salisbury Foundation (HSF) Director, stated that he is excited to see movement towards a resolution of this important part of the community. He pointed out that for over a decade neighbors and citizens have spoken about the importance of Shober Bridge as a landmark for the community. He added that the structure is unique and worth additional consideration. Mr. Thompson indicated that the HSF has been the principal advocate for protection and preservation of historic resources in the community for over 35 years. He read an archived Salisbury Post article regarding the Ellis Street Graded School and urged Council to protect the bridge.

Mr. Rick Parker, Senior Director for Professional and Support Services at Rowan Regional Medical Center (RRMC), stated that RRMC is in favor of the Shober Bridge improvements because of the positive impact it would have on patient care. He added that the improvements will allow first responders to have quicker access to emergency services.

Mr. Pete Hoffman, 416 West Kerr Street, stated that he would like to address the authority NSRR has over this project. He indicated that he is an attorney and in research he found several cases where cities have passed ordinances requiring railroads to pay for upgrades and improvements to railroad crossings and some of these cases were upheld in appellate courts. He noted that he did not find any cases where the railroad simply denied permission or right of entry. Mr. Hoffman pointed out that he found statutory law that gives a city the general authority and control over all public streets, highways, alleys, bridges or other public passage. He stated that cities are also given the power to widen, extend, pave, clean, and otherwise improve existing public passages, including bridges.

Mr. Hoffman stated that if a City deems a railroad crossing dangerous, it has the power to pass an ordinance requiring an underpass or bridge overpass. He indicated that the perception that NSRR can stop the City cannot be supported by any North Carolina State Statutes. Mr. Hoffman indicated that he would like to see the difference in impact and maintenance costs between rehabilitation of the bridge and a two-track bridge.

Ms. Debra Brazee, 420 North Ellis Street, stated that she is confused regarding the height of the elevation on her property. She indicated that at the December 15, 2009 Council meeting, Mr. Mikkelson stated that the elevation increase would be four feet. She noted that she met with the engineers and they indicated that the elevation increase would be much higher than six feet. She referred to Mr. Mikkelson's conceptual rendering of her property and noted that from her front porch she will see a wall rather than a clear view and that her second story will be almost level with the grade. Ms. Brazee indicated that construction will last 18 to 24 months within 20 feet of her front porch. She pointed out that someone with multiple sclerosis resides at her home and they would not receive the required bed rest during the construction.

Ms. Brazee indicated that she was given a choice of a wall or a slope and today's presentation shows different information than what she previously received. She stated that she is willing to give up for the good of the whole if there are no other options, but she believes the rehabilitation option will allow the bridge to carry capacity, provide safe access and maintain historic element.

Mr. Buddy Curry, 321 North Ellis Street, stated that he feels if a person has a car that is not road worthy, the car should be replaced and feels the same about the bridge because it is outdated and past its time. He suggested placing a plaque on each side of the bridge to honor its historic significance. He indicated that given all of the time and cost involved, the bridge could have been replaced by now. Mr. Curry noted that he is concerned about the elevation of the street level changing and how this would impact his driveway. Mr. Curry urged Council to support the replacement of the bridge.

Ms. Gwen Matthews, 313 North Ellis Street, stated that she is Co-President of the North Ellis Graded School Historic District. She indicated that she is speaking of the neighborhood as a whole and agrees with Ms. Brazee regarding her concerns about a bridge replacement impacting their property. She pointed out that the neighborhood has two distinguishing features; the North Ellis Graded School and the Shober Bridge. She added that this feature would be greatly altered if the bridge is replaced. She noted that a

new bridge would allow faster speeds and more trucks and will change the entire neighborhood to a transportation artery. She asked Council not to replace the bridge because it is a landmark for the City and requested more time to process the proposed change as a neighborhood.

Mr. Frank Justin, 505 West Henderson Street, stated that in 2006 Mayor Kluttz commented that the Shober Bridge is a beautiful, historic structure that is a treasure to the City and also that the City Council has a responsibility to the citizens for its safety. He indicated that during the latest City Council elections the candidates promised to establish and improve relationships with neighborhoods in order to receive more residential input.

Mr. Justin pointed out that the issue concerning Shober Bridge has been ongoing for 25 years and he feels it is time to make a decision and that in doing so, Council must consider the safety of the residents. He indicated that there are no sidewalks or crosswalks on the north side of the bridge and it is unsafe to walk along the road due to the many buses that travel this area daily. He asked if Council elects to build a new bridge that they consider the safety of the residents.

Ms. Ann Lyles, 409 East Bank Street, indicated she agreed with what has been said by other speakers. She indicated that there are many people in the City who also agree and she asked those present to stand. It is noted that approximately 20 people stood.

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

Councilman Kennedy stated that he is not in favor of the “do nothing” plan. He noted that the citizens have raised excellent issues that need to be addressed before a decision is made such as sidewalks, cost of maintenance and traffic calming.

Councilman Woodson stated that he would like to hear the results of the NSRR strategic plan. He indicated that he feels a three-track bridge is very intrusive to the neighborhood, but he thinks something needs to be done to secure the safety of the bridge.

Ms. Blackwell suggested a Council Committee be appointed to further review the options and work closely with NSRR through Mr. Mikkelson. She added that perhaps the Committee could include Ms. Brazee and other citizens. She indicated that this would need to be an expedited Committee.

Mayor Kluttz stated that she needed a consensus from Council for the Council Committee. Mr. Kennedy suggested that Ms. Blackwell and Mr. Miller serve on the Committee, and both agreed to serve. Mr. Miller noted that he may have conflicts with meeting times because of his work schedule. Mr. Woodson indicated that he will serve as an alternate if Mr. Miller cannot attend the meetings due to his work schedule.

Mayor Kluttz asked the City Clerk how citizens will be notified of the date and time of the Council Committee meetings. Ms. Myra Heard, City Clerk, stated that once a date and time has been set it will be posted at City Hall and that anyone who would like



to be notified can contact her office with their contact information and they will be notified.

Mayor Kluttz requested Mr. Mikkelson respond to the questions raised by Ms. Brazee. Mr. Mikkelson stated that at the December 15, 2009 Council meeting, the question was raised regarding the impact of the bridge and he stated that it would be four feet. He indicated that the four feet referred to the two-track plan. He pointed out that in conversations with Ms. Brazee, she remembered that the embankment would be eleven feet tall and he is not sure where that information came from. Mr. Mikkelson noted that Ms. Brazee did meet with the design consultant on site and that he did not attend the meeting. He indicated that the profile prepared by the design consultant is probably within one foot of what the final elevation would be.

Mayor Kluttz stated that the Council Committee will need information regarding the NSRR strategic plan before meeting. Mr. Mikkelson indicated that the City expects to receive this information the first of February 2010. Mr. Kennedy asked if this would allow enough time for Council to make a decision by the February 16, 2010 or March 2, 2010 Council meeting. Mr. Mikkelson noted that if NCDOT is aware that the City is actively working on the project they will work with the City on the time schedule. Mr. Kennedy asked if the cost estimates can be updated. Mr. Mikkelson stated that in order to update the costs the City will need to hire a consultant which would be paid 100% by the City. Mayor Kluttz asked Mr. Mikkelson to begin reviewing the questions raised during today's public hearing in preparation for the Council Committee meetings.

City Manager David Treme stated that the two-track and three-track costs can be updated, but the rehabilitation cost estimate of \$263,000 is from an independent third party and is a cost that would be paid entirely by the City. He noted that he wants to make sure the estimate has validity. He pointed out that a good question raised during the public hearing regards the future maintenance cost of a rehabilitated bridge versus a new structure. He noted that the bridge needs to be strengthened for long term public safety.

Mr. Miller stated that during February 2010 his schedule will make it difficult for him to serve on the Council Committee. Mr. Woodson stated that he will serve on the Committee. By consensus, Council agreed to send this issue to a Council Committee comprised of Mayor Pro Tem Blackwell and Councilman Woodson.

Mayor Kluttz thanked those who spoke and attended today's meeting and indicated that it is very gratifying to Council for people to care so much for the City and their neighborhoods.

**LDOZ-6-05-2009, CYNTHIA RUSSELL AND LDOZ-6-06-2009, KEN GRANBERRY**

(a) Mr. Preston Mitchell, Senior Planner, addressed Council regarding a request to rezone approximately 48 acres from Rural Residential (RR) to Open Space Preserve (OSP), Residential Mixed-Use (RMX) and Corridor Mixed-Use (CMX). Mr. Mitchell

indicated that this request is two rezoning petitions that have been combined because the properties are adjacent. Mr. Mitchell reviewed aerial photographs and pointed out the sites location along Statesville Boulevard. Mr. Mitchell stated that the western most tract abuts tracts in the Rowan County Commercial Business and Industrial (CBI) district. He explained that CBI zoning can be compared to the City's CMX zoning. He indicated that the three properties are currently zoned RR.

Mr. Mitchell reviewed the history of the request and pointed out that this request is not a Conditional District Overlay, but does contain a rezoning plan. He indicated that the plan will establish boundaries of the zoning districts. He stated that 11 acres will be zoned OSP with no development rights and 13 acres will be zoned RMX, which will allow up to 250 residential units or 170,000 square feet of commercial space to be developed. He added that 15 acres will be zoned CMX with no density cap and which could produce up to 250 residential units. He pointed out that a total of 500 multi and single family units could be developed on this site.

Mr. Mitchell reviewed policies from the Vision 2020 Comprehensive Plan pertaining to this request:

Policy N-11: Architecturally compatible, residentially scaled office and institutional development may be permitted to locate along the sides of neighborhood planning areas. Under specified conditions, this policy may be applied to the conversion of pre-existing residential properties located along major streets where, due largely to traffic exposure, homes have become unsuitable for residential occupancy. In such instances, adaptive reuse of existing residential structures shall be viewed more favorably than demolition and new construction.

Policy N-12: Appropriate commercial and other services may be permitted to locate at the corners of neighborhood planning areas. Existing, less intensive development located at the intersection of major streets forming the corner of a neighborhood planning area may be allowed to undergo an orderly transition in this regard.

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, businesses 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 C-17: Large-scale commercial uses shall be located on the corners of neighborhood planning areas, that is, at the intersection of two major streets.

Mr. Mitchell pointed out that due to the amount of land involved in this request the area could qualify as its own neighborhood planning area. He commented that this area could include community centers, retail, office, and residential space where people could shop, live, and work in the same area.

Mr. Mitchell indicated that the Planning Board voted unanimously to recommend approval of the proposed map amendment December 8, 2009.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on the proposed Land Development district map amendment LDOZ-6-05-2009 and LDOZ-6-06-2009.

Ms. Margaret Lipe, 301 North Main Street, stated that she is the real estate agent marketing the Granberry and Russell property and thanked Council for considering the zoning request. She pointed out that the CMX zoning would allow larger retail buildings making the property suitable for a shopping mall and the OSP zoning would provide a large buffer. She stated that the goal of the property owners is to attract upscale mixed use development that would be an asset to the City and provide employment and services.

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

Councilman Miller indicated that he spoke with Mr. Mitchell regarding his concerns in relation to the organization of the project. He stated that the Town Creek Commons project resulted in several outparcels and private streets being developed and he did not want that to happen again. He pointed out that Mr. Mitchell assured him that the Land Development Ordinance (LDO) would safeguard against instances of outparcels and private streets.

Mr. Mitchell explained the approval process for the development of these sites. He pointed out that the LDO does not permit private streets and requires all developments to be constructed along publicly maintained streets. Councilman Miller stated that he feels comfortable with the plan and supports the request.

Mayor Pro Tem Blackwell noted that she first saw this plan while serving on the Planning Board and she indicated that she is impressed with the creativity of the revised plan.

Mr. Mitchell pointed out that because the property is being rezoned from low intensity to high intensity there could be potential storm water impact downstream from the project. He noted that this would be the case with any large area of land that is rezoned from low to high intensity.

(c) Mr. Woodson stated the City Council hereby finds and determines that adoption of an Ordinance to rezone the property described herein and 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 district map of the City of Salisbury, North Carolina, by rezoning approximately 48 acres, identified as tax map and parcels 330-021, 330-117, and 330-121, from Rural Residential (RR) District to Open Space Preserve (OSP), Residential Mixed-Use (RMX), and Corridor Mixed-Used (CMX) Districts as illustrated on the attached Granberry-Russell property schematic

rezoning plan. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

ORDINANCE AMENDING THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 48 ACRES, IDENTIFIED AS TAX MAP AND PARCELS 330-021, 330-117, AND 330-121, FROM RURAL RESIDENTIAL (RR) DISTRICT TO OPEN SPACE PRESERVE (OSP), RESIDENTIAL MIXED-USE (RMX), AND CORRIDOR MIXED-USED (CMX) DISTRICTS AS ILLUSTRATED ON THE ATTACHED GRANBERRY-RUSSELL PROPERTY SCHEMATIC REZONING PLAN.

(The above Ordinance is recorded in full in Resolution Book No. 22 at Page No.1-3, and is known as Ordinance 2010-01.)

### **SIDEWALK CLOSING FOR CONSTRUCTION – 100 BLOCK OF WEST FISHER STREET**

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding a request to close the sidewalk in the 100 block of West Fisher Street for construction. Ms. Brindle reviewed photographs of the area and pointed out the site's location along West Fisher Street. She stated that Barger Construction Company is completing a facility for First United Methodist Church and is requesting the use of the sidewalk and parking lane for scaffolding and materials. She noted that staff recommends approval of the request subject to certain conditions:

- The fence shall be marked with reflectorized signs or markings to ensure visibility at night
- The contractor shall be responsible for any damage to the sidewalk and asphalt and shall restore the sidewalk/roadway to its existing condition or better
- Staff will monitor the area and work with the contractor to open the sidewalk and parking lane as quickly as feasible

Thereupon, Mr. Woodson made a **motion** to approve a request to close the sidewalk and parking in the 100 block of West Fisher Street adjacent to First United Methodist Church for construction activities, subject to the following conditions: (1) The fence shall be marked with reflectorized signs or markings to ensure visibility at night (2) The contractor shall be responsible for any damage to the sidewalk and asphalt and shall restore the sidewalk/roadway to its existing condition or better (3) Staff will monitor the area and work with the contractor to open the sidewalk and parking lane as quickly as feasible. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

## **COMMENTS FROM THE CITY MANAGER**

### **(a) Introduction of Acting Police Chief Rodney Harris**

City Manager David Treme introduced Acting Police Chief Rodney Harris to Council. He stated that Mr. Harris has been with the Salisbury Police Department for 19 years and he feels Mr. Harris is a good choice to serve as Acting Police Chief. He indicated that Mr. Harris will serve as Acting Police Chief while the application process is being completed. Mr. Treme noted that there are three internal candidates for the position and he needed to appoint an Acting Chief who was not an applicant. Mr. Treme thanked Mr. Harris for accepting this position during the hiring process.

Mayor Kluttz commented that Mr. Treme made an excellent choice in choosing Mr. Harris. She stated that she has been impressed with the work Mr. Harris has done with the Explorers Club. She congratulated Mr. Harris and stated that she appreciates his leadership.

### **(b) Police Chief Application Process**

City Manager David Treme stated that there are three internal applicants for the position of Police Chief. He indicated that he is interviewing each employee in the Police Department to give everyone an opportunity to share their insights about the department.

Mr. Treme pointed out that a determination regarding the position should be made by mid February and perhaps a new Police Chief will be appointed at that time.

Mr. Treme indicated that staff is taking every opportunity to ensure there is a full process to give those who have come up through the ranks of the Police Department an opportunity to compete for the position.

### **(c) Location of Rowan County Jail Expansion**

City Manager David Treme stated that the City may be asked to provide water and sewer services for the expansion of the Rowan County Jail. He indicated that he and staff have met with Rowan County Manager Gary Page to determine estimates for water/sewer services as the County reviews possible locations for the jail expansion.

### **(d) Airport Development Zone**

City Manager David Treme stated that creating an Airport Development Zone has been a major goal for Council. He indicated that the purpose of the effort is to create a zone that would allow incentive grants for persons with property located on the site. He commented that this effort could create a tax rate for the City and County that is competitive with Statesville and Concord. He pointed out that the current rate is lower than Statesville and Concord and the lower rate could attract additional revenue for the airport.

Mr. Treme indicated that the agreement was entered into December 7, 2009 and signed by Mayor Kluttz December 30, 2009 and by Rowan County Commissioner Chairman Carl Ford January 4, 2010.

## MAYOR'S ANNOUNCEMENTS

### (a) Community Development Block Grant and HOME Funds Citizen Comment Session

Mayor Kluttz announced the City will hold two citizen comment sessions regarding the Five-year Plan and Annual Action Plan for Community Development Block Grant and HOME Funds. The first meeting will be Tuesday, January 12, 2010 at 6:00 p.m. at the West End Community Center, 1400 West Bank Street. The second meeting will be Thursday, January 21, 2010 at 6:00 p.m. at the Park Avenue Community Center, 632 Park Avenue.

### (b) Dr. Martin Luther King Jr. Breakfast

Mayor Kluttz announced that the Salisbury-Rowan Human Relations Council will host the Dr. Martin Luther King, Jr. Breakfast, Monday January 18, 2010 at 7:15 a.m. The Breakfast will be held at the Event Center located on the campus of Cornerstone Church, 315 Webb Road. The featured speaker is Pastor George Jackson, Founder and CEO of Citadel of Faith Christian Fellowship, Inc. of Thomasville, North Carolina. Tickets are \$8 each, to purchase tickets or for additional information call 704-638-2168, 704-638-5217, or the citizens can call her office or the City Clerk's office.

### (c) Dr. Martin Luther King, Jr. Parade

Mayor Kluttz announced that the Dr. Martin Luther King, Jr. Parade will be held Monday, January 18, 2010. The parade will begin immediately following the memorial service which will begin at 10:00 a.m. at Freedman Cemetery, 220 North Church Street and will end at the Salisbury Civic Center, 315 Dr. Martin Luther King, Jr. Avenue.

### (d) Comments from Councilman Kennedy

Councilman Kennedy announced that the Dr. Martin Luther King, Jr. Celebration Committee will sponsor an event specifically for youth. The Committee has invited the youth to attend a Charlotte Bobcats basketball game January 18, 2010. Ticket prices have been reduced to \$15 and are available for purchase through the City's Human Resource Department, 132 North Main Street. The deadline to purchase tickets is January 12, 2010 at 5:00 p.m. He noted that transportation will not be provided. Tickets will be distributed on the day of the game in the lobby of the Bobcats Coliseum between 1:00 p.m. and 2:00 p.m. For additional information call 704-638-0673.

Councilman Kennedy also announced that immediately after the parade, activities will be held at the Salisbury Civic Center, 315 Dr. Martin Luther King, Jr. Avenue from 11:00 a.m. until 5:00 p.m.

Mayor Kluttz stated that churches in the community have been seeking worthwhile activities for youth in the community and this is an opportunity to take this on as a project and purchase tickets for the youth.

**ADJOURNMENT**

**Motion** to adjourn the meeting was made by Councilman Woodson, seconded by Mayor Pro Tem Blackwell. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 6:59 p.m.

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Susan W. Kluttz, Mayor

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Myra B. Heard, City Clerk