

Salisbury, North Carolina  
May 6, 2008

## **REGULAR MEETING**

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

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

## **RECOGNITION OF VISITORS**

Mayor Kluttz recognized all visitors present.

## **ADDITIONS/DELETIONS TO THE AGENDA**

Mayor Kluttz noted the following change to the Agenda:

Add – Council to receive a Council Committee report regarding issuance of a special use permit for SUP-01-08, J&L Sports Bar located at 206 South Main Street.

**RECOGNITION OF COLONEL PAUL BARBEE – NORTH CAROLINA NATIONAL GUARD**

Mayor Kluttz recognized Colonel Paul Barbee, Commander of the North Carolina National Guard Army Aviation Support facility and the 449<sup>th</sup> Theater Aviation Brigade, for his recent promotion. She reviewed Colonel Barbee’s career achievements and presented him with a Certificate of Appreciation in honor of his promotion and contributions to the community.

**PROCLAMATION**

Mayor Kluttz proclaimed the following observances:

NATIONAL DAY OF PRAYER	May 1, 2008
MUNICIPAL CLERK’S WEEK	May 4-10, 2008
NATIONAL NURSING HOME WEEK	May 11-17, 2008
NATIONAL POLICE WEEK	May 11-17, 2008
PEACE OFFICER’S MEMORIAL DAY	May 15, 2008
LET’S GET CONNECTED DAY	May 17, 2008
NATIONAL HISTORIC PRESERVATION MONTH	May 2008

Mayor Kluttz noted that the public is invited to attend a Peace Officer’s Memorial service May 15, 2008 at 12:00 Noon at First Presbyterian Church. She also noted that the Let’s Get Connected celebration will be held May 17, 2008 from 10:00 a.m. until 2:00 at the Bell Tower where there will be a prayer circle and dedication of a peace pole.

**CONSENT AGENDA**

- (a) Approval of Minutes

Approve Minutes of the Special meeting of April 8, 2008 and the Regular meeting of April 15, 2008.

- (b) Petition for Voluntary Annexation – Holiday Retirement Residence

Receive a petition requesting voluntary annexation from Salisbury Holding Group, LLC for Holiday Retirement Residence, and adopt a **RESOLUTION** directing the City Clerk to investigate the sufficiency of the petition.

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31, FOR VOLUNTARY ANNEXATION OF 9.749 ACRES FOR THE HOLIDAY RETIREMENT RESIDENCE LOCATED ON ENON CHURCH ROAD.

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 29 , and is known as Resolution No. 2008-17.)

(c) Budget Ordinance Amendment – Donations for Gang Summit

Adopt a budget Ordinance amendment to the FY2007-2008 budget in the amount of \$1,090 to appropriate donations received for the Gang Summit II.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE DONATION FOR GANG SUMMIT II.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 28, and is known as Ordinance No. 2008-16.)

(d) Temporary Carnival Permit – J.C. Price American Legion Post

Approve a Temporary Carnival Permit for J.C. Price American Legion Post, 1433 Old Wilkesboro Road, for its annual Memorial Day Celebration.

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

**LAND DEVELOPMENT ORDINANCE TEXT AMENDMENT LDOTA-02-2008**

(a) Mr. Preston Mitchell, Senior Planner, explained that the request before Council is the second block of text amendments to the adopted Land Development Ordinance (LDO). He explained that text amendments are to correct errors made in the final drafting of the Code, omissions from minutes of the Land Development Ordinance Committee meetings, and clarifications that have been found since the Code has been implemented. He indicated that there are fifteen (15) minor changes which do not change the intent of the LDO. Mr. Mitchell pointed out that the changes were presented to the Planning Board on April 8, 2008 and the majority of changes were recommended for approval. He added that the Planning Board needed additional information from staff regarding several items to be changed, and after receiving the information the Board unanimously recommended approval of the changes at its April 22, 2008 meeting. He noted that the Planning Board did leave out an amendment related to amusement type uses and added that staff is working on that language to be presented to the Planning Board at a later date.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on Land Development Ordinance Text Amendment LDOTA-02-2008.

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

(c) Mayor Pro Tem stated that the City Council hereby finds and determines that adoption of an ordinance to amend the Land Development Ordinance of the City of Salisbury 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 of the City of Salisbury, North Carolina by amending sections 2.4, 2.7, 4.7, 5.3, 5.6, 5.12, 5.13, 5.16, 5.17, 6.5, 7.5, 8.7, 8.8, 8.11, 10.4, 10.6, 12.6, and 12.9. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, BY AMENDING SECTIONS 2.4, 2.7, 4.7, 5.3, 5.6, 5.12, 5.13, 5.16, 5.17, 6.5, 7.5, 8.7, 8.8, 8.11, 10.4, 10.6, 12.6 AND 12.9.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 29-50, and is known as Ordinance No. 2008- 17.)

#### **ZONING MAP AMENDMENT LDOZ-2-02-2008 – CITY OF SALISBURY**

(a) Mr. Preston Mitchell, Senior Planner, stated that this is the first general zoning map amendment to the new Land Development Ordinance District Map. He explained that the Petitioner is the City of Salisbury and the request is to rezone approximately seventeen (17) acres from Light Industrial (M-1) to Downtown Mixed Use (DMX). He reviewed aerial photographs of the downtown area depicting the current Light Industrial areas and the DMX areas. He pointed out that the area in question is clearly developing in a manner consistent with downtown mixed use. He added that staff recommends the proposed area be rezoned to DMX. He displayed photographs of downtown properties within these areas which include property adjacent to the Police Department and the Salisbury Depot, the Emporium, properties on both sides of Kerr Street, a portion of Lee Street, and the proposed rail walk area.

Mr. Mitchell reviewed the background for the Land Development Ordinance Committee's implementation of the new map:

- “Conversion” Map –
  - Take the old zoning map and create a new zoning map where the old converted to the new like for like zoning
- Industrial Districts under the new Land Development Ordinance (LDO)
  - Are no longer cumulative
  - The M-1 Light Industrial under the old code was cumulative and allowed uses within the old code

- The Industrial Districts HI and LI in the new LDO do not allow these uses and specifically preserves industrial uses for those industrial districts
- Viability of older Downtown Industrial Districts
  - Encourage and support rehabilitation and adaptive re-use of these buildings
  - Likelihood of industrial development is low
    - Difficult to up fit the buildings based on needs of industrial users
    - Little parking for number of employee involved in industrial use
  - Downtown Master Plan and Vision 2020 Plan recommends rehabilitation and adaptive re-use for
    - Office
    - Retail / Restaurant
    - Flex Space / Studios
    - Loft Housing

Mr. Mitchell reviewed the policies within the Vision 2020 Plan that pertain to this rezoning request:

- Policy I-1: The City of Salisbury shall be an active participant, facilitator and partner in the adaptive re-use of former warehousing and manufacturing buildings into uses compatible with their location.
- Policy I-2: If demolition of an existing older industrial building or complex becomes necessary, any new structure(s) and site redevelopment shall be compatible with the neighborhood context; such redevelopment shall serve to improve the quality, character and livability of the surrounding area.
- Policy D-1: The City shall encourage a compatible, diverse mixture of retail, office, institutional, residential, dining, services, entertainment, and public open space in the downtown area.
- Policy D-5: The City shall encourage efforts to direct new and expanding businesses requiring office space to compatible spaces in the downtown area.

Mr. Mitchell reviewed staff recommendations:

- Staff Recommendations
  - Recommend petition is consistent with City's adopted Vision 2020 Comprehensive Plan and recommend approval based on:
    - Intent change of the new Industrial districts
    - DMX permits many of the L1 uses; not vice versa
    - Economic growth, rehabilitation, even opportunities for new development
    - Advances the Downtown Master Plan

Mr. Mitchell stated that at the April 8, 2008 meeting of the Salisbury Planning Board, the Board voted unanimously to recommend approval of the zoning request.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on zoning map amendment LDOZ-2-02-2008.

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

Councilman Burgin stated that it is no surprise that some rezoning would have to occur because in the new Ordinance the Industrial district is exclusively for industrial. He added that this rezoning will allow the property users to have more use of their property that is consistent with what is happening in the area.

Councilman Lewis commented that the old M-1 district was cumulative and had been described as a transitional district. He noted that that label worked fine but with the new LDO the district is industrial with no cumulative uses and the area is developing into something that is more appropriate for urban uses.

(c) Mr. Lewis stated that the City Council hereby finds and determines that adoption of an ordinance to rezone properties from Light Industrial to Downtown Mixed-Use 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. Lewis made a **motion** to adopt an Ordinance amending the Land Development Ordinance of the City of Salisbury, North Carolina by rezoning approximately 16.3 acres, identified as a portion of tax map and parcels 0104237, 011-213, 011-218, 011-209A, and 010-4340001, and all of tax map and parcels 0104238, 010-246, 010-248, 010-249, 010-250, 010-251, 010-252, 010-253, 010-254, 010-255, 010-256, 010-257, 011-239, 011-395, 011-222, 011-221, 011-209, 011-255, 011-244, 011-245, 011-246, 011-247, 011-248, 011-249, 011-250, 011-251, 011-252, 011-253, 011-25203, 011-25202, and 011-25201 from Light Industrial district to Downtown Mixed-Use district. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA BY REZONING APPROXIMATELY 16.3 ACRES, IDENTIFIED AS A PORTION OF TAX MAP AND PARCELS 0104237, 011-213, 011-218, 011-209A, AND 010-4340001, AND ALL OF TAX MAP AND PARCELS 0104238, 010-246, 010-248, 010-249, 010-250, 010-251, 010-252, 010-253, 010-254, 010-255, 010-256, 010-257, 011-239, 011-395, 011-222, 011-221, 011-209, 011-255, 011-244, 011-245, 011-246, 011-247, 011-248, 011-249, 011-250, 011-251, 011-252, 011-253, 011-25203, 011-25202, AND 011-25201 FROM LI (LIGHT INDUSTRIAL) DISTRICT TO DMX (DOWNTOWN MIXED-USE DISTRICT.)

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 51-52, and is known as Ordinance No. 2008- 18.)

## **HIGH IMPACT PREDEVELOPMENT GRADING PERMIT – CORBIN HILLS**

(a) Mr. David Phillips, Development Services Manager, stated that the City received a request for a predevelopment grading permit for work to take place at the Corbin Hills Golf Club. He reviewed the engineering plan and noted that the area is adjacent to Benjamin Drive. He pointed out that the predevelopment grading permit is for a proposed pond to be located in the greenway of the golf course and will be used as part of its irrigation facilities. Mr. Phillips indicated that there is not an approved plan for the pond but the developer would like to begin some of the preliminary grading. He added that since it is in a residential district the developer is required to apply for a high impact activity grading permit. Mr. Phillips reviewed two (2) aerial maps of the golf course indicating the proposed location of the pond and indicated that the pond will be located on the golf course side of the branch and will not disturb any of the trees immediately adjacent to neighboring houses.

Mr. Phillips stated that the Technical Review Committee has reviewed the request and recommends approval of the grading permit contingent on the design of the pond being reviewed by the Engineering staff.

(b) Mayor Kluttz opened the floor to receive public comment regarding the High Impact Predevelopment Grading Permit.

There being no one to speak Mayor Kluttz closed the public comment session.

(c) Thereupon, Mr. Kennedy made a **motion** to approve a High Impact Predevelopment Grading Permit for Corbin Hills Golf Club contingent upon detailed engineering plans for construction of the pond being submitted for review and approval. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **FINAL SUBDIVISION PLAT S-16-07 ARLINGTON PARTNERS, II, LLC**

Mr. Patrick Ritchie, Staff Engineer, stated that the City has received a request to approve the final subdivision plat S-16-07 and noted that this has come to Council before as Kelley-Salisbury site G-23-07. The site is located off of East Innes Street. He pointed out that the site is being developed into two (2) new commercial lots with a public street and the lots will be served by public water and sewer utilities. He noted that the developer is requesting approval of the final plat with the guarantee of construction.

Mr. Ritchie stated that requests of this nature are usually presented to Council on the Consent Agenda. The reason this request is being presented separately is due to the fact that the developer has not submitted the engineering plans for the public infrastructure and added that the plans are needed to determine the bond amount. He indicated that the developer asked if the City would approve the final plat if he offered a bond of four (4) times the preliminary estimate of \$273,000 and Mr. Ritchie indicated

that staff agreed to a \$1 million dollar bond. He stated that staff feels this is a reasonable bond and will allow the City to approve the plans without accepting undue liability.

Mr. Ed Zodian, consultant for Arlington Partners, II, LLC, 1076 West Fourth Street, Suite 200, Winston-Salem, North Carolina, stated that they are delighted that the project has come to fruition and that the City Council and City staff have been a pleasure to work with. He stated that bonding is becoming more expensive. He indicated that the \$273,000 preliminary estimate includes in excess of \$54,000 in contingencies. He stated that Arlington Partners asks that Council consider a bond proposal of three (3) times the preliminary estimate which would be \$821,000. Mr. Zodian noted that the incremental cost difference between the two (2) bonds is enough to cover the cost of the improvements.

Mr. Ritchie stated that the bond amount proposed would be adequate to cover cost of construction if the City knew the estimate was accurate. He indicated that staff is concerned that unforeseen things may arise and it is a matter of how confident the City feels with the bond.

Mayor Pro Tem Woodson stated that he would like to see the project completed.

Councilman Burgin stated that he feels three (3) times the preliminary estimate is safe and he would like to see the project move ahead.

Councilman Lewis indicated that the developers need the City to approve the final subdivision plat in order to sell the final product and begin construction.

Thereupon, Mr. Woodson made a **motion** to approve final subdivision plat S-16-07 for Arlington Partners II, LLC subject to receipt of a guarantee of improvements in accordance with section 5.03.2 of the Subdivision Ordinance. Mr. Lewis seconded the motion. Mr. Burgin asked if the bond amount of \$821,000 needed to be included. Mr. Woodson amended the motion to include a \$821,000 bond. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **RENOVATIONS AT THE ROWAN COUNTY DETENTION CENTER AND JUSTICE CENTER**

Ms. Wendy Brindle, Traffic Engineer, stated that the City received a request from H. M. Kern Contractors concerning renovations at the Rowan County Detention Center and Justice Center. She displayed an aerial view of the buildings which are located adjacent to Liberty Street, Church Street and North Main Street. She indicated that the contractor must access the third floor of the Detention Center to construct additional jail space. Because of security restrictions, the access must be gained from the exterior of the building by constructing a seven (7) foot by fifteen (15) foot stair tower that utilizes the width of the sidewalk and part of the travel lane adjacent to the Detention Center. Ms. Brindle stated that because Church Street is a two (2) lane, one (1) way street, vehicle



access is not restricted. She added that pedestrian traffic in this area is very light and there is a sidewalk on the opposite side of the street.

Ms. Brindle noted that the Justice Center is also utilizing a stair tower which blocks the sidewalk and a portion of an adjacent parking space in the 100 block of West Liberty Street near North Main Street. She indicated that this is a heavily traveled pedestrian area because of the main entrance to the Justice Center. Staff recommends that the contractor construct a protected American Disabilities Act (ADA) accessible pedestrian walkway because this project is expected to last approximately one (1) year.

Ms. Brindle indicated that the contractor will be submitting plans for review for water and sewer work at the Detention Center and there may be requested approvals for the use of the roadway for this work.

Thereupon, Mr. Woodson made a **motion** to approve the temporary use of a portion of sidewalk and travel lane in the 200 block of North Church Street and the use of sidewalk and parking spaces in the 100 block of West Liberty Street during renovations of the Rowan County Detention Center and Justice Center contingent upon the construction of a protected, ADA accessible pedestrian walkway in the parking spaces adjacent to the stair tower. Mr. Kennedy seconded the motion. Mr. Lewis asked if a time table should be attached to this motion. Mr. Woodson amended the motion to approve the temporary use for a period of one (1) year. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **NO RIGHT TURN ON RED – GROVE STREET/INNES STREET AND MOCKSVILLE AVENUE/MAHALEY AVENUE**

Ms. Wendy Brindle, Traffic Engineer, stated that currently there is a no right-turn on red restriction from Grove Street onto Innes Street and Mahaley Avenue onto Mocksville Avenue. She displayed a map depicting the location of these streets and reviewed photographs of the intersections. She pointed out that the hedge at Grove and Innes Streets was removed and replaced with new plantings which do not block sight distance. Also, shrubs have been removed on Mahaley and Mocksville Avenues.

Ms. Brindle noted that staff recommends removal of the no right-turns on red restriction at these two (2) intersections to improve efficiency.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 13-327, Article X, Chapter 13 of the Code of the City of Salisbury, relating to no right turn on red. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-327, ARTICLE X, CHAPTER 13 OF THE CODE OF THE CITY OF SALISBURY, RELATING TO NO RIGHT TURN ON RED.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 53, and is known as Ordinance No. 2008- 19.)

**RESOLUTION – LEASE PURCHASE FOR PARKS AND RECREATION FACILITIES IMPROVEMENTS**

Ms. Teresa Harris, Budget and Performance Manager, discussed a Resolution to approve the process for the City to begin the lease-purchase financing for Parks and Recreation facilities improvements. She indicated that this is the first of a three (3) step process. She noted that \$225,000 was approved in the FY2007-2008 Budget to replace the tennis courts at City Park. In order to secure the financing the three (3) steps must be completed prior to Local Government Commission approval. She pointed out that the Resolution serves three (3) purposes:

- Gives staff authority to apply to the Local Government Commission for approval of the financing
- Names the Management Services Director as the City’s representative in securing financing
- Directs the Management Services Director to solicit the financing proposals from qualified financial institutions

Ms. Harris stated that the next step in the process will be for City Council to conduct a public hearing for this financing at the May 20, 2008 City Council meeting.

Thereupon, Mr. Woodson made a **motion** to adopt a Lease Purchase Resolution in the amount of \$225,000 for financing Parks and Recreation facilities improvements. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

**LEASE PURCHASE RESOLUTION.**

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 30, and is known as Resolution No. 2008-18.)

**RESOLUTION – DECLARATION OF OFFICIAL INTENT TO REIMBURSE EXPENDITURES FOR WATER AND SEWER PROJECTS**

Ms. Teresa Harris, Budget and Performance Manager, stated that it has been the policy of the City over the last several years to keep a Reimbursement Resolution in place. These resolutions have allowed the City to begin the construction of water and

sewer projects before having the financing in place. She noted that the City has two (2) projects that will be financed from revenue bonds. These will be utility extensions for the approved annexations and the Town Creek Outfall extension project on which the City has partnered with Rowan County.

Ms. Harris stated that the financing for these two (2) projects will be grouped together in order to secure better terms. She indicated that the Resolution is needed in order to reimburse the City for funds expended prior to the issuance of the revenue bonds.

Thereupon, Mr. Kennedy made a **motion** to adopt a Resolution of Declaration of Official Intent to reimburse expenditures regarding various water and sewer projects. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

#### DECLARATION OF OFFICIAL INTENT TO REIMBURSE EXPENDITURES.

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 31, and is known as Resolution No. 2008-19.)

#### **800 MHZ REBANDING PROJECT – NEXTEL**

(a) Mr. Terry Buff, Telecommunications Manager, stated that before Council is the Frequency Reconfiguration Agreement (FRA) that the City has negotiated with Nextel for the City's re-banding project. He explained that the Federal Communications Commission (FCC) has mandated that Sprint-Nextel clean up the 800 megahertz (MHz) spectrum. He noted that for the last year the City has been in a negotiation process with Nextel and has conducted an inventory of equipment, infrastructure at the tower site, and radios. He indicated that Nextel is willing to pay the City \$420,000 to perform the work of re-programming over two thousand four hundred (2,400) radios within one (1) year. He added that Nextel will replace two hundred forty-one (241) radios and the City will be responsible for the installation. Mr. Buff pointed out that the City would like to upgrade the replacement radios to digital at a cost of \$655 per radio and this expense will be paid with a portion of the \$420,000 received from Nextel. Mr. Buff stated that the project will start in June 2008.

Councilman Burgin clarified that the total cost of the re-banding project is \$963,000 with Nextel reimbursing the City \$420,000. Mr. Buff answered that the \$963,000 covers costs paid to other contractors in addition to Salisbury, including Motorola and the City's consultant. He noted that Nextel will replace over five (500) radios for the City and County at a cost of approximately \$3,000 each for a total of over \$1 million.

City Manager David Treme stated that this project will work to the City's advantage. He added that the City can replace the radios and move to digital while

having Sprint/Nextel pay to clean up the system. He indicated that he feels this is a good deal for Salisbury.

Mr. Buff indicated that the City's Police and Fire radios are the original radios from the 800 MHz installation in 1990 and this project will replace the eighteen (18) year old radios.

(b) Thereupon, Mr. Woodson made a **motion** to approve a contract in the amount of \$963,786 with Nextel for the City of Salisbury's 800 MHz re-banding project. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

(c) Thereupon, Mr. Woodson made a **motion** to adopt a budget Ordinance amendment for the FY2007-2008 budget in the amount of \$429,760 to appropriate revenues and expenditures for the 800 MHz re-banding project. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE REVENUES AND EXPENDITURES FOR THE 800 MHZ REBANDING PROJECT.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 54-55, and is known as Ordinance No. 2008-20.)

### **UPDATE ON EAST INNES STREET IMPROVEMENT PROJECT**

Ms. Lynn Raker, Urban Design Planner, stated that the installation of the East Innes Street Improvement Project was originally scheduled for fall 2007 and was postponed to winter 2008 by the North Carolina Department of Transportation (NCDOT) due to drought conditions. She pointed out that in January 2008 NCDOT advised the City that the work could possibly be postponed until fall 2009.

Ms. Raker explained that the City requested NCDOT to expedite the project if possible considering the high visibility of the location near I-85. NCDOT responded that North Carolina Governor Easley had not yet lifted the restrictions on planting and NCDOT would not be able to authorize planting projects until this restriction was lifted.

Ms. Raker stated that in April 2008 the City received correspondence from NCDOT authorizing a limited planting. She explained that it is too late in the spring season to begin the thirty (30) day bid process for the interchange plantings, but the median areas are ready for planting. She added that if the City could manage the planting, a contractor could begin work the end of May 2008 and complete the planting by the end of June 2008. She noted that the interchange areas are scheduled for planting in fall 2008.

## **BOARDS AND COMMISSIONS**

By consensus, Council agreed to discuss this item at its May 20, 2008 meeting.

### **COUNCIL COMMITTEE REPORT ON SPECIAL USE PERMIT SUP-01-08 – J&L SPORTS BAR, 206 SOUTH MAIN STREET**

SUP-01-08 J& L Sports Bar, 206 South Main Street

(a) **Swearing In**

Mayor Kluttz reminded Mr. David Phillips, Development Services Manager, that he is still under oath from the April 15, 2008 City Council meeting.

(b) **Receive Testimony**

Councilman Kennedy stated that he and Councilman Burgin met regarding the request for a special use permit from J&L Sports Bar. He noted that the meeting was attended by the applicant, Mr. Avery Allen; the applicant's attorney; and representatives from First United Methodist Church, Downtown Salisbury, Inc., and Historic Salisbury Foundation.

Mr. David Phillips, Public Services Manager, reported that at the April 15, 2008 City Council meeting it was stated that the sports bar is a permitted use provided that it receives a special use permit. He explained that the Land Development Ordinance (LDO) requires that the business not be within five hundred (500) feet of schools and there are no schools under the City's definition in this area.

Mr. Phillips pointed out that the special use permit request was sent to a Council Committee for review. He added that the committee raised concerns with the appearance of the building but could not take these concerns into consideration since the applicant is only renting the ground floor and does not suffer from the deterioration of the upper floors of the building. He indicated that the committee suggests that two (2) conditions be added to the permit:

- To require security personnel during business hours, especially outside to control noise when patrons are leaving
- To establish a posting inside the establishment which states that parking is not allowed to the rear of the structure adjacent to First United Methodist Church. All parking will be street parking

Mr. Phillips reported that the committee noted that City Council has the authority to rescind a special use permit should the permit be violated. He noted that there are six (6) items that if violated, can result in the permit being rescinded.

(c) Finding of Facts

Mr. Kennedy offered the following Findings of Fact:

1. The applicant, Mr. Avery Allen, 206 South Main Street, Salisbury, has applied for a Special Use Permit to establish a sports bar to be located at 206 South Main Street.
2. The property in question may be identified as the address 206 South Main Street on Parcel 567 as found on Rowan County Tax Map 010-1.
3. The property is currently zoned Downtown Mixed Use (DMX) with the Local Historic District Overlay (LHO).
4. That the DMX district allows the use of Bar/Tavern/Night Club with the issuance of a Special Use Permit.
5. The definition of a Bar/Tavern/Night Club as defined in Chapter 18 Definitions-Use Definitions is as follows:

**Bar/Tavern/Nightclub:** A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery and other beverage tasting facilities. Entertainment including live music, and/or dancing, comedy, etc. may also be included.

6. As per Section 3.3 Additional Standards Per Use subsection D requires the additional condition:

**D. Bar/Tavern/Night Club** – For NMX, CMX, DMX, & HB only

No such facility shall be located within five hundred (500) feet of any lot containing a school.

7. There are no schools within 500 feet of the property
8. General requirements for evaluation and approval of the Special Use Permit are as follows:  
Shall be governed by quasi-judicial proceedings, which are based upon the sworn testimony and evidence presented at the hearing relevant to the following standards:

- a. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
  - b. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
  - c. 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.
9. The recommendation of the Salisbury Planning Board to the Salisbury City Council is approval of special use permit as submitted with no conditions.
10. City Council held a public hearing on April 15, 2008 regarding SUP-01-08.
11. The request for the special use permit was sent to a Council Committee (Councilman Burgin and Councilman Kennedy).
12. The Committee met on May 6, 2008 with the applicant and his legal representative.
13. The Committee noted that bars/tavern/night clubs are permitted in the DMX district but the City's past experience with such uses near residential uses have not been favorable.
14. Using other similar establishments as guidelines, the Committee suggest that the following conditions be attached to SUP-01-08:
- To have security personnel on site during business hours to help maintain outside noise.
  - To post in the establishment that patrons are not allowed to park in the rear parking area next to the church.
15. The City Council may rescind or terminate the special use permit if any of the following occur:
- a) Non-compliance with adopted conditions.
  - b) Expressed diminution of value of surrounding properties that may only be found during the evidentiary hearing and made a part of the Findings of Fact.
  - c) Expressed negative effects related to the general safety, health, and welfare of the surrounding community, which may only be found during the evidentiary hearing and made a part of the Findings of Fact.

- d) Recorded and repeated Code violations.
- e) Any non-conformity created by amortization of the permitted use which would only be established as a condition of the permit.
- f) Any zoning map amendment to a zoning district that would create a non-conformity between the district and associated permit.

(d) Decision

Thereupon, Mr. Kennedy made a **motion** to approve the special zoning permit for the J&R Sports Bar at 206 South Main Street with the Findings of Facts. Mr. Burgin seconded the motion and noted the Facts do include those two (2) conditions. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

**COMMENTS FROM THE CITY MANAGER**

(a) Donation for Tasers

Police Chief Mark Wilhelm stated that a private donor has provided funding for the purchase of four (4) tasers for the Police Department. He indicated that field supervisors on each squad have been trained and will be equipped with a taser.

(b) FY2008-2009 Proposed Budget Presentation

City Manager David Treme presented to Council the FY2008-2009 proposed budget. He indicated that he feels that setting priorities will be very important this year and pointed out that it has become clear that the City will not be able to meet all of the requests that have been submitted. He noted that his first priority was to maintain the existing levels of service and then review what type of items were funded or not funded in terms of City Council goals.

Mr. Treme stated that he challenged City staff to prepare a budget that used only current income. He shared with Council the highlights of the budget:

- General Fund - Maintain existing tax rate of \$.59
  - Balanced on current revenue, no new revenue
  - Expecting a small growth in sales tax
  - Income for the City not expected to increase
- Water and Sewer Fund - Recommend 9.7% average residential water and sewer increase
  - Impacted by area water conservation and increased costs for construction, supplies and chemicals



- Recommend Cemetery Strategic Plan for increase in fees
  - Includes proposal for one (1) new position
- Recommend a solid waste fee increase for recycling, landfill and front-end collection
  - Impacted by increase in petroleum prices
- Recommend funding for a market compensation study
  - Exit interviews indicates the City is not competitive within its labor market

Mr. Treme commented that at one time the John Locke Foundation listed Salisbury as 13<sup>th</sup> among the top 25 cities in regards to tax efforts. He noted that now the City is ranked 19<sup>th</sup> among 29 cities. He added that the overall effort, in terms of income, for the value of the City is down compared to other cities.

- Recommend an average 3% merit pay increase for all City employees
  - An increase in healthcare costs projected to be 1.9%
- Recommend funding for continued Goal projects –
  - Cultural Action Plan
  - Wayfinding signs
  - North Main Street Project
  - Art and History Trail
  - \$35,000 for improvements related to the Railwalk project on North Lee Street
  - \$2 million in lease purchase financing for deferred maintenance items
  - Parks and Recreation Master Plan
- Recommend three (3) new positions – each has offsetting revenues
  - Radio Technician
  - Cemetery Equipment Operator
  - Automotive Service Technician

Mr. Treme pointed out that the budget does not provide funding for the Fiber-To-The-Home project because all of the funding will be included in project financing.

Mr. Treme noted that staff reviewed the increased fuel costs to the Transit System. He indicated that possible ways to offset these increases are to reduce the routes, transfer funds from the general fund to the transit fund, or a fee increase. He noted that he recommends a transit fee increase.

Mr. Treme stated that he is only recommending three (3) new positions for the City. He commented that many other positions were requested to maintain current levels of service but given that the overall driving factor was to use current revenue he could not include these positions in the budget. He added that Council may want to review these positions and check behind him to see if there are some things that are more important that need to be included.

Mayor Kluttz stated that a public hearing on the budget will be held on May 20, 2008 at 4:00 pm. By consensus Council scheduled budget work sessions on Tuesday, May 27, 2008 at 12:00 p.m. and Thursday, May 29, 2008 at 10:00 a.m. in Council Chambers.

Mr. Treme stated that if Council has questions to call him and he will provide information to Council members before the budget work session.

Thereupon, Mr. Kennedy made a **motion** to set a proposed budget public hearing for May 20, 2008 at 4:00 p.m. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **MAYOR'S ANNOUNCEMENTS**

(a) Spring Night Out

Mayor Kluttz announced that Downtown Salisbury, Inc. will host "Spring Night Out" Friday, May 9, 2008 from 5:00 p.m. until 10:00 p.m. in downtown Salisbury.

(b) Historic Preservation Month Coloring Contest

Mayor Kluttz announced that the Historic Preservation Commission will sponsor a coloring contest during the month of May to celebrate National Preservation Month. Contest entry forms are available online at [www.salisburync.gov](http://www.salisburync.gov).

(c) Election Day

Mayor Kluttz announced that today is election day and encouraged all citizens to vote.

(d) Salisbury Police Department and Salisbury Historic Foundation

Mayor Kluttz thanked Police Chief Mark Wilhelm, the Salisbury Police Department and Mr. Jack Thomson with the Historic Salisbury Foundation for their help during Senator Hillary Clinton's visit to Salisbury April 28, 2008. She stated that in the last several weeks Salisbury has received visits from former President Bill Clinton and actors Mr. George Clooney and Ms. Renee Zellweger. She stated that our police department does an excellent job providing security during such events.

### **NATIONAL LEAGUE OF CITIES**

Mayor Pro Tem Woodson stated that he attended the National League of Cities Seminar on Economic Development recruitment. He stated that two (2) of the four (4) speakers stated that providing high-speed fiber to the home, businesses, and internet is

one of the key services a city can offer to bring in young professionals and small businesses.

### **CLOSED SESSION**

Mayor Kluttz asked for a motion to go into closed session regarding condemnation of water and sewer easements located on Tax Maps and Parcels 471 011, 471 072, 471 054, 471 044, 471 003, 469 024, 469 018, 469A 034, and 406 010 as allowed by NCGS 143-318.11(5).

Thereupon, Mr. Kennedy made a **motion** for the just read item. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **RETURN TO OPEN SESSION**

Thereupon, Mr. Woodson made a **motion** to return to open session. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

Thereupon, Mr. Burgin made a **motion** authorizing the City Attorney to begin condemnation on several properties for the purpose of water and sewer extensions in the 2006 Annexation Phase II and the Toyota Racing Development sanitary sewer extension. Parcel identifications are 471 011, 471 072, 471 054, 471 044, 469 024, 469 018, 469A 034, and 406 010. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **ADJOURNMENT**

**Motion** to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 5:46 p.m.

---

Mayor

---

City Clerk