

Salisbury, North Carolina
November 16, 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:

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.

SALISBURY CUSTOMER SERVICE FACILITY RIBBON CUTTING

Mayor Kluttz indicated today was a very exciting day in Salisbury because Council cut the ribbon on its new Customer Service Facility located on Martin Luther King, Jr. Avenue. She noted there were approximately 200 citizens in attendance, and it was a wonderful event. She stated Council will receive a report on the event at its next meeting, and possibly take a virtual tour to allow those who were unable to attend the ribbon cutting a chance to see the facility.

She thanked everyone who was involved in the ribbon cutting ceremony.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of November 2, 2010.

(b) Budget Ordinance

Adopt a budget Ordinance amendment to the FY2010-2011 budget in the amount of \$8,406 to appropriate various Parks and Recreations donations.

AN ORDINANCE AMENDING THE 2010-2011 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. 107, and is known as Ordinance 2010-43.)

(c) Economic Development Industrial Building Revitalization Grant – “Project Turnkey”

Set a public hearing for December 7, 2010 to receive comments regarding an Economic Development Industrial Building Revitalization Grant to “Project Turnkey.”

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

SPECIAL USE PERMIT – SUP-05-2010 NASHVILLE NIGHTS

SUP-05-2010 Nashville Nights, 127 East Innes Street

(a) Swearing In

Mayor Kluttz indicated this case is special zoning and all people who wish to speak must be worn in, including staff members. She then asked all those who wished to speak to come forward, and she administered the oath to the following:

Mr. David Phillips	Mr. Preston Mitchell
Ms. Karen Littleton	Mr. Chip Bridges

(b) Ex Parte Disclosure

Mayor Kluttz indicated if any Council member has had discussion with anyone regarding this matter it must be disclosed. Mayor Kluttz, Mayor Pro Tem Blackwell, Councilman Kennedy and Councilman Miller indicated they had had no discussions regarding the issue.

Councilman Woodson stated he spoke with 20 or more people who visited his business, but he does not know each person's name. He noted in his business, many people approach him to discuss various issues regarding the City.

Mayor Kluttz asked City Attorney Rivers Lawther if more information regarding the disclosure is needed. Mr. Lawther responded Mr. Woodson must disclose whatever he feels should be disclosed.

Mr. Woodson stated it is hard to run his business and remember what everyone speaks to him about, but reiterated at least 20 people talked to him about this issue. He noted he tried to keep a count, and he thinks half of the people who spoke to him were in favor of this, and half were opposed.

Mayor Kluttz then opened the floor to receive public comment.

(c) Receive Testimony

Zoning Administrator David Phillips noted the application before Council is for a Special Use Permit (SUP) for a bar/nightclub to be located at 127 East Innes Street, in the downtown area.

Mr. Phillips referred to the Decision-Making Rules:

- The zoning ordinance (LDO) must spell out the standards for granting a Special Use Permit, and those decision-making standards cannot be developed on a case-by-case basis
- The decision to grant or deny the SUP, or to impose conditions on the approval, must be based solely on the LDO standards
- The standards must provide sufficient guidance for the decision. The applicant, neighbors, and board all need to know what the ordinance requires for approval

Mr. Phillips stated, in regard to the Production of Evidence, the applicant must present evidence as to why the SUP should be granted. He noted it is up to the opponents to produce evidence that the SUP should not be granted. He stated if the application meets all of the conditions, then Council should approve the SUP.

Mr. Phillips reviewed the three general Standards for Decision applicable to all Special Use Permits:

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
3. The public health, safety, and welfare will be assured and the proposed development

will not substantially injure the value of adjoining property and associated uses if located where proposed

Mr. Phillips indicated for this particular use a fourth Standard must be met:

4. No such facility shall be located within 500 feet of any lot containing a school

Mr. Phillips stated staff has reviewed the area and there are no schools within 500 feet of the proposed establishment.

Mr. Phillips reviewed an aerial map of the downtown area, and noted the site's location in the 100 block of East Innes Street.

Mr. Phillips noted SUPs are required to go to the Planning Board where a courtesy hearing is held. He stated after the Planning Board held its courtesy hearing, it found the application met the first two standards of the ordinance. He noted the Planning Board had more discussion in regards to the third standard regarding health, welfare and safety. He stated during the testimony the applicant mentioned guidelines proposed for the nightclub, and the Planning Board felt it needed to review those guidelines, so it requested the applicant return with them. Mr. Phillips indicated the applicant presented the guidelines at the next Planning Board meeting, and after discussion, the Planning Board felt one should be adjusted. He noted the guideline regarded open beverages, and the Planning Board thought it should be changed to note that no beverages should be brought into the establishment from outside. Mr. Phillips stated the Planning Board also discussed other aspects of the guidelines, and allowing designated drivers to enter once they were identified as designated drivers. He noted after discussing the guidelines, the Planning Board voted 5-3 that the standard regarding health, safety and welfare was met. He added that with this vote, the Planning Board found that all three general standards were met, along with the additional Standard that no school be located within 500 feet.

Mr. Phillips stated when the Planning Board discussed its motion for recommendation, there was discussion to attach the guidelines as part of the Special Use Permit. He noted the Planning Board also discussed placing a one-year expiration on the SUP. Mr. Phillips noted the Planning Board approved the recommendation with both of the conditions by a vote of 9-1. He stated it is his understanding the City Attorney may have concern regarding the justness of the recommendation. He explained that with SUPs the Land Development Ordinance states City Council has the authority to bring an applicant in at any time to discuss changes to the permit if there is a problem. He added City Council has the right to rescind or terminate a Special Use Permit if there is cause.

Mr. Phillips stated the Planning Board recommends the SUP be approved with the condition that the guidelines for the establishment be attached to the SUP, and the permit have a one-year expiration to come back for review one year from Council's action.

Mayor Kluttz then opened the floor to receive testimony from the public.

Ms. Karen Littleton, 316 North Deerfield Circle, stated she is a lifetime resident of

Salisbury and Rowan County. She indicated she is seeking Council's approval to open a country/bluegrass private club at 127 East Innes Street. She stated having met with the Planning Board prior to Council's meeting, she is aware of the concerns for the safety of the citizens of Salisbury. She added this is a concern to her as well. She stated she has met with Police Chief Rory Collins, who approved her application, and discussed security issues. She noted she has also spoken with several private security firms who have been helpful, along with Chief Collins and Lt. Thompson, with suggestions to keep the establishment a safe environment. Ms. Littleton stated the Planning Board attached a copy of the security guidelines and rules of membership with the recommendation. She noted she distributed updated copies of the guidelines to Council. She indicated there were no deletions on the rules of membership except for the word "open" under item 3, Nashville Night rules. She pointed out the addition of a statement regarding designated drivers. She stated under the security guidelines she has added that each patron is subject to be wand-searched for weapons. Ms. Littleton stated she proposes to open a safe, up-scale establishment that will be an asset to Salisbury's downtown day and night life. She noted she is very aware the location is on a main thoroughfare in Salisbury, and that appearances are perceptions. She indicated consumption of alcohol in front of the building will not be allowed, and she has also tried to be conservative in the selection of the establishment's name. She stated approximately 12 staff will be employed. Ms. Littleton stated food will not be served at this time, but she has approached a nearby restaurant about placing a menu in the club for take-out. She pointed out that adjacent walls of adjoining buildings are brick or plaster, and the only windows not buffered by an office or restroom are the windows facing East Innes Street. She commented it is a proven fact that people will pay market value for residences, and patronize restaurants near nightlife, as evidenced by the Urban Lofts on Lee and Fisher Streets. Ms. Littleton stated she is not taking this endeavor lightly. She noted she owns numerous real estate properties in Salisbury, and has taken on each project with the intention of improving the community. She stated she is not leaving Salisbury, has to wake up in Salisbury each morning, buy her groceries in Salisbury, and attend functions for her grandchildren in Salisbury. She assured Council she will do her best to run her business with dignity.

Mr. Chip Bridges, 236 Confederate Avenue, stated he represents Ms. Littleton in this matter and has encouraged her to run this as a first-class operation in respect of the laws in the City. He indicated Ms. Littleton has been a property owner and landlord in Salisbury for many years, and knows many residents. He stated Ms. Littleton has a lot to lose if the business is not run properly, and she wants to comply with the rules and regulations the City has imposed. He noted Council can call Ms. Littleton in at any time to review the Special Use Permit, but she wants to address any issues that may come up proactively. Mr. Bridges stated he thinks Council will be proud of the operation Ms. Littleton will run, and it will be a great addition to the nightlife in Salisbury.

There being no one else present to offer testimony, Mayor Kluttz closed the public comment.

Councilman Miller stated he is certain the conflict that could occur with traffic on Innes Street was debated at the Planning Board, and noted he is concerned someone might leave the establishment and cross the street to the City-owned parking lot. He indicated there is lighting in the area, but not a defined crosswalk, and he asked if this was debated fully at the Planning Board.

Mr. Phillips responded the Planning Board did not discuss traffic in regards to crossing Innes Street.

Mr. Miller commented the hours of operation for this facility do not seem to conflict with most of the traffic that occurs in this area, but this is a concern he has and he wants to make sure people are safe when they leave the establishment.

Mr. Miller noted during his time on the Planning Board changes were made to the City Ordinance to allow outdoor dining and beverages within defined areas outside of establishments. He noted the petitioner has indicated this would not be allowed for their establishment, and asked if the establishment located a few doors down allows this.

Mr. Phillips responded the neighbor did apply for an outdoor dining permit.

Mr. Miller asked if patrons will be allowed to enter through the rear of the building where there is more parking. Mr. Bridges responded from the audience, that this rear access will be given.

Mr. Miller asked if the SUP goes with the operator or the location, and asked if Council will be required to review the SUP if the business is sold. Mr. Phillips responded the SUP remains with the property.

Mr. Woodson stated he thinks the Planning Board has done a very good job. He stated he thinks the problem with the application right now, is there have been issues with a bar located on Main Street. He noted some people want nightlife in downtown, and he would like to see more people in downtown too. He stated there was bad press on the other bar located downtown, and many people are just against bars right now. He commented at Council's last meeting Mr. Miller brought up the issue of noise in regards to an automotive shop, and he stated people have also questioned why Council would deny an automotive shop but allow a bar. Mr. Woodson noted the Plaza is approximately 100 yards away, and the condominiums on Fisher Street are 200 to 300 feet away. He added he thinks with the restrictions being placed on the applicant, he does not think noise will be a problem.

Mr. Miller commented noise does not concern him in this case because it is a Special Use Permit, as opposed to a by-right use. He noted the issue regarding the automotive shop was a text amendment that did not have the SUP feature. He added the SUP allows Council to come back and debate if there are problems.

Mr. Woodson stated he thinks this corridor will be nice if all of the buildings are occupied. He noted the Hardiman Furniture building will be restored to offices with a restaurant, and he thinks it will make the corridor very nice. He stated he is not opposed to the SUP, and while some people are opposed to bars, he is not. He stated he is satisfied with the noise issue, because there will not be any consumption outside, and added he does not think there are problems with the restaurant that currently allows people outside.

Mayor Pro Tem Blackwell stated she was impressed with the application, and thinks if Ms. Littleton gives as much detail and attention to her business as she did to the application process, she will do well.

Ms. Blackwell stated she was also concerned about noise, and noted there are apartments located a few doors down the street above the restaurant. She noted the noise is a concern because she has received complaints from people who live in the Plaza regarding the downtown restaurant that has motorcycle night. She noted this disturbs the residents, and if loud music is added there could be a potential issue. She stated this would come under the standard of being functionally compatible to the surrounding area, because there are downtown residences.

Ms. Blackwell indicated she likes having the rules, and the fact people will sign for membership. She pointed out the application does not state the person signing has read and agrees to the rules, and she thinks this statement would be a good idea to add to the membership application.

Ms. Blackwell noted the updated guidelines distributed to Council states on the first page that a person “will” be wand-searched, but later states they “may” be wand-searched, and this detail may need to be reviewed.

Mr. Woodson asked if the people living above the restaurant have complained about the noise. Ms. Blackwell stated she has not heard from those residents, but has heard from residents at the Plaza.

Mr. Woodson referred to the bar located behind his business and the noise issue that occurred. He stated the bar is doing better but it took a while to get to that point.

Ms. Blackwell stated she knows this was a challenge for the Planning Board, and she appreciates their work on this request.

Ms. Klutz stated her only issue with the request is noise, not necessarily inside the club, but at 2:00 a.m. when people are leaving. She commented Council is wise to be careful because there have been problems with bars, and people with alcohol who had guns. She stated it is difficult to have the responsibility of allowing something like this, and she thinks Council feels very strongly regarding its responsibility. Mayor Klutz commented she is an advocate for quiet and sleep, but she thinks Council must be fair to all businesses. She stated if there are other businesses downtown that are allowed to operate until 2:00 a.m., she does not think it is fair for Council to tell a potential business owner they cannot have a permit for this reason. She noted she feels good about the rules, in addition to what has been presented to Council, and what the Planning Board worked on and recommended. She added she takes comfort in the fact that this type of permit can be revoked at any time by Council, for any problem at all. She pointed out the use goes with the property, but if the business changes hands, Council would have the right to revoke the permit.

Mr. Woodson stated Council wants to see this street fixed-up, with nice store fronts and adding jobs.

Councilman Kennedy stated the use is permitted in the DMX district, and the only thing Council is debating is the SUP, which can be revoked at any time. He noted he would like to give Ms. Littleton the opportunity to open, and hopes her business will be a success.

Mayor Kluttz noted Mr. Phillips stated the City Attorney had questioned the Planning Board's recommended requirement of terminating the permit after one year. City Attorney Rivers Lawther stated this is a permit and the applicant will be making many improvements to the building, but to have the permit expire one year later, the applicant could not make many improvements. He reiterated the permit can be revoked at any time if the conditions are violated, rather than waiting one year to see if Council likes the use.

Mr. Miller stated he is concerned about the safety of people coming out of the bar at 2:00 a.m. and crossing Innes Street, but he also recognizes there is a business Council has allowed to exist in the same condition. He added it does not make sense to allow it in one case and not another. He stated the SUP gives Council the ability to address noise concerns if they become an issue. He noted with the sidewalk beverage issue, his main concern was making sure the area is well defined and does not move down the block. Ms. Miller indicated the access to rear parking also addressed his other concerns, and stated he will support this. He stated because of the issues the City has had with this type of use in the downtown area, the fuse is very short. He indicated any issues related to public safety or complaints will be treated very seriously.

Mr. Phillips clarified the outside consumption Mr. Miller referred to is addressed under outside dining for restaurants, and would not apply to a nightclub establishment. He stated the Alcohol Law Enforcement (ALE) requires there be no consumption outside, even in a designated area, and consumption would have to be contained inside since it is not a restaurant.

(d) Findings of Fact

Thereupon, Mr. Kennedy made a **motion** that Council finds the following facts:

1. The use meets all applicable regulations and laws of the City of Salisbury, Alcoholic Beverage Contract (ABC), and ALE
2. The proposed plan will be visually and functionally compatible to the surrounding area
3. The public health, safety and welfare will be assured and the purposed development will not substantially injure the value of adjoining property
4. The facility is not located within 500 feet of any lot containing a school

Mr. Woodson seconded the findings of fact. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

(e) Thereupon, Mr. Kennedy made a **motion** that Council issue a Special Use Permit 05-2010 to allow the use of a nightclub at 127 East Innes Street. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

Mayor Kluttz wished Ms. Littleton success and indicated she hoped Ms. Littleton understood Council's concerns.

DEVELOPMENT SITE PLAN – GD-02-10 DEST DENTAL

(a) Mr. David Phillips, Zoning Administrator, indicated the application before Council is a site plan approval. He stated the property is zoned Corridor Mixed-Use (CMX) with a General Development Overlay. He explained when the Land Development Ordinance (LDO) was adopted there were several areas in the City with a General Development Overlay in place, and Council did not want to remove the Overlays because they provided protection to neighbors by requiring the site plan come to Council for approval. He pointed out for this case Council can only approve or disapprove the plan.

Mr. Phillips reviewed an aerial map of the site noting its location on Mahaley Avenue, beside Walgreens and across the street from the Ketner Center. He noted there are four properties involved in the site, with three of the sites having residential structures. He displayed a demolition plan for the existing structures and driveways, and then a site plan for the proposed project. He noted the site proposes a 12,000 square foot, one and one-half story dental clinic with a rear accessory dwelling unit. Mr. Phillips pointed out the proposed location of the building, and noted there will be parking to the side and rear. He also pointed out a point for future connectivity with Walgreens that will be added should Walgreens make changes to its site plan in the future.

Mr. Phillips reviewed the landscaping plan and stated the developer will preserve the existing mature trees on the site. He then displayed building elevation plans depicting how the structure will appear. He stated the rear accessory structure will be used to house dental students who are training with the clinic.

Mr. Phillips indicated this site plan is considered a major site plan under the LDO, and is required to go to the Technical Review Committee (TRC) for review. He stated the TRC recommended changes to include a second driveway. He noted the original plan had one driveway entrance from Mahaley Avenue, but because of fire apparatus access, TRC required the second driveway, which has been now been added.

Mr. Phillips stated the plan meets the requirements of the LDO, and the TRC recommends the site plan be approved with technical requirements being met. He explained the technical requirements are the construction drawings which will come at a later date, and will not affect the site plan.

(b) Mayor Kluttz then opened the floor to receive comments on proposed site plan GD-02-10 Dest Dental.

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

Councilman Miller referred to the plan for the accessory structure, and stated it appeared to have three garage bays, with one facing a landscaped section. Mr. Phillips responded the plan calls for garage bays on the lower part of the structure, but it is his understanding that the bays will be used for storage for the residents.

Councilman Woodson asked if people to be trained at the dental clinic will be licensed, trained dentists. Mr. Phillips responded the students will be those who are in college studying dentistry and need to perform an internship.

Mayor Kluttz noted Council went through quite a lot when Walgreens was constructed several years ago, and Council was very careful to protect the neighborhood. She stated it is unlikely residential structures would go in this location again, and because a dental or medical office is quiet she thinks this is a good fit.

Councilman Kennedy indicated he does not want to lose the residential lots but he thinks a business locating here will be very beneficial to the City.

Mayor Pro Tem Blackwell commented when she visited the site and saw the mature trees she was very pleased to see the plans to save them.

(c) Thereupon, Kennedy made a **motion** to approve site plan GD-02-2010 Dest Dental, 140 Mahaley Avenue, contingent upon all technical requirements being met. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

REPORT - NEIGHBORHOOD LEADERS ALLIANCE, "BLOCK WORK" PROGRAM

Ms. Barbara Perry, Chairman of the Community Appearance Commission (CAC), addressed Council regarding a new "Block Work" program. Ms Perry noted in 2002 the CAC began identifying and meeting with neighborhood leaders, and in 2006 began bi-annual meetings. She stated this lead to the formation of the Neighborhood Leaders Alliance (NLA). She stated each year the CAC and NLA sets goals which typically include neighborhood appearance and safety issues, such as nuisance abatement and enforcement. She noted a recent focus of the NLA has been to build accountability within neighborhoods.

Ms. Perry stated a sub-committee of the NLA studied the "Block Work" program which is designed to bring residents and community supporters together to promote cleaner and safer neighborhoods, one block at a time. She noted the program is a one day, intensive work day focused on making improvements to a selected block of one neighborhood. She indicated neighborhoods will be invited to select a block to be focused on, and submit an application for consideration to the NLA "Block Work" committee. She stated that the committee will review all applications, assess the needs of the neighborhoods and the willingness of the participants. Ms. Perry explained the program is not a bail-out for delinquent property owners or renters because they will be asked to participate on some level.

Ms. Perry noted the work day will be conducted similar to the United Way “Day of Caring.” She indicated she has met with Ms. Jackie Harris with United Way, and Ms. Harris received permission from United Way to explore this program. She noted the United Way is excited about a possible spring clean-up, similar to the “Day of Caring.” Ms. Perry indicated Ms. Harris has approximately 750 people who volunteer for the “Day of Caring,” and she thinks the volunteers can be used for the “Block Work” program. Ms. Perry stated Ms. Harris attended the NLA meeting in October and the members were very supportive and impressed with the proposed project.

Ms. Perry reviewed sample blocks and the types of projects that might be undertaken with the “Block Work” program. She noted many neighborhood leaders discussed the need for all residents in a neighborhood to care for their property. She stated many of the at-risk houses are not isolated, but mixed in with properties that are well cared for. She added this is a problem for those who maintain their houses, but it is also an opportunity for these owners to assist with the guidance of less conscientious owners and on-going stewardship.

Ms. Perry indicated the target date for the model project is late-March or early-April, and the NLA is currently applying for funding grants, in conjunction with the United Way. She noted the committee is not requesting money from Council, but would like its endorsement for the proposed project.

Mayor Kluttz indicated she met with Ms. Perry and representatives for the project several months ago, and she was very excited to hear about the program. She stated she understands neighbors’ frustration when they do a beautiful job with their yards, but have neighbors who do not. She commented she thinks sometimes people cannot afford to make repairs, or often they do not know how to make the repairs, and this is a wonderful idea. She noted the “Day of Caring” has done great things for non-profits in the City. She stated there are so many people who volunteer for the “Day of Caring” that if there is a volunteer base who is interested in the “Block Work” program, she thinks it would be a wonderful partnership.

Councilman Kennedy stated this program will be working with property owners. He noted they will be improving their homes with the help of others, and he thinks it is a win-win situation.

Mayor Pro Tem Blackwell stated she is very proud to be the Council liaison to the Community Appearance Commission and Neighborhood Leaders Alliance. She noted in the past this group has come to Council and requested Council take action on their behalf, but in this case they are taking action and creating a grass-roots effort. She commented she is proud of this inspiration, and she thinks Salisbury could serve as a role-model for other communities.

Mayor Kluttz stated Council is often asked to police people or tell them what to do, and to offer someone a helping hand is very different. She commented in the current economy this is a wonderful thing to do.

Councilman Woodson thanked Ms. Perry for her tireless work for the City.

Ms. Perry stated since this will be a model project, if it is not successful the committee will not continue to pursue further projects.

Mayor Kluttz noted Council enthusiastically endorses this project.

2010 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING

Ms. Janet Gapen, Senior Planner, addressed Council regarding the 2010 Analysis of Impediments to Fair Housing. She explained the definition for Impediments to Fair Housing:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin

Ms. Gapen indicated a detailed report was presented to Council at its October 19, 2010 meeting. She stated the findings in the report will provide a baseline of information for future housing and neighborhood revitalization efforts. She then reviewed the nine findings and recommendations determined in the report:

- Impediment 1: Racial/Ethnic and Income Concentration
 - The City of Salisbury should remain vigilant in efforts to promote fair housing practices while minimizing or eliminating any discrimination in housing practices whenever they are identified throughout the City
- Impediment 2: Affordable Housing Stock for Households Earning Less than \$25,000 Annually
 - Working with local banks and in conjunction with the Salisbury Community Development Commission (CDC), the City should expand the scope of the existing affordable housing rehabilitation and construction programs to more closely meet the needs of the existing and projected population. Similarly, efforts should be made to identify and apply subsidies (rental and ownership) for those households that are cost burdened, i.e. are paying more than 30 percent of their income for housing
- Impediment 3: VisitAbility
 - The City of Salisbury should adopt a “VisitAbility Policy” calling for new housing construction in the City that uses public financial assistance to meet minimal visitability standards, if the current local and state building codes are not adequate
- Impediment 4: Emergency Shelters
 - The Land Development Ordinance should be amended to include a definition of emergency shelters and be incorporated as a use classification and treated similar to other use classifications with similar characteristics

- Impediment 5: Transitional Housing
 - The Land Development Ordinance should be amended to include a definition of transitional housing and be incorporated as a use classification and treated identically to similar single family residential and multi-family residential uses
- Impediment 6: Rehabilitating Existing Housing
 - The City of Salisbury should actively pursue the local application of the North Carolina Rehabilitation Code, in order to reduce the costs of maintaining and improving older housing stock
- Impediment 7: Conventional Home Loan Financing
 - The City of Salisbury should engage lending institutions to evaluate home mortgage lending patterns and practices by race/ethnicity in each census tract in the residential credit market to determine if there is a pattern and practice of discriminatory lending and/or redlining taking place in the City
- Impediment 8: Fair Housing Coordination
 - The City of Salisbury should continue to encourage and support fair housing education through the Human Relations Council and in partnership with other housing-related organizations in the community
- Impediment 9: Minority Homeownership
 - The City of Salisbury should continue to promote and invest in homeownership opportunities in areas with substantial minority populations

Ms. Gapen stated staff recommends Council consider approving the report.

Councilman Kennedy stated it was important to have the Analysis of Impediments to Fair Housing, and great goals have been set to pursue. He asked which department will be working on the goals. Ms. Gapen responded it will begin with Community Planning Services. She explained the report is required by the United States Housing and Urban Development (HUD) because the City receives Federal funds for housing through the Community Development Block Grant (CDBG) and HOME programs. She stated the City will report back to HUD on an annual basis as part of the performance report presented to Council each September. She noted at that time the type of efforts undertaken by the City to follow-through with the recommendations will need to be reported.

Thereupon, Mr. Kennedy made a **motion** to approve the 2010 Analysis of Impediments to Fair Housing. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

SALISBURY CITY COUNCIL CODE OF ETHICS POLICY

Mayor Kluttz indicated Council was presented a draft Code of Ethics Policy at its last meeting, and noted it is a new requirement from the State Legislature. She explained the State Legislature now requires each Council to have its own Ethics Policy, and each Council member is required to attend two hours of ethics training. She pointed out all Council members have completed their training, and the deadline to adopt a policy is January 1, 2011.

Councilman Woodson commented the policy does not specify certain activities Council is or is not allowed to do. He noted the Policy states Council will do everything ethically, but there are no specific items.

Mayor Kluttz stated the draft policy was taken from the Model Code developed by the University of North Carolina at Chapel Hill School of Government (SOG).

Attorney Rivers Lawther commented the Policy is from the Model Code developed by the SOG, but Council may add additional items if it chooses. He added the draft Policy is fine as far as the law is concerned because the SOG has approved it.

City Manager David Treme stated when the Ethics Policy was drafted staff thought it best to operate within the spirit of the law, rather than the letter of the law. He noted after some experience working with the policy, Council will have the opportunity to modify the policy as it deems appropriate. He stated the policy addresses those things Council can do, rather than the things it cannot. He noted he viewed the Policy as a foundation that can be built upon in the future.

Mayor Kluttz commented the policy gives Council members the ability to police themselves, and if Council feels it should be stricter, it can modify the Policy.

Mr. Woodson questioned the ability of Council members to play in golf tournaments. Mayor Kluttz stated whether a Council member could play in a golf tournament or not, is not dependent on the policy to state.

Councilman Miller stated he views the policy as providing guidelines and if a Council member has questions about possible conflict they should consult with the City Attorney for a ruling. He noted he understands a conflict is when there is a direct monetary benefit to be gained through participation. He stated he appreciates the fact that the policy is drafted from the Model Code, and he has the ability to call for clarification when he has a concern. He added when an attempt is made to be specific, invariably something is omitted.

Thereupon, Councilman Miller made a **motion** to approve the Code of Ethics Policy for the Salisbury City Council as presented. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Kluttz voted AYE. (5-0)

ORDINANCE – AMENDING FIBRANT BROADBAND FEES AND CHARGES

Mr. John Sofley, Management Services Director, noted Council recently established a fee schedule for the Fibrant Utility under Appendix F of the City Code. He stated at that time staff had considered adding three more service levels to the internet service, to add 50 mega bits per second (mbps), 75 mbps, and 100 mbps services, but prices for these speeds had not been finalized. He noted the prices have now been finalized and need to be added to the schedule of

fees. He added a change was also made to reduce the fee for Fibrant's fax service, and he requested Council adopt the revised schedule. He pointed out one citizen has already made a request for the 50 mbps service.

Councilman Miller indicated it is his understanding Council has the ability to scale the service to more than 100 mbps, but these tiers are being offered based on the expected demand. He commented the levels offered are based on demand, and when more levels are added there is additional cost to make them available.

Mr. Sofley stated the speeds can increase up to a gigabit for businesses, but the proposed amendment is for residential use.

Councilman Woodson noted he saw fiber being installed on Main Street. Mr. Sofley stated contractors have been busy installing conduit, and they are now placing fiber into the conduits.

Thereupon, Kennedy made a **motion** to approve an Ordinance amending Appendix F of the Code of Ordinances of the City of Salisbury, North Carolina, to revise the fees and charges for Fibrant Broadband Services and Fees. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX F OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA TO REVISE THE FEES AND CHARGES FOR FIBRANT BROADBAND SERVICES AND FEES.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page Nos. 108-111, and is known as Ordinance 2010-44.)

Mayor Kluttz noted it was announced at the Customer Service Facility ribbon cutting earlier today that Fibrant will move into the new facility Monday, December 13, 2010. She noted people who are interested in Fibrant do not have to wait until that date, and noted the temporary Fibrant office is located at the corner of Klumac Road and Martin Luther King, Jr. Avenue.

Mr. Sofley stated staff is taking orders now, and placing citizens on a waiting list as they call. Mayor Kluttz encouraged those interested in Fibrant services to call immediately to be placed on the list for installation. She noted Fibrant will then make an appointment with the customer, and pointed out someone must be present for the installation. Mr. Sofley stated for the initial installation a four-hour time frame is allowed to ensure everything is taken care of.

Mayor Kluttz noted when the Fibrant technicians visit a customer's home for the installation, they will also inspect smoke alarms. If a customer does not have a smoke alarm, the Fibrant technicians will install them for the customer free of charge. She added this is being offered in partnership with the Fire Department, and customers will be mailed batteries for the smoke alarms each year thereafter.

Mr. Woodson stated he has received comments from citizens who do not understand the Fibrant telephone service. He commented many people do not understand that if they use the Fibrant telephone service, they do not have to use another carrier as well. Mr. Sofley stated Fibrant offers residential telephone service that has approximately 17 features. He noted if telephone is purchased with one other service it is \$40 per month. He added if telephone is added with two other services it is \$35 per month and both include free long distance in the United States and Canada. He stated the customer does not have to have any additional telephone service, and if a customer chooses Fibrant they can discontinue any other service. Ms. Sofley indicated customers can also maintain their existing telephone number. He stated customer service will request a copy of the customer's current telephone bill in order to have all of the information necessary to contact the existing provider to transfer the customer's existing telephone number to the new service.

Mayor Kluttz indicated Council has heard excellent reports from the volunteers who have had the service installed.

Mr. Woodson indicated he uses the video service and he likes having the ability to record a show on one television, but watch it on any other television set in the house.

Mayor Kluttz stated she hopes citizens realize how fortunate they are to have this opportunity to have this excellent service and competition for the existing services.

APPOINTMENTS TO THE ADVISORY COUNCIL FOR BETTER HOUSING AND NEIGHBORHOOD STABILIZATION

Mayor Kluttz indicated Council decided to create a Committee for Better Housing and Neighborhood Stabilization several months ago. She noted ideally there should be 12 people appointed to the Committee.

Mayor Pro Tem Blackwell commented there were many more than 12 applications received, and Council appreciates citizen's interest in serving on the Committee.

Councilman Woodson nominated Mr. Nathan Chambers, Ms. Greta Connor, and Mr. Norde Wilson.

Councilman Miller nominated Ms. Kyna Foster, Mr. Lou Manning, and Mr. Dan Waggoner.

Councilman Kennedy nominated Mr. Burt Brinson, Ms. Mae Carroll, and Mr. Eddie Hampton.

Mayor Pro Tem Blackwell nominated Mr. Garth Birdsey, Mr. Calvin Turner, and Ms. Mimi Howard.

Mr. Miller pointed out these citizens represent varied interest points from the community and should allow for many perspectives for the process.

Thereupon, Mr. Kennedy made a **motion** that all nominated be approved. Mr. Woodson seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Upon a motion by Mayor Kluttz, seconded by Mr. Miller, and with Messrs. Kennedy, Miller, Woodson and Mses. Blackwell and Kluttz voting AYE, the following appointment was made to fulfill an unexpired term on the Historic Preservation Commission:

Ms. Debbie Lesley

Term expires 3/31/2013

PUBLIC COMMENT

Mayor Kluttz opened the floor to receive public comment.

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

COMMENTS FROM THE CITY MANAGER

There were no comments offered.

MAYOR'S ANNOUNCEMENTS

(a) **Holiday Caravan Parade**

The Holiday Caravan Parade will be held Wednesday, November 24, 2010 beginning at 2:00 p.m. in Spencer and 3:00 p.m. in Salisbury.

(b) **Holiday Night Out**

Downtown Salisbury, Inc. will host Holiday Night Out Friday, November 26, 2010 from 5:00 p.m. until 9:00 p.m. in downtown Salisbury.

Mayor Kluttz noted the Fibrant trailer will be on display during the Friday night out. City Manager David Treme explained a trailer has been outfitted with video, internet and screens to allow citizens to see the services offered by Fibrant, and to learn how they can take advantage of those services. He commented this is an opportunity to view the Fibrant services and compare it to other services. He added he thinks this new utility will improve the quality of life within the

community, and will be more than just a utility. He noted he is not sure of the exact location of the trailer during Friday night out, but the trailer is very visible.

(c) Salisbury Historic Preservation Master Plan

The kick-off meeting for the Salisbury Historic Preservation Master Plan will be held Tuesday, November 30, 2010 from 6:00 p.m. until 7:30 p.m. at the Rowan Museum Messinger Room, 202 North Main Street. All city residents are invited to attend and participate in the development of the plan.

(d) Tree Lighting Ceremony

The Salisbury Parks and Recreation Department Tree Lighting Ceremony will be held Friday, December 3, 2010 at 6:00 p.m. at the City Park Lake. The public is invited to attend.

COUNCILMAN KENNEDY ANNOUNCEMENT

Councilman Kennedy announced he and his wife Hazel have a new grandson. He stated Bryce Immanuel White was born November 11, 2010 weighing 8 pounds, 8 ounces. Council congratulated Mr. Kennedy and his family.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Ms. Blackwell. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:30 p.m.

Susan W. Kluttz, Mayor

Myra B. Heard, City Clerk