

Salisbury, North Carolina
October 16, 2007

REGULAR MEETING

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

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 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

Omit Item 8 – Council to recognize the Salisbury Fire Department Combat Challenge Team.

RECOGNIZE SUMMERSETT FUNERAL HOME – 100TH ANNIVERSARY

Mayor Kluttz recognized Summersett Funeral Home in honor of its 100th anniversary of providing services to the citizens of Salisbury. She stated that Summersett Funeral Home and the Carter family have made many business and civic contributions to the community. Mayor Kluttz congratulated Summersett Funeral Home and thanked them for their service to the City. She then presented a Certificate of Appreciation to Mr. Don Carter, Mr. Summie Carter, and Mr. Staton Carter and thanked them for their contributions.

RECOGNIZE FOOD LION AND MILK BONE FOR DONATION

Salisbury Police Chief Mark Wilhelm stated that on September 18, 2007 the Salisbury Police Department was presented a check in the amount of \$10,000 from Food Lion and Milk Bone for the purchase of two (2) canines for the canine program. He recognized Food Lion representatives Ms. Peggy Dooley, Community Affairs Manager; Mr. Dewey Presslar, Vice President of Risk Management and Loss Prevention; and Mr. Dave Boulas, Salisbury District Manager.

Mayor Kluttz thanked Food Lion and Milk Bone for their generous contribution and expressed her gratitude for all that Food Lion does for the City. She then presented a Certificate of Appreciation to Food Lion for their continued support of the City.

RECOGNIZE POLICE OFFICERS FOR LIFESAVING AWARD

Salisbury Police Chief Mark Wilhelm recognized Officer Mike McCart and Officer Brad Jordan for performing CPR on Mr. Michael Newsome who was found slumped over in his tractor-trailer truck on Jake Alexander Boulevard. Chief Wilhelm explained that Mr. Newsome unfortunately passed away several days later in the hospital, but because of the quick action of these Officers Mr. Newsome's family was allowed several more days with their loved one.

Lieutenant Trevor Allen read portions of a letter from Mrs. Angie Newsome expressing her appreciation to the Officers and to Chief Wilhelm. Lieutenant Allen recognized Officers McCart and Jordan, along with their families, and presented the Officers with the Salisbury Police Department Life Saving Award.

Mayor Kluttz expressed Council's pride in the Police Department and the actions of these Police Officers.

RECOGNIZE FIRE DEPARTMENT COMBAT CHALLENGE TEAM

This item was postponed until a later meeting.

PROCLAMATION

Mayor Kluttz proclaimed the following observances:

CRIME PREVENTION MONTH
NAACP HARVEST BANQUET

October 2007
November 2, 2007

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of October 2, 2007 and the Special meeting of October 2, 2007.

(b) Minor Subdivision Plat

Approve minor subdivision plat S-12-07 for Thaddeus Rivers to divide a 6.343 acre tract located at 1125 Sells Road into three residential lots.

(c) Petition to Close 700 Block of Lisk Street

Receive a petition to close the 700 block of Lisk Street and adopt a Resolution setting a public hearing for November 20, 2007.

RESOLUTION PERTAINING TO THE PROPOSED CLOSING OF THE 700 BLOCK OF LISK STREET.

(The above Resolution is recorded in full in Resolution Book No. 12, at Page No. 59, and is known as Resolution No. 2007- 38.)

(d) Agreement with NCDOT Regarding Bridge Inspections

Adopt a Resolution authorizing the Mayor and City Clerk to execute an Agreement with the North Carolina Department of Transportation concerning bridge inspections.

RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION CONCERNING BRIDGE INSPECTIONS.

(The above Resolution is recorded in full in Resolution Book No. 12, at Page No. 60, and is known as Resolution No. 2007-39.)

(e) Temporary Street Closing – 1100 Block of Stanley Street

Close the 1100 block of Stanley Street Saturday, October 20, 2007 from 12:00 Noon until 4:00 p.m. for the grand opening of Centennial Park.

(f) Temporary Street Closing – 200 Block of Mitchell Avenue

Close the 200 block of Mitchell Avenue from Crosby Street to Blair Street Wednesday, October 31, 2007 from 4:00 p.m. to 7:00 p.m. for the annual Fulton Heights Halloween Parade.

(g) Group Development Site Plan G-09-91

Approve group development site plan G-09-91 Salisbury Train Station Platform, 215 Depot Street.

(h) Group Development Site Plan G-08-06

Approve group development site plan G-08-06 Food Lion Perishable Warehouse, 2085 Harrison Road and adopt a Resolution granting a driveway variance to allow the driveway to exceed the maximum width allowed by City Code.

RESOLUTION AUTHORIZING THE CITY ENGINEER TO GRANT A VARIANCE OF THE CITY CODE, SECTION 22-73(F), FOR A DRIVEWAY PERMIT FOR 2085 HARRISON ROAD.

(The above Resolution is recorded in full in Resolution Book No. 12, at Page No. 61, and is known as Resolution No. 2007-40.)

(i) Budget Ordinance Amendment – Cultural Action Plan

Adopt a budget Ordinance amendment to the FY2007-2008 budget in the amount of \$5,000 to appropriate a donation from the Rowan County Tourism Authority for the development of a Cultural Action Plan.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE DONATION FOR CULTURAL ACTION PLAN.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page No. 196, and is known as Ordinance No. 2007-61.)

(j) Budget Ordinance Amendment – Project SAFE Neighborhoods Grant

Adopt a budget Ordinance amendment to the FY2007-2008 budget in the amount of \$32,935 to appropriate the remainder of a grant for the Project SAFE Neighborhoods program.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE GRANT FOR PROJECT SAFE NEIGHBORHOODS.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page No. 197, and is known as Ordinance No. 2007-62.)

(k) Budget Ordinance Amendment – Robertson Donation Project SAFE Neighborhoods

Adopt a budget Ordinance amendment to the FY2007-2008 budget in the amount of \$19,200 to appropriate a donation from the Robertson Foundation for Project SAFE Neighborhoods program.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE DONATION OF PROJECT SAFE.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page No. 198, and is known as Ordinance No. 2007-63.)

(l) Budget Ordinance Amendment – Governor’s Crime Commission Grant

Adopt a budget Ordinance amendment to the FY2007-2008 budget in the amount of \$25,012 to appropriate a grant from the North Carolina Governor’s Crime Commission Robertson Foundation for Project SAFE Salisbury’s anti-gang initiative.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE ANTI-GANG GRANT.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page No. 199, and is known as Ordinance No. 2007-64.)

(m) Budget Ordinance Amendment – Food Lion/Milk Bone Donation

Adopt a budget Ordinance amendment to the FY2007-2008 budget in the amount of \$10,000 to appropriate a donation from Food Lion and Milk Bone for the purchase of Police canines.

AN ORDINANCE AMENDING THE 2007-2008 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE DONATION FOR POLICE CANINE.

(The above Ordinance is recorded in full in Ordinance Book No. 21, at Page No. 200, and is known as Ordinance No. 2007-65.)

Thereupon, Mr. Kennedy made a **motion** to approve the consent agenda as presented. Mr. Burgin seconded the motion. Mayor Kluttz pointed out that the last five (5) items were donations to the City totaling approximately \$92,000. She thanked the Rowan Tourism Authority and the Robertson Foundation for their donations and she pointed out the two (2) Project Safe Program Grants that were also received. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

COMMERCIAL BUILDING MAINTENANCE IN CENTRAL BUSINESS DISTRICT

Mr. Randy Hemann, Executive Director of Downtown Salisbury, Inc. (DSI) and Mr. Michael Young, DSI Design Master Plan Committee member, addressed Council regarding commercial building maintenance in the central business district of Salisbury. Mr. Hemann pointed out that over the last twenty-seven (27) years the City and the private sector have invested heavily in the downtown area with investments approaching \$100 million. He indicated that it is important to maintain a balance of high rent and low rent spaces within downtown to maintain the eclectic mix of shops that makes Salisbury unique. Mr. Hemann reported that the tax base of the central business district has grown from \$31.5 million in 1981 to \$72 million in 2007.

Mr. Young stated that while the City has experienced a surge in growth in the downtown area it is also faced with properties that have been neglected, some of which can be classified as hazardous to the public. He explained that the challenge the City faces is to ensure a safe and attractive environment in the downtown central business district.

Mr. Hemann stated that prospective downtown business investors need to know that they can open a business with reasonable rent in a safe, clean environment and that their investment will be protected. Mr. Hemann indicated that the maintenance issues involve both safety and aesthetics.

Mr. Young reviewed the safety and aesthetic issues of the buildings:

- Safety Issues
 - Broken and loose windows
 - Awnings
 - Signs and bricks falling from buildings
 - Exterior surfaces
 - Collapsed roofs

- Aesthetic Issues
 - Weeds
 - Un-kept parking areas

Mr. Hemann stated that the City has a minimum housing code but does not have minimum standards for commercial buildings and parking areas. He requested Council's assistance to seek solutions to maintain a clean and safe business environment in the downtown area. He added that DSI would like to work with Council to develop the tools to allow this issue to be addressed.

Mayor Pro Tem Woodson asked if the building owners have been contacted about making repairs to the properties. Mr. Hemann answered that communication with the property owners is the first line of defense. He explained that most of the building owners can be approached with a façade grant but in some instances the grant may not work or the owner just is not interested in fixing up the building.

Mayor Kluttz thanked Mr. Hemann and Mr. Young for bringing this issue to the attention of the Council.

City Manager David Treme stated that with Council's approval, he will assign staff to work with DSI to see what type of commercial maintenance code can be developed to address this issue as it impacts the viability of the downtown area. By consensus, Council agreed.

NAMING OF TRAIL WITHIN CENTENNIAL PARK

Mayor Kluttz indicated that a request was brought to Council at its September 18, 2007 meeting by the Salisbury Parks and Recreation Advisory Committee to name a trail in Centennial Park in Fulton Heights. She noted that the proposed name of "The Reginald J. and Ann Hall Woodland Trail" was presented and held for a public comment period. She stated that no comments were received.

Thereupon, Mr. Woodson made a **motion** to approve the naming of a trail in Centennial Park, "The Reginald J. and Ann Hall Woodland Trail." Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson and Ms. Kluttz voted AYE (5-0).

APPOINTMENT TO THE SALISBURY TREE BOARD

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

Dr. Jay Buxton

Term expires: 3-31-09

APPOINTMENTS TO CULTURAL ACTION PLAN STEERING COMMITTEE

Councilman Lewis recommended the appointments of Ms. Joanne Harrison, Ms. Rose Meek Jones, Ms. Barbara Perry, Mr. David Setzer, Ms. Katie Lipscomb and Ms. Michelle d’Hemecourt to the Cultural Action Plan Steering Committee. He also recommended that Ms. Gail Elder-White be appointed as City staff representative. Mr. Kennedy recommended that Dr. Faleese Jenkins and Ms. Eleanor Qadirah be appointed to the committee. Mr. Lewis stated that Mr. Phillip Burgess has also agreed to serve.

Thereupon, Mr. Lewis made a **motion** to appoint these people to the Cultural Action Plan Steering Committee. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

COMMENTS FROM THE CITY MANAGER

(a) Request from Hidden Creek Homeowners – Street Maintenance

City Manager David Treme stated that the City received a request from homeowners in the Hidden Creek subdivision to consider accepting maintenance responsibility for the streets in the Hidden Creek community.

Mr. Dan Mikkelson, Director of Land Management and Development, displayed an aerial photograph of Hidden Creek and stated that the development was constructed during a period when private streets were allowed to be constructed within the City. He pointed out that the streets were constructed to remain private but the homeowners would like the City to consider taking over the streets as public streets for maintenance. Mr. Mikkelson stated that in dealing with similar requests in the past, Council developed three (3) policy statements:

- Development needs to have been approved under the previous code that allowed private streets
- The street should be able to provide a fifty (50) foot standard public right-of-way
- The street should look and act like a public street

Mr. Mikkelson pointed out that this development appears to have a forty-four (44) foot right-of-way and would allow for a ten (10) foot shoulder on each side of the road. He stated that since the development already exists, staff feels the forty-four (44) foot right-of-way would be ample space for City maintenance.

Mr. Mikkelson indicated that one problem Council will need to consider involves corner lot encroachments. He explained that there are eight (8) buildings located on corners lots that were allowed to be built close to the curb on the side street. Mr. Mikkelson stated that another issue for Council’s consideration involves areas where the streets have apartment style parking built into the street. He displayed an aerial

photograph of two (2) corners in the development depicting the corner lot encroachments and a photograph demonstrating the apartment style parking. He explained the process to proceed with the property owners' association request:

- Council direction on issues
- Survey for right-of-way dedication (must be signed by each affected property owner)
- Revise Group Development Site Plan (\$100 filing fee, 6 (six) week turn-around time to make amendment)
- Formal Council approval
- Homeowners Association record survey with the Register of Deeds

Councilman Lewis stated that he feels a Council Committee should be assigned to work with staff and the property owners' association in order to proceed with the process. He noted that he will volunteer to serve on the committee and Mr. Burgin has also agreed to serve.

Mayor Kluttz stated that this is a situation where residents are caught in a situation they did not create and she feels Council needs to work with these residents to find a solution.

By consensus, Council agreed to send this issue to a Council Committee. Mayor Kluttz appointed Councilman Lewis and Councilman Burgin to serve on the committee.

(b) Landscape Plans for I-85/East Innes Street

City Manager David Treme asked Mr. Joe Morris, Planning and Community Development Director, to update Council on the landscape plans for the I-85 Interchange on East Innes Street.

Mr. Morris updated Council on the efforts to make landscape improvements at I-85 and East Innes Street. He explained that a program was initiated many years ago to make improvements along East Innes Street as part of a 1995 study by an Urban Design Assistance Team. He indicated that over the years the City has received approximately \$375,000 in contributions to make the improvements and pointed out that with the recent I-85 construction, the City was able to reroute overhead utilities to diminish the visual clutter of the area.

Mr. Morris stated that the City has received a proposal from the North Carolina Department of Transportation (NCDOT) that incorporates many of the concepts from the previous plan to create a unique landscaped interchange. He explained that the NCDOT plan proposes a level four (4) "color canopy" concept which involves intense planting and includes a significant budget contribution from NCDOT, based on the City's willingness to adopt the plan. Mr. Morris pointed out that the City had planned to bid and execute this plan during the Fall of 2007, but due to the drought conditions throughout the State, implementation will be postponed until the Spring of 2008.

Mr. Morris reviewed the landscape improvement plan:

- Proposed Level IV “Color Canopy” delayed until Spring 2008 due to drought conditions
- Municipal agreement would determine planting intensity based on the City’s willingness to participate
- Landscape contractor would be required to maintain all plantings for three (3) years after planting
- Estimated annual cost of \$20,000 - \$25,000 would represent a reduced level in service for other landscaped areas in the City
- City staff recommends negotiating the municipal agreement based on a maintenance contract with a private service provider

Councilman Kennedy stated that the City only has one (1) opportunity to make a good first impression and he supports the additional plantings.

Mayor Pro Tem Woodson agreed that the City should make this area attractive. He asked Mr. Morris how NCDOT will take care of this area. Mr. Morris stated that the contractor will be responsible for watering and maintenance of the plantings for the first three (3) years. He explained that the City has a limited capacity to keep an area this size watered and adjustments in City schedules would have to be considered if the City moves forward with the plan.

Mr. Dan Mikkelson, Director of Land Management and Development, pointed out that NCDOT will take into consideration the selection of plant materials and will include plants that do not require a great deal of water and maintenance.

City Manager David Treme stated that if it is the consensus of Council, staff will negotiate with the NCDOT and report back to Council with the progress of the plan. By consensus, Council agreed.

Councilman Burgin stated that a lot of work has been done to make this area attractive and he feels this will make a good impression to visitors to the City.

Mayor Kluttz pointed out that many private donations have been made toward this entrance into the City and the City has an obligation to citizens to make it the best entrance possible.

(c) Livingstone College/Catawba College Transit Process

City Manager David Treme recognized Public Services Director Tony Cinquemani and Transit Manager Rodney Harrison to update Council on the Livingstone College and Catawba College transit process.

Mr. Harrison indicated that a joint meeting was held August 8, 2007 at Catawba College in order to gather data to create a plan to identify how the City could work with Livingstone College and Catawba College to improve student ridership. He stated that staff is still working to refine figures and should have a plan within sixty (60) days that identifies the needed resources to support the initiative.

Mr. Treme commented that he feels this project will be determined by the levels of service and the State's willingness to participate in funding for the service expansion.

(d) Drought Conditions and Water Supply

Assistant City Manager for Utilities Matt Bernhardt reviewed a schematic diagram for the primary water intake on the Yadkin River and noted that it shows approximately three hundred eighty-five (385) million gallons per day (mgd) coming past the water intakes. He stated that the river is currently thirty (30) inches above the typical level to begin first level conservation measures. Mr. Bernhardt commented that the State as a whole is in a severe drought and he informed Council that Governor Mike Easley called on all local governments and citizens to assist each other through the drought. In a press release Governor Easley stated, "the seriousness of the drought means that cities and towns can no longer consider just the water needs of their own populations. As leaders of your communities, you know what works best at the local level. I am asking for your help. Your communities, businesses and neighbors need you to help."

Mr. Bernhardt indicated that while Salisbury is in good shape regarding its water supply the drought is seriously impacting a tremendous portion of the State. He noted that while drought conditions vary throughout the State:

- The drought is forecasted to continue into the winter
- Salisbury-Rowan Utilities (SRU) has had preliminary contact with neighboring communities regarding discuss possible assistance
- The best way to combat the drought is through system interconnection and regional partnership

Mr. Bernhardt indicated that the City Manager, after consultation with City Council, may declare that a water emergency exists. He added that while Salisbury does not have a true emergency the need exists to conserve water and use it wisely throughout the system. This will allow Salisbury-Rowan Utilities to be in a position to help other communities who are in much worse condition. He reviewed the Level 1 Voluntary Restrictions of the City's water conservation plan:

Level 1 – During a declared Level 1 water emergency, the following voluntary water conservation practices shall be encouraged:

- Watering of lawns and ornamental plants should be limited to that necessary for plant survival only. Irrigation uses should be limited to between the hours of 9:00 p.m. and 4:00 a.m.

- Planting of new ornamental trees or plants or seeding of lawns should be deferred until the water emergency situation no longer exists
- Household water should be reutilized to the greatest extent possible for watering
- Use of water for wash down of outside areas such as driveways or parking lots should be curtailed
- Faucets should not be left running while shaving, brushing teeth or washing dishes
- The use of washing machines and dishwashers should be limited, if possible, and these units should be operated with full loads when used
- Noncommercial washing of cars and other vehicles should be curtailed or limited to Saturdays and Sundays. Hoses should not be left running while washing vehicles
- The use of flow restrictors and other water saving devices is encouraged
- Showers for bathing should be limited to four (4) minutes or less
- Filling of pools should be deferred or limited to the hours between 9:00 p.m. and 4:00 a.m.
- Commercial and industrial operations shall eliminate all possible wastage of water

Mr. Bernhardt stated that these conservation measures are voluntary and encourage wise and responsible use of water. He noted that in light of the Governor's call for statewide conservation, staff requests that Council consider implementing the Level 1 voluntary water use restrictions in order to conserve where possible so that the SRU system will be in a position to help other communities when needed.

Mayor Kluttz commented that Governor Easley has the power to mandate water restrictions for the entire State but he realized that all cities and towns are in different states of drought. She added that because of the forecast for a dry winter it appears that it may become a crisis situation in Spring and Governor Easley is encouraging all citizens to begin voluntarily conserving water. Mayor Kluttz noted that Governor Easley stressed that these measures were for non-essential uses of water and if these steps were not taken it could force industries that are dependent on water to close. She indicated that the Governor has also issued a statewide ban on public burning. She stated that the partnerships the City created with Landis and Statesville after the 2002 drought has put the communities in a better position to assist each other if needed.

Mayor Kluttz noted that the Level 1 measures are voluntary and encouraged and will not be policed. She added that although the measures are not mandatory Council is requesting citizens be aware of responsible water use. She stated she would like to recommend that Council support the Level 1 conservation measures.

Mayor Pro Tem Woodson noted that approximately eighty-five (85) percent of water withdrawn by Salisbury-Rowan Utilities is returned to the river.

City Manager David Treme commented that in response to news from other areas that have been hit harder by the drought many citizens have already begun conservation measures. He added that adoption of the Voluntary 1 level will recognize what citizens are already doing. Mr. Treme indicated that if there is a consensus of Council he will declare the Level 1 voluntary water restrictions.

Councilman Burgin commented that he feels this is the right thing to do and he feels a sense of satisfaction that Salisbury is being requested to help its neighbors and that our citizens are leading the way.

Councilman Kennedy stated that the City must be good stewards of its resources and he supports the conservation measures.

By consensus, Council agreed for the City Manager to declare Level 1 Voluntary water restrictions.

(e) Response to Alcoa Discovery Motion

Assistant City Manager for Utilities Matt Bernhardt informed Council that the City's Environmental Counsel, on behalf of the City of Salisbury, filed a response to Alcoa's discovery motion regarding the Federal Energy Regulatory Commission (FERC) findings in its Draft Environmental Impact Statement (DEIS). Mr. Bernhardt reviewed the timeline regarding the DEIS and subsequent Alcoa discovery motion:

- September 28, 2007 – FERC issues Draft Environmental Impact Statement (DEIS):
 1. Proposes to require Alcoa to protect Salisbury water infrastructure from the sedimentation and flooding effects of the Yadkin Project
- October 5, 2007 – Alcoa asks FERC to authorize Alcoa:
 1. To interrogate (in writing and face-to-face) Salisbury officials, experts, and anyone who knows about scientific studies commissioned by Salisbury
 - Alcoa says it has so little information about studies that it is “unable to submit meaningful comments” on the DEIS
 2. Require Salisbury to respond to FERC about the Alcoa request by October 10, 2007
 3. Grant Alcoa's request by October 12, 2007
- October 15, 2007 – Salisbury asks FERC to deny Alcoa's request because it is apparent to Salisbury that the proposed Alcoa interrogations are:
 1. Intended to intimidate
 2. Part of Alcoa's improper relicensing strategy
 3. Not based on any legitimate need to conduct interrogations
 4. An abuse of FERC procedures
 5. Part of Alcoa's history of abusing FERC procedures to coerce Salisbury into submission

Mr. Bernhardt further explained the reasons Salisbury requested FERC to deny Alcoa's request:

1. Intended to intimidate
 - The individuals and organizations that provided the Commission with evidence of the Yadkin Hydroelectric Project's sedimentation and flooding effects
2. Part of Alcoa's improper relicensing strategy:
 - Prevent and attack scientific studies of sedimentation and flooding
 - Exhaust Salisbury's resources and undermine Salisbury's willingness to participate in the relicensing proceeding
3. Not based on any legitimate need to conduct interrogations:
 - Alcoa has been provided an extraordinary amount of information regarding the Salisbury-commissioned studies
 - Alcoa has actually been provided sufficient information to construct the Salisbury-commissioned scientific models and run the models for itself
 - Alcoa's self-proclaimed inability to make meaningful comments on the DEIS is not caused by any failure of Salisbury or the Salisbury-commissioned experts to provide information
4. An abuse of FERC procedures:
 - Alcoa cites four (4) FERC decisions, but none of those decisions would authorize Alcoa to conduct "discovery" against Salisbury
 - Alcoa's proposed "discovery" against commenters' would discourage the public from providing information to FERC during relicensing of hydroelectric projects – violating the intent of Congress and FERC to encourage public input
5. Part of Alcoa's history of abusing FERC procedures to coerce Salisbury into submission:
 - Alcoa manipulated the early stages of relicensing to hinder the completion of scientific studies on sedimentation and flooding
 - Salisbury had to incur the substantial expense of conducting the necessary studies that Alcoa should have conducted
 - In 2002-2003, Alcoa told Salisbury that it must pay Alcoa for water from the Yadkin River because FERC had imposed a cap on Salisbury's withdrawals:
 - Not trusting Alcoa, Salisbury asked FERC for informal advice about Alcoa's claim
 - Alcoa then claimed that Salisbury had initiated a formal "declaratory ruling" proceeding that would have consumed substantial Salisbury resources
 - When FERC later provided the informal advice, Salisbury learned that:
 - FERC had not imposed any cap on withdrawals
 - There was no "declaratory ruling" proceeding

Mr. Bernhardt stated that on October 15, 2007 Salisbury offered to provide any additional information that FERC or its experts need:

- Early in the relicensing process, Salisbury invited FERC to engage in scientific peer review to verify the Salisbury-commissioned studies
- Salisbury believes that it has provided sufficient information for scientific peer review of Salisbury's studies
- In the same spirit of openness that prompted Salisbury to request that FERC conduct scientific peer review, Salisbury would be pleased to provide additional information to FERC or its experts.

Mayor Kluttz thanked Mr. Bernhardt for his presentation.

COUNCIL TO RECEIVE PUBLIC COMMENT

Mayor Kluttz opened the floor to receive public comment.

Mr. David Martin, 611 Hidden Creek Circle, stated that he represents the Hidden Creek Property Owners' Association which is comprised of one hundred forty-three (143) homeowners. He expressed the Association's appreciation to Council for forming a Council Committee to review their request. He noted that the residents of Hidden Creek receive all City services and pay City taxes and now request the City assume maintenance of the streets. He stated that the Association has a Hidden Creek Streets Committee that is willing to assist staff and work with the City for a positive outcome. He thanked Council for the opportunity to speak.

Mr. Bob Isenhour, 122 North Main Street, stated he represents Isenhour-Freeman Insurance Agency. He stated that he has a unique problem because customers cannot see the Agency's sign because of a large crepe myrtle tree that is blocking it. He noted that individuals have to drive past the business and look back in order to see the sign. He added that the tree is located approximately six (6) feet from the front door and although it is a beautiful tree, its flowers create a mess and clutter at the business entrance. Mr. Isenhour noted that he is forced to use a heat pump because the tree blocks the solar glass blocks that normally heat the facility. Mr. Isenhour stated that he felt committees should consult with business and property owners when addressing long range problems.

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

MAYOR'S ANNOUNCEMENTS

(a) **Halloween Funfest**

Mayor Kluttz announced that the Salisbury Parks and Recreation Department and Downtown Salisbury, Inc. will sponsor Halloween Funfest Saturday, October 27, 2007 in the First Bank parking lot located at 215 West Innes Street. The event begins at 3:00 p.m. with downtown trick or treating from 4:00 p.m. until 5:00 p.m. and a costume contest at 5:15 p.m.

(b) **Salisbury-Rowan United II**

Mayor Kluttz announced that the City of Salisbury will host "Salisbury-Rowan United II: The Next Steps in Creating an Action Agenda for a Safer Community and a Positive Future for our Youth" a follow-up summit on gang and youth violence Thursday, November 29, 2007 at 6:30 p.m. at the Salisbury Civic Center, 315 South Boundary Street.

(c) **Council Candidate Forums**

Mayor Kluttz announced that Council has been invited to participate in four (4) Council Candidate forums to be held:

- Monday, October 22, 2007 at 7:00 p.m. at Gethsemane Missionary Baptist Church, sponsored by the Interdenominational Churches of Salisbury.
- Thursday, October 25, 2007 at 1:00 p.m. at the Rufty-Holmes Senior Center
- Thursday, October 25, 2007 at 6:30 p.m. at the Hedrick Little Theater at Catawba College, sponsored by Catawba College, Rowan Chamber of Commerce and the Salisbury Post
- Tuesday, October 30, 2007 at 7:00 p.m. at the West End Business Center, 1400 West Bank Street, sponsored by the NAACP.

(d) **Latino Initiative**

Mayor Kluttz announced that the Latino Initiative of Rowan County will sponsor Dr. James Johnson from the University Of North Carolina School Of Business who will speak on the economic impact of the Hispanic Community on Rowan County. The event will be held Monday, October 22, 2007 at Food Lion's Founder's Hall. She noted that the public is invited but must respond to 704-638-2168 if they wished to attend.

(e) **NAACP Harvest Banquet**

Mayor Kluttz announced that the NAACP Harvest Banquet will be held Friday, November 2, 2007 at 6:00 p.m. at the Holiday Inn, Jake Alexander Boulevard.

(f) Fall Spruce-Up Week

Mayor Kluttz announced that the Community Appearance Commission and Public Services Department will host a Fall Spruce-Up Week October 22-26, 2007. She stated that Public Services will provide special trash collection throughout the week for residents living inside the City limits. Residents should contact Public Services at 704-638-5260 to have tires and appliances picked-up.

(g) OctoberTour and Jazz and Blues Festival

Mayor Kluttz commented that over the past weekend, October 12-14, 2007, Salisbury hosted a very successful 32nd Annual OctoberTour.

Mayor Kluttz noted that the Blues and Jazz Festival was also held and was very successful. She thanked Ms. Eleanor Qadirah for her work to start this festival and noted it is a successful event that brings people together and celebrates the arts and downtown.

Councilman Kennedy commented that there were many visitors for the OctoberTour and the Blues and Jazz festival and he feels it was a wonderful time in Salisbury.

(h) Comprehensive Bicycle Plan Public Forum

Councilman Kennedy indicated that the Comprehensive Bicycle Plan Committee will host a public forum Wednesday, October 17, 2007 at 6:30 p.m. to give the public an opportunity to provide input on the Comprehensive Bicycle Plan. The forum will be held at the Park Avenue Community Center located on Park Avenue.

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.

Mayor

City Clerk