

Salisbury, North Carolina
December 15, 2009

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem Maggie A. Blackwell, Councilmen William (Pete) Kennedy, William Brian Miller, and Paul B. Woodson, Jr.; City Manager David W. Treme; City Clerk Myra B. Heard; and City Attorney F. Rivers Lawther, Jr.

ABSENT: None

The meeting was called to order by Mayor Kluttz at 4:00 p.m. Councilman Woodson recited a poem in honor of the men and women who are serving our country overseas during the holidays.

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

RECOGNITION OF SALISBURY POLICE CHIEF MARK WILHELM

Mayor Kluttz recognized Salisbury Police Chief Mark Wilhelm who will retire December 31, 2009 from the Salisbury Police Department with 30 years of distinguished service. She added that it is difficult to adequately express Council's appreciation for Chief Wilhelm's service to the City, particularly his last six years as Police Chief. Mayor

Kluttz reviewed Chief Wilhelm's accomplishments during his 30 years with the Police Department and stated that it has been an honor to work with him.

Councilman Woodson extended his appreciation to Chief Wilhelm for his accomplishments with the Police Department.

Councilman Kennedy stated that Chief Wilhelm has been very committed to the job and is a friend of the public and Council. He wished Chief Wilhelm well in his future endeavors.

Mayor Kluttz read a Resolution of Appreciation of Chief Mark Wilhelm. Mr. Kennedy made a **motion** to adopt the Resolution of Appreciation honoring Salisbury Chief Lester Mark Wilhelm. Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson and Mses. Blackwell and Kluttz voted AYE. (5-0)

Mayor Kluttz then presented a framed copy of the Resolution to Chief Wilhelm and congratulated him on his accomplishments. She also presented him with a collage of pictures, a photo album and a rendering of the Salisbury Police Department by local artist Mark Brincefield.

RECOGNITION OF SALISBURY PARKS AND RECREATION DIRECTOR GAIL ELDER WHITE

Mayor Kluttz announced that Salisbury Parks and Recreation Director Gail Elder White received the Fellow Award from the North Carolina Recreation and Parks Association. She noted that Ms. Elder White has done an excellent job as the City's Parks and Recreation Director. She added that Ms. Elder White won this award due to her involvement in both regional and national professional organizations. Mayor Kluttz read the inscription on the award and presented it to Ms. Elder White.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of December 1, 2009.

(b) Issuing Sidearm and Badge

Authorize issuing retiring Salisbury Police Chief Mark Wilhelm his sidearm and badge.

(c) Issuing Sidearm and Badge

Authorize issuing retiring Salisbury Master Police Officer Tony Wilhite his sidearm and badge.

Mayor Kluttz indicated that she would like to remove items (b) and (c) from the Consent Agenda and only consider item (a), approval of the minutes.

Thereupon, Mr. Woodson made a **motion** to approve the minutes of the Regular meeting of December 1, 2009. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson and Mses. Blackwell and Kluttz voted AYE. (5-0)

ITEM B - ISSUING SIDEARM AND BADGE TO RETIRING POLICE CHIEF MARK WILHELM

Deputy Chief Steve Whitley informed Council that it is customary to award a retiring officer with their sidearm and badge and noted that under State Statutes Council has the ability to authorize their issuance. He asked Council for their consideration to issue Police Chief Wilhelm his sidearm and badge upon his retirement December 31, 2009.

Thereupon, Mr. Woodson made a **motion** to authorize the issuing of retiring Salisbury Police Chief Mark Wilhelm his sidearm and badge. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

ITEM C - ISSUING SIDEARM AND BADGE TO RETIRING MASTER POLICE OFFICER TONY WILHITE

Police Chief Mark Wilhelm introduced Detective Tony Wilhite who has been with the Salisbury Police Department since 1991. He added that prior to 1991 he served with the Rowan County Sheriff's Department. He indicated that Detective Wilhite also serves on the Honor Guard, Special Response Team, and also has served as a Field Training Officer. He asked Council's permission to issue Detective Wilhite his badge and sidearm upon his retirement.

Thereupon, Mr. Woodson made a **motion** to authorize the issuing of retiring Master Police Officer Tony Wilhite his sidearm and badge. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

Mayor Kluttz thanked Detective Wilhite for his service to the City. She asked that Police Officers in the audience stand and thanked them for what they do for the City.

CLOSING EAST HORAH STREET AT-GRADE RAILROAD CROSSING

Mr. Dan Mikkelson, Director of Engineering and Development Services, addressed Council regarding a request to close the Horah Street rail crossing. He noted that the on-site notifications regarding the proposed closing and public hearing were not posted and recommended that Council defer action on the request until its next meeting. Mr. Mikkelson pointed out that the public hearing was properly advertised in the Salisbury Post and recommended Council proceed with the presentation and public

hearing. He indicated that staff will post the notifications at the crossing in order to conduct a second public hearing January 5, 2010.

Ms. Wendy Brindle, Traffic Engineer, stated that in 1994 a Rail Corridor Study was completed that recommended the closing of several rail crossings and making improvements along the rail corridor. She noted that over the past 13 years the City has closed nine at-grade railroad crossings. She pointed out that in conjunction with these closings \$1 million has been spent in roadway improvements, mainly the extension of Martin Luther King, Jr. Avenue.

Ms. Brindle reported that two of the study recommendations remain unaddressed, one being to close either the Monroe Street or Horah Street rail crossing. She noted that North Carolina Department of Transportation (NCDOT) hired a consultant to study the area in order to determine which crossing should be closed. She indicated that based on traffic, sight distance and safety their recommendation is to close the Horah Street rail crossing. She pointed out that the second recommendation not yet addressed is a grade separation at Klumac Road and she noted that NCDOT is looking at this recommendation.

Ms. Brindle stated that in 2006, the NCDOT Rails Division and North Carolina Railroad/Norfolk Southern (NCRR) met with the City to discuss permanent closure of the Horah Street rail crossing. She added that NCDOT and NCRR held several public workshops and meetings that included First Calvary Baptist Church, which is located adjacent to the crossing. She indicated that NCRR has proposed an incentive payment of \$42,000 to the City to close the rail crossing, and First Calvary Baptist Church has requested that the incentive payment be used for upgrades to Lincoln Park. She noted that staff agrees with the church's recommendation.

Ms. Brindle reported that an additional benefit to the Horah Street railway closing would be the creation of a quiet zone between Klumac Road and Henderson Street. She added that application for the quiet zone would have to be made through the Federal Railroad Administration (FRA) once the crossing is closed.

Mr. Jahmal Pullen, NCDOT Rail Division Engineering Service Manager, and Mr. Bill Barringer, Norfolk Southern Director of Grade Crossing Safety, addressed Council regarding the proposed closure.

Mr. Pullen stated that the NCDOT Rail Division works closely with municipalities and railroads to improve safety along all rail corridors throughout the State. He pointed out that they are in the process of working on a rail corridor that runs from Richmond, Virginia to Charlotte, North Carolina and added that NCDOT strives to make this corridor as safe as possible.

Mr. Pullen pointed out that Amtrak and Norfolk Southern Railroad have reported several near misses at the Horah Street rail crossing. He reported on the current hazards of the crossing and recommended it be closed. He added that if the crossing is closed, funds would be available to make improvements to the Monroe Street rail crossing. He noted that the NCDOT Rail Division has applied for stimulus funding through the

American Recovery and Reinvestment Act (ARRA), and if awarded, the Richmond to Charlotte project could gain up to \$1 billion in grant funding and would include improvements to the Klumac Road crossing. He indicated that the projected rail projects will take six to seven years to complete.

Mr. Pullen reviewed the timeline of the rail crossing closure since the process began in 2006. He pointed out that NCDOT is attempting to make the high speed corridor as safe as possible. He noted that if the Horah Street rail crossing is closed, NCDOT will work with the City to make improvements at the closing and added that they are open to any type of treatment the City would like to use.

Mr. Berringer stated that he works with communities and NCDOT for project safety. He commented that North Carolina is a state that cares about its people and the future of the railroad. He indicated that high speed rail has taken on a new life and he lauded the City for considering this closure and improving safety in the community.

Councilman Woodson asked how fast the high speed rail trains will travel. Mr. Pullen stated that the trains will travel approximately 90 mph in urban areas and up to 110 mph in rural routes.

Mr. Mikkelson reiterated that the staff recommendation is to close the Horah Street rail crossing and use the \$42,000 incentive payment to improve Lincoln Park. He added that a public hearing will be held today, but no action will be taken. He noted that another public hearing will be held January 5, 2010, followed by Council's consideration on the proposed closing.

Councilman Miller asked if the improvements to the railroad crossing would provide a way to leverage an opportunity to be forward thinking in the Greenway plan. Ms. Mikkelson explained that the Greenway plan is part of the Downtown Salisbury, Inc. (DSI) Master Plan which is currently being updated. He noted that he does not believe this will create an opportunity to combine the two projects, but he will review.

Mayor Pro Tem Blackwell asked Mr. Berringer for information on the quiet zone and the possibility of its approval. Mr. Berringer stated that at the community meetings many people requested the trains stop blowing their horns. He indicated that a quiet zone will dramatically enhance the quality of life from Monroe Street through town. He pointed out that closing one railway crossing will be all that is necessary to file for notice of intent, which requires a 60 day comment period. He explained that if there are no changes after the comment period the City would file for a notice of establishment, which requires a 21 day waiting period. He noted that after that time, approximately 82 days, the train horns can be silenced. Mr. Berringer added that the train engineer still has the responsibility to blow the horn in case of an emergency, but otherwise will not.

Councilman Kennedy stated there have been many information sessions with the community and asked if the community supports the closure. Mr. Mikkelson indicated that First Calvary Baptist Church initially opposed the closing but after the community meetings has been more supportive.

Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the permanent closing of the Horah Street at-grade Railroad Crossing.

Ms. Dee Dee Wright, 418 S. Caldwell Street, questioned the ARRA grant of \$5 million and how much has been set aside to go for improvements. She also asked Mr. Pullen to further explain the health monitoring system.

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

Mr. Pullen stated that \$5 billion is available in ARRA funds and is to be awarded to different rail corridors across the country. He explained that NCDOT has submitted applications for that amount of money because it feels North Carolina is in a better position than other states to receive the funds. He added that for the Klumac Road crossing improvement NCDOT anticipates the project will cost approximately \$8 to \$9 million and NCDOT will apply for approximately \$6 million. He added that Klumac Road is in the top five projects for the State. Mr. Pullen stated that the ARRA projects are projects that must be ready to proceed immediately.

Mr. Pullen further explained that the ARRA grant money could not be applied to the Monroe Street and Horah Street crossing improvements. He stated that the Horah Street and Monroe Street improvements will be made from currently available standard safety funds received from the Federal Rail Administration on an annual basis.

Mayor Kluttz asked if additional Federal funds could be sought for the improvements to the Horah Street crossing. Mr. Pullen stated that the ARRA funds cannot be used toward the Horah Street improvements.

Mr. Pullen stated that the health monitoring system is a test of noise levels in other areas and is not something that will be done in this area.

Mr. Woodson asked Mr. Pullen if he thinks the State will receive \$1 billion of the available \$5 billion in Federal funds. Mr. Pullen stated that it is possible and he believes the State is in a very good position to receive the funds. He added that he has worked with the State of Virginia on their section of the corridor and Virginia and North Carolina are much further along than other corridors in the country.

Mayor Kluttz noted that North Carolina has a very good reputation for being progressive on rail lines.

Thereupon, Woodson made a **motion** to set a public hearing for January 5, 2010. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Kluttz voted AYE. (5-0)

LDOTA-09-2009 – TECHNICAL REVIEW COMMITTEE

Mr. Preston Mitchell, Senior Planner, addressed Council regarding a request to amend Chapter 14 of the Land Development Ordinance (LDO). He noted that the

proposed amendment has been approved by the Technical Review Committee and the Planning Board. He explained that when the LDO was drafted the Land Management and Development Department (LM&D) was in existence, but since then it has been divided to form Engineering and Development Services under the management of Mr. Dan Mikkelson, and Community Planning Services under the direction of Mr. Joe Morris. He indicated that the language in the LDO needs to be amended to reflect these departmental changes.

Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the amendment to Chapter 14 of the Land Development Ordinance.

Ms. Dee Dee Wright, 418 S. Caldwell Street, asked if there would be a conflict with the amendment since Councilman Miller and Mayor Pro Tem Blackwell were serving on the Planning Board at the time the Planning Board adopted the amendment.

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

City Attorney Rivers Lawther stated that conflict only pertains to pecuniary benefit or interest in a particular language and this would not be a legal conflict.

Councilman Kennedy 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 as underlined or stricken herein is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan and that adoption of the Ordinance is reasonable and in the public interest. Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 14.2.D (Technical Review Committee (TRC)) of the Land Development Ordinance of the City of Salisbury, North Carolina. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

ORDINANCE AMENDING SECTION 14.2.D (TECHNICAL REVIEW COMMITTEE (TRC)) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA.

(The above Ordinance is recorded in full in Resolution Book No. 22 at Page No. 172, and is known as Ordinance 2009-62.)

LDOTA-14-2009 – DMX PRIVATE PROPERTY LIGHTING

Mr. Preston Mitchell, Senior Planner, addressed Council regarding a request to amend Chapter 11 of the Land Development Ordinance (LDO) regarding lighting on private property. He explained that this came to the City's attention through the City's project to improve its downtown parking lots. He added that the City is the first property owner to make physical improvements in the downtown area since the LDO was adopted. He noted that staff found it difficult to meet the LDO requirement that maximum illumination at the property line not exceed a one foot candle in the downtown area. He pointed out that this does not include public street lights, only private lighting on private

property.

Mr. Mitchell displayed photographs of typical exterior private property lighting. He displayed aerial photographs of the downtown area and pointed out that it is compact and dense with high intensity and consists of mixed use. He explained that it is almost impossible to meet this LDO requirement in the downtown environment and added that light sharing across property lines is needed. Mr. Mitchell displayed aerial photographs of businesses along East Innes Street and Arlington Street and explained the LDO requirement is not a problem in this area due to the open area between each development.

Mr. Mitchell noted that the proposal is to allow an exemption in the Downtown Mixed-Use (DMX) District from the requirement of a maximum one foot candle at the private property line. He added that there is an exception to the exemption in that the exemption could not apply where the DMX District abuts residential zones. Mr. Mitchell pointed out that the Planning Board unanimously approved the amendment at the November 24, 2009 meeting.

Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the amendment to Chapter 11 of the Land Development Ordinance.

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

Councilman Woodson stated that the City hereby finds and determines that adoption of an Ordinance to amend the Land Development Ordinance of the City of Salisbury as underlined or stricken herein is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan and that adoption of the Ordinance is reasonable and in the public interest. Thereupon, Mr. Woodson made a **motion** to adopt an Ordinance amending Section 11.3 (Outdoor Lighting Provisions) of the Land Development Ordinance of the City of Salisbury, North Carolina. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

ORDINANCE AMENDING SECTION 11.3 (OUTDOOR LIGHTING PROVISIONS) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA.

(The above Ordinance is recorded in full in Resolution Book No. 22 at Page No. 173, and is known as Ordinance 2009-63.)

2009 COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)

Ms. Erica Brown, Martin Starnes and Associates, and Mr. Wade Furches, Finance Manager, addressed Council regarding the 2009 Comprehensive Annual Financial Report.

Ms. Brown thanked Mr. Furches, Mr. Mark Drye and Ms. Kizzy Lea for their assistance during the annual audit. She explained that Martin Starnes issued an

unqualified, or clean audit opinion, which is the highest audit that can be received. She added that the audit was submitted to the Local Government Commission (LGC) and has been approved.

Ms. Brown reviewed the audit process and findings:

Audit Process

- Planning and Risk Assessment
 - Occurs each December
- Interim Procedures
 - Occurs each April
 - Reviews internal controls and compliance with new grants
- Final Procedures
 - Trial Balance is audited
 - Report is finalized and submitted to the LGC
- Year-round Process

Fund Balance

- Serves as a measure of the City’s financial resources available
 - Assets – Liabilities = Fund Balance
- Three Classifications:
 - Reserved
 - Unreserved Designated (Available)
 - Unreserved Undesignated (Available)

Total Fund Balance – General Fund

- From 2008 to 2009 total Fund Balance increased approximately \$875,738 or 11 %

Fund Balance Position – General Fund

	<u>2009</u>	<u>2008</u>
• Total Fund Balance	\$8,940,631	\$8,064,893
• Required Reservations	<u>(4,426,599)</u>	<u>(3,618,321)</u>
• Unreserved/Undesignated	\$4,514,032	\$4,446,572

Unreserved/Undesignated Fund Balance as a Percent of Expenditures – General Fund

- 2007 – 11.89%
- 2008 – 13.59%
- 2009 – 13.81%

General Fund Summary

- 2008 – Revenues - \$33,420,370
Expenditures - \$32,697,359
- 2009 – Revenues - \$33,807,555
Expenditures - \$32,694,849

Top Three Revenues: General Fund

- Property Tax – 50%
- Sales Tax – 14%
- Charges for Services – 18%
- Other Revenue – 18%
 - Total Revenues - \$33,807,555

Property Tax

- 2007 - \$15,152,988
- 2008 - \$16,731,217
- 2009 - \$16,960,723

Sales Tax

- 2007 - \$4,928,404
- 2008 - \$5,220,704
- 2009 - \$4,732,043

Top Three Expenditures: General Fund

- General Government – 23%
- Public Safety – 36%
- Transportation – 15%
- Other Expenditures - \$26%
 - Total Expenditures - \$32,694,849

Enterprise Funds – Operating Income (Loss) Budgetary Basis for 2009

	<u>Water and Sewer</u>	<u>Transit</u>
• Total Revenues	\$20,861,312	\$1,335,123
• Expenses		
○ Operating	13,278,938	1,013,580
○ Debt Service	5,694,266	-
○ Capital Outlay	<u>662,500</u>	<u>769,319</u>
○ Total Expenses	<u>19,635,704</u>	<u>1,782,899</u>
• Revenues over Expenditures	1,225,608	(447,776)
• Transfers (to) from other funds	(1,250,000)	453,381
• Proceeds from sale of bonds	<u>-</u>	<u>-</u>
• Net Income	\$ (24,392)	\$ 5,605

Mayor Kluttz thanked Ms. Brown and staff for their work on the audit report.

AWARD CONTRACT – GILBERT ENGINEERING

Mr. Jason Wilson, Utilities Engineering Manager, explained that Salisbury-Rowan Utilities (SRU) currently disinfects the City’s wastewater with ultraviolet (UV) disinfection. He explained that the proposed project would make chlorination the primary treatment for wastewater and allow staff to keep the UV system as a backup. He pointed out that the annual cost of the new system is less than the current operating and

management costs of operating the UV system.

Mr. Wilson stated that three bids were received for the project and Gilbert Engineering Company of Statesville, North Carolina submitted the lowest bid in the amount of \$698,500. He noted that SRU has worked with Gilbert Engineering on several projects and recommends awarding the contract to them.

Councilman Kennedy asked what percentage of savings the City will realize annually with the new system. Mr. Wilson stated that it will lower the daily operating cost but he does not have the yearly percentage. He pointed out that the current UV system is approaching its useful life and the new system will improve performance.

Councilman Miller asked if the UV system will still be viable as a backup. Mr. Wilson stated that wastewater will still flow through the UV chamber and explained that the UV system will be shut down but can be activated if needed in an emergency.

Thereupon, Mr. Woodson made a **motion** to award a contract in the amount of \$698,500 to Gilbert Engineering Company for the chlorination and dechlorination facilities at the Salisbury-Rowan Wastewater Treatment Plant. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Klutz voted AYE. (5-0)

REDUCE SPEED LIMIT – MILFORD KNOLL SUBDIVISION

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding a request to reduce the speed limit in the Milford Knoll subdivision. Ms. Brindle indicated that staff received a petition signed by 53% of property owners in Milford Knoll and recommends reducing the speed limit to 25 miles per hour.

Councilman Kennedy asked if signs will be posted and neighbors notified of the speed limit change. Ms. Brindle indicated that signs will be posted along the roadway and at the entrance of the cul-de-sac. Mr. Kennedy asked how all neighbors will be informed of the change since everyone did not sign the petition. Ms. Brindle stated that signs will be posted and if Council agrees, staff could send written notification to the Milford Knoll residents. Council agreed that written notification should be sent.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 13-336, Article X, Chapter 13 of the Code of the City of Salisbury, relating to speed limits-generally. Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-336, ARTICLE X, CHAPTER 13 OF THE CODE OF THE CITY OF SALISBURY, RELATING TO SPEED LIMITS-GENERALLY.

(The above Ordinance is recorded in full in Resolution Book No. 22 at Page No. 174, and is known as Ordinance 2009-64.)

ESTABLISH SPEED LIMIT – KLUMAC ROAD

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding a request to establish a speed limit on Klumac Road. Ms. Brindle indicated that Klumac Road is maintained by the North Carolina Department of Transportation (NCDOT) and when NCDOT establishes a speed limit the City must adopt a concurring ordinance in order for the speed limit to be posted. She pointed out that NCDOT is requesting Council adopt an Ordinance establishing the speed limit of 45 miles per hour (mph).

Ms. Brindle noted that the Ordinance will also update the City Code to reflect that Salisbury Boulevard has changed to Jake Alexander Boulevard.

Councilman Kennedy noted that the Ordinance indicates 35 miles per hour and asked if it should state 45 mph. Ms. Brindle noted that this Ordinance will correct the Code and that there is an existing portion of Klumac Road that is posted 35 mph.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 13-336, Article X, Chapter 13 of the Code of the City of Salisbury, relating to speed limits-generally. Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-336, ARTICLE X, CHAPTER 13 OF THE CODE OF THE CITY OF SALISBURY, RELATING TO SPEED LIMITS-GENERALLY.

(The above Ordinance is recorded in full in Resolution Book No. 22 at Page No. 175, and is known as Ordinance 2009-65.)

REPORT REGARDING ELLIS STREET BRIDGE

Mr. Dan Mikkelson, Director of Engineering and Development Services, addressed Council regarding the Ellis Street Bridge. Mr. Mikkelson displayed an aerial photograph of the area and reviewed the history of the project:

- 1985
 - Replacing the Ellis Street Bridge qualified for 80% Federal funding
 - National Environmental Policy Act (NEPA)
 - Involve the public
 - “Avoid, minimize or mitigate” adverse effects on historic properties
 - Thoroughfare Plan recommended new alignment
- 1996
 - City Council modified goals
 - Maintain grade separation for public safety
 - Retain existing traffic patterns
 - Reduce impact on historic properties
 - Qualify for federal participation
 - Effectively “replace in place”

- Obtained 20 mph design exception
- Amended the Thoroughfare Plan
- 2006
 - 4 Options (20 mph) design
 - New, 3-track bridge
 - New, 2-track bridge
 - Rehabilitate bridge
 - “Do nothing”

Mr. Mikkelson indicated that each of the construction alternatives affect historic resources.

Mr. Mikkelson reviewed the current status of the project:

- 2009
 - Lost authorized access to Federal funds due to lack of progress (May).
 - Advised to complete NEPA process or pay back \$171,000 Federal funds (October)
 - NCDOT requests a response by February 2010

Mr. Mikkelson reviewed the available options:

- Build
 - Select: 3-track bridge, 2-track bridge, rehabilitate current bridge
 - Update cost estimate
 - Commit to firm schedule
 - Request NCDOT to reauthorize Federal fund
- No-Build:
 - Make final decision
 - Request waiver of pay back

Mr. Mikkelson indicated that Norfolk Southern Railroad opposes the 2-track bridge and rehabilitation options. He noted that he has received verbal denials for the 2-track and rehabilitation options, but has not received the denials in writing.

Mr. Mikkelson reviewed those options that can meet a firm schedule:

- Build:
 - Select: 3-track bridge
 - Update cost estimate
 - Commit to firm schedule
 - Request NCDOT to reauthorize federal funds
- No-Build:
 - Make final decision
 - Request waiver of pay back

Mr. Mikkelson indicated that building a new 3-track bridge or not building a bridge and doing nothing are the only viable options that can meet a firm schedule. He pointed out that the City could not commit to a firm schedule if the alternative chosen is not supported by Norfolk Southern Railroad. He indicated that if the Railroad does not support the request, they will not respond in a timely manner.

Mr. Mikkelson displayed photographs of the bridge and a rendering of how it will look after building a new bridge.

Mr. Mikkelson stated that the existing bridge has a 5-ton weight limit and a 20 mph speed limit. He indicated that there are school buses and City buses that use the Fulton Street crossing because the buses are too heavy to cross the Ellis Street Bridge. He pointed out that children who ride school buses should not be exposed to a railroad crossing when there is a bridge one block away.

Mr. Mikkelson stated that if an ambulance responds to this area and a train is blocking the Fulton Street crossing the ambulance is required to divert the track. He pointed out that diverting the track could increase the ambulance route by 1.6 miles adding an additional three minutes, which could mean life or death in some medical emergencies.

Mr. Mikkelson pointed out that for fire equipment the route would increase by two miles adding an additional four minutes to the route. He asked Fire Chief Bob Parnell to explain what could happen if a train is blocking a first responder. Chief Parnell explained that the project area is generally the response area of Station 1 and if a train is blocking the way, Station 3 would be dispatched from West Innes Street. He indicated that in structural fire situations, the first station that arrives on the scene must wait until another truck is onsite before entering the structure. He pointed out that fire operations cannot be performed without a second unit being onsite.

Mr. Mikkelson indicated that staff recommends building a 3-track bridge and he requested Council set a public hearing for January 5, 2010 to receive comments. He noted that he will update cost estimates and schedules and request NCDOT to reauthorize Federal funds if Council agrees with staff's recommendation.

Councilman Woodson questioned the amount the City would be responsible to pay for a new bridge. Mr. Mikkelson indicated that the City would be responsible for 20% of the cost.

Mayor Kluttz asked when the most recent request to Norfolk Southern Railroad was made. Mr. Mikkelson indicated that the most recent request was in 2006. Mayor Kluttz asked if another request could be made. Mr. Mikkelson stated that his experience with Norfolk Southern Railroad is that if they do not support a request they will not respond. Mayor Kluttz asked if there is anything she or Council could do in order to get a response from the Railroad. City Manager David Treme stated that staff will try again and attempt to have Norfolk Southern Railroad respond on record regarding what it will or will not support.

Thereupon, Mr. Woodson made a **motion** to set a public hearing for January 5, 2010 regarding the Ellis Street Bridge. Ms. Blackwell seconded the motion.

Councilman Miller asked about the impact to historic sites and structures. Mr. Mikkelson indicated that historic resources include buildings, additions, properties, and lay of the land. He added that this proposal raises the grade of the road at the highest point four feet from the existing grade impacting the position of the adjacent residence in relation to the bridge and street.

Councilman Kennedy asked if Council is continuing to lobby North Carolina Railroad to schedule a train route from Raleigh to Salisbury to Asheville. Mr. Mikkelson indicated that Salisbury is one of seven cities lobbying to schedule passenger train service from Raleigh to Asheville and that service would use this particular track. Mr. Kennedy indicated that Council is considering closing an at-grade railroad crossing on Horah Street for safety, but is allowing school buses and City buses to cross the tracks on Fulton Street. He stated that Council should make sure decisions are made consistently.

Mayor Pro Tem Blackwell pointed out that the rendering of how the bridge would look after construction shows no utility lines and asked if that is cosmetic or if there is a plan to make a change. Mr. Mikkelson said it is staff's intention to place the utility lines underground and add a light post with street lighting.

Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE.
(5-0)

APPOINTMENTS TO SALISBURY TOURISM AND CULTURAL DEVELOPMENT COMMISSION

Mayor Kluttz noted that the City recently received a 3% occupancy tax and thanked Representative Lorene Coates for her assistance in getting the occupancy tax legislation through the General Assembly. She indicated that on October 20, 2009 Council adopted a Resolution of Intent to establish a Tourism Development Authority and applications from those interested in serving have been received.

Mayor Kluttz noted that a Council Committee consisting of former Councilmen Burgin and Lewis worked on this issue regarding possible appointments and she pointed out that particular professions must be represented. She recommended to Council the Committee's recommendation for appointments to the Salisbury Tourism and Cultural Development Commission:

- Mr. Boris Bunich – Hotelier
- Ms. Krista Osterweil – Hotelier
- Mr. David Redden – Hotelier
- Ms. Barbara Perry – Promotions
- Mr. Mark Lewis – Promotions
- Mr. Randy Hemann – Promotions
- Ms. Michelle Patterson – Rowan County Tourism Development Authority Chair
- Mr. Bill Burgin – At-Large

- Mr. Paul Woodson – City Council Liaison

Mayor Kluttz stated that there will be subcommittees and other opportunities for those who submitted applications to participate and all names will be kept on file in case of a vacancy.

Thereupon, Mr. Woodson made a **motion** to appoint the persons as read by the Mayor. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

APPOINTMENT TO TECHNICAL REVIEW COMMITTEE

Mayor Kluttz addressed Council regarding an appointment to the Technical Review Committee (TRC) and indicated that this appointment will become a part of the liaison appointment process. She recommended Councilman Brian Miller who served on the Land Development Ordinance Committee to serve as liaison to the TRC with Mayor Pro Tem Maggie Blackwell serving as alternate.

Thereupon, Mr. Kennedy made a **motion** to appoint Councilman William Brian Miller to the Technical Review Committee and as alternate Mayor Pro Tem Blackwell. Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

PUBLIC COMMENT

Mayor Kluttz opened the floor to receive public comment:

Mr. Frank Justin, 505 West Henderson Street, stated that after listening to the Ellis Street Bridge presentation he feels staff seemed more concerned about railroad needs and requirements and not the quality of life. He indicated that he does not oppose the bridge but feels that staff must think about the historic nature of the street and find a way to coordinate the goodness of the hospital and the people who live in the area. He stated that he feels the residents of the area should be surveyed to find out what can be done to help the neighborhood prior to the bridge being built.

Mr. Robert F. Boone, 1605 South Main Street, thanked Mayor Pro Tem Blackwell for her help with Fulton Heights Park. Mr. Boone requested that flags on the City Office Building be replaced. Mr. Boone thanked Council for the opportunity to speak.

Mr. Carl Dangerfield, 1311 Oakwood Lane, addressed Council regarding appointing a new Police Chief. He recognized Police Chief Mark Wilhelm's retirement and stated that he applauds City Manager David Treme for meeting with officers and employees of the Police Department. He asked that good candidates on staff have an opportunity to fill the position.

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

COMMENTS FROM THE CITY MANAGER

(a) 25th Annual Future Directions and Goal Setting Retreat discussion

City Manager David Treme stated that the 25th Annual Future Directions and Goal Setting Conference will be held February 10-11, 2010 in Salisbury, North Carolina. He noted that he will send Council recommendations and ideas for Retreat discussion. He also stated that he will be mindful to allow time for discussion after each segment.

(b) Request from Rowan County

City Manager David Treme noted that he received a letter from Rowan County Manager Gary Page regarding the I-85/29 sewer project which will provide water along the I-85 corridor. Mr. Treme pointed out that the City and County are sharing the cost of the project equally. He indicated that the County has decided to finance its share through BB&T Governmental Finance and he asked Management Services Director John Sofley to give a review of the request.

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

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

Mr. Sofley stated that the County is currently working on funding for their portion of the I-85 project. He noted that Webb Road was chosen as a point of destination and that all portions of the project north of that point are considered the City's project and south of that point would be considered the County's project. Mr. Sofley explained that BB&T needs security from the County in order to fund their portion of the project and the County is using the waterline pipe to secure the loan. He pointed out that this will allow the bank to have the right to access the property and have a security interest in the easement at the location of the pipe. He stated that the bank is requesting the City and County enter into an agreement that also specifically names BB&T as a party of the contract.

Mr. Sofley pointed out that the Rowan County Commissioners approved the contract at its December 14, 2009 meeting.

Thereupon, Mr. Kennedy made a **motion** to approve the consent and acknowledgement of the County's Town Creek Sewer Financing Agreement with BB&T. Mr. Woodson seconded the motion. Messrs. Kennedy and Woodson and Meses. Blackwell and Kluttz voted AYE. (4-0)

Thereupon, Mr. Woodson made a **motion** for Councilman Miller to return to the meeting. Mr. Kennedy seconded the motion. Messrs. Kennedy and Woodson and Meses. Blackwell and Kluttz voted AYE. (4-0)

(c) Financial Report

Mr. Treme referred to the Comprehensive Annual Financial Report that was reviewed earlier and stated that this has been a difficult year in trying to manage the operations of the City. He stated that staff analyzed spending in order to put the City in the best position possible to finish out the year. He stated that the City is in solid financial condition and thanked the Management Team for their efforts.

Mayor Kluttz thanked and congratulated Mr. Treme. She indicated that Mr. Treme utilized preventive measures and emphasized a balanced budget.

(d) Retreat Topic – Councilman Woodson

Councilman Woodson stated that he would like Council to focus on saving existing businesses. He indicated that he would like to see the City adopt a goal to assist existing businesses and make it easier for new businesses to start and requested this be addressed at the Retreat.

MAYOR’S ANNOUNCEMENTS

Mayor Kluttz welcomed Mayor Pro Tem Blackwell and Councilman Miller. Mayor Kluttz stated that Salisbury is fortunate to have Council members with the amount of expertise these members have. She noted that Mayor Pro Tem Blackwell and Councilman Miller have served on several boards and commissions throughout the City.

Mayor Kluttz wished everyone a Merry Christmas and a happy and safe New Year.

ADJOURNMENT

Motion to adjourn the meeting was made by Mayor Pro Tem Blackwell, seconded by Councilman Woodson. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 6:12 p.m.

Susan W. Kluttz, Mayor

Myra B. Heard, City Clerk