

Salisbury, North Carolina
April 20, 2010

REGULAR MEETING

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

ABSENT: None

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

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 AGENDA

Mayor Kluttz noted the following change to the Agenda:

Postpone item 11 – Council to receive a presentation from Historic Salisbury Foundation regarding the Ellis Street (Shober) Bridge.

Mayor Kluttz stated that this item was postponed at the request of the Historic Salisbury Foundation.

RECOGNIZE SALISBURY HIGH SCHOOL GIRLS BASKETBALL TEAM – 2A STATE CHAMPIONS

Mayor Kluttz recognized the Salisbury High School Girls Basketball Team for winning the North Carolina 2A State Championship. She read a proclamation declaring April 6, 2010 as Salisbury High School Lady Hornets Day.

Mayor Kluttz indicated that both the team and its individual members have been very successful. She asked Council to join her as each team member was presented with a Proclamation:

Ms. Najwa Allison	
Ms. Eboni Feamster	
Ms. Jessica Heilig	All County, All Conference
Ms. Ashia Holmes	All County, All Conference
Ms. Ayanna Holmes	All County, All Conference, Tournament Most Outstanding Player
Ms. Hannah Lebowitz	
Ms. Isis Miller	
Shanequa (Bubbles) Phifer	All County, All Conference, All District, All State, Conference Player of the Year, Championship Most Valuable Player
Olivia Rankin	All County, All Conference
Doreen Richardson	
Tori Woods	
Lacresha Young	
Andrew Mitchell	Head Coach, Conference Coach of the Year
Charlie Bryan	Assistant Coach
Osborne Fields	Assistant Coach
Kristina Spring	Assistant Coach
Mac Thomas	Assistant Coach

Mayor Kluttz indicated that she presented Coach Andrew Mitchell with a copy of the Raleigh News and Observer Newspaper that headlined the Salisbury High School Girls Basketball Team after their win. Mayor Kluttz expressed her pride for Salisbury High School representing the City so well throughout the State.

RECOGNIZE THE 2009-2010 CITY RETIREES AND EMPLOYEES

Mayor Kluttz indicated that Council is pleased to recognize retirees and employees for their service to the City.

Mr. Joe Eagle, Personnel Analyst II, and Ms. Michelle Balknight, Personnel Analyst, introduced the following employees who reached a service milestone in their careers with the City of Salisbury:

5 Years of Service

Mr. Donnie Beacham
Mr. Neal Brown
Mr. Harry Fink
Mr. Brent Hall
Mr. Mark Hughes
Ms. Ruth Kennerly
Mr. George McLaughlin
Ms. Diana Moghrabi
Mr. John Pless
Mr. David Richards
Mr. Travis Shulenburg
Ms. Terrie Tooley
Mr. Kenneth Wortman

Ms. Donna Brotherton
Mr. James Earnhart
Ms. Janis Ford
Mr. Frank Houston
Mr. Pete Kennedy
Mr. Jerry Leonard
Mr. Preston Mitchell
Mr. Chad Moss
Mr. Craig Powers
Mr. Johnny Rogers
Mr. Daniel Smith
Ms. Sheryl Turdeau

10 Years of Service

Ms. Vickie Bennett
Ms. Kathryn Clifton
Mr. Timothy Crews
Ms. Diana Gonzalez
Ms. Deborah Hoffman
Mr. Scott Hunt
Mr. Michael Lee
Mr. Ronald Love
Ms. Arlette Oglesby
Mr. Darrell Riley
Mr. Thomas Wilsey

Mr. James Broughton
Mr. James Coulter, Jr.
Ms. Vickie Eddleman
Ms. Myra Heard
Mr. William Hoffman
Mr. Patrick Kennerly
Mr. James Leonard, Jr.
Ms. Shanita Millsaps
Mr. Doug Poole
Ms. Jewell Stokes

15 Years of Service

Ms. Niki Castor
Mr. Rodney Mahaley
Mr. Trent Pence
Mr. Scott Trexler

Mr. Richard Kepley
Mr. Mark Martin
Ms. Melonie Thompson

20 Years of Service

Mr. Eddie Byers
Mr. James Farley
Ms. Shelia Lingle

Mr. Daniel Dyles
Mr. Greg Kincaid
Ms. Rita Rule

25 Years of Service

Mr. Currie Butler
Mr. Ronald Herion
Mr. Marshall Lancaster
Ms. Kathy Seybold

Mr. Joe Eagle
Ms. Dianne Johnson
Mr. Bob Parnell
Mr. Doug Stevens

30 Years of Service

Ms. Karen Barbee
Mr. Martin Trexler

Mr. Paul Parrish
Mr. Steve Weatherford

Retirees

Mr. Richard Bowen
Mr. Butch Edge
Mr. Bo Geter
Mr. Paul Johnston
Mr. Marshall Moore
Mr. Dewey Peck
Mr. Mark Wilhelm

Mr. Bobby Burleyson
Mr. Kenneth Eller
Mr. Lanny Graham
Mr. Mike McCart
Mr. Todd Overcash
Mr. Jimmy Phillips
Mr. Tony Wilhite

Mayor Kluttz congratulated and thanked the employees and retirees for their service to the City.

PROCLAMATIONS

Mayor Kluttz proclaimed the following observances:

ARBOR DAY
BETTER HEARING AND SPEECH MONTH

April 23, 2010
May 2010

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of April 6, 2010.

(b) Budget Ordinance Amendment

Adopt a budget Ordinance amendment to the FY2009-2010 budget in the amount of \$2,986 to appropriate various recreation funds.

AN ORDINANCE AMENDING THE 2009-2010 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. 40, and is known as Ordinance 2010-19.)

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

CLOSING A PORTION OF FLORAL (FLORIAL) STREET

(a) Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding a request to close a portion of Floral (Florial) Street. She indicated that on March 18, 2010 Council adopted a Resolution of Intent to close a portion of Floral Street. Ms. Brindle stated that all notifications to the public have been made.

Ms. Brindle indicated that in order to close the street, Council must find that closing the street must not be contrary to the public interest and no individual shall be deprived of reasonable means of ingress and egress to his or her property by the closing. She stated that staff has found that these two conditions have been met and that the closing will be subject to utility easements.

Ms. Brindle pointed out that if there is no reasonable opposition raised at the public hearing, staff recommends adopting a Resolution Accepting Offers of Dedication for the portion of Floral Street and adopting an Order to close a portion of Floral Street. She noted that the closed section is not actually a through street, but a right-of-way.

(b) Mayor Kluttz convened a public hearing, after due notice thereof, to receive comments on the proposed closing of a portion of Floral (Florial) Street.

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

Councilman Kennedy stated that he visited the site prior to the Council meeting and feels that closing this portion of the street is a good decision.

(c) Thereupon, Mr. Kennedy made a **motion** to adopt a Resolution pertaining to the acceptance of an Offer of Dedication for public use of a portion of Floral (aka Florial Street). Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

A RESOLUTION PERTAINING TO THE ACCEPTANCE OF AN OFFER OF DEDICATION FOR PUBLIC USE OF A PORTION OF FLORAL STREET (FLORIAL STREET).

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No.7, and is known as Resolution 2010-07.)

(d) Thereupon, Mr. Kennedy made a **motion** to adopt an Order to close a portion of Floral (aka Florial) Street as allowed by NCGS 160A-299. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

**NORTH CAROLINA
ROWAN COUNTY**

IN THE MATTER OF:

* **BEFORE THE CITY COUNCIL OF**
* **THE CITY OF SALISBURY**
* **NORTH CAROLINA**
*

**CLOSING OF A PORTION OF
FLORAL STREET
(aka FLORIAL STREET)**

*** ORDER CLOSING OF A STREET
* PURSUANT TO GENERAL
* STATUE OF NORTH CAROLINA
SECTION 160A-299**

THIS CAUSE, coming on to be heard and being heard before the City Council of the City of Salisbury, Rowan County, North Carolina, at the regular meeting of said Council held on April 20th at 4:00 p.m., in the City Office Building at 217 South Main Street, Salisbury, North Carolina, and it appearing to the Council that all persons, firms and corporations owning property adjoining the street described in the Petition filed in this cause are parties to this proceeding; and it further appearing that said street is not maintained by the Department of Transportation; and it further appearing that notice of this hearing was duly published in THE SALISBURY POST on March 26, April 2, April 9, and April 16th.

And it further appearing to the Council and the Council finding as a fact, that the closing of the street, as described in the Petition filed in this cause, is not contrary to the public interest or the property rights of any individual, and that no individual owning property in the vicinity of said street or in the subdivision in which they are located will be deprived of reasonable means of ingress and egress to his property by the closing of said street; and it further appearing to this Council that the relief prayed in the Petition should be granted.

IT IS NOW, THEREFORE, ORDERED AND DECREED by the City Council of the City of Salisbury, Rowan County, North Carolina, pursuant to and in accordance with the authority vested in this Council by the General statues of North Carolina, Section 160A-299.

Beginning at an existing iron pin the southernmost corner of H. Richard Ridenhour (Deed Book 1121 Page 183) on the north west side of the Floral Street right of way, thence three lines with Kevin Lee Wilson's 11.448 acre tract, (1) with the north west right of way line S 35degrees 56 minutes 13 seconds W, 349.53 feet to a new iron set, (2) with the end of Floral Street right of way, S 55 degrees 29 minutes 51 seconds E, 30.00 feet to a new iron pin, (3) with the south east right of way line of Floral Street, N 36 degrees 02 minutes 46 seconds E, 347.14 feet to an existing iron, thence a new line crossing Floral Street, N 51 degrees 00 minutes 53 seconds W, 30.69 feet to the point and place of beginning and being 0.242 acres as shown on survey and map by Shulenburg Surveying Company, P.A. dated May 6, 2009.

Be and the same is hereby forever closed subject to a 30 foot wide easement centered on the existing 8 inch sanitary sewer main.

This the 20th day of April, 2010.

CITY COUNCIL OF THE CITY OF SALISBURY,
NORTH CAROLINA

BY: s/s Susan W. Kluttz
Mayor

s/s Myra B. Heard
City Clerk

Mr. Kennedy asked Ms. Brindle if Floral (Florial) Street will be paved. Ms. Brindle indicated that the property owner at the end of the street has development plans that include changes to the end of the road to improve the turnaround. She added that if the development plans are approved, the street will be paved after construction.

RESOLUTION – EXTENDING THE DOWNTOWN MUNICIPAL SERVICE DISTRICT

(a) Mr. Joe Morris, Community Planning Services Director, addressed Council regarding a request to extend the Downtown Municipal Service District (MSD). Mr. Morris indicated that staff has received a request from the Salisbury Community Development Corporation (CDC) and Downtown Salisbury, Inc. (DSI) to extend the MSD to include three parcels located in the 200 block of South Lee Street. He pointed out that the specific properties are 203 South Lee Street, owned by the CDC, 209 South Lee Street, owned by the City of Salisbury, and 213 South Lee Street, owned by DSI. Mr. Morris reviewed photographs of the site noting its location adjacent to the City Hall parking lot.

Mr. Morris indicated that staff worked with the CDC and DSI to construct a parking lot, install landscaping, and add lighting in the rear of the properties located at 209 and 213 South Lee Street. He pointed out that staff has collaborated with adjacent property owners and have plans to create shared parking, giving Noble and Kelsey Funeral Home access to the City owned parking lot.

Mr. Morris reviewed the Development Plan and the MSD Expansion Statutes:

Development Plan

- Property acquired by Salisbury CDC and DSI
- Interest only loan by F&M Bank
- Parking lot developed by City
- Applied for Main Street Solutions Grant
- Apply for MSD Extension
- Subdivide property along development lines

MSD Expansion Statutes

- At least 12.5% contiguous with existing boundaries of the MSD (45% contiguous)
- Report, letter and plan
- Public Notice seven days prior to public hearing
- Property owners within 100 feet of site notified four weeks prior to public hearing
- Effective date July 1, 2010

Mr. Morris requested Council hold a public hearing to receive input on the expansion of the MSD through the adoption of a Resolution.

(b) Mayor Kluttz convened a public hearing, after due notice thereof to receive comments on the proposed extension of the Downtown Municipal Service District.

Mr. Clyde Overcash, 217 South Lee Street, showed photographs of his property which adjoins the area in question. He pointed out the screening that has been installed and noted that it blocks his view of the neighborhood. He referred to drainage and water runoff from the adjacent parking lot and stated that there is a four foot fall to his property that creates an overflow of water. Mr. Overcash noted the lighting that has been installed four feet from his property and stated that it shines into his bedroom at night. He stated that the properties did not appear to be municipal to him and that if they are included in the Municipal Service District, the neighbors can expect dumpsters to be added, lighting to assist criminal activity in the area, and public art from out of town artists. He added that being in the Municipal Service District will also add additional taxes that will be used to pay for Planning staff that planned this for the neighbors.

Mr. Randy Hemann, Executive Director Downtown Salisbury Inc., 314 Mitchell Avenue, stated that DSI supports the MSD extension and that it has applied for grants to improve the exterior of the property. He commented that he is excited that these properties can be an extension of the entertainment district and the other good things that are happening downtown. He indicated that DSI appreciates Council's support of the extension.

Councilman Miller explained that expansion into the Municipal Service District (MSD) is a voluntary action a property owner takes to be included in the MSD. He indicated that in this particular case Downtown Salisbury Inc. (DSI) owns one of the properties and that DSI typically markets and promotes activities and events in the MSD. He commented that he serves on the board of DSI and feels it is entirely appropriate for DSI to request inclusion in the MSD. Mr. Miller pointed out that these properties are part of a growing downtown district with new development occurring within 100 feet of the site. He noted that he is in favor of the request

Councilman Woodson stated that he hopes this area will be improved and that these properties can be developed and become a continuation of making downtown nicer.

(c) Thereupon, Mr. Woodson made a **motion** to adopt a Resolution extending the Downtown Municipal Service District. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Klutz voted AYE. (5-0)

A RESOLUTION EXTENDING THE DOWNTOWN MUNICIPAL SERVICE DISTRICT

(The above Resolution is recorded in full in Resolution Book No. 13 at Page No. 8, and is known as Resolution 2010-08.)

HISTORIC SALISBURY FOUNDATION PRESENTATION – ELLIS STREET (SHOBER) BRIDGE

This item was postponed.

AWARD CONTRACT – CMAQ SIDEWALK PROJECTS

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding a Congestion Mitigation Air Quality (CMAQ) contract. She stated that Council recently awarded contracts for three CMAQ sidewalk projects which are funded by CMAQ funds.

Ms. Brindle indicated that the funding source for the projects requires that the sidewalks be inspected and tested by North Carolina Department of Transportation (NCDOT) Certified Inspectors. Ms. Brindle explained that staff advertised for Letters of Interest from professional firms offering Construction Engineering and Inspection (CEI) services and received responses from Davenport Transportation Consulting and Professional Service Industries. She indicated that staff evaluated each firm using NCDOT guidance and found the firms to be equally qualified to perform the proposed services. She stated that when firms are equally qualified, priority consideration is given to firms within the State of North Carolina and firms with Small Professional Service Firm (SPSF) participation. She pointed out that both firms are located in North Carolina and both indicated participation with SPSF, but Davenport Transportation Consulting proposed the highest participation. She stated that based on this criteria, staff recommends Council authorize an agreement with Davenport Transportation Consulting in an amount not to exceed \$75,150 for Construction Engineering and Inspection services for construction of CMAQ sidewalk projects, subject to concurrence by NCDOT.

Councilman Kennedy asked Ms. Brindle to explain the testing and inspection process. Ms. Brindle explained that NCDOT Certified Inspectors will visit all three sites at least twice a day and will determine when to run tests on concrete, asphalt, and drainage pipes. She noted that City staff is not NCDOT Certified to perform the work to test the concrete strength, drainage and asphalt.

Thereupon, Mr. Kennedy made a **motion** to award a contract to Davenport Transportation Consulting in the amount of \$75,150 for Construction Engineering and Inspection Services for construction of Congestion Mitigation Air Quality sidewalk projects, subject to concurrence by North Carolina Department of Transportation. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Klutz voted AYE. (5-0)

Mr. Kennedy pointed out that these sidewalk projects are not funded by the City.

STREET CLOSING - 100 BLOCK OF WEST COUNCIL STREET

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding a request from Weather Guard and the City Facility Maintenance Department to close the 100 block of West Council Street during the installation of a new roof at 132 North Main Street. She reviewed an aerial photograph depicting the location of the site.

Ms. Brindle indicated that the contractor would like to close the block to through traffic to use a lift and dumpster for the duration of the re-roofing project. She indicated that

construction is scheduled to begin April 26, 2010 and will not exceed two calendar weeks. Ms Brindle recommended Council approve the street closing subject to the following:

- Contractor to notify all property owners/businesses and recommend use of the mid-block alley for access to the western half of the block
- Contractor to open street to traffic whenever work is not being performed
- Closure is not to exceed two calendar weeks

Councilman Kennedy stated that he thinks it is important to close the street because it will protect citizens and prevent liability claims.

Thereupon, Mr. Kennedy made a **motion** to approve a request to close the 100 block of West Council Street to through traffic for a re-roofing project at the City Office Building, subject to conditions. Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

Councilman Miller asked if traffic for the offices in this area will be re-directed to nearby City owned parking lots. Mr. John Sofley, Management Services Director, indicated that the traffic in this block is short term, transient traffic and will not require re-direction.

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Tree Board

Upon a motion by Mr. Woodson, seconded by Mr. Kennedy, and with Messrs. Kennedy, Miller, Woodson and Meses. Blackwell and Kluttz voting AYE, the following appointment was made to fulfill an unexpired term on the Tree Board:

Mr. Rick Lewis

Term expires 3/31/2012

PUBLIC COMMENT

Mr. Clyde Overcash, 217 South Lee Street, stated that he has invited Council to see the damage in his yard on numerous occasions. Mr. Overcash gave Council photographs that he identified as being his yard. He indicated that Mr. Richard Kelly, Risk Manager, has worked very diligently with him on the issue, but no resolution has been reached. He pointed out that the Engineering Department has been very helpful and has agreed that there is a problem. Mr. Overcash stated that there is a four foot fall and when there is heavy rain his lot floods. He reviewed additional photographs that he identified as being his yard. Mr. Overcash stated that the North Carolina League of Municipalities (NCLM) inspected his property and concluded that no drainage issue exists. He pointed out that no one from NCLM spoke directly to him or inspected his yard during rain. Mr. Overcash stated that the Planning Department has not been helpful and has made light of his problem. He noted that he has repeatedly contacted the Planning Department about the problem but has received no response. He invited Council to view his property and commented that he feels no progress has been made in six months regarding this issue and he may take legal recourse. Mr. Overcash stated that he has repeatedly

contacted the City's Planning Department regarding this issue and has not received a return call from them or the City Manager.

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

COMMENTS FROM THE CITY MANAGER

(a) Property Damage – Clyde Overcash

City Manager David Treme stated that Mr. Overcash filed a claim for property damage against the City and the City decided to present the claim to the North Carolina League of Municipalities and hire a hydrologist to make a determination on the claim. Mr. Treme indicated that Mr. Overcash claimed that installation of the parking lot on South Lee Street has negatively impacted the drainage to his property. He noted that the City's insurance carrier determined that the installation of the parking lot did not negatively impact Mr. Overcash's property.

Mr. Treme indicated that he and staff have visited Mr. Overcash's property and his claim has been reviewed in the same manner as any other citizen of Salisbury's claim would be reviewed. He commented that he sees no liability on the part of the City and pointed out that the heavy rains of last year created multiple drainage issues throughout the area and he feels that Mr. Overcash's property was impacted due to the excessive rains and not the addition of the parking lot.

MAYOR'S ANNOUNCEMENTS

(a) Spring Spruce-Up

Mayor Kluttz announced that the Community Appearance Commission and the Public Services Department will sponsor a Spring Spruce-Up Week April 19-23, 2010.

(b) Arbor Day Ceremony

Mayor Kluttz announced that the Salisbury Tree Board will hold its Annual Arbor Day ceremony Friday, April 23, 2010 at 12:00 noon on West Miller Street near North Jackson Street and City Park. She pointed out that the event marks the 24th year the City has achieved the Tree City USA designation and celebrates the completion of a new sidewalk funded by a Fit Community grant from the North Carolina Health and Wellness Trust Fund.

(c) Livingstone College Concert

Councilman Kennedy announced that the Livingstone College Concert Choir will perform Monday, April 26, 2010 at Carnegie Hall in New York. He indicated that Salisbury citizen, Ms. Teresa Moore Mitchell, will be featured and he congratulated the Choir for its efforts.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Kennedy. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:00 p.m.

Susan W. Kluttz, Mayor

Myra B. Heard, City Clerk