

Salisbury, North Carolina
August 19, 2008

REGULAR MEETING

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

ABSENT: None

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

PLEDGE OF ALLEGIANCE

Mayor Kluttz stated that she recently had the opportunity to meet the United States Secretary of the Army in Charlotte, North Carolina. She noted that he was there to honor members of the Army National Guard in the region who are serving the United States in the conflict in Iraq. She indicated that she was proud to represent Salisbury as a military City who is home to the Veterans Hospital, Veterans Cemetery and National Cemetery. Mayor Kluttz pointed out that Salisbury currently has two military units, the United States Army Reserve 846th and United States Army Reserve 991st Transportation Unit, who have been deployed to serve in Iraq. She added that the 846th Transportation Unit is currently in Kuwait and is scheduled to return home April or May 2009. She noted that the 991st Transportation Unit is currently in mobilization and will leave for Kuwait during September 2008 and will return home July or August 2009.

Mayor Kluttz asked those present to keep these units, their families and others who are serving in the military in their thoughts and prayers as she led in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

RECOGNIZE – POSITIVE YOUTH INITIATIVES

(a) Project SAFE Neighborhood Family Day

Ms. Jackie Harris and Ms. Teresa Vinson, Project SAFE Community Intervention Team members, informed Council that the third Project SAFE Neighborhood Family Day will be held Saturday, August 23, 2008 between 10:00 a.m. and 2:00 p.m. at the Hurley Family YMCA.

Ms. Harris stated that a large crowd is expected for this event. She noted that the event is targeting kindergarten through fifth grade children with educational sessions for both parents and children. She added that lunch will be provided and door prizes will be given away.

Ms. Vinson stated that there will be many fun filled activities for the children as well as educational activities. She indicated that this is Project SAFE's largest prevention effort of the year and pointed out that the event will also provide games, moon bounce, and arts and crafts. She added that the Salisbury Police Department will present sessions on internet safety and Police Are Your Friends. Ms. Vinson mentioned that the Salisbury Police Department, the North Carolina Highway Patrol and the Salisbury Fire Department will all have vehicles and equipment on display.

Ms. Harris stated that the parents will be provided programs to enable them to be aware of what they should be looking for in gang and drug prevention.

Mayor Kluttz announced that this event is open to all residents of Salisbury and Rowan County. She thanked Ms. Harris, Ms. Vinson, and the Project Safe Community Intervention Team and United Way for their efforts toward this event.

(b) Healthy Parenting Committee – Healthy Families Video

Mr. Tom Brewer, Children Services Program Administrator and member of the Healthy Parenting Committee, and Ms. Carol Dunlap, Director of The Terri Hess House Child Advocacy Center and member of the Healthy Parenting Committee, addressed Council regarding the Healthy Parenting Committee and a Healthy Families Video.

Mr. Brewer stated that the Rowan County Department Social Services (DSS) Board has been active in sponsoring community roundtables to discuss issues of concern for the community. He indicated that the Board held a roundtable discussion in October 2007 in regards to parenting, with a concentration on discipline. He noted that, as a result of the roundtable discussions, a committee was developed to find a way to process this information into a video that would be long lasting and could be shared with the

community. Mr. Brewer recognized Ms. Sandra Wilkes, DSS Director, who served as Chairperson of the committee.

Ms. Dunlap stated informed Council that the Robertson Foundation awarded the Committee a \$6,500 grant to develop a video that could be made locally and be used long term. She added that the grant was also used to hold a community event to promote the video and that the event was held in conjunction with a Downtown Salisbury, Inc. Friday Night Out. She estimated that 300 citizens came through their area to view the video and 12 agencies set up areas to give out information. Ms. Dunlap indicated that Miller Davis Studios produced the video and that it is scheduled to play on Access Channel 16 daily at 5:30 p.m.

Mayor Klutz thanked the committee, the Robertson Foundation, Mr. Jason Parks, Ms. Karen Wilkinson and Mr. Doug Paris who worked to coordinate the schedule to play the video on Access Channel 16. She indicated that the end of the video has contact information for various agencies and noted that this is a wonderful tool for parenting.

(c) Rowan-Salisbury Schools – Safe Schools/Healthy Student Grant

Dr. Judy Grissom, Rowan-Salisbury School Superintendent, Mr. Tim Smith, Director of Student Services, addressed Council regarding a Safe Schools/Healthy Student Grant.

Dr. Grissom stated that the Rowan-Salisbury School System received a Federal grant for \$6 million to be distributed over a four year period. She pointed out that Mr. Smith was one of the authors of the grant and asked him to review its highlights.

Mr. Smith stated that the Learning, Intervention, Nurturing, Knowledge and Student Achievement (LINKS) Grant is not only for the schools but for the entire community and cannot succeed without community involvement. Mr. Smith shared the five grant goals that need to be addressed:

- Safe school environment and violence prevention activities
- Alcohol, tobacco and other drug prevention activities
- Student behavior, social and emotional supports
- Mental health services for youth
- Early childhood social and emotional learning programs for youth

Mr. Smith pointed out that these five elements will be addressed and a grant project coordinator will be hired. He indicated that through this grant the school system is looking forward to enhancing partnerships with the community.

Mayor Klutz stated that leaders across the State have found that gang prevention measures start at the elementary school level. She added that the sooner troubled youth can be approached the sooner they can receive the help they need. She indicated that the

City is grateful to the school system for taking the time to apply for and administer the grant.

Dr. Grissom indicated that they hope to come back and share the different initiatives as they get started.

(d) Lutheran Services for the Aging

Mr. Ted Goins, representing Lutheran Services for the Aging (LSA), stated that their mission is to express God's word in Christ to those they serve and noted that the citizens of the community are the most important part of their services. He pointed out that Salisbury is home to the corporate offices of the statewide ministry and home to the largest and most comprehensive services. He recognized LSA team members Ms. Barbara Garwood, Executive Director of Abundant Living Adult Day Services; Mr. Bill Johnson, Administrator of the Lutheran Home at Trinity Oaks; Mr. Mike Walsh, Executive Director of Trinity Oaks; Ms. Marianne Johnson, Director of Church and Community Relations; and Ms. Deborah Mathis, Chief Operating Officer.

Mr. Goins stated that LSA has grown into the largest faith-based long-term care provider in the State of North Carolina and they serve all who need care even though they are sponsored by the Lutheran Church. He indicated that their 2007 budget was over \$7 million, and that they wrote off over \$5 million caring for the poor through Medicaid services. He added that they employ over 300 citizens in the community. He noted that LSA has built a new facility for Alzheimer's care at Trinity Oaks and an Abundant Adult Day Care Center on Martin Luther King Jr. Avenue. Mr. Goins indicated that the public puts their trust in LSA as a faith-based, not-for-profit organization and they are happy to share their story and services with Council.

Mayor Kluttz thanked the Lutheran Services for the Aging for the excellent job they do. She indicated that they are an important part of the community who focuses on our older citizens.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of August 5, 2008.

(b) Temporary Street Closing – September 11 Memorial Service

Close South Old Main Street to Main Street and "A" Avenue Thursday, September 11, 2008 from 8:45 a.m. until 10:30 a.m. for the Annual September 11 Memorial Service.

(c) Parks and Recreation Pricing Policy

Approve changes to the Parks and Recreation Revenue and Pricing Policy.

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

ZONING MAP AMENDMENT – CD-7-03-08 HENDRIX BARBECUE

(a) Mr. Preston Mitchell, Senior Planner, indicated that this particular Conditional District case is tied to two older cases which were approved under the old zoning ordinance. He conducted an overview of the Conditional District overlay standards and stated that the petitioner must be the owner of the property and this condition has been met. He added that the content of the petition must include the rezoning request and a master plan, both of which have been submitted. Mr. Mitchell also stated that fair and reasonable conditions may be recommended by the Planning Board and can be included in the Ordinance if adopted by City Council.

Mr. Mitchell stated that the request is to enlarge an existing Conditional District overlay boundary to include all three parcels associated with Hendrix Barbecue and to amend the previously approved group development site plan to construct a driveway to Ashbrook Road. Mr. Mitchell noted that the site, and the surrounding area, is currently zoned Neighborhood Mixed-Use (NMX). He also noted that there is no proposal to change the existing structure or parking lot and that the only physical change is the proposal to add the connection to Ashbrook Road.

Mr. Mitchell reviewed the property site plan and ground photos of the area noting where the connection would be located. He stated that there are no requests for alternative designs and the proposal will meet the Land Development Ordinance as written.

Mr. Mitchell reviewed the history of the site:

- Petition filed November 20, 2003 to rezone property adjacent to existing restaurant from R-20 to BRT-S based on need for parking that was lost due to NCDOT widening project.
- Planning Board recommended approval with conditions and City Council adopted an S-District rezoning ordinance with the following conditions:
 - R-20 uses or parking lot for adjacent restaurant
 - Site Plan review for proposed parking lot
- Much discussion on the Ashbrook Road connection at the 2003/2004 Planning Board & City Council hearings, but no permanent access was granted by rezoning

- NCDOT found it necessary to maintain a temporary driveway to Ashbrook during construction.
- 2006: City Council requested NCDOT to remove temporary driveway connection when construction permitted.

Mr. Mitchell also reviewed the Technical Review Committee's (TRC) recommendations. He stated that the TRC had two recommendations and they were that shrubs be placed between the street yard trees to screen parked vehicles and that the existing dumpster be placed within a dumpster enclosure. He also stated that the petitioner voluntarily added the shrubs and no action has been taken on enclosing the dumpster.

Mayor Kluttz indicated that Council had discussed this issue in the past, and asked Councilman Lewis to give background information on the history of the area including the actions taken.

Councilman Lewis reviewed the history timeline of the area.

- 1966 – Subdivision Restrictive Covenants were recorded and the second covenant states: “All of said lots shown on the map of “Westcliffe” shall be known as residential lots and no structure shall be erected, altered, placed or permitted to remain on any residential building lot other than one detached single family residential dwelling.”
- 12/8/89 – Billy Garris purchases 2488 Statesville Boulevard.
- 1993 – Highway 70 Widening Project first placed on the Statewide Transportation Improvement Plan. Pre-construction funding (surveying, right-of-way acquisition, etc) to begin 2000. Construction to begin 2002
- 08/25/97 – Billy Garris “sells” property to Garris Brothers, LLP
- 05/15/01 – Original property rezoned by Council from B-CS to B-RT District. Owner wanted to add square footage that exceeded 2000 square foot maximum allowed in B-CS. City Council Approved 5-0
- 03/2/04 – Corner parcel rezoned from R-20 to B-RT-S. Allowed uses were all R-20 uses plus parking lot for the adjoining restaurant. The Special Condition for the case required a site plan review for the proposed parking lot. City Council Approved 5-0
- 06/15/04 – Owner submitted site plan for City Council Approval. Plan included access to Ashbrook Road. Submittal was referred to a Council Committee consisting of Bill Burgin and Mark Lewis

- 07/26/04 – Council Committee recommended approval of the site plan as submitted without curb cut on Ashbrook Road. City Council Approved 5-0
- 04/18/06 – Council received a staff report from Traffic Engineer Wendy Brindle regarding the “temporary driveway” on Ashbrook Road and an analysis of traffic volume. City Council voted 5-0 to ask North Carolina Department Of Transportation (NCDOT) to remove temporary driveway
- 05/2/06 – Councilman Lewis reported to the City Council that the Westcliffe Neighborhood Association met regarding the curb cut from Hendrix Barbecue to Ashbrook Road and voted not to support the curb cut. The Association expressed their appreciation for Council’s support
- 06/6/06 – Councilman Burgin requested staff to report on the Hendrix Barbecue driveway on Highway 70 at the next Council meeting
- 06/8/06 – Garris Brothers, LLP “sells” to T. Garris Properties, LLC
- 06/20/06 – Land Management and Development Director, Dan Mikkelson gave Council a complete history of this case including NCDOT’s actions during the Highway 70 Widening. City Council voted 5-0 to have the driveway removed consistent with the approved site plan as soon as possible
- 07/5/06 – City Manager, Dave Treme reported to Council that the NCDOT had agreed to remove the driveway at Hendrix Barbecue and Ashbrook Road
- 04/20/07 – Councilman Lewis noted a concern regarding Hendrix Barbecue and the access that has been installed at Ashbrook Road. Councilman Burgin commented that he visited the site and it is a prepared driveway and not a cut-through path. Mr. Lewis asked staff to report back to Council on this matter
- 05/1/07 – Zoning Administrator, David Phillips reported that staff received several inquiries regarding a driveway being used for access from Hendrix Barbecue to Ashbrook Road. Council reviewed photos that confirmed a gravel driveway was in place
- 08/19/08 – Council receives a Conditional District amendment for Hendrix Barbecue property

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on proposed zoning map amendment CD-7-03-08.

Mayor Kluttz asked for those who wished to speak in support of the proposal to please come forward.

Mr. Rodney Queen, 101 Polo Drive, stated that he feels there is a misconception that this driveway will create a shortcut or that the cut-through will create a traffic hazard. Mr. Queen stated he feels that when leaving the restaurant and returning to Salisbury the four lanes on Statesville Boulevard create a hazard. He also stated that if a driveway is cut onto Ashbrook Road, traffic will have an opportunity to stage their turns to come back toward Salisbury. Mr. Queen stated that this cut-through will create a safer situation.

Mr. Michael Cross, 105 Sycamore Road, indicated that as a resident of Westcliffe it is an inconvenience to patronize Hendrix Barbecue due to the u-turns. He stated that because there is a stop light on Ashbrook Road a cut-through would not be an issue. Mr. Cross further indicated that during busy times it is impossible to get into the left turning lane in order to drive toward Salisbury.

Mr. Joe Padgett, 1360 Richard Road, noted that not all Westcliffe residents are members of the neighborhood association and he does not believe they all support denying the driveway. He also stated that traffic is dangerous in this area as people are trying to make u-turns. He feels safety is the issue and that this will lessen the opportunity for crashes to occur.

Mr. Ben Davis, 403 Ashbrook Road, stated that he lives approximately three-tenths of a mile from Hendrix Barbecue and has lived there for over 30 years. He stated that he is speaking in support of opening a driveway. He noted that when construction of Highway 70 began it took away access to the restaurant and now with the concrete medians it makes it more difficult to get into the restaurant. He stated that the entrance from the restaurant to Ashbrook Road was easy access. Mr. Davis also noted that there will be more opportunity for accidents by exiting onto Highway 70 rather than exiting onto Ashbrook Road.

Mr. John Knox, 103 Ashbrook Road, stated that he lives right next door to the proposed opening. He stated that he does not have a problem with the opening and that he has observed busy Saturday traffic using the traffic light and it has not been an issue. He also stated that he would like a few more seconds on the traffic light to allow more cars to clear the intersection. He indicated that with his home being in such close proximity to Hendrix Barbecue if he saw a problem he would be the first to speak out against the driveway. Mr. Knox noted that Mr. Garris has been a good neighbor and he has not had any problems since the parking lot has been there.

Ms. Desiree' Cross, 105 Sycamore Road, stated that she wants to show support for Mr. Garris, because she feels he has created job opportunities for her fellow students at West Rowan and she feels that opening the driveway would allow him more money to put back into the community.

Ms. Casey French, Woodland Creek Apartments, stated that she has worked at Hendrix Barbecue for almost five years and most customers feel that it is not safe to cross the highway. She stated that most of the customers who visit are over 50 and cutting across traffic is not safe for them. She also stated that this has adversely affected the business and sales are down. She concluded that safety should be the bottom line and Council should support local businesses and do all it can to keep them in business.

Ms. Cathy McKinney, 2320 Hobson Road, stated that she has worked for Hendrix Barbecue for two and one half years. She stated that once construction started business declined and now that construction is finished business is still down because it is so hard for people to get to the restaurant. She noted that she would like to see the driveway opened so she can get to and from work safely.

Mr. Brad McKinney, 2320 Hobson Road, stated that Mr. Garris has sponsored his t-ball team for the past few years. He also stated that after games several families go to Hendrix Barbecue and he is concerned about traffic getting into the restaurant.

Ms. Brittany Proctor, 407 Willow Road, stated that she feels that the driveway should be opened for her safety going to and from work and for the safety of her customers.

Ms. Lauren McKinney, 404 White Oak Drive, stated that she just started school Monday and works for Hendrix Barbecue and has to make several u-turns each way in order to get to work on time or to school on time.

Mr. Harry Lippard, 145 Majolica Road, stated that he is the President of the Hendrix Estates Homeowners Association and that he has not spoken with anyone in the development who is opposed to the driveway. Mr. Lippard concluded that this would give patrons the opportunity to drive directly across Highway 70 instead of having to cross two lanes of traffic.

Mr. Dave McKinney, 404 White Oak Drive, stated that he has a daughter and daughter-in-law that work for Hendrix Barbecue and his main concern is for their safety. He also stated that the driveway will ensure the safety of the employees getting to and from work. He added that the median has reduced Mr. Garris' potential customer base and has forced him to try and come up with an option to save his business and provide safety for his customers.

Mr. Ralph Shatterly, 106 Elmwood Drive, indicated that he has lived in Westcliffe for the last 25 years and wants to stay there for the rest of his life. Mr. Shatterly stated that he does not think allowing the entrance onto Ashbrook Road will increase traffic in the neighborhood.

Ms. Brenda Foil, 150 Magnolia Circle (Hendrix Estates), stated that she and her husband are retired and they dine at Hendrix Barbecue frequently. Ms. Foil stated that she has to make the u-turns and they are very difficult to maneuver. She added that there

are very few people who can make those u-turns without backing up. She indicated that there are several Highway Patrolman, City Police, Firemen, and EMS personnel who patronize Hendrix Barbecue and when there is an emergency call they also have to maneuver these u-turns. She noted that if the emergency personnel were in the parking lot, they would be able to exit through the driveway and proceed quickly.

Mr. Tim Burns, 2550 Parks Road, stated that he is in favor of the driveway because his parents have fought this median since the beginning. He commented that his family owns a business along Highway 70 and fought hard to get a turn lane. He also stated that the medians cause a loss of revenue for any business that is blocked in. He indicated that he is a Driver's Education teacher and the children that he teaches become very confused and anxious on multi-lane highways. Mr. Burns also indicated that this is a major problem and he would like to see these intersections fixed.

Mr. C.F. Killian, 120 Tree Top Court, stated that he works on Highway 70 as a Highway Patrolman and that he has clocked vehicles traveling at more than 15 miles over the posted speed limit of 45 miles per hour. Mr. Killian also stated that vehicles attempting the u-turn to access Hendrix Barbecue will have a difficult time with vehicles coming down Highway 70 at high rates of speed. He indicated that it will be a matter of time before something tragic happens. He concluded by saying that he feels this driveway would reduce traffic exiting onto Highway 70.

Mr. Jake Hawke, 112 Elmwood Drive, indicated that he does not notice a difference in the traffic flow. He stated that he feels this is a safety issue.

Mr. John Dees, 121 E Kerr Street, submitted exhibits A through N to the City Clerk. He indicated that he is the attorney for Hendrix Barbecue and he referenced the following exhibits:

- Exhibit E- April 10, 2006 Staff Report indicate no significant change in traffic since driveway had been installed.
- Exhibit D Interagency Memo dated January 19, 2006 indicating that the North Carolina State Highway Patrol and the Salisbury Police Department agreed that traffic safety improved greatly due to the temporary entrance.
- Exhibit G An email from NCDOT Engineer, Pat Ivey stating that the NCDOT made efforts to convince the City of Salisbury that the access to Ashbrook Road was needed to improve safety conditions.
- Exhibit H Staff Presentation that indicated four agencies including City staff addressed the need for the access to improve safety conditions.
- Exhibit M Minutes from March 2, 2004 City Council meeting indicating that Mayor Pro-Tem Woodson stated that Council needed to help Hendrix Barbecue.

Exhibit N Minutes from June 15, 2004 City Council meeting noting that Mayor Kluttz stated that Council has been a strong supporter of neighborhoods but from a planning and safety standpoint the safety issue would need to come first.

Mr. Dees concluded by stating that approving this access is not only consistent with Council's prior comments and decisions but it is consistent with Council's policies and ordinances and promotes public safety.

Mr. Tim Garris, owner Hendrix Barbecue, 2488 Statesville Boulevard, stated that his business opened in 1954 and has been in his family since 1989. He also stated that he has two petitions, one with 3500 signatures from patrons of his restaurant and another from residents of the Westcliffe Neighborhood who support the driveway. He noted that during road construction his business fell approximately 30%, and he indicated that it was a struggle. Mr. Garris stated that once the construction was complete he thought things would return to normal, but they did not. He concluded by stating that he does not want to present a problem for the Westcliffe neighborhood but he wants to be part of the neighborhood. Mr. Garris then presented his petitions to the City Clerk.

Mayor Kluttz then asked for those who wished to speak in opposition to the proposal to please come forward

Mr. Jimmy Greene, 404 Willow Road, reviewed a timeline of events that have occurred regarding the Hendrix Barbecue issue. He stated that in 2003 Mr. Garris' attorney approached the neighborhood regarding Mr. Garris' proposal to purchase a corner lot and have it rezoned to commercial use in order to construct a parking lot. He noted that the neighborhood had existing covenants that would have legally blocked the rezoning at that time, but the neighborhood had a majority vote supporting Mr. Garris' request to add the parking lot. He added that although the neighborhood supported Mr. Garris' request for a parking lot, they were vehemently opposed to any entrances or exits into the neighborhood. Mr. Greene stated that the neighborhood was very sympathetic to Mr. Garris' needs and wanted to be good neighbors by allowing him to continue his business and have his parking lot, but the neighborhood is not willing to budge on the issue of an entrance onto Ashbrook Road. He indicated that there has been erroneous information provided and that the Highway Patrol does not support this issue. Mr. Greene noted that he would like City Council to stand behind their original decision.

Mr. Nick Langdon, 402 White Oaks Drive, indicated that he supports the Westcliffe neighborhood position against the driveway. He also indicated that in 2003 Mr. Garris met with Westcliffe residents to discuss his need for additional parking that was lost due to the highway widening project. He stated that Westcliffe agreed not to contest Mr. Garris' special zoning request provided that the property was used for a parking lot only, there would be no entrance or exit onto Ashbrook Road, there would be no commercial signage, and that appropriate perimeter buffering would be installed. Mr. Langdon concluded by asking the City Council to unanimously support Westcliffe.

Mr. Mark Dinse, 2555 Enon Church Road, stated that he has been the Westcliffe Association president for the past year. He stated that during his time as President he has not received any calls or emails in support of the driveway, but he has received several complaints about large trucks using the makeshift driveway. Mr. Dinse indicated that he has met with the Highway Patrol and they have stated that they have no position on this.

Mr. Jimmy Mason, 205 Willow Road, stated that 58 people attended the original neighborhood meeting to vote on the parking lot issue and he noted that 11 votes were for no parking lot, 34 votes were for a parking lot without an entrance, and 13 were for parking lot with an entrance but no exit. Mr. Mason stated that Westcliffe Neighborhood Association members were accused of skewing the numbers in their favor. He indicated that the Westcliffe Association board met in July and decided to go to every home in Westcliffe to poll residents on whether they were for or against the driveway. There are 176 homes in the neighborhood with 10 being vacant, and of the 166 remaining homes, 116 signed the petition against the driveway, 19 signed in favor of it. He stated that there were five homes that had no opinion and 26 homes that had no contact. Mr. Mason concluded by asking Council to vote the same today as they have in the past. He then presented a copy of his petition to the City Clerk.

Ms. Jill McNeely, 306 White Oaks Drive, noted that the reasons the original approval without a driveway was given still remain today. She stated that no one denies that Mr. Garris' business was affected by Highway 70 widening, and added that there have been no fatalities or numbers given to indicate an increase in accidents.

Ms. Wilma Floss, 403 White Oaks Drive, indicated that there are only two car lengths between Highway 70 and the proposed driveway and that traffic turning to the right will collide with traffic coming in and out of the driveway. Ms. Floss also indicated that the streets in Westcliffe would not be able to accommodate such heavy trucks and traffic.

Mr. Richard Green, 418 Willow Road, asked that Council not give Hendrix Barbecue access through Ashbrook Road. He stated that he feels the streets are crowded enough and that they will become more dangerous for the residents of Westcliffe. Mr. Green noted that there is a retired couple that lives directly across from the proposed driveway, and that giving access for commercial use in front of a residential piece of property is not at the best interest of the residents.

Mr. John Callicott, 210 Sycamore, stated that he and his wife were in near accidents with drivers exiting the temporary driveway.

Ms. Elisa Mason, 205 Willow Road, stated that she has been a resident of Westcliffe for six years and five of those years have been spent dealing with the Hendrix Barbecue issue. She noted that she is a past president of the Westcliffe Neighborhood Association and that she has never received a call from a Westcliffe resident in favor of this driveway. She also noted that neighbors have asked the Westcliffe board for

assistance with the illegal entrance and exit from the driveway. She concluded by asking the City Council to vote as they have in the past.

Mr. Daniel Dougherty, 100A Willow Road, stated that he is a resident of Westcliffe that voted for Hendrix Barbecue to have the parking lot, but not an exit. Mr. Dougherty noted that the view from the driveway is very limited because of the curve, and cars coming down Ashbrook Road cannot be seen by cars in the driveway.

Ms. Donna Green, 404 Willow Road, stated that she has been in the car with her children to have them scream as someone tries to use the turning lane to cross from the Hendrix Barbecue exit. She indicated that this is a safety issue.

Mr. Len Clark, 202 Cedarwood Drive, noted that he has lived in Westcliffe for the past 25 years. He stated that the information originally received from the NCDOT was that the drive should be at least 100 feet from a main intersection. Mr. Clark stated that this driveway is approximately 25 feet from Hwy 70. He noted that Westcliffe has given up its beautiful entrance and trees so that Mr. Garris could have a parking lot. He concluded by stating that if this was Council's neighborhood they would want something done.

Mr. Chris Benton, 218 Cedarwood Drive, stated that he does not want anyone who cannot make a legal u-turn having access into the neighborhood. He noted that commercial businesses should not have priority over a neighborhood. Mr. Benton urged Council to remain with its past decision.

Mr. Doug Kelly, 416 Willow Road, stated that Mr. Garris' fight is with NCDOT and not the people of Westcliffe. Mr. Kelly indicated that the neighborhood has tried to accommodate Mr. Garris and he feels that City Council is the only one who has listened to the residents of Westcliffe.

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

Councilman Kennedy acknowledged his previous votes in favor of closing the temporary driveway. He stated that he has had to make the right turn, cross traffic, and make a u-turn in order to go into Hendrix Barbecue. He also stated that staff experts who have training in traffic control have said that this road should be opened because of the flow of traffic. He indicated that he is concerned about the citizens of Salisbury, and that he feels uneasy about the situation after having experienced the safety factor himself. Mr. Kennedy stated that at this time he has more information on the situation and he supports opening the driveway.

Mayor Kluttz asked Traffic Engineer Wendy Brindle if this is truly a safety issue. Ms. Wendy Brindle responded that neither option is inherently unsafe from a traffic standpoint. She also stated that the driveway onto Ashbrook Road is the preferred means of ingress and egress because the signal can be used to access Highway 70. Mayor Kluttz

asked if one option was safer than the other. Ms. Brindle stated that it does not come down to just a safety issue.

Councilman Burgin stated that this has been a difficult case because Council has tried to promote safety. He also stated that Council was assured by NCDOT that they would provide u-turns that were both spaced conveniently and have additional bulges for easy turns. He noted that Council also fought NCDOT to align Majolica Road with Ashbrook Road and to add the stop light. Mr. Burgin stated that the safety standard has been met, regardless of how Council votes. He indicated that Council made an agreement with Westcliffe residents not to allow access onto Ashbrook Road and he will honor that agreement. Mr. Burgin commented that he listened for evidence that would convince him to change his previous vote, but has not heard it and he cannot support the zoning.

Mayor Kluttz stated that the reason she asked the question about safety is because she expected to hear why safety is the issue, but she has not clearly heard that having the entrance will make everything much safer. She stated that the site of the proposed entrance is very close to the intersection at Highway 70 and she is not convinced that this is a definite safety issue. Mayor Kluttz indicated that people who invested in the Westcliffe neighborhood did so with a promise of restricted covenants. She noted that Council made a decision on this issue five years ago, being very careful to be fair to everyone. She noted that a Council Committee took time to study the issue and a decision was made not to allow the driveway. Mayor Kluttz stated that if she had heard anything differently she would be willing to change her vote, but she has not heard anything that would convince her otherwise.

Mr. Kennedy asked if other members of Council had attempted the u-turns in question. Each member of Council indicated that they had.

Councilman Lewis stated that he understands that safety is important to everyone involved. He also commented that in some instances, Council can rely on national traffic studies to come to conclusions in cases such as this, but that this was not the case with this issue. He noted that he drives a Sport Utility Vehicle (SUV) and has navigated the u-turns without incident. Mr. Lewis indicated that he feels the issue is the agreement, and he could not renege on that agreement. He stated that the community trusted Council back when the rezoning was presented and that the neighborhood was not intended for commercial use when it was established.

Mayor Pro Tem Woodson stated that does not think the median is causing Mr. Garris to lose business and that most businesses are slow because of the economy. Mr. Woodson indicated that he may not have voted for the medians seeing the way they are now, but he could only vote from the information that was provided to Council when the medians were proposed. He noted that he is going to support the agreement that was previously made by Council on this issue and that he cannot support opening the driveway.

(c) Mr. Lewis stated that the City of Salisbury hereby finds and determines that denial of the Land Development Ordinance map amendment is consistent with the adopted Vision 2020 Comprehensive Plan and that denial of the map amendment is reasonable and in the public interest, as a result, the denial furthers the goals, objectives, and policies for growth and development of the City of Salisbury. Thereupon, Mr. Lewis made a **motion** to deny Land Development Ordinance map amendment CD-7-03-08. Mr. Burgin seconded the motion. Messrs. Burgin, Lewis, Woodson, and Ms. Kluttz voted AYE, Mr. Kennedy voted NAY (4-1).

APPLICATION APPROVAL – JUSTICE ASSISTANCE GRANT AWARD

Mr. Greg Pannell, Police Department Finance Analyst, stated that the Police Department has applied for the 2008 Justice Assistant Grant (JAG) in the amount of \$10,239. He noted that Salisbury will be the lead agency and the grant will be shared with the Rowan County Sheriff's Department. He pointed out that the City is not required to share the grant, but did enter into an informal verbal agreement to share 20% of the grant with the County. He indicated that the City will receive \$8,191 and the County will receive \$2,048. He added that no match required.

Mr. Pannell stated that the Police Department is requesting approval to use the grant funds to purchase a mobile graffiti vandalism detection camera. He explained that the camera will be solar powered and will have a motion detector that will take an evidence quality photograph of a 100 foot area. He noted that the package also includes a laptop computer. Mr. Pannell reviewed the cost of the camera and the monthly wireless card fee for operation and noted that the County will use their \$2,048 for connection for 14 of their mobile data terminals.

Mayor Kluttz stated that she is excited about this grant because law enforcement has been identified by the community as a way of addressing gang activity. She added that to seriously address criminal activity, the City must work closely with Rowan County and she is enthusiastic about supporting these joint efforts.

Thereupon, Mr. Kennedy made a **motion** to authorize an application for a Justice Assistance Grant (JAG) in the amount of \$10,239 from the Bureau of Justice Assistance. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

CLOSE SIDEWALK/STREET LANE DURING CONSTRUCTION OF CHILDREN'S THEATER– FISHER AND LEE STREETS

Ms. Wendy Brindle, Traffic Engineer, stated that the 100 block of East Fisher Street received a new two-way traffic pattern on Monday, August 18, 2008. She added that a new mast arm has been installed on the corner of West Fisher and Main Street, and two-way signs and no parking signs have also been installed. She reported that traffic has

flowed smoothly. She noted that a traffic officer has observed the site and noticed that cars at the East Fisher Street and Lee Street intersection are still doubling to travel straight or turn left. She noted that the City will remove the stop sign on the left and paint another stop bar at the intersection to make it consistent with the Fisher Street and Main Street intersection.

Ms. Brindle stated that the City received a request from Wagoner Properties concerning the use of parking spaces, sidewalks and travel lanes during renovations at 131 East Fisher Street. She explained that the work will include demolition of portions of the existing building, construction of a new roof system, and restoration of the façade. She noted that once the project is complete the building will house the Piedmont Players Children's Theater. She indicated that Wagoner Properties anticipates construction to begin October 2008 and will last approximately one year. She explained that Wagoner Properties has requested use of the parallel parking spaces and sidewalk adjacent to the building in the 100 block of East Fisher Street for the duration of the project. She pointed out that the wall of the building along East Fisher Street will be completely removed and rebuilt and that the contractor will protect the brick street and be responsible for any repairs.

Ms. Brindle stated that Wagoner Properties is also requesting use of the sidewalk and travel lane in the 200 block of South Lee Street for the duration of the project. She added that during this time, traffic can be shifted to the east to maintain a two-way flow. Ms. Brindle pointed out that the contractor has also requested a complete road closure adjacent to the building in the 200 block of South Lee Street for approximately four months to allow space for a crane to erect the new roof system.

Councilman Burgin stated that East Fisher Street has been disrupted for quite a while and asked if the contractor is requesting that the parking lanes in front of the building be closed on weekends when work is not being performed.

Mr. Bill Wagoner, contractor, stated that the parking lanes need to be closed because the project is not a five-day per week project. He explained that the roof will be removed over an extended period of time leaving the building open to the weather, and this phase will require a progressive schedule, not just Monday through Friday. Mr. Wagoner pointed out that the front facade of the building on East Fisher Street will be completely removed and the bricks will fall out toward the street.

Mr. Wagoner stated that the building is being designed to be Leadership in Energy, and Environmental Design (LEED) Silver Level certified and will be only one of ten theaters in America to have this certification. He explained the different phases of construction and noted that they will need to have the sidewalk and at least the parking lane barricaded for the piles of materials and scaffolding in the area.

Mr. Burgin stated that Council gets criticized when a road is blocked and no work is being done. He asked about the possibility of using the parking lot behind the building for the staging area. Mr. Wagoner stated that the building is located at the property line

except for the small rear parking lot. He added that this area is needed for basic material storage. Mr. Burgin asked if construction could be focused on the East Fisher Street side of the building for six months and then focused on the Lee Street side. He explained that this would help prevent lanes being blocked and streets being closed for a year. Mr. Wagoner stated that he will consider anything that Council asks and indicated that when the space is no longer needed the barricade will be removed. Mr. Burgin suggested that the focus be placed on the length of time required for the closing of lanes and parking spaces in order to minimize these times. Mr. Wagoner stated that he will work with Ms. Brindle to do whatever is needed. He indicated that rebuilding the façade on the front of the building is not required, but the owner has decided to refurbish the building to match the original 1925 photographs which will result in a dramatic affect on East Fisher Street. He noted that he will amend the submitted request based on Council's direction.

Mr. Burgin stated that he is not trying to discourage the proposal but he does want every consideration given to minimize the impact on East Fisher Street.

Councilman Lewis asked Mr. Wagoner how he plans to protect the bricks on East Fisher Street. Mr. Wagoner stated that the sidewalks will be covered with rigid materials. He noted that the street is different in that it is brick underpinned by an actual paved street and has a load bearing capacity that can handle the construction equipment. He indicated that materials will be placed on the parking spaces in the street and will he assume any responsibility for damage to the bricks.

Mr. Lewis asked if the Lee Street entrance to City Hall will be closed for the entire four months. Ms. Brindle stated that Lee Street would be closed at the East Fisher Street intersection, but the entrance to City Hall can be accessed from Lee Street by way of East Bank Street.

Councilman Kennedy stated that the project is scheduled to take one year, but working six days a week he feels the project will not take that long. He indicated that he supports the proposal and he feels that the renovated building will add to the community.

Thereupon, Mr. Kennedy made a **motion** to authorize closing sidewalks and street lanes during the construction of the Children's Theater at Fisher and Lee Streets. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

BOARDS AND COMMISSIONS APPOINTMENTS

Zoning Board of Adjustments

Upon a **motion** by Mr. Woodson, seconded by Mr. Lewis, and with Messrs. Burgin, Kennedy, Lewis, Woodson and Ms. Kluttz voting AYE, the following appointment was made to the Zoning Board of Adjustments:

Mr. Earl Koontz

Term expires 03-31-2011

PUBLIC COMMENT

Mayor Kluttz opened the floor for public comment.

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

COMMENTS FROM THE CITY MANAGER

(a) Price High School Building Report

Mayor Kluttz stated that she met with City Manager David Treme and Councilman Kennedy, who is also Chairman of the Salisbury-Rowan Community Action Agency, to discuss renovation of the Price High School building. She indicated that they felt that appointing a task force at this time is premature and that the first step should be to obtain cost estimates. She asked for the consensus of Council to gather cost estimates and then create a taskforce to raise the money for the renovations. By consensus, Council agreed to obtain cost estimates.

(b) Dates for 24th Annual Future Directions and Goal Setting Retreat

City Manager Dave Treme proposed that the 24th Annual Future Directions and Goals Setting Retreat be held February 12-13, 2009. By consensus, Council approved the dates for the retreat.

(c) North Carolina League of Municipalities Green Challenge

Mr. Joe Morris, Planning and Community Development Director, stated that the City received notification from the North Carolina League of Municipalities regarding a new initiative called the North Carolina Green Challenge. He pointed out that Salisbury would need to address five requirements. He listed the requirements and the City's status on each:

- Adopt a climate protection resolution – Completed by the City
- Create an energy improvement plan – Underway by the City
- Register with Environmental Protection Agency's Energy Star Challenge – This is done through the Community Development Corporation
- Conduct an energy audit and implement at least one recommendation – This is currently done through the City's Facilities Maintenance Department
- Create a water conservation education program – Underway by the City

Mr. Morris stated that none of the requirements are out of line with current City activities and he requested Council adopt a resolution accepting the Green Challenge.

Mayor Kluttz stated that she is a Board member of the North Carolina League of Municipalities, and that Salisbury is considered a leader throughout the State in regards to the environment and she would like to see the City be a part of this initiative.

Thereupon, Mr. Kennedy made a **motion** to adopt a Resolution accepting the North Carolina League of Municipalities Green Challenge. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

RESOLUTION ACCEPTING THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES "GREEN CHALLENGE."

(The above Resolution is recorded in Resolution Book No. 14, at Page No. 52, and is known as Resolution No. 2008-34.)

MAYOR'S ANNOUNCEMENTS

(a) Project SAFE Neighborhoods Family Day

Mayor Kluttz announced that Project SAFE Neighborhoods Family Day will be held Saturday, August 23, 2008 from 10:00 a.m. until 2:00 p.m. The event is sponsored by the Rowan County United Way and will be held at the J.F. Hurley YMCA located at 828 Jake Alexander Boulevard.

(b) Rowan-Salisbury Schools

Mayor Kluttz announced that Rowan-Salisbury Schools start Monday, August 25, 2008.

(c) City Employee Mentoring Drive

Mayor Kluttz announced that the City will host a mentoring drive for City employees on August 25, 2008. She noted that the City has adopted a policy that will allow City employees one hour per week to mentor. She invited the Council members to join the staff members for this drive.

(d) Charlotte Observer Editorial

Mayor Kluttz stated that an editorial appeared in the Charlotte Observer that criticized the Salisbury Fire Department and Fire Chief Bob Parnell. She indicated that she was outraged and considered it unfair and based on incomplete information. She noted that the editorial implied that the City was not submitting public information. She pointed out that Ms. Karen Wilkinson, Public Information Manager, has worked very hard with the Fire Chief and the City Manager to meet with the media since the fire occurred. Mayor Kluttz noted that the City Manager wrote a response to the editorial and that it was

printed in the Salisbury Post, but to her knowledge has not yet been printed in the Charlotte Observer.

Mayor Kluttz pointed out that the City Council is supportive of Fire Chief Bob Parnell and the entire Salisbury Fire Department for the excellent job they do. She indicated that Salisbury is very fortunate to have people who serve the City and risk their lives every day. She added that the City is grateful to the firefighters and wants them and the public to know that they have Council's full support during this difficult time.

City Manager David Treme stated that the 2008-2009 Budget includes the purchase of 65 new rugged radios for front line firefighters and a mobile communicator to transfer the signal. He pointed out that the Fire Department has been supplied with the best air packs and safety equipment to operate successfully.

Councilman Lewis stated that there are over 500 fire departments in the State of North Carolina. He pointed out that Salisbury has an Insurance Services Organization (ISO) 2 rating and that there is only one fire department in the State with an ISO 1 rating. He stated that fire departments do not achieve an ISO 2 rating with a lack of resources.

Councilman Burgin stated that if the public would look at the ratings they would find that they require a high level of safety for firemen.

Mr. Treme commented that the City has an outstanding Fire Chief in Bob Parnell, who he feels is a man with great character, talent, a heart for the fire service and its employees, and who exemplifies servant leadership. He pointed out that the City is blessed to have the men and women in the Salisbury Fire Department who risk their lives daily and he indicated that he feels the Charlotte Observer editorial was unfounded and not written with the facts.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 7:32 pm.

Mayor

City Clerk