

Salisbury, North Carolina
March 18, 2008

REGULAR MEETING

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

ABSENT: None

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

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following addition to the Agenda:

Add - Council to receive a committee report regarding Development Site Plan G-23-07 Kelley-Salisbury properties.

SALISBURY LUMBER COMPANY FIRE

Mayor Kluttz indicated that the City has experienced a difficult time since the fire at Salisbury Millwork on March 7, 2008 and the tragic loss of two (2) firefighters, Justin Monroe and Victor Isler. She stated that she has been overwhelmed by community support for the City, firefighters, their families and the Fire Department. She expressed her pride in Fire Chief Bob Parnell and the Fire Department for representing the City at the March 13, 2008 joint memorial service for the fallen Firefighters Justin Monroe and Victor Isler. The funeral service for Firefighter Justin Monroe immediately followed the memorial service. Mayor Kluttz stated that two (2) ceremonial services were held for Firefighter Victor Isler in New York on Sunday, March 16, 2008 and the funeral service was held on Monday, March 17, 2008.

Mayor Kluttz thanked the many individuals, groups and organizations who generously gave their assistance to the City and asked that the citizens continue to remember and pray for the families of the two (2) lost firefighters.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of March 4, 2008.

(b) Final Subdivision Plat S-15-07 Wallace Commons

Approve final subdivision plat S-15-07 Wallace Commons, subject to the receipt of a guarantee of improvements in accordance with section 5.03.02 of the Subdivision Ordinance.

(c) Budget Amendment – Police Donations

Adopt budget Ordinance amendment to the FY2008-2009 budget in the amount of \$4,693 to appropriate various donations received by the Police Department.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE VARIOUS POLICE DONATIONS.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 18, and is known as Ordinance No. 2008-10.)

(d) Budget Amendment – Restrict Asset Forfeitures for Police Department

Adopt budget Ordinance amendment to the FY2008-2009 budget in the amount of \$21,000 to appropriate restricted asset forfeiture funds for the purchase of mandated audio video visual equipment for the Police Department interview room.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE RESTRICTED ASSET FORFEITURE FUNDS.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 19, and is known as Ordinance No. 2008-11.)

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

COUNCIL COMMITTEE REPORT G-23-07 Kelly-Salisbury Properties

Councilman Bill Burgin stated that a Council Committee met to discuss issues raised at the March 4, 2008 Council meeting regarding the proposed group development site plan located in the 1100 block of East Innes Street. He indicated that the developer has agreed to add a railing along the access drive from the development site to the Cracker Barrel Restaurant, and if space allows, they will plant plants to screen the railing. Mr. Burgin stated that the developer has also agreed to use a flat face retaining wall that will be the same color as the existing wall. He noted that the developer will stage the construction of the entrance driveways in such a way that there will always be at least one open access to each of the surrounding businesses. He added that the entrance will be curbed and graveled within two (2) weeks and paved within two (2) more weeks, with the exception of bad weather or postponements beyond the developer's control. Mr. Burgin pointed out that the developers will include the surrounding businesses in their preconstruction meetings.

Mr. Burgin stated that since the developer has addressed Council's concerns the committee feels comfortable with approving the site plan.

Thereupon, Mr. Burgin made a **motion** to approve Group Development Site Plan G-23-07 Kelley-Salisbury for the subdivision of property with a public street extension, construction of a restaurant and four (4) story hotel on a separate track of land located on the 1100 block of East Innes Street with the conditions mentioned. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

PUBLIC HEARING – FIBER TO THE HOME

Councilman Mark Lewis noted that Council discussed Fiber To The Home during its February 14-15, 2008 retreat. He indicated that as part of that discussion Council felt it important to receive public input on the proposals. He reviewed the major steps in investigating Fiber To The Home (FTTH):

- City began investigating FTTH in 2005
- Report made to City Council at Retreat on February 9, 2006
- City Council adopted at its Annual Retreat on February 10, 2006 the Goal of “Prepare and implement a Fiber To The Home business plan” and reaffirmed it at the 2007 Retreat
- City Council appointed a FTTH subcommittee on March 7, 2006
- Council approved a contract with Uptown Services, LLC to do a feasibility study on April 18, 2006
- Initial report made to Council Subcommittee on June 12, 2006
- Presentation to Council was made on September 7, 2007
- Report made to Council at Council Retreat on February 15, 2008
- Council adopts “Implement FTTH plan” as one of the tactical goals for 2008
- Public Hearing was set at March 4, 2008 Council meeting

Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the Fiber To The Home business plan.

Mr. Brian Wyams, 203 Mitchell Avenue, indicated that he has worked in the telecommunications field for a number of years and strongly supports Fiber To The Home. He pointed out that Salisbury can improve the issue of getting bandwidth to the homes. He noted that there are application and service requests that cannot be delivered with today’s infrastructure and he feels business, education and medical organizations will benefit from the plan if it is approved.

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

Mayor Pro Tem Paul Woodson stated that Mr. Brad Walser indicated to him that he was excited about the FTTH plan and feels that it will be a benefit for the City in the future.

Councilman Burgin stated that before voting on the proposed plan he would like for Council to visit Wilson, North Carolina. Wilson is currently implementing Fiber To The Home and he feels that Council can see an example of what is proposed for Salisbury. He noted that he would like to see what their cable programming looks like and review the timing issues they have experienced with their plan. Mr. Burgin pointed out that Salisbury and Wilson are using the same consultants for this project.

Councilman Lewis asked which stage of implementation the Town of Wilson was in. Mr. Neil Shaw, Uptown Services, noted that his firm serves as consultant to Salisbury and Wilson and that Wilson is in the final stages of the technical trial. He indicated that in Wilson Council would be able to see video content and the channel lineup. He noted that the internet and telephone services will be coming online in the next two (2) weeks. He stated that visiting Wilson would be informative regarding the challenges of implementation of the system. Mayor Kluttz asked if it would be advantageous to wait a week or two (2) to visit Wilson. Mr. Shaw answered that at this stage every week is a whirlwind of activity.

Mr. Burgin asked if there was another community in a better position that Council could visit. Mr. Shaw stated that there are several cities in Eastern Tennessee that would be good illustrations of the Fiber To The Home systems a year or two (2) after deployment.

City Manager David Treme stated that staff will work with Council and Mr. Shaw to schedule a date for Council to visit either Wilson, North Carolina or a community in Tennessee that has implemented the Fiber To The Home system.

SPECIAL COMMUNITY EFFORTS GROUPS

Mayor Kluttz opened the meeting for special community efforts groups.

Ms. Elizabeth Smith and Mr. Sturges Bryan, North Carolina Transportation Museum, thanked Council for last year's investment to help expand their marketing. Mr. Bryan asked for the City's continued investment to increase their economic impact on Salisbury and Rowan County. He pointed out that a 2006 economic impact study indicated that the North Carolina Transportation Museum created an approximate \$5 million economic impact on the community. Ms. Smith thanked Council for a successful year and stated that the museum experienced increased visitation from areas west of Charlotte. She added that the museum is planning promotions in areas near Raleigh, Fayetteville and areas East of Salisbury.

There being no one else present to speak, Mayor Kluttz closed the session for special community efforts groups.

TEMPORARY USE APPROVAL – SALISBURY MALL

Ms. Wendy Spry, Developmental Services Specialist, stated that the City received a request for temporary use approval for a carnival from KevaWorks, Inc. and Drug Abuse Resistance Education (D.A.R.E.) America. The carnival will be located at Salisbury Mall, 1935 Statesville Boulevard. Ms. Spry reviewed the site plan and noted that the proposed location for the carnival is in the parking lot area of Big Lots and Goody's. She noted that the carnival will be held in conjunction with D.A.R.E. America and will be held March 24 through March 30, 2008 between 5:00 p.m. and 10:00 p.m. on weekdays and 12:00 p.m. and 11:00 p.m. on weekends.

Ms. Spry pointed out that the funds raised at the carnival will assist the local and national D.A.R.E. programs which give children the skills they need to avoid involvement in drugs, gangs and violence. She noted that approval by City Council is required under the City's Land Development Ordinance. Ms. Spry reviewed aerial maps and photographs of the site and noted that outdoor carnivals are allowed under the current

zoning. She pointed out that the carnival will encompass one hundred fifty (150) parking spaces.

Thereupon, Mr. Woodson made a **motion** to approve the temporary use of the parking area of the Salisbury Mall located at 1935 Jake Alexander Boulevard West for this carnival. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

FIRST READING – FY2008-2009 BUDGET FOR CDBG AND HOME FUNDS

Ms. Janet Gapen, Senior Planner, presented the FY2008-2009 budget for Community Development Block Grant (CDBG) and HOME funds for its first reading. She stated that the draft budget for the CDBG and HOME Programs was based on the priorities of the consolidated plan; input received at a public hearing held March 4, 2008; and applications for funding received from public service agencies.

Ms. Gapen reviewed the 2008-2009 draft budget for the CDBG and HOME programs:

Sources of Income

| | | |
|------------------|-------------------|--|
| • CDBG | \$ 305,040.00 | |
| • Program Income | 60,000.00 | |
| • HOME | <u>118,255.00</u> | |
| Total | \$ 483,295.00 | |

CDBG Program

| | | |
|------------------------------------|---------------|----------------------|
| • <u>Project Activities</u> | | |
| ○ Acquisition/Rehab/Resale | \$ 118,268.40 | |
| ○ Owner-Occupied Rehab | \$ 50,000.00 | |
| ○ Emergency Rehabilitation | \$ 15,000.00 | \$183,268.40 |
| • <u>Public Services – 15% cap</u> | | |
| ○ Rowan Helping Ministries | \$ 22,500.00 | |
| ○ Family Crisis Council | \$ 14,000.00 | |
| ○ Community Care Clinic | \$ 10,000.00 | |
| ○ Salisbury Youth Employment | \$ 6,500.00 | |
| ○ West End Youth Garden | \$ 1,500.00 | \$ 54,500.00 |
| • Program Administrator – 20% cap | | \$ 73,000.00 |
| • Debt Service – Section 108 Loan | | <u>\$ 54,271.80</u> |
| Total CDBG Funds | | \$ 365,040.00 |

HOME PROGRAM

| | | |
|------------------------------|----------------------------------|----------------------|
| • <u>Project Activities:</u> | | |
| ○ New Construction | \$ 91,561.00 | |
| ○ Homeownership Assist. | \$ 20,000.00 | \$ 111,561.00 |
| • Program Administration | | <u>\$ 6,694.00</u> |
| | Total HOME Funds | \$ 118,255.00 |
| | Total CDBG Funds | \$ 365,040.00 |
| | Total CDBG and HOME Funds | \$ 483,295.00 |

Ms. Gapen reviewed the budget comparison from fiscal year 2007-08 to 2008-09:

| | <u>Budget FY 07-08</u> | <u>Budget FY 08-09</u> | <u>Increase/ Decrease</u> |
|-----------------------|----------------------------|----------------------------|-------------------------------|
| • CDBG | 402,526 | 365,040 | - 9% |
| • HOME Funds | 123,890 | 118,255 | - 5% |
| • Sources of Income – | | | |
| ○ CDBG | 327,526 | 305,040 | - 7% |
| ○ Program Income | 75,000 | 60,000 | -20% |
| ○ HOME | 123,890 | 118,255 | - 5% |
| | Total C. D. Funds | 526,416 | 483,295 |
| | | | - 8% |

Ms. Gapen reviewed the citizen participation plan for 2008-09:

- February 5 Public Hearing – West End Community Center
- February 12 Public Hearing – Park Avenue Community Center
- March 4 Public Hearing – City Council Chamber
- March 8 City Council – Draft 2008-09 Budget
- April 1 City Council – second reading of budget
- April 6 Action Plan available for public review
- May 12 Submit plan to HUD

Thereupon, Mr. Kennedy made a **motion** to approve the first reading of the 2008-2009 budget for the Community Development Block Grant and Home program funds. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

REALLOCATION OF FY2005-06 CDBG FUNDS

Ms. Janet Gapen, Senior Planner, stated that in FY2005-2006, \$25,000 of the CDBG budget was appropriated for drainage improvements in the Fairview Heights community. She requested that Council consider reallocation of these funds and reviewed the request:

- \$25,000 set aside for drainage improvements in Fairview Heights neighborhood
- \$150,000 project cost exceeds funds available; phasing not feasible
- Street Division completed minor improvements in 2006 and 2007
- Proposal to reallocate CDBG funds to acquisition and rehab of affordable housing

Ms. Gapen reviewed the citizen participation plan for 2008-09:

- February 5 Public Hearing – West End Community Center
- February 12 Public Hearing – Park Avenue Community Center
- March 4 Public Hearing – City Council Chamber
- March 18 Consideration by City Council

Ms. Gapen asked that the \$25,000 for this project be reallocated for acquisition and rehabilitation of affordable housing. She pointed out that the reallocation would not preclude addressing the Fairview Heights drainage problem in the future.

Thereupon, Mr. Kennedy made a **motion** to reallocate \$25,000 of FY2005-2006 Community Development Block Grant funds and adopt an Ordinance amending the 2007-2008 budget ordinance of the City of Salisbury, North Carolina to reallocate appropriated Community Development Block Grant funds. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO REALLOCATE APPROPRIATED CDBG FUNDS.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 21, and is known as Ordinance No. 2008-13.)

AMENDMENT TO 2005-2010 CONSOLIDATED PLAN

Ms. Janet Gapen, Senior Planner, stated that the 2005-2010 Consolidated Plan is a five (5) year plan written in 2005 that attempted to project the community development needs for five (5) years. She pointed out that it is not uncommon to find that during a five (5) year period an amendment to the plan is needed.

Ms. Gapen reviewed the requested Amendment to the 2005-2010 Consolidated Plan:

- Housing (CDBG and HOME)
 - Acquisition, Rehab and Resale
 - Owner-Occupied Rehab
 - Emergency Rehab
 - New Construction
 - Down payment and Closing Cost Assistance
- Neighborhood Improvements (CDBG)
- Funding for Public Service Agencies (CDBG)

Ms. Gapen stated that the amendment is needed to incorporate a new community development activity related to the rehabilitation and resale of property located at 209 South Lee Street. She explained that the property was formerly used for residential rental purposes and was acquired for rehabilitation in 2007 because it had become blighted. She pointed out that the deterioration of the property was negatively-impacting the downtown area and the East End Community, a low to moderate area selected for revitalization efforts.

Ms. Gapen explained that due to the property's location in the Downtown Mixed Use (DMX) District and its proximity to other commercial and institutional uses it is more suited for low intensity commercial use. She pointed out that rehabilitation for commercial use had not been anticipated in the 2005-2010 Consolidated Plan and the proposal is to amend the Plan to include this rehabilitation. She noted that the proposed amendment includes:

- New Goal – Address spot cases of slum/blight
- Eligible Activity – Non-Residential Historic Preservation
- Objective – Rehabilitation for commercial use

Ms. Gapen concluded by stating that a Public Hearing was held March 4, 2008 and no one was present to speak.

Thereupon, Mr. Woodson made a **motion** to approve the proposed amendment to the 2005-2010 Consolidated Plan. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

CONSIDERATIONS FOR SPEED LIMIT REDUCTIONS

Ms. Wendy Brindle, Traffic Engineer, stated that in October 2006, staff reported to Council concerning procedures for establishing speed limits within the City. During this presentation, staff discussed policies for speed limits which are based on the street classifications of:

- Major Thoroughfare
 - Primary function – move traffic
 - Most are maintained by North Carolina Department of Transportation (NCDOT)
 - Speed limit changes require State approval
 - Speed limits are established in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) – establishing speed limits within five (5) miles per hour (mph) of the 85th percentile speed
- Minor Thoroughfare
 - Primary function – dual role of moving traffic and providing ingress/egress to adjacent property
 - Appropriate speed is influenced by adjacent land use
 - Rural – Speed limits are established in accordance with the MUTCD – within five (5) mph of the 85th percentile speed
 - Urban – the Highway Capacity Manual supports a twenty-five (25) to thirty-five (35) miles per hour (mph) speed limit depending on the street design and character
- Local Streets
 - Primary function – residential streets to provide access to adjacent property
 - Speed limit is thirty-five (35) mph unless otherwise posted
 - City Council has allowed property owners to petition for a twenty-five (25) mph posted speed limit
 - Confederate Avenue
 - Club House Drive
 - 11th Street

Ms. Brindle stated that historically Confederate Avenue, Club House Drive and 11th Street were on the United States route and classified as minor thoroughfares. That designation was removed in the early 1990s due to the route being primarily residential. The streets were later re-classified as local streets. She noted that the local property owners petitioned the City to lower the speed limits to twenty-five (25) mph. Ms. Brindle pointed out that the public continued to use the streets as a through-route from Innes Street to Main Street and the City received complaints about the lowered speed limit. She explained that at this time Council began to question the validity of the petition process to lower speed limits.

Ms. Brindle indicated that the City continues to receive petitions from neighborhoods to lower speed limits. She noted that she has two (2) typical examples from the Forest Glen neighborhood and Rufty-Holmes Senior Center to present to Council. She said that staff would like to make recommendations on these requests and use these recommendations to establish procedures for speed limit requests in the future:

Neighborhood Requests and Local Streets

- Forest Glen is an isolated neighborhood with one point of ingress/egress.
- Petition contained signatures from approximately sixty-four (64) percent of property owners
- Staff recommends Council approve a twenty-five (25) mph posted speed limit for the streets within Forest Glen

Minor Thoroughfares

- Martin Luther King Jr. Avenue between Ryan Street and Vance Avenue is a minor thoroughfare that carries approximately four thousand (4,000) vehicles per day (vpd)
- 85th percentile speeds adjacent to Rufty-Holmes Senior Center measured at thirty-three (33) mph
- Area adjoins Salisbury's Parks and Recreation Sports Complex on the South side and Rufty-Holmes Senior Center on the North side
 - Staff recommends the speed limit be posted at thirty (30) mph which is consistent with the recommendations established in the Highway Capacity Manual
- Based on 85th percentile speed, does not impose an artificially low limit

Ms. Brindle reviewed staff's recommendations on future speed limit requests:

- Major Thoroughfare
 - Require DOT approval
 - Base on 85th percentile speed
- Minor Thoroughfare
 - Review on individual basis
 - Base on combination of land use and collected data
- Local Street
 - Continue to receive petitions from neighborhoods
 - Allow speed reductions for isolated neighborhoods
 - Analyze data and make recommendations for interconnected local streets
 - Continue to collect and analyze data to establish traffic calming priority list for use when funding is established

Mayor Kluttz noted that she has received twenty (20) emails in favor and one (1) email opposed to lowering the speed limit on Martin Luther King Jr. Avenue.

Councilman Kennedy stated that he represents the City Council on the Board of Directors of the Rufty-Holmes Senior Center. He pointed out that traffic in that area is too fast for the senior citizens who cross Martin Luther King Jr. Avenue from the sports complex to the center. He stated that the Board of Directors feels the speed limit needs to be lowered. Mr. Kennedy asked that if the lower speed is approved and posted that the Police Department strictly enforce the new speed limit.

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. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz 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 Ordinance Book No. 22 at Page No. 20, and is known as Ordinance No. 2008-12.)

RESOLUTION – AGREEMENT WITH NC DEPARTMENT OF TRANSPORTATION FOR COMPUTERIZED TRAFFIC SIGNAL SYSTEM (SCHEDULE D)

Ms. Wendy Brindle, Traffic Engineer, indicated that at Council’s last meeting she presented a Resolution to enter an agreement with the North Carolina Department of Transportation (NCDOT) for Schedules A, B, and C. She noted that today she is presenting Schedule D and explained that this is a maintenance agreement with NCDOT for the computerized traffic signal system. Ms. Brindle noted that approximately ninety-four (94) to ninety-seven (97) percent of the signals in the City are on State maintained intersections and the State reimburses the City for maintaining the system. She indicated that the old Schedule D maintenance agreement reimbursed the City \$44,000 per year. The new agreement will give the City a minimum of \$92,000 up to a maximum of \$150,000.

Thereupon, Mr. Woodson made a **motion** to authorize the City Manager and City Clerk to execute an agreement with the North Carolina Department of Transportation concerning maintenance of the computerized traffic signal system, Schedule D. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

RESOLUTION AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION CONCERNING MAINTENANCE OF THE COMPUTERIZED TRAFFIC SIGNAL SYSTEM, SCHEDULE D.

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 28, and is known as Resolution No. 2008-16.)

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Parks and Recreation Advisory Board

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

Reverend Glenn Usry

Term expires 3-31-2010

Tree Board

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

Mr. Johnny Safrit

Term expires 3-31-2011

Community Appearance Commission

Upon a **motion** by Mr. Lewis, seconded by Mr. Burgin, and with Messrs. Burgin, Kennedy, Lewis, Woodson and Ms. Kluttz voting AYE, the following appointment was made to the Community Appearance Commission:

Mr. Sean Meyers

Term expires 3-31-2011

Upon a **motion** by Mr. Lewis, seconded by Mr. Woodson, and with Messrs. Burgin, Kennedy, Lewis, Woodson and Ms. Kluttz voting AYE, the following appointment was made to the Community Appearance Commission:

Ms. Connie Baker

Term expires 3-31-2011

COMMENTS FROM THE CITY MANAGER

City Manager David Treme indicated that he had no comments.

PUBLIC COMMENT

Mayor Kluttz opened the floor to receive public comment:

Mr. James Donaldson, 732 West Kerr Street, thanked Council for making his neighborhood safe again. He noted that his community has several requests they would like Council to consider: a pocket park where West Kerr Street merges with North Caldwell Street; extra picnic tables, chairs and benches for Jersey City Park; completion

of sidewalks from North Craige Street to City Park; more street lighting throughout the neighborhood; signage for the community; and money for demolition of the few remaining houses that are boarded up within the neighborhood. He thanked Council again for their concern and assistance in making the neighborhood safe.

Mr. Mark Davis, 120 Locke Circle, indicated that he lives in the Highway 150 annexation area. He stated that he is President of Good Neighbors of Rowan County and he apologized for any personal attacks that have been made against City Council. He assured Council that Good Neighbors of Rowan County do not condone or approve of personal attacks and represents approximately ninety-five (95) percent of the people being annexed. He explained that their organization was formed to stop the involuntary annexation of the Highway 150 corridor and to work to change North Carolina annexation laws. He stated that they want the North Carolina annexation law to require a vote from citizens being annexed. He noted that he feels the doubling of taxes will place an undue burden on people who live on fixed incomes. Mr. Davis stated that many of their members have a conflict with the March 27, 2008 informational meeting because of a scheduled spring break period for the schools and many have scheduled vacations. He asked if the City will publish how the meeting will be run and what the citizens can expect. He commented that he feels that his taxes will double if he is annexed and then the County will raise taxes to make up for the shortfall the City will create in the County budget. Mr. Davis invited Council to attend the Good Neighbors of Rowan meeting on March 20, 2008 at the Locke Volunteer Fire Department to informally discuss what is going on.

Mr. Charlie Hendrix, 325 Spicewood Lane, stated that he is opposed to forced annexation. He commented that there are many senior citizens in his neighborhood and adding \$1,000 each year to their budget will be a hardship. He noted the cost of gasoline and the shape of the federal government and stated that it creates a hardship for retirees and young people who are struggling.

Mr. Sam Zaffino, 175 Waterford Drive, noted that at its last meeting Council passed a resolution in favor of Sound, Fair and Uniform Annexation Statues in North Carolina. He stated that he does not feel the annexation is sound and the areas annexed should look like an urban area. He commented that fair annexation should provide a means for area residents to call for a vote on any proposed annexation. He stated that uniform annexation would have a logical and reasonably symmetrical appearance on a map and not be distorted to meet legal guidelines. Mr. Zaffino noted that involuntary annexation is lawful but it is wrong because it is not consistent with the citizens' rights to vote for the government representatives that will tax them. He stated that he feels the citizens are being misled that a small capital expenditure for water and sewer main lines will pay-out via utility bills and tax revenue. He noted that the Annexation Report shows the net revenue of only \$33,000 and this does not include \$319,000 that it will cost annually in debt service for the \$4 million to be spent on the water and sewer main extensions. He added that the extensions only meet the minimum legal requirement for annexation and cannot serve customers in the annexation areas until sub-mains are installed. He estimated this to cost approximately \$25 million. He reiterated that the

annexation is not fair to the citizens of Salisbury because the revenue does not cover the expenditures. He added that it also is not fair to the annexed citizens who have already paid for their wells and septic systems. Mr. Zaffino stated that to recognize they are wrong and change this course will take wisdom and leadership but to realize this is wrong and move forward will perpetuate a fraud on the citizens of Salisbury. He then asked Council to reconsider this course of action.

Mr. Bill Owens, 290 Bonnaventure Drive, thanked Council for an opportunity to express his anger at the attempt to annex his property against his will. He commented that he does not understand what is fair about forcing anyone to do anything against their will. He noted that Mr. Hankins (from the League of Municipalities) made a presentation to the legislative committee reviewing annexation and asked if Council would like to review a rebuttal that he feels shows the facts. Mr. Owens stated that there is no doubt from the factual evidence presented that the annexation law is broken and needs a major overhaul. He stated that the law was written for municipalities and not for citizens. He stated that when Council stopped the bidding process for surveying the annexation area it used a subsequent law to void the previous process, which makes the original law useless and void. Mr. Owens pointed out mistakes in the Annexation Report and noted the calculation for revenue from property taxes used a tax rate of \$0.625 and not the rate of \$0.595. He stated that this results in \$36,343 less in revenues which removes any revenues the City feels it will gain in the first few years. He added that this does not take inflation into account and as a business deal this is deluded and is not sound. He commented that he feels Council hopes that not all residents will want water and sewer so that the total cost will not have to be added to the report. He asked who will pay the cost when it is time to install the lines. Mr. Owens asked Council why they feel they know better than him what is good for him. He stated he is happy with the services he currently has and he does not feel Salisbury's services are any better. He thanked Council for the opportunity to speak.

Mr. Wayne Remes, 550 Timberlane Trail, commented that he feels Council's attempts to annex the Highway 150 corridor shows single-mindedness. He added that he feels this is political suicide and noted the number of votes that each Council member received during the last election. He stated that unofficially Salisbury had two thousand five hundred two (2,502) voters for the 2007 election with a 13.7% turn-out of its 18,326 registered voters. He stated that Salisbury is a nice place to visit but if County residents wanted to live there they would have settled there. He commented that there will be one thousand seven hundred (1,700) truly angry and vindictive voters who will be very vindictive should they become Salisbury residents.

Ms. Mary Lynn Connor, 345 Hidden Hut Road, stated that she represents her neighbors who were unable to attend the meeting because of the time but would like their names submitted in opposition to forced annexation. Ms. Connor read the following names: Glenn McCorkle, Claudia Swicegood, Boots Lottes, Patrick McMullen, Pauline McMullen, Bill Goodson, Patrick Foley, Patricia Foley, Arthur Hattaway, Joe Hall, Pam Hall, Charles Snowberger, Mary Snowberger, Homer Hattaway, Patsy Hattaway, Vance Meek, James Denman, Mary Wright, William Lentz, Margie Howard, Harry Hammer,

J.P. Smith, Roylene Smith, Ted Sowers, Peggy Sowers, Larry Goodman, Jerry Hilliard, Doris Hilliard, and Marie Howell.

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

Mayor Kluttz asked City Manager David Treme if he had responses to some of the questions or comments.

Mr. Treme indicated that several questions have been raised through letters to the editor and calls to his office. He noted that one question regards why citizens cannot vote and the basic rights of those being annexed. He stated that in 1959 the annexation laws were passed by the North Carolina General Assembly and when conducted properly the process has been upheld in numerous courts. He stated that State law does not allow for those who live in an area proposed for annexation to vote for or against the annexation. He indicated that the City Council is undertaking a lawful action passed by the North Carolina General Assembly, adding that the law has been amended several times. Mr. Treme noted that South Carolina does not allow annexation without a vote of the people and therefore there has been very little annexation throughout the state. He stated that as a result, the municipalities in North Carolina are healthier than those in South Carolina. He reiterated that City Council is undertaking a lawful activity, just as many other municipalities in the County have done in the past. Mr. Treme noted that State law indicates that those things that become urban in nature should become municipal and this is the best way to provide services for those particular areas.

Mr. Treme asked Management Services Director John Sofley to discuss the income and expenditures for this project. Mr. Sofley stated that when staff reviews an annexation it reviews the statutory requirements and what is required of the City. One requirement is to contract with the local volunteer fire department of the area to be annexed. He stated that the City is also required to enter into contracts or pay for services for waste collection firms. He noted that the City must make payments to the collection firms even if the City does not contract with them for waste collection. If the City does enter into a contract it becomes a two (2) year contract at the collection firm's current rates. He stated that the Annexation Report is based on the first year start-up and its revenue expense, but staff reviews revenues and expenses for several years out. Mr. Sofley commented that staff projects that more revenues will be generated than the start-up costs within the first (5) years. He noted that from year six (6) on staff projects net revenues in excess of \$200,000 annually. He stated that the Annexation Report is a one (1) year snapshot, but it is not representative of what will happen beyond the first couple of years.

Mr. Treme stated that questions have been raised regarding retail sales tax and he asked Mr. Sofley to discuss this. Mr. Sofley stated that for every \$1 of sales tax paid, a portion goes to the County, a portion to each municipality and the bulk to the State of North Carolina. He noted that the City of Salisbury receives \$0.6 for every \$1 spent. He commented that it has been stated that the City will be taking sales tax receipts money

away from Rowan County. He stated that for Rowan County the distribution of sales tax dollars is based on each municipality's population and Rowan County combined. He noted that over the past ten (10) years, which includes past annexations, the City of Salisbury's percentage has only increase nine-tenths (9/10) of one (1) percent. Mr. Sofley commented that the annexation will allow Salisbury to maintain its distribution percentage and if it does not annex our percentage will fall below.

Councilman Lewis commented that of the sales tax dollars collected in Rowan County, two-thirds (2/3) are from sales taking place within the corporate limits of Salisbury. Mr. Sofley stated that based on information provided by the North Carolina Division of Tax, for FY2007 there was approximately \$770 million in sales in Rowan County. \$519 million of those sales were within the City's corporate limit. Mr. Sofley stated that it makes no difference where a purchase is made in Rowan County, Salisbury still receives \$0.6 for each dollar spent.

Mr. Treme commented that he has received questions about water and sewer lines. He noted that when most municipalities annex individuals are required to hook onto water and sewer. Interim Utilities Director Jim Behmer stated that the City of Salisbury does not have a mandatory connection policy. He commented that while the City would like to have more customers if a citizen has a functioning well and septic tank there is no requirement to connect. Mr. Behmer stated that Salisbury-Rowan Utilities' plan will be to provide the trunk mains so that lines can be extended. He added that the service plan will be adjusted based on the written water and sewer requests received. Mr. Behmer stated that there has been a misconception that there is only a five (5) day window when the water and sewer request forms can be submitted. He stated that the forms have been available since February, when letters were sent to property owners and two (2) ads ran in the Salisbury Post. He noted that the forms are available from the City Clerk and will also be available at the Public Informational Meeting to be held March 27, 2008.

Mr. Treme asked Mr. Behmer to address a question regarding Baja Products and service for that property from the 2006 annexation. Mr. Behmer explained that Baja Products did not originally request service but after being contacted by the City's land agent they indicated an interest for service. He noted that there is groundwater contamination in the area and the project has been redesigned and will go for bid Wednesday, March 26, 2008. He stated that service will be provided across the frontage of Baja Products to give them multiple options for service.

Mr. Treme indicated that several comments have been made that the City only annexes prime properties and passes over poorer neighborhoods. He stated that anyone who has looked at Highway 29, Highway 70 and Highway 150 should not be surprised that the City would be growing and developing in these areas. He stated that Salisbury determines where to annex based on what qualifies under the General Statutes and the City's ability to provide services. He commented that the areas that have been annexed in recent years are a mix of commercial and residential development that crosses a wide-

range of economic strata. He added that the City's annexation does not discriminate based on the economic characteristics of a neighborhood or specific area.

Mr. Treme asked Land Management and Development Director Dan Mikkelson to address concerns regarding street lights. Mr. Mikkelson stated that in the proposed annexation area there are street lights for which individual citizens pay directly to Duke Power. He noted that once these become public streets the City will take over the bill for the lights and will work with Duke Power to convert the bill to the City. He pointed out that yard lights or lights that do not face the street will remain private and the individual will continue to receive the bill. He stated that once the area is within the City limits, if the current level of lighting does not meet the City standard, the property owners can petition the City to increase the lighting to current City standards. He added that the petitions require signatures from two-thirds (2/3) of the property owners and the requests are handled on a first come, first serve basis. Mr. Mikkelson stated that Council has restored the street lighting program and there is plenty of funding available as petitions are received.

Mr. Treme asked Mr. Sofley to comment on the effective date of the annexation and when taxes will be collected. Mr. Sofley stated that in North Carolina the General Assembly has set the tax cycle so that all properties have a tax value assigned as of January 1. He noted that every governmental unit in North Carolina has a tax year that runs July 1 through June 30. He stated the local governments' levy a tax rate effective as of July 1 but it is based on the tax value in place as of January 1. He added that the actual payment of taxes is for the timeframe of July 1 through June 30 of the following year and this is true for every governmental unit, municipal or county, in North Carolina.

Mr. Treme stated that a question was asked regarding submitted written or emailed comments to be included in the public record. Mayor Kluttz stated that emails, telephone calls or information in writing will be accepted and entered as part of the public record.

Mr. Lewis asked what the public should expect during the public informational meeting to be held March 27, 2008. Planning and Community Development Director Joe Morris stated that the meeting will be held at the Salisbury Civic Center, 315 Martin Luther King, Jr. Avenue and is not a public hearing and no elected officials will be in attendance. He explained that City staff will be present and an introduction to the process will be given. He stated that Mr. Bill Duston, Centralina Council of Governments, will review the Annexation Report, and reports will be given by various City departments on the services offered. He noted that there will be a general question and answer session following the presentations and then there will be time for citizens to meet with individual departments if they have specific questions. Mr. Morris stated that there will be plenty of water and sewer request forms available for the public.

Mr. Morris stated that the public hearing involving elected officials will take place April 8, 2008 at 4:00 p.m. in Council Chambers. He noted that this will be the time for citizens to voice their opposition or concerns to Council members. Mr. Morris

suggested that written communication through the City Clerk's office in advance of the meeting is the best way to enter questions or comments into the public record. He noted that in the past staff has had a sign-up sheet for citizens who attend the public informational meeting in order to provide responses to all of the questions raised during the meeting.

Mayor Kluttz asked if general information will be available on the City's website. Mr. Morris responded that a generalized description of annexation services will be available on the City's website beginning March 19, 2008.

Councilman Burgin asked if the Public Informational meeting will be taped to broadcast on Access 16 in order to allow those who cannot attend to hear the information provided during the presentations. Mr. Morris indicated that he has spoken with Station Manager Jason Park who offered to video tape the presentation and he will follow up to make sure it is available for the meeting.

Mr. Lewis commented that the deadline for the water and sewer requests is April 14, 2008 and based on the requests a final cost estimate can be determined in order to review the financial feasibility of the annexation. Mr. Morris responded that Salisbury-Rowan Utilities will design a service plan based on the requests received and this information will be available to Council soon after the plan is designed.

Mr. Lewis asked Mr. Sofley to comment on the difference in the tax rate used in the Annexation Report versus the actual tax rate. Mr. Sofley commented that when Centralina Council of Governments prepared the report a wrong tax schedule was inadvertently used, and although close it is not correct. He stated that the entire Report will be amended to include the change as well as information from the Volunteer Fire Department, water and sewer service, and information from the waste collection firms. He added that once this information is gathered Council will be asked to approve the amended report.

Mayor Pro Tem Woodson commented on the amount of sales tax revenue received by the City and estimated it to be \$3.2 million. Mr. Sofley stated that this is correct and noted that some of the tax receipts that occur are based on state-wide sales and this money is redistributed across all counties. He added that some counties, such as Mecklenburg County, act as a donor county to other counties.

Mr. Treme stated that City residents pay County taxes and fund services only offered to County residents. He added that municipal residents within the County pay a substantial percent of overall property taxes. He noted that in North Carolina approximately sixty (60) percent of taxes paid come from municipalities in the State and are used to provide services in unincorporated areas. Mr. Treme stated that residents of unincorporated areas spend money within the municipality but as noted earlier, the sales tax is shared and the City only receives \$0.6 with the County receiving approximately \$0.23. He commented that some City residents have indicated that they pay for services that they do not receive and feel they should get a tax break from the County. Mr. Treme

also noted that City residents have commented that the taxes derived from City residents will be used to help pay for the County's lawsuit against the annexation.

Mr. Lewis thanked Mr. Davis for his earlier statement and commented that he recognizes that Mr. Davis represents ninety-five (95) percent of the people who have legitimate questions, concerns and philosophical differences in regards to this action. He noted that there are several in the community who have made this personal and he takes exception with that. Mr. Lewis stated that he is an elected official discharging the duties of his office for the citizens of Salisbury and he will continue to do so. He added that it makes him angry when personal attacks are received but he will put this aside in order to analyze the data to make the best decision for the citizens of Salisbury. He noted that he realizes that this decision also impacts the citizens in the annexation area and he will give a thorough evaluation of the actual costs when they are made available. Mr. Lewis pledged that he will review all of the figures available and will make the decision he feels is best for the City of Salisbury. He commented that it is difficult to get quality people to run for elected office in the country today without having to be subjected to these types of attacks.

Mr. Woodson stated that Council will work diligently to figure out what is best for everyone. He noted that Salisbury is growing and needs good neighborhoods and people such as in this area. He added that with the situation in Kannapolis he feels Salisbury will experience a major boon and it needs good people.

MAYOR'S ANNOUNCEMENTS

(a) Annexation Public Informational Meeting

Mayor Kluttz announced that a public informational meeting will be held March 27, 2008 at 7:00 p.m. at the Salisbury Civic Center located at 315 Martin Luther King, Jr. Avenue (formerly 315 Boundary Street) regarding annexation of the Mooresville Highway area.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Burgin, seconded by Mr. Woodson. All council members agreed unanimously to adjourn. The meeting was adjourned at 5:58 p.m.

Mayor

City Clerk