

Salisbury, North Carolina
November 4, 2015

REGULAR MEETING

PRESENT: Mayor Paul B. Woodson, Jr., Presiding; Mayor Pro Tem Maggie A. Blackwell; Council Members Karen Kirks Alexander, and William (Pete) Kennedy; City Manager W. Lane Bailey; City Clerk Myra B. Heard, and City Attorney F. Rivers Lawther, Jr.

ABSENT: William Brian Miller.

Salisbury City Council met in Council Chambers in City Hall located at 217 South Main Street. The invocation was given by Councilmember Alexander. The meeting was called to order by Mayor Woodson at 4:00 p.m.

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Woodson welcomed all visitors present.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular Meeting of October 20, 2015.

(b) Receive a request for the voluntary annexation of 18.42 acres, known as Corbin Acres Phase 2 and identified as Tax Map 058 part of Parcel 091, and adopt a **RESOLUTION** instructing the City Clerk to investigate the sufficiency of the request.

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER NORTH CAROLINA GENREAL STATUTE 160A-31, FOR VOLUNTARY ANNEXATION OF 18.42 ACRES (CORBIN ACRES PHASE 2) IDENTIFIED ON TAX MAP 058 AS PART OF PARCEL 091.

(The above Resolution is recorded in full in Resolution Book No. 15 at Page No. 23, and is known as Resolution 2015-20.)

(c) Adopt an **ORDINANCE** declaring a temporary road closure on Main Street between Liberty Street and Harrison Street for the Veteran’s Day Parade to be held Wednesday, November 11, 2015 from 2:15 p.m. until 4:00 p.m., and a temporary road closure on Main Street between Lafayette Street and Thomas Street for the Holiday Caravan Parade to be held Wednesday, November 26, 2015 from 2:00 p.m. until 6:00 p.m.

ORDINANCE DECLARING A TEMPORARY ROAD CLOSURE FOR A VETERAN’S DAY PARADE AND HOLIDAY CARAVAN PARADE.

(The above Ordinance is recorded in full in Ordinance Book No. 25 at Page No. 76, and is known as Ordinance 2015-37.)

Thereupon, Mr. Kennedy made a **motion** to adopt the Consent Agenda as presented. Ms. Alexander seconded the motion. Messrs. Kennedy, and Woodson, and Meses. Alexander and Blackwell voted AYE. (4-0)

SPECIAL USE PERMIT – 433 WILLOW ROAD

SUP-03-2015 – 433 Willow Road

(a) Swearing In

Mayor Woodson indicated anyone who wished to speak for or against this item must be sworn in, and he asked those who would like to speak to come forward. He administered the oath to the following:

Mr. Lamont Savage
Mr. Eric Webster
Mr. Preston Mitchell

(b) Ex Parte Disclosure

Mayor Woodson asked Council members if anyone had knowledge of this case they wished to disclose. Mayor Pro Tem Blackwell stated she received an email on the topic, but she did not

respond. Mr. Kennedy indicated he also received an email but did not respond. There were no other ex parte disclosures.

Planning and Development Services Manager Preston Mitchell explained the item before Council is a continuation of a hearing during a previous Council meeting that remained opened.

Mr. Mitchell noted the Special Use Permit (SUP) is for property located at 433 Willow Road in the Westcliffe neighborhood to permit the operation of a Child Daycare Center in Residence. He explained a Child Daycare Center in Residence:

- Supervision or care provided on a regular basis within a principal residential dwelling unit by a resident of the dwelling, where, at any one time, more than 2 but no more than 15 children receive child care.
- Zoning: General Residential GR-3 low density residential

Mr. Mitchell reviewed the production of evidence:

- The burden is on the applicant to present sufficient evidence to allow the board to make findings that the required standards will be met
- The burden is on a supporter or opponent to present sufficient evidence that a standard will, will not be met
- If insufficient evidence is presented, additional evidence may be gathered at another meeting, or the SUP must be denied
- If competent, material and substantial evidence is presented that all of the standards will be met, the SUP must be issued
- If competent, material and substantial evidence is presented that even one of the standards will not be met, the SUP must be denied

Mr. Mitchell presented the standards for decision required for the SUP:

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed

Mr. Mitchell then presented additional use standards for Child Care Center in Residence:

1. The facilities shall be developed and maintained in accordance with all current and applicable provisions of the North Carolina Department of Health and Human Services
2. The center shall provide a minimum of 100 square feet of gross heated area per child
12 children = 1,200 square feet home

Mr. Mitchell explained the SUP process is the first step in obtaining licensure for a Daycare Center in Residence from the North Carolina Department of Health and Human Services.

Mr. Mitchell noted Mr. Savage's home is approximately 1,900 square feet which is adequate for 15 children. He noted the location of the property on photographs and pointed out fencing along the property's yard. He indicated the majority of pickup and delivery occurs in the driveway of the property.

Mr. Mitchell added Mr. Savage currently operates a Daycare Home. He noted if Mr. Savage is issued the SUP he will be able to serve an additional seven children for a total of 15. He explained in 2014 Mr. Savage was granted a temporary use permit to operate a summer day camp. He noted a 10 square foot ground sign or 5 square foot wall sign would be allowed based on the size of the property.

Mr. Mitchell stated the Planning Board reviewed the request and recommended unanimous approval subject to the following conditions:

- Applicant providing expert witness testimony regarding property value
- Indicate no adverse effect on values
- If no property value testimony, recommendation to deny

Mr. Mitchell indicated Mr. Savage was instructed by Council to bring expert witness testimony before Council regarding property values.

Mayor Woodson noted the request was to come back before Council regarding how the proposed Daycare Center in Residence would affect surrounding property values. Mr. Mitchell noted the applicant was required to provide expert witness testimony to prove the use would not negatively impact surrounding property values in the immediate area if approved.

(c) Mayor Woodson convened a public hearing, after due notice thereof, to receive testimony regarding SUP-03-2015.

Mr. Lamont Savage, 433 Willow Road, and Real Estate Appraiser Eric Webster, addressed Council regarding SUP-03-2015. Mr. Webster provided a handout of his findings to Council. He noted he reviewed recent comprehensive sales in the neighborhood to determine a value range. He indicated sales in the Westcliffe and Rolling Hills neighborhoods ranged from \$84,000 to \$165,000. He added the closest was four parcels away and sold for \$165,000. He added age, condition, size, maintenance and upkeep of the property also affect the property value. He noted he made adjustments since he was not able to go inside the properties. He added the adjusted values ranged from \$100,000 to \$145,000 which is in line with past and present neighborhood sales. He added he did not see any major difference in the selling price of neighboring properties based up on their location to Mr. Savage's property.

Mr. Webster stated he also reviewed sales of housing adjacent to other daycares in the area. He indicated he found three properties near Noah's Ark Daycare which is located at 605 South

Link Street that had a property directly behind it that sold for \$30,000, another sale for a property located three parcels down for \$22,000, and a property located one parcel down for \$45,000. He concluded the location adjacent to the daycare had no measurable effects regarding the property value.

Mr. Webster indicated he also reviewed Cornerstone Daycare located on Lyerly Drive in Rowan County. He indicated in 2015 a home located three parcels from the Cornerstone Daycare sold for \$100,000. He added similar homes outside of the neighborhood with similar attributes sold from \$102,000 to \$123,000.

Mr. Webster stated there is a Child Care in home at 200 West 12th Street and a house behind it sold for \$35,000. He noted a house on the adjacent corner sold for \$30,000, and one across the street sold for \$112,500. He added this is compatible to home prices for similar size homes in other areas. Mr. Webster indicated he did not find a differentiation from houses adjacent to a daycare or those located several parcels away, and he did not see a measurable impact for a daycare in similarly sized and priced homes. He added he has been an appraiser for almost 20 years and owned a firm in Salisbury since 2001.

Councilmember Kennedy asked Mr. Webster if in his experience he has known of an appraisal value to be lower because of a neighboring daycare property. Mr. Webster stated he has not done anything adjacent to a daycare in recent memory.

Mr. Kennedy asked if Mr. Webster has heard of any other appraisers facing this situation. Mr. Webster indicated he could not recall a specific case. He added each appraisal is a case-by-case study. He noted in this location, neighborhood, and price range he did not see a measurable difference in the value.

There being no one else present to give testimony, Mayor Woodson closed the floor.

Thereupon, Ms. Blackwell made a **motion** for the following Findings of Fact:

A. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit as evidenced by the following testimony:

- The site characteristics are consistent with the surrounding area as a low-density, single-family neighborhood
- The use, as planned, is compatible with the area because the site is owner occupied and the owner/applicant currently operates a properly permitted Child Care Home with up to eight children
- Council received professional evidence from a licensed appraiser indicating that sell values were consistent with no effect from the business

B. The proposal as submitted and approved will be visually and functionally compatible to the surrounding area as evidenced by the following testimony:

- The corner, single-family lot has sufficient ingress and egress for owner, staff, and customer parking, as well as the ability to park on-street
- The lot is properly fenced and secure on the interior side and entire rear yards
- The applicant proposes no changes to the property or building exterior

C. The public health, safety, and welfare will be assured, and the purposed development will not substantially injure the value of adjoining property and associated uses if located where proposed as evidenced by the following testimony:

- Since 2012, the owner/applicant has been properly permitted by the City, and licensed by the State of North Carolina, for operation of a Child Care Home
- To operate a summer day camp in 2014 at the subject location, the owner/applicant properly obtained a Temporary Use Permit
- With public hearing notification signage in place, no member of the public appeared before the Planning Board or City Council to object to this request
- The Planning Board heard no competent evidence related to property values; therefore, their recommendation to approve the permit is contingent upon the applicant providing to City Council professional evidence that property values will not be adversely affected

D. The facility shall be developed and maintained in accordance with all current and applicable provisions of the North Carolina Department of Health and Human Services, as evidenced by the following testimony:

- Since 2012, the owner/applicant has been properly licensed by the State of North Carolina to operate a Child Care Home
- The local zoning permit process is a prerequisite to obtaining licensure by the State of North Carolina

E. A minimum of 100-square feet of gross heated area per child has been provided, as evidenced by the following testimony:

- The owner/applicant submitted documentation confirming that the house is approximately 1,940-square feet in size. This would permit the maximum of 15 children for the requested use

Ms. Blackwell stated the suggested findings support the general requirements as required by the Salisbury Land Development Ordinance. Ms. Alexander seconded the motion. Messrs. Kennedy, and Woodson, and Meses. Alexander and Blackwell voted AYE. (4-0)

Thereupon, Ms. Blackwell made a **motion** to issue a Special Use Permit SUP-03-2015 permitting the operation of a Child Daycare Center in Residence located at 433 Willow Road, Salisbury, North Carolina based on all general standards of the Salisbury Land Development Ordinance having been met. Ms. Alexander seconded the motion. Messrs. Kennedy, and Woodson, and Meses. Alexander and Blackwell voted AYE. (4-0)

CITY MANAGER'S COMMENTS

(a) Introduction – ICMA Fellows

City Manager Lane Bailey introduced Ms. Mary Therese Jadie Gonzales from the Philippines and Dr. Jutamas Kaewsuk from Thailand who are visiting Salisbury through the International City County Management Association (ICMA) Fellows program.

Ms. Gonzales and Dr. Kaewsuk noted the ICMA Fellows is an initiative launched in 2013 by President Obama to strengthen leadership and development in Southeast Asia. Ms. Gonzales and Dr. Kaewsuk described life in their homeland and shared their experiences and what they had learned while in Salisbury.

Ms. Gonzales and Dr. Kaewsuk thanked Council, Mr. Bailey, and Salisbury-Rowan Utilities (SRU) Director Jim Behmer for the hospitality extended to them during their time at the City.

Mr. Bailey thanked Human Resources Director Ruth Kennerly and Mr. Behmer for serving as hosts to Ms. Gonzales and Dr. Kaewsuk during their visit.

(b) 2016 – All American City

City Manager Lane Bailey stated the City submitted a pre-application for Salisbury to be considered an All American City in 2016. He noted the City previously received the designation in 1961. He explained the application must be submitted by December 18, 2015, and Communications Director Linda McElroy will be working with community organizations regarding the application.

(c) New Parks and Recreation Director

City Manager Lane Bailey noted the City has hired Mr. Nick Aceves as the new Parks and Recreation Director. He stated Mr. Aceves will begin work November 23, 2015, and he noted Mr. Aceves has 12 years of experience working with the City or Reidsville.

(d) New Sutphin Fire Truck

City Manager Lane Bailey explained the Salisbury Fire Department has a new Sutphin fire truck capable of pumping 1,500 gallons of water per minute that should be in service by December 15, 2015. He invited Council to look at the equipment at the conclusion of the meeting.

MAYOR'S ANNOUNCEMENTS

(a) New Council

Mayor Woodson congratulated those elected to the 2016-2017 City Council.

(b) Livingstone 7th Annual Commemorative Classic

Mayor Woodson announced Livingstone College will host the 7th Annual Commemorative Classic against Johnson C. Smith University this Saturday, November 7, 2015 at 1:00 p.m. at Alumni Memorial Stadium. The Commemorative Classic celebrates the birth of college football between historically black colleges that began December 27, 1892 between Livingstone College and Biddle Institute, now Johnson C. Smith University.

(c) Veterans Day Parade


Mayor Woodson announced the Veterans Day Parade sponsored by the Rowan County Veterans Council will be held, Wednesday, November 11, 2015. The parade will begin at the W. G. "Bill" Hefner V.A. Medical Center at 1:00 p.m. The parade will then transition to downtown and will begin at 2:30 p.m. near Stallings Baptist Church and travel north ending at Kerr Street.

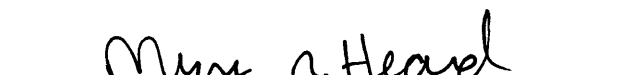
(d) "Voices from the Margin"

Mayor Woodson announced the Covenant Community Connection, a subcommittee of the Human Relations Council, and Lee Street Theater will present "Voices from the Margin," a monologue show written by Catawba College professor Dr. Janice Fuller and Mr. Justin Dionne, Director of Lee Street Theater. The project is based on interviews with community members who affect and who are affected by the Rowan-Salisbury Schools. Performances will be November 19-21, 2015 at 7:30 p.m. at the Lee Street Theater, 329 North Lee Street. A \$15.00 suggested donation will be taken at the door and all proceeds benefit the Rowan-Salisbury School System.

ADJOURNMENT

Motion to adjourn the meeting was made by Ms. Blackwell seconded by Ms. Alexander. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:00 p.m.


Paul B. Woodson, Jr., Mayor


Myra B. Heard, City Clerk