

Salisbury, North Carolina  
December 16, 2008

## **REGULAR MEETING**

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

**ABSENT:** None

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

## **PLEDGE OF ALLEGIANCE**

Mayor Kluttz asked that the local men and women serving in the Armed Services be remembered as she led those present in the Pledge of Allegiance to the United States flag.

## **RECOGNITION OF VISITORS**

Mayor Kluttz recognized all visitors present.

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

Mayor Kluttz noted the following change to the Agenda:

Omit Item 8(d) – Approve a contract not to exceed \$400,000 to KKA Architecture for the design and management of the City’s new Fiber To The Home and Customer Service facility.

## **CONSENT AGENDA**

(a) **Approval of Minutes**

Approve Minutes of the Regular meeting of December 2, 2008.

(b) **Budget Ordinance**

Adopt a budget Ordinance amendment to the FY 2008-2009 budget in the amount of \$12,457 to appropriate various donations to Salisbury Parks and Recreation Department.

AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE VARIOUS RECREATION DONATIONS.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 144, and is known as Ordinance No. 2008-63.)

(c) **Budget Ordinance**

Adopt a budget Ordinance amendment to the FY 2008-2009 budget in the amount of \$5,584 to appropriate restricted asset forfeiture funds.

AN ORDINANCE AMENDING THE 2008-2009 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. 145, and is known as Ordinance No. 2008-64.)

(d) **Budget Ordinance**

Adopt a budget Ordinance amendment to the FY 2008-2009 budget in the amount of \$10,350 to appropriate funds for public arts projects.

AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE SCULPTURE SHOW ENTRY FEES.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 146, and is known as Ordinance No. 2008-65.)

(e) **Voluntary Annexation**

Receive a petition requesting voluntary annexation of Rowan Cabarrus Community College located off of Jake Alexander Boulevard and Old Concord Road and

adopt a **RESOLUTION** directing the City Clerk to investigate the sufficiency of the petition.

RESOLUTION DIRECTING THE CITYCLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31, FOR VOLUNTARY ANNEXATION OF 99.931 ACRES FOR ROWAN CABARRUS COMMUNITY COLLEGE LOCATED OFF JAKE ALEXANDER BOULEVARD AND OLD CONCORD ROAD.

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 72, and is known as Resolution No. 2008-45.)

(f) Pool Hall Permit

Receive an application from Mr. Vaughn Ruth for a permit to operate a pool hall, located at 2129 Statesville Boulevard, and set a public hearing for January 6, 2009

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

**GROUP DEVELOPMENT – PINNACLE OFFICE PARK PHASE IV**

(a) Mr. David Phillips, Development Services Manager, presented the site plan for group development G-19-07 Pinnacle Office Park, Phase IV, located in the 1900 block of South Main Street. He reviewed aerial maps and ground photographs of the site and surrounding properties. He explained that the site plan was submitted prior to the adoption of the Land Development Ordinance and the plan is being reviewed under the previous Zoning Code where it was zoned B-1 Office/Institutional with a General Development-A Overlay. He added that only the site plan is being reviewed under the previous Zoning Code and any uses such as occupancy of space and sign regulations will fall under the new Land Development Ordinance.

Mr. Phillips stated that staff reviewed the site plan as a condominium/office complex because the property will not be subdivided. He noted that the main entrance will be from South Main Street with a connection to the existing Pinnacle development phases. He pointed out that the North Carolina Department of Transportation (NCDOT) is requiring street improvements on South Main Street to include the creation of a center turn lane and markings to direct traffic into the proposed site.

Mr. Phillips indicated that the site plan meets the landscaping and parking requirements. He reviewed several recommendations made by staff during their site plan review:

- Salisbury-Rowan Utilities (SRU) requested that a corridor be reserved for a future water line

- Due to the slope of an existing bank, staff recommends additional vegetation be added to prevent erosion onto adjacent properties
- Staff recommends that the existing, substandard cul-de-sac on Rosemont Street be replaced with an alternate cul-de-sac that provides equal or greater turning capabilities

Mr. Phillips stated that the developer has agreed to implement the staff recommendations and they are reflected on the site plan. He noted that the developer is aware that if the development remains dormant for one year the site plan will become invalid and future development will be governed by the Land Development Ordinance.

Mr. Phillips noted that the Planning Board unanimously approved the site plan as submitted.

Mr. Kennedy stated that the site plan includes improvements to the Rosemont Street cul-de-sac and asked if there will be any ingress or egress from the development to Rosemont Street. Mr. Phillips responded that there will be no access to Rosemont Street and added that a six foot fence will be installed around the cul-de-sac to screen the development from residential properties.

(b) Mayor Klutz opened the floor to receive public comments regarding group development G-19-07.

Mr. Chuck Harris, representing Fisher-Harris Development, stated that he is present and available for questions.

There being no one else to address Council regarding the group development site plan, Mayor Klutz closed the public comment session.

Councilman Lewis stated that within the last year Council reviewed a similar site plan with discussion regarding Dodd Street as a public street. He pointed out research has revealed that Dodd Street is a private drive and not a public street. He noted that two adjacent property owners have been accustomed to using Dodd Street for access to their property, and based on the proposed site plan he assumes that they will continue to be able to use Dodd Street. He noted that he supports the proposed plan.

Mayor Pro Tem Woodson stated that he also supports the plan and is glad the issue of Dodd Street has been resolved.

Councilman Burgin commented that he hopes there will be an opportunity to improve Dodd Street in the future because he believes it will see an increase in use, similar to a public street.

(c) Thereupon, Mr. Burgin made a **motion** to approve group development site plan G-19-07, for the construction of a 75,000 square foot office park to include up to 50 units and 365 parking spaces to be located in the 1900 block of South Main Street subject to

the conditions stated by the Planning Board. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **DESIGNATION OF URBAN PROGRESS ZONES**

(a) Ms. Kathryn Clifton, GIS Coordinator, stated that Urban Progress Zones are outlined under North Carolina Article 3J and is administered through the North Carolina Department of Commerce. She explained that the program provides economic incentives to stimulate new investment and job creation in economically distressed areas. She pointed out that municipalities with a population of at least 10,000 have the ability to define qualifying areas of property as Urban Progress Zones. Ms. Clifton reviewed the Urban Progress Zones program:

#### Determining the Zone:

- All land with the zone must be located in whole within the primary corporate limits
- Zone delineated by census tracts or block groups (all, or portion within corporate limits):
  - More than 20% population below poverty level
  - Or, adjacent to a census tract or block group of which at least 20% population below poverty level and 50% zoned non-residential
- Area zoned as non-residential may not exceed 35% of the total area of the zone

#### Eligible Types of Business:

- Aircraft maintenance and repair
- Air courier services hub
- Company headquarters (that creates 75 new headquarter jobs)
- Customer service call centers
- Electronic shopping and mail order houses
- Information technology and services
- Manufacturing
- Motorsports facility
- Motorsports racing team
- Research and development
- Warehousing
- Wholesale trade

#### Defining “Non-Residential”:

- “Non-Residential” is not defined in the legislation or in the guidelines for defining an Urban Progress Zone

- “Non-Residential” = Zoning areas in which residential development is expressly prohibited

Areas for Consideration:

- Downtown: Qualifying the area
  - Is located in whole within the municipal limits
  - More than 20% of the population of the Census Tract is below the poverty level
  - Area zoned as “non-residential” does not exceed 35% of the total area of the zone
- Downtown: Opportunities
  - Call centers
  - Warehousing
  - Smaller manufacturing operations
- Park Avenue: Qualifying the area
  - Is located in whole within the municipal limits
  - More than 20% of the population of the Census Tract is below the poverty level
  - Area zoned as “non-residential” does not exceed 35% of the total area of the zone
- Park Avenue: Opportunities
  - Warehousing
  - Smaller manufacturing operations
  - Light industrial development

Zone Limitations:

- Zone can only exist inside the primary corporate limits
- Zone may not exceed 15% of the total area of the municipality
- Area zoned as non-residential does not exceed 35% of the total area of the zone

Zones for Consideration:

- Downtown - .40 square miles
- Park Avenue - .46 square miles
- Total for all zones - .86 square miles

Ms. Clifton requested that Council approve two Resolutions for the designation of these zones.

Councilman Burgin asked if the tax credits apply to retail or industrial development. Ms. Clifton responded that the tax credits apply to industrial businesses. Mr. Burgin stated he supports the Park Avenue area being designated as an Urban Progress Zone but has reservations regarding the designation of the Downtown area. He

explained that this designation may encourage industrial rather than retail development in the Downtown area. Ms. Clifton reviewed the types of business eligible for tax credits in the Urban Progress Zone such as company headquarters, customer service call centers, and information technology services. She added that some warehousing and manufacturing qualify but would require the proper zoning for location in the Downtown area.

Mr. Burgin stated that he does not want to encourage something that will change the Downtown area from retail and housing. He pointed out that there are businesses on the list that that would qualify for tax credits but would result in an undesired effect on the Downtown area.

Councilman Lewis stated that each of the businesses would have to be allowed under Downtown Mixed Use (DMX) zoning and if the City finds a trend of objectionable manufacturing in the Downtown area it could be handled through changes to the Land Development Ordinance.

Ms. Clifton informed Council that this designation is not a new Urban Progress Zone designation, but a renewal of the Downtown Urban Progress Zone adopted in April 2007.

Mr. Lewis stated that the proposed zone extends to the 600 block of North Lee Street and provides opportunities along Long Street. Mr. Burgin stated that he would feel more comfortable if Downtown Salisbury, Inc. (DSI) approved the proposed Downtown Urban Progress Zone area. Mr. Lewis suggested Council act on the proposal for the Park Avenue area today and refer the proposed Downtown area to DSI for review.

(b) Mayor Kluttz opened the floor to receive public comment regarding the proposed Urban Progress Zones.

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

Mr. Burgin stated that he agrees with Councilman Lewis to approve the Park Avenue Resolution and consult with DSI regarding the Downtown Area recommendation.

(c) Thereupon, Mr. Lewis made a **motion** to adopt a Resolution endorsing the application to define an Urban Progress Zone (Census Tract 050201, Block Group 1). Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

RESOLUTION ENDORSING THE APPLICATION TO DEFINE AN URBAN PROGRESS ZONE (Census Tract 050201, Block Group 1).

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 73, and

is known as Resolution No. 2008-46.)

Thereupon, Mr. Lewis made a **motion** to table the motion to adopt a Resolution endorsing the application to define an Urban Progress Zone (Census Tract 0501) until Council receives comments from Downtown Salisbury, Inc. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **IMPLEMENTATION OF FIBER TO THE HOME**

(a) **Capital Project Ordinance – Fiber To The Home**

Mayor Kluttz noted that parts a and b would be heard together.

Mr. John Sofley, Management Services Director, stated that the financing for Fiber To The Home (FTTH) was successful and included funding for General Fund projects. He explained that the funds associated with the FTTH project must now be appropriated. He pointed out that the FTTH project includes both the day-to-day operations of the system and the capital component which involves building the system and making it operational. He presented Council with budget amendments to create a Capital Project Fund for FTTH and to set up a new Enterprise Fund for the FTTH operations.

Mr. Sofley requested that Council approve the budget amendments that are necessary for the implementation of FTTH.

Thereupon, Mr. Lewis made a **motion** to adopt a Fiber To The Home Capital Project Ordinance in the amount of \$29,190,195. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **FIBER TO THE HOME CAPITAL PROJECT ORDINANCE**

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 147-148, and is known as Ordinance No. 2008-66.)

(b) **Budget Amendment – Fiber To The Home**

Thereupon, Mr. Lewis made a **motion** to adopt a Budget Ordinance amendment to the FY 2008-2009 budget in the amount of \$1,796,899 to appropriate revenues and expenditures for the Fiber To The Home utility. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE REVENUES AND EXPENDITURES FOR FIBER TO THE HOME**



(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 149-151, and is known as Ordinance No. 2008-67.)

(c) Award Contract – Design Build Services Fiber To The Home

Mr. Dewey Peck, Purchasing Manager, stated that in August 2008 bids were received for the Fiber To The Home (FTTH) project. He noted that 17 information packets were sent out and 10 vendors indicated they were willing to bid on the project. He indicated that when the vendors found there was a 5% bid bond required, many decided not to bid which left two viable bids. Mr. Peck stated that staff evaluated the two bids and found Atlantic Group of North Carolina to have the best bid and value for the City. Mr. Sofley introduced Mr. James Salter, Chief Strategy Officer for Atlantic Group of North Carolina, who discussed his company's qualifications with Council.

Mr. Salter explained why he feels fiber optic is the best technology for the City:

- A single copper pair is capable of carrying six phone calls
- A single fiber pair is capable of carrying over 2.5 million simultaneous phone calls
- A fiber optic cable with the same bandwidth as a comparable copper cable is less than 1% of both the size and weight
- Theoretical limit is 100 Trillion bits per seconds (Tbps)
  - This will allow 33,000,000 DSL or cable modem customers on one fiber.

Mr. Salter reviewed the background for Atlantic Group of North Carolina:

- Fiber To The Premises (FTTP) Company
  - Only Fiber Optic Networks and only for Municipalities and Municipal Utilities
  - Most experienced company in the United States for City-wide, County-wide or multiple city Fiber To The Premises deployments
- Wholly owned subsidiary of Atlantic Engineering Group (AEG), Inc.

Mr. Salter then reviewed the company history:

- Founding member of Fiber To The Home (FTTH) Council
- AEG represented on Board of Directors FTTH Council for six of their eight years.
- Current Government Relations Chair
- Member of the American Public Power Association
- Atlantic formed in 1996
  - Founder was General Manager for Municipal Utility
    - Over 65 fiber projects to date – nationwide
    - 17 Fiber To The Premises Municipal projects complete or in progress – nationwide

- Corporate Organization (five in-house divisions)
  - Management and Finance
  - Engineering
  - Aerial Construction
  - Underground Construction
  - Technical Services

Mr. Salter noted that AEG has performed 65 fiber projects nationwide and 17 municipal FTTH projects. Mr. Salter stated that there will be an onsite team working in Salisbury with most living in Salisbury for the duration of the project. He concluded by asking if there were any questions concerning the company.

Mr. Peck recommended Council award a contract for design build services for the FTTH project to Atlantic Group of North Carolina.

Thereupon, Mr. Woodson made a **motion** to award a contract in the amount of \$11,771,417 to Atlantic Group of North Carolina, Inc. to provide Design Build Services for Salisbury's Fiber To The Home project. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

(d) Award Contract – Fiber To The Home and Customer Service Facility

This item was postponed.

**ELECTRICAL CONSTRUCTION AGREEMENT – DUKE ENERGY**

City Manager David Treme asked Council to consider an Electrical Construction Agreement with Duke Energy.

Mr. Mike Crowell, Technology Services Manager, stated there had been concern regarding access to Duke Energy poles in order to attach the fiber cable for the Fiber To The Home project. He stated that Duke Energy reserves portions of the pole for its own use and offers the remaining space for communication use. He noted that Time Warner and Windstream also share pole space with Duke Energy. He stated that the City contracted with Atlantic Engineering Group (AEG) to study the issue to determine if Salisbury could use the poles. He noted that the results of the study indicated 40% of the poles are clean, 40% require make ready work, and 20% are overcrowded. He indicated that staff met with Duke Energy and discussed the make ready work and asked if AEG could contract directly with the power utility contractors in order to perform the work. He stated that Duke Energy agreed that dealing directly with power utility contractors would save money and time. He noted that in order to allow AEG to use the contractors, an Electrical Construction Agreement must be signed. Mr. Crowell requested Council allow the City Manager to execute the Electrical Construction Agreement.

Thereupon, Mr. Kennedy made a **motion** to authorize the City Manager to execute an Electrical Construction Agreement with Duke Energy Carolinas, LLC to allow for make ready work for the Fiber To The Home project. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

Councilman Burgin asked if this will affect the current price the City has for pole space. Mr. Crowell responded that this will not affect the Pole Attachment Agreement that the City has with Duke Power Company.

### **EXPENDITURE OF FUNDS – FIBER TO THE HOME**

(a) Mr. John Sofley, Management Services Director, stated that a portion of the Fiber To The Home (FTTH) financing was set aside for General Fund projects. He indicated that \$2,000,000 was included in the FTTH financing in order to fund the Debt Financed projects. He stated that these projects will extend beyond the current fiscal year and a project fund should be created. Mr. Sofley asked Council to remove \$2,000,000 from the annual budget and re-appropriate it into the project fund.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending the 2008-2009 Budget Ordinance for the City of Salisbury, North Carolina in the amount of \$2,000,000 to reduce the appropriated revenues and expenditures from Debt Financed projects. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO REDUCE THE APPROPRIATED REVENUES AND EXPENDITURES FROM DEBT FINANCED PROJECTS**

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 152-153, and is known as Ordinance No. 2008-68.)

(b) Thereupon, Mr. Kennedy made a **motion** to adopt a 2009 General Fund Debt-Financed Capital Project Ordinance in the amount of \$2,158,587. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **2009 GENERAL FUND DEBT-FINANCED CAPITAL PROJECT ORDINANCE**

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 154-155, and is known as Ordinance No. 2008-69.)

## **CAPITAL PROJECT ORDINANCE – WATER AND SEWER IMPROVEMENTS**

Mr. Jim Behmer, Utilities Director, stated that during the preparation of the 2008-2009 Budget, certain capital projects were removed in order to minimize the impact on the rate. He stated it was anticipated that surplus revenues from the 2007-2008 budget could be used to fund several projects that were unfunded mandates by the State. Mr. Behmer proposed \$600,000 be reallocated to fund the Capital Project Ordinance for the wastewater treatment plant improvements Chlorination/Dechlorination Project and \$400,000 be reallocated to fund the Capital Project Ordinance for the Statesville Water Line Relocation Project.

Thereupon, Mr. Woodson made a **motion** to re-allocate \$600,000 for wastewater and sewer and \$400,000 for waterline relocation in Statesville. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE AVAILABLE FUND BALANCE.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 156, and is known as Ordinance No. 2008-70.)

## **PURCHASE OF EASEMENTS – PIEDMONT NATURAL GAS**

Mr. Jim Behmer, Utilities Director, stated that Duke Energy is expanding their Buck Steam Plant. He noted that in order to have a sufficient supply of natural gas to this site, Piedmont Natural Gas will need to run an additional transmission line across property owned by the City of Salisbury located near the Grant Creek Wastewater Treatment Facility. He indicated that this new line will run parallel to an existing gas line that crosses four City-owned parcels and has been in place for several decades. He indicated that Piedmont Natural Gas has submitted offers to purchase new 20-foot easements adjacent to their existing 50-foot easements. He noted that these new easements should not cause problems with the current operation of the City's facility nor interfere with a future regional wastewater plant that may be constructed in this area. Mr. Behmer recommended Council accept the offer from Piedmont Natural Gas to purchase the four easements.

Thereupon, Mr. Lewis made a **motion** to accept an offer from Piedmont Natural Gas to purchase four easements located on Tax Map and Parcel 322-276, 322-030, 322-025, and 322-275 in the amount of \$12,667. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

**CHANGE ORDER – FOOTHILLS WATER AND SEWER – ROWAN CABARRUS COMMUNITY COLLEGE**

Mr. Jim Behmer, Engineering Manager, addressed Council regarding a change order to include a water line extension for Rowan Cabarrus Community College (RCCC). He stated that with anticipated costs of less than \$200,000, plans for the water line were sent to several local reputable contractors and staff received informal quotes, which is in accordance with the City's purchasing policy. Mr. Behmer indicated that Foothills Water and Sewer was the lowest responsible bidder in the amount of \$155,330. He noted that the project is to extend the water line off of Old Concord Road to serve the new RCCC building. He noted that there is an existing contract with Foothills Water and Sewer to complete an annexation project, and he recommended adding the RCCC project to the existing contract by change order.

Thereupon, Mr. Kennedy made a **motion** to authorize the City Manager to execute a change order in the amount of \$155,330 to Foothills Water & Sewer, Inc. for the Rowan Cabarrus Community College waterline project. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

**AWARD CONTRACT – ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC**

Ms. Kathryn Clifton, Geographic Information Systems (GIS) Coordinator, stated that the Fiber To The Home Project will utilize a GIS-based infrastructure management system in order to maintain an accurate inventory of telecommunications network assets. She explained that in order to support the needs of the Fiber to the Home Project and the needs of existing departments using GIS, an Enterprise License Agreement (ELA) is recommended for software, and Environmental Systems Research Institute (ESRI) is the recommended provider.

Ms. Clifton explained the details of the Enterprise License Agreement

- Three year agreement
- Benefits
  - Deploy unlimited desktop, server, and mobile GIS software
  - Access to ESRI Developer Network (EDN) for integration of GIS into existing workflows
  - ESRI Virtual Campus Credit
  - Discount on Instructor-Led Training

Ms. Clifton then reviewed the cost associated with the ELA Agreement:

	FY 2008-2009	FY 2009-2010	FY 2010-2011
ESRI/ELA	\$35,000	\$35,000	\$35,000
ArcPad (mobile component for GPS) Add-On	\$750	\$750	\$750
<b>TOTAL</b>	<b>\$35,750</b>	<b>\$35,750</b>	<b>\$35,750</b>

Ms. Clifton requested Council approve a contract in support of the Enterprise License Agreement.

Thereupon, Mr. Woodson made a **motion** to award a three year contract in the amount of \$107,265.66 total for all three years to Environmental Systems Research Institute, Inc. (ESRI) for an ESRI Small Government Enterprise License Agreement. Mr. Lewis clarified that the funding for this contract is in place in the Fiber To The Home Enterprise budget as well as in the GIS budget. Mr. Clifton agreed that this is correct. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **PLACEMENT OF MONITORING WELLS IN PUBLIC RIGHTS-OF-WAY**

Ms. Wendy Brindle, Traffic Engineer, stated that the Engineering Division has received a request from ATC Associates regarding installation of two monitoring wells within the City right-of-way. She stated that ATC has been contracted by the State of North Carolina Dry Cleaning Solvent Cleanup Act (DSCA) Program to conduct an investigation of soil and groundwater quality in the vicinity of Avalon Cleaners. She added that they would like to place one monitoring well along Avalon Drive near Innes Street and one along Council Street. She stated that an agreement with North Carolina Department of Environment and Natural Resources (NCDENR) must be executed for off-site property access. She explained that the wells will be finished at the surface with locking well caps.

Ms. Brindle recommended Council authorize the City Manager to execute the agreement with NCDENR and ATC Associates. Councilman Burgin asked if the City will be able to work in the rights-of-way should one of the roads need to be widened. Ms. Brindle responded that the Agreement states that City will have access to the rights-of-way and must only provide written notice of its intent.

Thereupon, Mr. Lewis made a **motion** to authorize the City Manager to execute an agreement with ATC Associates and North Carolina Department of Environment and Natural Resources regarding the placement of two monitoring wells in public rights-of-way. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **CONGESTION MITIGATION AND AIR QUALITY (CMAQ) REPORT**

Mr. Dan Mikkelson, Land Management and Development Director, stated that Congestion Mitigation and Air Quality (CMAQ) is a funding source provided from the North Carolina Department of Transportation (NCDOT). He stated that NCDOT is providing a limited opportunity to apply for 100% funding for “fast track” CMAQ projects. He explained that in order to qualify for the program the City must be able to complete preliminary engineering, environmental documentation, and right-of-way authorization by August 29, 2009. He indicated that the current free bus service on Ozone Action days should qualify for the fast track program.

Mr. Mikkelson stated that there are currently seven sidewalk construction projects on the approved CMAQ list. He noted that with current staff resources and work load, up to four projects could be accelerated to qualify for the fast track program. He stated that if these sidewalks were fully funded through CMAQ it would be a value of approximately \$500,000. Mr. Mikkelson stated that according to the City’s Sidewalk Priority Index (SPI) staff recommends the following sidewalks be recommended for fast track funding:

1. Statesville Boulevard from Innes Street to Jake Alexander Boulevard
2. Salisbury Mall area
3. Salisbury High School area
4. South Main Street from D Avenue to Rowan Mill Road

Mr. Mikkelson indicated that as an alternate for the South Main Street sidewalk, the City may prefer to select sidewalks adjacent to the Sports Complex. He indicated that the area near the Sports Complex has a lower SPI rating, but the City has been seeking ways to make improvements adjacent to Martin Luther King, Jr. Avenue. He added that with this option the Sports Complex and Rufty-Holmes Senior Center would also benefit.

Mr. Mikkelson recommended Council authorize the Mayor to apply for 100% CMAQ fast track funding.

Mr. Kennedy asked where the sidewalks on Martin Luther King, Jr. Avenue would begin and end. Mr. Mikkelson stated that the sidewalk would be located in the vicinity of the Sports Complex on Ryan Street and Martin Luther King, Jr. Avenue. He added that the City will apply for as much funding as possible without specific limits and the amount of funds received will determine the length of the sidewalk and its location.

Mr. Lewis asked if the remaining CMAQ projects will continue to require a 20% match and how much they total. Mr. Mikkelson indicated that the other CMAQ projects will require the 20% match. He stated that the total CMAQ program for sidewalks is approximately \$1,000,000 and with the new funding, this amount will be reduced by half.

Mr. Lewis indicated that this is a win-win situation for the City, noting that it allows for accelerated projects, saves the taxpayers \$100,000 by fully funding a portion of the projects valued at \$500,000 and eliminating the City’s 20% local match.

Thereupon, Mr. Lewis made a **motion** to authorize the Mayor to apply for 100% Congestion Mitigation and Air Quality fast track funding. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **BOARDS AND COMMISSIONS**

This item was postponed

## **PUBLIC COMMENT**

Mayor Kluttz opened the floor to receive public comments.

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

## **COMMENTS FROM THE CITY MANAGER**

### (a) Council Committee - Electronic Signs

Mr. Burgin reported that the Council Committee has met twice regarding the electronic signs request and they are consistent with previous requests. Mr. Burgin reviewed the findings and recommendations from the Council Committee:

#### Findings:

- Limit to Institutional Campus
- One sign per campus
- Overall size (60 square feet maximum) to remain the same
- 10 feet maximum height, seven feet maximum for electronic portion
- Up to 50% may be electronic
- White or amber, non-moving text
- Message may change once every five minutes

#### Recommendations:

- Refer findings to Technical Review Committee and Planning Board
- Evaluate Zoning Overlay or sign Overlay District
- Modify the current text and definition of changeable copy signs for clarification

Mr. Lewis stated that there may be opposition to the Committee's findings in regards to electronic signs and that hearing the opposing opinions is the point of the public process. He added that the public will have an opportunity to make comments regarding this matter to both the Planning Board and City Council.



By consensus, Council agreed to refer the findings to the Technical Review Committee and the Planning Board.

(b) Budget Amendment – Old Landfill/Composting Site

City Manager David Treme stated that the North Carolina Department of Environment and Natural Resources (NCDENR) visited the City's Old Landfill (Material Handling Site) and recommended several changes in how the Old Landfill is operated. He explained that the City would like to contract with Knox Contract Seeding, Inc. to remediate several issues in order to comply with the NCDENR recommendations. Mr. Treme asked Mr. Tony Cinquemani, Public Services Director, to explain what the contract will cover.

Mr. Cinquemani stated that the contract will address three areas that NCDENR has recommended for attention at the Material Handling Site. He stated that these areas include stabilizing the stream bank on the site, re-working the storm water drains that feed from the site into the creek, and reseeded the property boundary and any other areas considered wetlands.

Mr. Treme indicated that this will be the first course of action to address the recommendations from NCDENR. He noted that staff is also looking for a new site to store the leafs, limbs and mulch collected by the City in order to move them from the current site and store them in a manner recommended by NCDENR.

Thereupon, Mr. Lewis made a **motion** to adopt an Ordinance amending the 2008-2009 Budget Ordinance of the City of Salisbury, North Carolina in the amount of \$39,058 to appropriate funds for contract at old landfill/composting site. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE FUNDS FOR CONTRACT AT OLD LANDFILL/COMPOSTING SITE

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 157, and is known as Ordinance No. 2008-71.)

(c) Roof Replacement – 120 South Main Street

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding roof replacement at 120 South Main Street. She stated that a request was received from Cohen Roofing and Metal to replace the roof at Sidewalk Deli. She stated that the contractor has requested to use approximately six parking spaces that will extend beyond Sidewalk Deli. She indicated that the Salisbury Post owns the building where the spaces are located and have agreed to allow the use of the spaces. She stated that the contractor

will place a dumpster in the area and will also utilize a crane. She noted that the contractor will not encroach into traffic, and there will be pedestrian access to the sidewalk. She indicated that staff has reviewed the request and found it to be consistent with the City Ordinance and recommends approval from Council.

Thereupon, Mr. Burgin made a **motion** to allow the use of six parking spaces for two weeks beginning January 1, 2009. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

### **MAYOR'S ANNOUNCEMENTS**

(a) New Year's Eve Celebration

Mayor Kluttz announced that Downtown Salisbury, Inc. will host New Year's Eve at the Bell Tower, Wednesday, December 31, 2008 from 11:30 p.m. until 12:30 a.m.

(b) Salisbury England

Mayor Kluttz announced that Salisbury, England Mayor Iris Evans' husband Owain passed away unexpectedly this week. Mayor Kluttz commented that she is very sad and sends Mayor Evans her deepest sympathy.

(c) Salisbury England

Mayor Kluttz announced that she received a Christmas card from Councillor Ian Tomes of Salisbury, England. She stated that inside the card was a small card with a photograph of the Hall House in Salisbury, North Carolina. She noted that Mr. Tomes indicated this is his official Holiday card and has been sent to 9,500 people throughout the City of Salisbury, England. Mayor Kluttz stated that she was thrilled to see a local picture on the front of the holiday card. Mayor Kluttz sent well wishes and Holiday greetings to everyone in Salisbury England. She also wished all citizens happy holidays and a safe 2009.

Mr. Burgin stated that he wants citizens to know that Council has worked hard to understand the budget and even though today's process was brief the background to all the decisions made by Council has occurred over a matter of years. He stated that Council is spending the money in a way that would best benefit the City.

### **CLOSED SESSION**

Mayor Kluttz asked for a motion to go into closed session.

Thereupon, Mr. Woodson made a **motion** to go into closed session as allowed by NCGS 143-318.11(a)(3) to consult with an attorney. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

**RETURN TO OPEN SESSION**

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

Mayor Kluttz announced that Council took no official action in closed session.

**ADJOURNMENT**

**Motion** to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 5:45 p.m.

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Mayor

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City Clerk