

Salisbury, North Carolina
November 6, 2012

REGULAR MEETING

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

ABSENT: None

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

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. He noted today is the last day to vote in the election, and he encouraged all citizens to vote.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular Meeting of October 16, 2012.

(b) 2013 Council Meeting Schedule

Adopt the 2013 schedule of Council meeting dates.

(c) Resolution -Authorized Representatives First Citizens Bank

Adopt a Government Entity **RESOLUTION** updating the authorized representatives for the City of Salisbury for First Citizens Bank.

CERTIFIED COPY OF RESOLUTION

(The above Resolution is recorded in full in Resolution Book No. 14 at Page No. 37, and is known as Resolution 2012-24)

(c) Pool Hall Permit – Ms. Karen Littleton

Receive an application from Ms. Karen Littleton for a permit to operate a pool hall located at 125-127 East Innes Street, and set a public hearing for November 20, 2012.

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

ISSUANCE OF TAX-EXEMPT BONDS TO CHG-YADKIN HOUSE, LLC

Assistant City Manager John Sofley addressed Council regarding the issuance of tax-exempt bonds on behalf of CHG-Yadkin House, LLC. He explained the Yadkin House Hotel is included in a group of 11 properties nationwide where the owner has filed for bankruptcy. He indicated the company has found a purchaser for the properties.

Mr. Sofley explained the company wishing to purchase the properties is a 501(C) Corporation. He noted the company would like to use tax-exempt financing which is allowed through a public agency in the state of Wisconsin. He stated this financing will allow the company to issue tax-exempt bonds to purchase all 11 properties.

Mr. Sofley stated the company plans to use the proceeds to make improvements at the Yadkin House Hotel and several of the other facilities. He noted upgrades for the Yadkin House Hotel will include windows, kitchens, and to comply with Americans with Disabilities Act (ADA) accessibility.

Mr. Sofley indicated as a part of the bond process the City is required to pass a Resolution in support of issuing this debt. He explained the City has no legal obligation for the debt, and he pointed out resolutions are required from all local governments where the 11 properties are located. He stated staff requests Council hold a public hearing to receive input and approve a Resolution that will allow the company to purchase and renovate the properties.

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive public comments.

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

Councilmember Miller stated when a property is not properly managed and ends up in bankruptcy it is not good for the City. He added since there is a purchaser for the property willing to make the repairs, especially since the City is not liable for the debt, he can support the request.

Thereupon, Mr. Miller made a **motion** to adopt a Resolution of the City Council of the City of Salisbury, North Carolina approving the issuance by the Public Finance Authority of Bonds on behalf of CHCG-Yadkin House, LLC. Mr. Kennedy seconded the motion.

Councilmember Kennedy stated the Yadkin House is a historic building, and he supports the purchase.

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALISBURY, NORTH CAROLINA APPROVING THE ISSUANCE BY THE PUBLIC FINANCE AUTHORITY OF BONDS ON BEHALF OF CHG-YADKIN HOUSE, LLC.

(The above Resolution is recorded in full in Resolution Book No. 14 at Page No. 38-39, and is known as Resolution 2012-25)

PERMIT/PUBLIC HEARING – MR. DAVID STEWART

Salisbury Police Captain Melonie Thompson addressed Council regarding an application for a pool hall permit for Mr. David Stewart, owner of S&H Games, located at 1708 East Innes Street.

Capt. Thompson stated on October 5, 2012 a site inspection was conducted and the property was found to be clean and sanitary. She noted the business is for-profit and there are eight pool tables on the premises. She explained City Code requires a pool hall to be located on a public street or public vehicular area that faces the street and not in an alley. She added it is also required to be closed between the hours of 2:00 a.m. and 7:00 p.m. Capt. Thompson indicated Mr. Stewart plans to close between 11:00 p.m. and 12:00 midnight.

Capt. Thompson explained no person under the age of 18 is allowed inside the establishment if beer and wine is sold on the premises. She noted Mr. Stewart applied for an alcohol permit but is unable to sell alcohol due to the building lease which stipulates no alcohol on the premises. She stated the applicants have been very compliant.

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive comments regarding a pool hall located at 1708 East Innes Street.

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

Thereupon, Mr. Kennedy made a **motion** to approve a permit for Mr. David Stewart to operate a pool hall located at 1708 East Innes Street. Ms. Kluttz seconded the motion.

Councilmember Miller asked if this permit is similar to a Special Use Permit (SUP) in that if problems arise the ability to operate a pool hall can be revoked. Captain Thompson agreed stating it is the same type of permit.

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

LAND DEVELOPMENT DISTRICT MAP AMENDMENT LDOZ-06-2012 JOHNSON CONCRETE

Planning and Development Services Manager Preston Mitchell addressed Council regarding a request to rezone four parcels from Corridor Mixed-Use (CMX) to Light Industrial (LI) district. He explained the petitioner, Johnson Concrete, is requesting to rezone the parcels located along Klumac Road and Carolina Street. He noted the area consists of three single-family homes and a vacant lot across the street from Johnson Concrete.

Mr. Mitchell noted the current zoning in the area is CMX, except for Johnson Concrete which is Heavy Industrial (HI). Mr. Mitchell explained the zoning was converted from Light Industrial (M1) to CMX due to the closely related permitted land uses. He pointed out the old M1 zoning was cumulative, and the City eliminated cumulative zoning with the Land Development Ordinance.

Mr. Mitchell displayed photographs of the area to be rezoned. He noted Johnson Concrete is proposing to use the vacant tract behind the single-family homes as storage space for merchandise. He stated the company is planning to expand its facility and is looking to purchase the three homes adjacent to the vacant lot. He indicated staff recommends the three single-family homes be included in the rezoning petition to make the expansion easier and to allow the LI district to extend to Carolina Street.

Mr. Mitchell noted the North Carolina Department of Transportation (NCDOT) is planning to realign Klumac Road. He displayed a map showing the realignment route, and he pointed out Johnson Concrete will have to vacate the parcel it currently uses to store its merchandise and materials.

Mr. Mitchell stated the Planning Board met October 9, 2012 and recommended approval of the petition to rezone back to Light Industrial.

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive comments regarding Land Development District Map Amendment LDOZ-06-2012.

Mr. Charles Newsome, 320 Klumac Road, stated Johnson Concrete is losing four-tenths of an acre of property in addition to the storage tract. He indicated the company is on a timeline and has until December 15, 2012 to vacate the property. He noted the company needs to move quickly and appreciates Council's consideration.

Mr. Jeff Sepesi, 214 Klumac Road, asked for clarification regarding LI as it relates to long-term plans for his property. He stated he owns the property next to Johnson Concrete and has plans to build a Class A space building when the economy improves. He asked for clarification regarding how high the concrete culverts to be stored can be stacked. He stated it will be difficult to rent his property if the culverts block the view.

Mr. Mitchell stated there is no provision in LDO to limit stacking.

Councilmember Miller stated there should be physical limitations regarding the height and weight of stacking culverts. He explained culverts can only be stacked to the height of the forklift and cannot weigh so much it will crush what is underneath. He noted the lot Johnson Concrete will be using for storage is lower than surrounding parcels.

Mr. Newsome stated the reach of the forklift and the weight of the product limit how high it can be stacked. He estimated the stacks may reach 14-feet but would be similar to the stacks that are used on the current property. He noted the largest size culverts may be stacked three high. He stated Johnson Concrete plans to fence in the property and will be a good neighbor.

Mr. Mitchell stated Johnson Concrete has not submitted a site plan and explained it will bring fill dirt onto the lot to elevate it. He noted since the parcel is on the corner of Klumac Road and Carolina Street, a 25-foot site triangle will be required.

There being no one else present to address Council, Mayor Woodson closed the public hearing.

Councilmember Kennedy asked if the existing road will remain open after the Klumac Road realignment.

Mr. Mitchell stated the project is behind schedule. He noted when the Klumac Road realignment is completed a cul-de-sac will be in place, and the railroad crossing will be permanently closed. He stated there will be a public right of way, but there will be no through traffic.

Councilmember Blackwell stated Johnson Concrete is a very important business in the community. She noted the company is working to comply with a State request in a timely fashion and Council should support them.

Mr. Kennedy noted the request for the realignment of Klumac Road is from the City and the State.

Mayor Pro Tem Kluttz stated she understands Mr. Sefasees concerns, but the site triangle should minimize the problem. She noted Johnson Concrete is an important business in the community, and Council is very excited regarding its expansion. She pointed out Johnson Concrete has cooperated with the City throughout the Klumac Road realignment process knowing it would change their property and they would lose acreage. She stated she supports the rezoning request.

Mr. Miller stated he supports the rezoning. He noted he has concerns regarding moving the product across the street but less traffic should make it easier. He commended the Johnson family for its commitment to Salisbury.

Mayor Woodson stated he supports the rezoning, and he commended Johnson Concrete for its commitment to the City and its employees.

Mr. Miller stated the City Council hereby finds and determines that adoption of an Ordinance to rezone the property as described herein is not inconsistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and that adoption of the Ordinance is reasonable and in the public interest. Thereupon, Mr. Miller made a **motion** to adopt an Ordinance amending the Land Development District Map of the City of Salisbury, North Carolina, by rezoning four parcels from Corridor Mixed-Use (CMX) to Light Industrial (LI) District. Mr. Kennedy seconded the motion and indicated the realignment of Klumac Road is good for the citizens because it will eliminate a railroad crossing. Messrs. Kennedy, Miller, and Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

ORDINANCE AMENDING THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING FOUR PARCELS FROM CORRIDOR MIXED-USE (CMX) DISTRICT TO LIGHT INDUSTRIAL (LI) DISTRICT.

(The above Ordinance is recorded in full in Ordinance Book No. 23 at Page No. 101, and is known as Ordinance 2012-43)

SIDEWALKS OLD WILKESBORO ROAD

Engineer Bryan Alston addressed Council regarding the sidewalk project on Old Wilkesboro Road. He stated the project included sidewalk from Brenner Avenue to Partee Street, and he reviewed the project:

- \$71,000 approved
- Awarded to Bidkon Construction
- Construction began August 2012

Mr. Alston displayed before and after photographs of the project and pointed out it was a collaborative effort with Livingstone College. He explained the College acquired the property along Partee Street and removed trees in anticipation of the new sidewalk. He noted the new sidewalk makes walking much safer for Livingstone College students and residents.

Mr. Alston stated Old Wilkesboro Road Sidewalk Project Phase 2 will begin in approximately five years:

- Brenner Avenue-Kelsey Scott Park
- 80 percent Congestion, Mitigation and Air Quality (CMAQ) funding scheduled 2017
 - City will contribute 20 percent funding

Councilmember Kennedy encouraged Council and citizens to see the new sidewalks. He thanked Mr. Alston, City Engineer Dan Mikkelson, and staff for their work on the project.

Councilmember Blackwell stated it is a very popular project. She thanked Mr. Alston for his hard work.

Mayor Pro Tem Klutz thanked Mr. Alston and stated it is amazing what sidewalks will do for a neighborhood.

Mr. Alston thanked Salisbury-Rowan Utilities (SRU) for their work to relocate fire hydrants and services.

Mr. Kennedy stated the lack of sidewalks created a safety issue and noted the students and citizens are already using the new sidewalks.

BOARDS AND COMMISSIONS

Community Appearance Commission

Upon a **motion** by Ms. Blackwell, seconded by Mr. Kennedy, and with Messrs. Kennedy, Miller and Woodson and Meses. Blackwell and Klutz voting AYE, the following appointment was made to fill an unexpired term on the Community Appearance Commission:

Shelly Harper Palmer

Term expires 3/31/14

CITY MANAGER'S COMMENTS

(a) 329 South Main Street

Community Planning Services Director Joe Morris and Facilities Maintenance Manager Deb Young addressed Council regarding City-owned property located at 329 South Main Street. Mr. Morris explained:

- Original Letter of No Further Action was issued by the North Carolina Department of Environment and Natural Resources (NCDENR) October 28, 1991
- Confirmed by NCDENR April 17, 2007

Mr. Morris explained the City purchased the property after the original letter was confirmed by NCDENR. He noted documentation was provided stating the site had been closed, tanks had been removed, and remediation had been completed. He indicated:

- Report of Supplemental Soil Sampling and Testing was received October 18, 2012
- 24-Hour Release and Leak Reporting Form was sent to NCDENR October 19, 2012

Mr. Morris indicated the Report of Supplemental Soil Sampling and Testing revealed tanks on the site that were not acknowledged at the previous closing. He pointed out the tanks on the site are not leaking. He stated there is a location on the site, most likely associated with the dispensing pumps and the piping for the pumps, that has a small area of contamination that will require future remediation. He noted:

- NCDENR has made a determination that the City of Salisbury is not responsible for the cleanup
- Costs may be recouped through the North Carolina Underground Storage Tank (UST) Trust Fund
- Moving forward on the cleanup does not jeopardize recovery of Trust Fund compensation

Mr. Morris stated NCDENR is conducting an investigation and will be sending a Notification of Regulatory Requirement to the responsible party. He noted the City is working in cooperation with NCDENR.

Mr. Morris explained quotes for the cleanup of the site are being evaluated and should be available to Council by November 20, 2012. He noted if Council decides to proceed with the cleanup, staff will have up to one year to recover cost from the UST Trust Fund.

Councilmember Miller asked if there are conditions that must be met for the cost to be recouped. Mr. Morris stated it is an application process that includes working through NCDENR to determine the responsible party. He indicated once the responsible party is established a negotiation process will begin between the City and the responsible party. He noted the City owns the site, but the responsible party has an obligation for its cleanup.

Mr. Morris noted funds are currently available in the UST Fund for commercial sites, but an application is required to recover the cost, and there is a deductible associated with the cleanup. He pointed out staff does not know the level of funding that can be recovered since the actual cost of cleanup is not yet known.

Mr. Miller asked if the process will hinder the Central School Office project. Mr. Morris stated based on the information available it should not. Mr. Miller stated the Council offered the School System a clean site and its commitment is still firm. He asked Council to confirm its original commitment to make the site work.

City Manager Doug Paris stated from a legal standpoint, the site will be transferred to Rowan County, but prior to the transfer staff will make sure it is clean and the proper testing and records are in place. He indicated it is staff's goal to minimize the cost the City incurs by working with the responsible party and using State funds. He pointed out NCDENR has pledged to assist the City, and this finding is not a barrier for the Central School Office project.

Councilmember Kennedy stated he supports Council's commitment to the Central School Office Project.

Mayor Woodson indicated Council wants the Central School Office Building downtown and is committed to seeing the project to completion.

Mr. Miller stated he did not want the cleanup of the site to become an issue that could delay the Central School Office project. He noted the City will deal with the issue and when the land is turned over to the County it will be clean.

Mayor Pro Tem Kluttz stated she is committed to making the site work. She noted Council has made a commitment to the School System and it must do all it can to fulfill the obligation.

By Consensus, Council agreed to pursue estimates for the cleanup of 329 South Main Street.

MAYOR'S ANNOUNCEMENTS

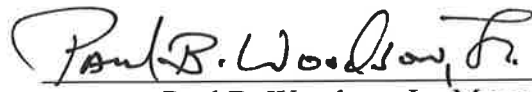
(a) Boards and Commissions

Mayor Woodson announced the City of Salisbury is seeking citizens who have an interest in serving on one of the City's Boards and Commissions. Seats are currently available on the Community Appearance Commission and the Parks and Recreation Advisory Board. Council is also seeking citizens to serve on a Committee to study Nuisance Animals. Information regarding the Boards and Commissions and applications are available online at www.salisburync.gov under the Boards and Commissions tab. Applications are also available at the City Clerk's Office located at 217 South Main Street, or by calling 704-638-5224.

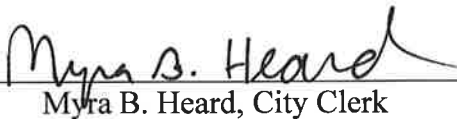
- (b) Mayor Woodson congratulated Salisbury High School girl's golf and tennis teams for winning their state championships.

ADJOURNMENT

Motion to adjourn the meeting was made by Ms. Blackwell seconded by Mr. Kennedy. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 4:53 p.m.



Paul B. Woodson, Jr., Mayor



Myra B. Heard, City Clerk