



City of Salisbury



CITY COUNCIL AGENDA

August 24, 2015
Government Office Building

6:00 p.m.
Room 301

Times shown for agenda items are estimates only.

6:00 p.m. CALL TO ORDER

6:01 p.m. WELCOME/ANNOUNCEMENTS

6:03 p.m. CITY INVOCATION - Pastor Julie Lewis, Rockawalkin United Methodist Church

6:05 p.m. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES

6:07 p.m. PRESENTATIONS

Community Organization Presentations

- Eastern Shore International Mountain Biking Association (ESIMBA)
- Red, White & Boom – presented by Mike Dunn

Awards to City of Salisbury Wellness Committee Members

6:27 p.m. ADOPTION OF LEGISLATIVE AGENDA

6:30 p.m. CONSENT AGENDA – City Clerk Kim Nichols

- **July 13, 2015** closed session minutes (separate envelope)
- **July 20, 2015** closed session minutes (separate envelope)
- **July 20, 2015** work session minutes
- **July 27, 2015** regular meeting minutes
- **July 27, 2015** closed session minutes (separate envelope)
- **Resolution No. 2533** – accepting a donation of a portable stage and steps from Joey Gilkerson, resident and business owner from Salisbury, Maryland, for public event usage
- **Resolution No. 2534** – accepting the donation of Mountain Bike Trail Way Finding signage for City Park
- **Resolution No. 2535** – accepting funds awarded through a grant from Program Open Space for basketball court renovations at Waterside Park, Salisbury, Maryland
- **Resolution No. 2536** - authorizing the Capacity Fee of the City's Comprehensive Connection Charge be waived for a development known as Pohanka Vehicle Storage at West Gordy Road and Windsor Drive

6:40 p.m. ORDINANCES – City Attorney Mark Tilghman

- **Ordinance No. 2346** – 2nd reading - approving an amendment of the FY 2015 General Fund Budget to appropriate additional funding for Local Government Insurance Trust
- **Ordinance No. 2352** – 2nd reading- to amend Chapter 6.04 Dogs, Fowl and other animals of the Salisbury City Code to add definitions related to Urban Chickens and enacting Chapter 6.05 to authorize the keeping of chickens subject to certain regulations

6:55 p.m. PUBLIC COMMENTS

7:00 p.m. ADJOURNMENT

Copies of the agenda items are available for review in the City Clerk's Office, Room 305 – City/County Government Office Building, 410-548-3140 or on the City's website

www.ci.salisbury.md.us

City Council meetings are conducted in open session unless otherwise indicated. All or part of the Council's meetings can be held in closed session under the authority of the Maryland Open Meetings Law, Annotated Code of Maryland 10-508(a), by vote of the City Council.

Proposed agenda items for September 14, 2015 (subject to change)

- Resolution No.____- Safe Streets Coalition Grant
- Resolution No.____- STOP Gun Violence Reduction Grant
- Resolution No.____- Supporting Homes for Johnson's Pond
- Resolution No.____-Entering into an MOU with MDBC for Downtown Fiber
- Change Order for AMT- Broadband Fiber MDBC
- Resolution No.____-Entering into a Partnership with Wicomico Youth Partnership for SWYCC
- Ordinance No.____-1st Reading- Granting Utility Easement to DP at WWTP

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Accepting DNR Grant for Marina Pedestals

Public Works Director Mike Moulds joined Council and explained that the City was awarded a Waterway Improvement Fund grant in the amount of \$25,000.00 from the MD Department of Natural Resources to fund the upgrade and replacement of pedestals at the Port of Salisbury Marina. These pedestals provide power and water to the boat slips so boats can hook up and utilize those services.

Council reached unanimous consensus to advance the resolution to approve the acceptance of the grant in the amount of \$25,000.00.

City Curfew

Police Chief Barbara Duncan joined Council at the table to discuss the City curfew. She invited the Department of Juvenile Services to attend, but they cannot participate in this discussion.

Chief Duncan reported the Salisbury Police Department (SPD) reached out to numerous agencies, thirteen of which spoke with the SPD concerning the curfew and whether they felt this was a tool in which they felt helped reduce crime. She indicated about 50% indicated crime was reduced following the curfew and felt it was a beneficial tool. Most of agencies were able to make contact with a parent or guardian when a child is picked up by the police.

The report Chief Duncan provided showed statistics proving children in the concerned age group were moving around after 10:00 p.m. It is very clear that once they are out of school until the hours of 7 p.m., there is a high rate of juvenile crime. However, in the later evening hours and early morning hours, there is an interesting spike in crime from that age group.

Council comments and discussion included:

- Mrs. Mitchell - How many of the towns are on the Eastern Shore of Maryland? (Chief Duncan answered – Chestertown, Cecilton, Greensboro)
- Mrs. Shields – the American Civil Liberties Union of Maryland ACLU) sent a letter stating the curfews are illegal, and it is illegal to stop and question (Mrs. Mitchell presented copies of the letter from the ACLU dated July 15, 2015 (attached to these minutes and included as part of the minutes).
- Mr. Heath – Did the A.C.L.U. have challengers?
- Mrs. Mitchell presented copies of the letter from the A.C.L.U. dated July 15, 2015 in which it was indicated the proposed ordinance is prohibited under Maryland law.
- Mrs. Mitchell – when Stop the Violence closed there was a spike in activity in that neighborhood. Would be interested in seeing the statistics for the year prior to their closing and then afterwards. That speaks volumes in the need for a Youth Community Center and a place for them to go after school when there is no one at home.
- Mr. Heath – there could possibly be a trial period to see what happens with the numbers
- Mr. Day – Could the Administration learn enough to know when they were encountering juveniles who would be in violation of this policy. Chief Duncan stated that a trial period could be enacted.

- 90 • Mr. Day – concerned about what message the City is sending and if there are people who
91 have identified a solution that works in their neighborhood, why would Council keep
92 those tools out of their hands?
- 93 • Mr. Day – questioned in the absence of adequate housing and space to hold a child while
94 contacting their parents or a guardian, where would these children be held?
- 95 • Mr. Day was not comfortable taking an officer off the street to handle juveniles
- 96 • Mrs. Shields – the public needs to provide input before legislation is voted on
- 97 • Mrs. Shields – when Stop the Violence closed down in February, crime spiked
- 98 • Mrs. Shields - The Governor’s Office should look at ways that we can keep our kids out
99 of the juvenile system by providing safe havens and after school programs. It worked
100 before, but it’s been cut
- 101 • Mr. Heath – one of the things the Council must realize is that there are essentially three
102 groups – 1) parents who don’t care, 2) parents who are very involved, and will come out
103 and speak, 3) medium group of parents which includes a group that are concerned. We
104 should try to reach the majority of the people where we can salvage the most children. He
105 fully supported community involvement, but there will be groups never reached.
- 106 • Mr. Spies – no matter where we go with this, we are always talking about the male curve.
107 One end has the outstanding performers and the other end has the 2% of the people who
108 will never come around. (He asked Chief Duncan if she had checked in with the
109 Disproportionate Minority Contact Representative, and if she had any conversation with
110 him. Chief Duncan said they had some discussions, but nothing in depth. He recently
111 attended a Police Community Forum in D.C. to talk about police and resident interaction,
112 and how things can be improved. Her discussion with him was limited, but would get
113 more information from him on that.)
- 114 • Mr. Spies – we could investigate the after school programs

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116 Chief Duncan stated that all of the institutions, (DJS, Law Enforcement, City Council, Board of
117 Education) are identifying the same issues, and it’s how we support that family unit through that
118 period time when they are in crisis. There are some constitutional heavyweights to be careful of.
119

120 Mr. Day suggested that Chief Duncan work with Mr. Tilghman to make the changes to develop
121 an updated ordinance that administration supports, using the Baltimore model but removing
122 elements including age differentiation and certain hours. Also, to return to Council with several
123 alternatives for public engagement to be led and organized by the SPD. Mrs. Mitchell suggested
124 these meetings be held in all of the sectors of the City.

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126 **Urban Chicken Ordinance**

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128 Mr. Day welcomed Delegate Charles Otto in the audience. Delegate Otto announced he was
129 present to represent Farmers and Planters Co. in the Urban Chicken Ordinance discussion.

130
131 The following comments were received from four (4) members of the public:

- 132
133 • Farmers & Planters sell chickens (store is located within the City limits).
134 • Chickens eat ticks and mosquitoes.

- 135 • There is a huge movement across America to bring chickens into your yard
- 136 (homesteading and becoming self-sustaining).
- 137 • It is important for people who care to have ways to self-sustain themselves.
- 138 • The City is all about Perdue, and they are all about chickens. The average homeowner
- 139 should be allowed to have chickens.
- 140 • It is part of the American dream to be self-sufficient.
- 141 • Chickens do not make bigger messes than dogs or cats that are outside, and they clean
- 142 up after themselves.
- 143 • Chickens make less noise than roosters.
- 144 • It is a decision and responsibility to have chickens.
- 145 • Can foster good neighbors by sharing eggs.
- 146 • Chickens are not as difficult as some people may think, and they are quite enjoyable
- 147 • Chickens help educate children and adults in animal husbandry.
- 148 • Many small cities and towns are moving in this direction, and there needs to be rules
- 149 and regulations.
- 150 • There is a “grow your own food” trend right now, and to see where your food comes
- 151 from is always a good thing.
- 152 • Only concern is with the Avian Flu that is spreading across the country, but the local
- 153 geese likely introduce more threat than backyard chickens.
- 154 • Discussed the housing needs and protection from the elements that chickens require
- 155 • Chickens need companions, and you should not have just one.
- 156 • The speaker sees opossums and snakes in the City limits already.
- 157 • Wants to use fertilized hay for her garden.

158
159 Chief Duncan, Animal Control Officer Patrick Guyer and Colonel Meienschein joined Council at
160 the table. Officer Guyer informed Council that if a flock were removed from a citizen’s property
161 it would have to be destroyed since Animal Control does not have the facility to quarantine fowl.
162 The Humane Society only accepts cats and dogs.

163
164 Mrs. Mitchell commented on the section regarding Avian Flu. There are many other diseases that
165 necessitate culling fowl, so that section of the draft legislation may need to be broadened. There
166 are other animals that come along with keeping chickens (snakes, weasels, rats and mice).

167
168 Mrs. Shields reported the odor from the Perdue Plant was awful, and even though the people
169 present follow the rules and regulations, there will be more problems because not all people will
170 keep their pens clean. She could not support the legislation.

171
172 Mr. Day stated that the legislation is a step in the right direction for the community to help build
173 a sustainable, local economy. He supported the legislation and indicated it is a good idea for the
174 neighborhoods, community, and for linking people within the City of Salisbury to agriculture.
175 His concerns were human and animal welfare and the stresses on City staff and City employees.
176 Citizens are already keeping chickens whether there is an ordinance in place or not, and this is
177 probably best because they must register all flocks with the Department of Agriculture.

178
179 Mr. Spies noted that virtually all diseases that transmit from chickens to humans deals with
180 feces, so good husbandry of these animals is what will be required, just as with any other animal.

181
182 Council reached consensus to advance the ordinance to legislative session. Mmes. Mitchell and
183 Shields did not support the legislation.

184
185 At 4:11 p.m., following a thirteen minute recess, Council reconvened in Closed Session.
186

187 At 5:14 p.m., Mrs. Shields moved, Mr. Spies seconded, and the vote was unanimous to adjourn
188 the Closed Session and reconvene in Open Session.

189
190 Mr. Day then reported out to the Public that while in Closed Session, Council was provided
191 continued guidance for ongoing negotiations of Lots 1 & 11 development negotiations.
192 Thereafter, with no further business to discuss, the Open Session adjourned at 5:19 p.m.

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195 _____
196 City Clerk

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199 _____
200 Council President



July 15, 2015

Mayor James Ireton
125 N. Division Street, Room 304
Salisbury, Maryland 21801-4940

Council President Jacob Day and Members of the City Council
125 N. Division Street, Room 301
Salisbury, Maryland 21801-4940

Dear Mayor Ireton, Council President Day, and Members of the City Council:

We write on behalf of the American Civil Liberties Union of Maryland, to express our concern about the legality and policy implications of the juvenile curfew law proposed for the City of Salisbury. After carefully reviewing the proposed ordinance, as well as the data provided by the Salisbury Police Department seeking to substantiate the City's need for a curfew, our view is that the ordinance is not only unnecessary but also inconsistent with Maryland law. On this basis and for the reasons detailed below, we urge you to reconsider the curfew proposal.

As we understand it, the proposed curfew would prohibit any minor under 14 years of age from remaining "in or about any public place or any establishment between the hours of 9 p.m. on any day and 6 a.m. of the following day." Minors at least 14 years old but less than 17 years old would be prohibited from remaining "in or about any public place or any establishment between the hours of 11 p.m. on any day and 6 a.m. of the following day" between the Friday before Memorial Day and the last Sunday of August each year. For the remainder of the year, minors at least 14 years old but less than 17 years old would be prohibited from remaining "in or about any public place or any establishment" between the hours of 11 p.m. and 6 a.m. on Fridays and Saturdays, and between the hours of 10 p.m. and 6 a.m. on any other day of the week.

In addition, the proposed ordinance includes a daytime curfew that would prohibit any minor under the age of 16 from remaining "in or about any public place or any establishment between the hours of 7:30 a.m. and 3 p.m. on any day during which the minor is required to be in school."

I. The Proposed Ordinance Is Prohibited Under Maryland Law.

Although we understand that the City of Salisbury patterned its proposed curfew upon the Baltimore City juvenile curfew enacted last summer, as an Eastern Shore jurisdiction, the City of Salisbury is not permitted to enact these restrictions under Maryland law. Sections 11-301 to 11-308 of the Maryland Code of Local Government govern the adoption of juvenile curfew laws in jurisdictions on the Eastern Shore, and

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EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

establish strict limitations upon such laws.¹ *See* Md. Local Govt. §§ 11-301 to 11-308. Section 11-304 provides, “[A] juvenile curfew ordinance shall state that: (1) a minor may not remain in a public place or on the premises of an establishment **during curfew hours; . . .**” *Id.* at 11-304 (emphasis added). Section 11-301 defines “curfew hours” as only “the hours **between midnight and 5 a.m.**” *Id.* at 11-301 (emphasis added).

Despite the express language of the Maryland Code, Salisbury’s proposed curfew law attempts to expand nighttime curfew hours to also include 9 p.m. until midnight and 5 a.m. until 6 a.m. These four hours do not fall under the Code’s explicit definition of “curfew hours,” and therefore Salisbury is not permitted to adopt curfew restrictions that would apply during these times.

Furthermore, the proposed ordinance also includes a daytime curfew that would apply between 7:30 a.m. and 3 p.m. of each school day. However, these hours are also beyond the definition of “curfew hours” allowed by Section 11-301. In fact, the Juvenile Curfew Subtitle of the Maryland Code of Local Government does not permit the enactment of a daytime curfew at all. Therefore, the daytime curfew provisions included in the proposed ordinance would be invalidated in their entirety if enacted.

A. The Need for a Juvenile Curfew Is Not Supported by the Data Provided by the Salisbury Police Department.

In addition to failing to comply with the specifications set forth in the Juvenile Curfew Subtitle of the Maryland Code of Local Government, the City of Salisbury has also failed to meet a prerequisite for the adoption of a juvenile curfew law on the Eastern Shore. Section 11-303 provides that such laws may be enacted only “[a]fter making independent factual findings demonstrating a local need for a curfew . . .” *Id.* at 11-303 (emphasis added). While the Salisbury Police Department has provided a small amount of data regarding juvenile arrests and field interview reports, these data actually counsel against the need for either a daytime or nighttime curfew.

In fact, the data show that approximately half of all juvenile arrests occur between 3 p.m. and 9 p.m.—that is, during six of the only seven and a half hours *not* covered by either the daytime or nighttime curfews. Last year, for example, 151 of the 313 total juvenile arrests (47.9%) took place between 3 p.m. and 9 p.m. No other six-hour period saw more juvenile arrests. The numbers for 2013 and 2012 are virtually identical: In 2013, 135 of the 282 juvenile arrests (47.9%) took place between 3 p.m. and 9 p.m.; in 2012, 102 of the 199 total (51.3%).

The Police Department’s data regarding field interview reports on juveniles are similarly unconvincing.² These data reveal that approximately 40 percent of FIRs on

¹ Section 11-302 states that the subtitle applies throughout code counties in the Eastern Shore class as established under § 9-302 of the article. Md. Local Govt. § 11-302. Section 9-302 lists Wicomico County, where the City of Salisbury is located, as one of the code counties in the Eastern Shore class. *Id.* at § 9-302(a)(2)(ii).

² While the data show that the greatest number of field interview reports on juveniles occur between 9 p.m. and midnight, it is clear that these FIRs generally do not result in arrests. Last year, for example, although there were 224 FIRs on juveniles between 9 p.m. and midnight, there

juveniles fall into one of three categories: Investigate Suspicious Person, Suspicion, or Suspicious Vehicle. Last year, for example, these three categories of FIRs accounted for 284 of the 664 total FIRs on juveniles (42.7%). In 2013, these three categories made up 246 of the 642 total (38.3%). This shows that Salisbury Police already have the ability to stop and question juveniles, at any time of the day or night, who appear to be engaged in illegal activity, and they are exercising that authority. Enacting a curfew, which makes it illegal to simply be outside at certain times, would only divert police resources by requiring them to stop and question every juvenile who is outside during curfew hours, instead of focusing their attention on those who appear to be committing crimes.

Furthermore, the data provided by the Salisbury Police Department purportedly in support of the juvenile curfew are wholly devoid of any statistics regarding the victimization of minors—either during the day or the night, during curfew hours or non-curfew hours. To our knowledge, the City of Salisbury has not provided any information to support its claim in the proposed ordinance that “research of law enforcement statistics indicate that crime is reduced *and the safety of minors is improved* by the imposition of a curfew for minors.” (Emphasis added.)

B. Independent Empirical Research Shows that Juvenile Curfews Do Not Reduce Youth Victimization or Delinquency.

We seriously doubt, based on the data provided by the Salisbury Police Department as well as independent empirical research, that the City of Salisbury could prove its contention that the curfew would reduce youth victimization or delinquency. Rather, studies of curfew laws have consistently shown that juvenile curfews do not reduce youth delinquency or victimization. *See, e.g.*, Kenneth Adams, *The Effectiveness of Juvenile Curfews at Crime Prevention*, 587 *Annals of the American Academy of Political and Social Science* 136 (2003) (finding “that the evidence does not support the argument that curfews prevent crime and victimization”); Mike Males & Dan Macallair, *An Analysis of Curfew Enforcement and Juvenile Crime in California*, *Western Criminology Review* 1 (2) (1999) (“There is no support for the hypothesis that jurisdictions with curfews experience lower crime levels, accelerated youth crime reduction, or lower rates of juvenile violent death than jurisdictions without curfews.”).

Studies of curfew laws in nearby Washington, D.C. and Prince George’s County have similarly found little to no evidence that such laws prevented crime. *See* Danny Cole, *The Effect of a Curfew Law on Juvenile Crime in Washington, D.C.*, 27 *American Journal of Criminal Justice* 217 (2003) (“The results, consistent with previous studies, revealed that the curfew law did not reduce total juvenile arrests.”); Caterina Gouvis, *Evaluation of the Youth Curfew in Prince George’s County, Maryland, Final Report*, The Urban Institute (2000) (finding that the impact of the curfew law on the target group was small and not statistically significant).

were only 43 juvenile arrests during the same timeframe. Therefore, the increased number of FIRs cannot support the City’s stated interest in reducing juvenile crime.

II. Juvenile Curfew Laws Are Bad Policy.

In addition to our concerns about the legality of Salisbury's proposed ordinance, the ACLU opposes juvenile curfew laws generally because they unnecessarily subject young people to forced interactions with police, prohibit perfectly innocent (and sometimes valued) conduct, and restrict parents' ability to decide how to raise their own children. Furthermore, the unfortunate reality has been that curfew laws are often applied in a discriminatory manner such that they disproportionately affect young people of color.

A. The Proposed Curfew Law Will Unnecessarily Subject Young People, Especially Young People of Color, to Forced Interactions with Police.

Because it is impossible to pinpoint a person's precise age simply by looking at him or her, enforcement of a juvenile curfew would require police to stop every young-looking person who is outside during curfew hours, and demand that they prove their age. This means that many young adults who are beyond the scope of the curfew will be unnecessarily subjected to increased interactions with police.

In fact, Salisbury's proposed ordinance contains an enforcement provision that states, "If a police officer has reason to believe that a minor is in violation of [either the daytime or nighttime curfew], the police officer *shall* seek to obtain from the minor: (1) the minor's name, address, *school or other valid identification*, and age; and (2) the name of the minor's parent or parents." (Emphasis added.) Does this mean that failure to produce identification upon request constitutes a violation of the ordinance? Can an 18-year-old, or a 21-year-old, who is lawfully outside at times within the curfew's reach, be taken into custody simply for failing to provide a "valid identification"?

According to Census statistics, approximately 22 percent of Salisbury's population is under 18 years old, and therefore would be subject to the proposed curfew restrictions. However, approximately 20 percent of Salisbury's population is between the ages of 18 and 24. Assuming that most people in this age group look young enough for a police officer to "reasonably suspect" that they might actually be minors, this means that 42 percent of Salisbury's population would be subject to stops and questioning by police if the proposed curfew were enacted.³

Furthermore, as too often occurs, it is likely the proposed curfew would be enforced in a discriminatory manner so that it would disproportionately affect young people of color. Numerous studies have found that juvenile curfews have a stunningly disproportionate impact on minority children. *See, e.g., Adams, supra* at 153–54 (finding that African American children are arrested and cited for curfew violations at a rate much

³ The concern that police will enforce a juvenile curfew against "young-looking" adults is far from hypothetical and has been recognized by multiple courts. *See Anonymous v. City of Rochester*, 915 N.E.2d 593, 597 n.4 (N.Y. 2009) ("[T]his case was not rendered moot when plaintiff Jiovan turned 17 because he may still be detained under the curfew if, to an officer, he appears to be under 17 and fails to offer proof of age."); *Ashton v. Brown*, 339 Md. 70, 82 (1995) (19-year-old was detained, photographed, handcuffed, searched, and held on police bus for 40 minutes during enforcement of juvenile curfew that only applied to children under 18).

higher than whites and “the available research suggests a pattern of disproportionate curfew enforcement against minorities”); Mary Lou O’Neil, *Youth Curfews in the United States: The Creation of Public Spheres for Some Young People*, 5 *Journal of Youth Studies* 49 (2002); J. David Hirschel, Charles W. Dean & Doris Dumond, *Juvenile Curfews and Race: A Cautionary Note*, 12 *Criminal Justice Policy Review* 197 (2001).

Maryland’s highest court has also recognized the potential for discriminatory enforcement of juvenile curfews. *See Ashton v. Brown*, 339 Md. 70, 82 n.5 (1995) (noting that data regarding the City of Frederick’s juvenile curfew “reveal that the proportion of African-Americans arrested for curfew violations was substantially greater than the proportion of African-Americans to the population at large”).

B. Curfew Laws Criminalize Perfectly Innocent Conduct and Infringe Upon Parents’ Fundamental Right to Decide How to Raise Their Own Children.

Parents and guardians are in the best position to know what rules and restrictions work best for their kids. The proposed curfew, instead of accounting for individual differences among children of the same and different ages, arbitrarily groups them into four categories with various restrictions applying to each one: children under 14; 14- and 15-year-olds; 16-year-olds; and those 17 years old or above. This hierarchy fails to take into account that some 13-year-olds are wise beyond their years, while some 17-year-olds continue to need parental supervision. Parents, who know their children’s varying levels of maturity and responsibility, should be able to make individualized rules about when their children need to be home, and what conduct is or is not permitted at various times of the day.

A number of courts throughout the country have recognized this fundamental right of parents to prescribe their own rules and regulations for their children, and have invalidated curfew laws that impermissibly infringe upon that right. *See, e.g., Anonymous v. City of Rochester*, 915 N.E.2d 593 (N.Y. 2009) (concluding that Rochester’s juvenile curfew “imposes an unconstitutional burden on a parent’s substantive due process rights” and “fails to offer parents enough flexibility or autonomy in supervising their children”).

Moreover, Salisbury’s proposed curfew would prohibit perfectly innocent, and sometimes even valued, conduct. For example, it prohibits two 13-year-olds from meeting at a coffee shop after 9:00 p.m. to study for tomorrow’s math test, even if they are being supervised by one’s 17-year-old brother; it prohibits a 16-year-old from running an errand for his mom, who has to stay home to take care of a much younger sibling, at 10:00 on a Thursday night; it prohibits a 15-year-old from walking the family dog on public property at 10:00 on a Tuesday before he goes to bed.

And because the permissible exceptions to the daytime curfew are even more limited than those that apply at night, there are even more examples of perfectly innocent conduct that would constitute a curfew violation during the day: A 15-year-old who is lawfully excused from school for religious observance could not walk to his place of worship without a parent unless he has received prior “written proof from school authorities excusing his or her attendance at that particular time;” a 14-year-old who is excused from school due to illness could not be taken to the doctor by her 17-year-old

sister unless she was able to predict her illness in advance and obtain the required written proof from school authorities.

III. Salisbury's Proposed Curfew Raises Concerns Under Both the Federal and State Constitutions.

Salisbury's proposed curfew law is sufficiently extreme—and the justifications for it sufficiently dubious—to raise concerns about its constitutionality under the United States and Maryland constitutions. Both federal and state courts around the country have subjected curfew laws to strict or heightened standards of scrutiny and have routinely struck down ordinances as unconstitutional. *See, e.g., Hodgkins v. Peterson*, 355 F.3d 1048 (7th Cir. 2004); *Ramos v. Town of Vernon*, 353 F.3d 171 (2d Cir. 2003); *Nunez v. City of San Diego*, 114 F.3d 935 (9th Cir. 1997); *City of Rochester*, 915 N.E.2d 593; *State v. J.P.*, 907 So.2d 1101 (Fla. 2004). In such cases, courts have placed the burden on local governments to show, with actual evidence, that the ordinance is substantially related to achieving important government interests. As discussed above, the City of Salisbury has not, and most likely cannot, meet this burden.

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The Baltimore City curfew, after which Salisbury's proposal is modeled, has not yet been challenged in court. However, the City of Salisbury cannot defend its proposed curfew law by citing the same interests found in the Baltimore ordinance, as it has attempted to do here, because of the enormous differences between the two cities. Salisbury, a city of approximately 34,000 people and 14 square miles in area, does not face the same issues as Baltimore, a city of approximately 620,000 people and 92 square miles in area. Thus, the extremely restrictive curfew limitations of the proposed ordinance would be entirely inappropriate in the City of Salisbury, and the City would not be able to meet its burden of showing that the ordinance is substantially related to achieving important government interests.

Furthermore, the proposed ordinance is much more restrictive than those curfew laws that have been upheld by the courts in a number of ways. This includes requiring children to be kept inside as early as 9 p.m., arbitrarily distinguishing between minors of different ages, and failing to include an exception for performing errands with a parent's permission. For example, in *Schleifer by Schleifer v. City of Charlottesville*, the court repeatedly pointed to the curfew's limited hours (midnight until 5 a.m. on weeknights; 1 a.m. until 5 a.m. on weekends), general application to all minors under 17, and provision of an exception for running errands with a parent's permission as evidence that the law was not overbroad. 159 F.3d 843, 852 (4th Cir. 1998).

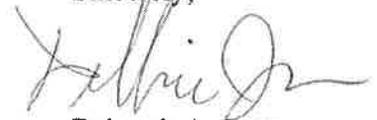
Salisbury's proposed curfew is even more restrictive than many curfew laws that have already been invalidated by the courts. *See, e.g., Ramos*, 353 F.3d at 187 (curfew with limited hours (11 p.m. to 5 a.m. on weeknights; midnight to 5 a.m. on weekends) unconstitutionally infringes on minors' right to equal protection); *City of Rochester*, 915 N.E.2d 593 (curfew with limited hours (11 p.m. to 5 a.m. on weeknights; midnight to 5 a.m. on weekends) violates "substantive due process rights of minors to enjoy freedom of movement and of parents to control the upbringing of their children"). In fact, we have found no case concerning a juvenile curfew—either upholding or invalidating—that

requires children to be inside as early as 9 p.m. or that requires police to distinguish between minors of four different age groups.

* * *

The ACLU strongly opposes curfew laws, and has filed litigation in numerous cities and towns around the country challenging such laws. In our view, the City of Salisbury's proposed ordinance is prohibited under Maryland law, unsupported by empirical evidence, bad policy, and arguably unconstitutional. For these reasons, we urge the Mayor and City Council members to reject the proposed ordinance and any other juvenile curfews that may come under consideration.

Sincerely,



Deborah A. Jeon
Legal Director



Sonia Kumar
Staff Attorney



Kaitlin Leary
Law Clerk

AMERICAN CIVIL
LIBERTIES UNION OF
MARYLAND

1 **CITY OF SALISBURY, MARYLAND**

2
3 **REGULAR MEETING**

JULY 27, 2015

4
5 **PUBLIC OFFICIALS PRESENT**

6
7 *Vice President Laura Mitchell* *Councilwoman Eugenie P. Shields*
8 *Councilman Timothy K. Spies*

9
10 **PUBLIC OFFICIALS NOT PRESENT**

11
12 *Mayor James Ireton, Jr.*
13 *Council President Jacob R. Day*
14 *Councilman John "Jack" R. Heath*

15
16 **IN ATTENDANCE**

17
18 *City Clerk Kimberly R. Nichols, CMC, City Administrator Tom Stevenson, Assistant City*
19 *Administrator Julia Glanz, City Attorney Mark Tilghman, interested citizens and members of the*
20 *press*

21 *****

22 **CITY INVOCATION – PLEDGE OF ALLEGIANCE**

23
24 *The City Council met in regular session at 6:05 p.m. in Council Chambers. Vice President*
25 *Mitchell called the meeting to order and reported out to the Public that Council had met in*
26 *Closed Session at 5:53 p.m. to receive legal advice on pending litigation and to consult with the*
27 *City Attorney regarding a legal matter.*

28
29 *Pastor John Kalfayan from Crossroads Church of God provided the City Invocation, followed by*
30 *the Pledge of Allegiance to the flag of the United States of America.*

31
32 **PRESENTATIONS**

33
34 **Proclamation - National Night Out** - presented by Council Vice President Laura
35 Mitchell

36
37 *Mrs. Mitchell presented the National Night Out proclamation to Ms. Christine Chestnutt,*
38 *City of Salisbury Safe Streets Coordinator, proclaiming August 4, 2015 as National Night*
39 *Out in the Salisbury City Park.*

40
41 **Certificate of Appreciation** – presented by City Council President Laura Mitchell

42
43 *Mrs. Mitchell presented a Certificate of Appreciation to Christine Chestnutt for planning*
44 *and coordinating the 2015 National Night Out event to be held August 4, 2015.*

45
46 *Ms. Chestnutt stated that approximately 1,500 people are expected to attend this years'*

47 *National Night Out event in Salisbury. The nationwide event was designed to bring*
48 *awareness to crime prevention, to generate support for organizations such as*
49 *Neighborhood Watch, Dogwalker Watch and Nextdoor.com to strengthen Police and*
50 *community partnerships, and to send a message to criminals that crime is not welcome.*

51
52 *Designed to be held in the individual neighborhoods, National Night Out in the City of*
53 *Salisbury will be held again in the City Park as it is a welcoming location for everyone*
54 *from all of the neighborhoods and there is ample room to hold the events. Local churches*
55 *and individuals have donated bikes and other prizes for the giveaways for the children.*

56
57 **Community Organization Presentation - PAC 14** – presented by PAC 14 Executive
58 Director Creig Twilley

59
60 *PAC 14 Executive Director Creig Twilley joined Council at the podium to discuss the*
61 *Public, Educational and Government (PEG) Channel. PAC 14 is a non-profit, no*
62 *commercial PEG channel dedicated to community-based programming. Mr. Twilley*
63 *reported Wicomico County and Salisbury citizens (anyone 18 years of age or older) can*
64 *borrow PAC 14's recording equipment and produce their own program. PAC 14 is*
65 *currently seeking more local producers from the community.*

66
67 *PAC 14 can be accessed online at www.pac14.org. Programming can be viewed via live*
68 *streaming, YouTube, or through VOD (Video on Demand).*

69
70 *Mr. Twilley discussed the importance of donations to PAC 14, which can be made*
71 *directly from the website or through the Community Foundation of the Eastern Shore.*
72 *There is an endowment fund set up at the Community Foundation of the Eastern Shore*
73 *where money is invested from the earnings for the benefit of PAC 14.*

74
75 **ADOPTION OF LEGISLATIVE AGENDA**

76
77 *Mrs. Shields moved, Mr. Spies seconded, and the vote was unanimous to approve the legislative*
78 *agenda as presented.*

79
80 **CONSENT AGENDA** – presented by City Clerk Kim Nichols

81
82 *The Consent Agenda was unanimously approved on a motion and seconded by Mr. Spies and*
83 *Mrs. Shields, respectively:*

- 84
- *May 26, 2015 closed session minutes (separate envelope)*
 - *June 1, 2015 closed session minutes (separate envelope)*
 - *June 16, 2015 special meeting minutes*
 - *June 16, 2015 closed session minutes (separate envelope)*
 - *June 22, 2015 regular meeting minutes*
 - *Resolution No. 2525 - to rename and re-establish the City Park Committee to the City Parks & Recreation Committee*
 - *Resolution No. 2527 - declaring that David and Dawn Brown are eligible to receive*

Enterprise Zone benefits for property located at 1121 South Salisbury Boulevard,
Salisbury, Maryland

85

86 **AWARD OF BIDS** – presented by Assistant Director of Internal Services – Procurement &
87 Parking Jennifer L. Miller

88

89 The Award of Bids, consisting of the following item, was unanimously approved on a motion by
90 Mr. Spies and seconded by Mrs. Shields:

91

- 92 • RFP 03-15 Engineering Services for Gordy Road Water Main Extension

93

94 **RESOLUTIONS** – presented by City Administrator Tom Stevenson

95

- 96 • **Resolution No. 2528** – authorizing execution of a cable franchise agreement between the
97 City and Comcast of Delmarva, LLC

98

99 Mrs. Shields moved, Mr. Spies seconded and the vote was unanimous to approve
100 Resolution No. 2528 as presented.

101

- 102 • **Resolution No. 2529** – to approve a project to construct or rehabilitate a minimum of
103 four homes in the greater Church Street Neighborhood to be sold to low or very low
104 income families over the next two years

105

106 Mrs. Shields moved and Mr. Spies seconded to approve Resolution No. 2529.

107

108 Mr. Spies moved, Mrs. Shields seconded and the vote was unanimous to amend
109 Resolution No. 2529 by inserting “of” after “approves” on Line 17.

110

111 Resolution No. 2529, as amended, was unanimously approved.

112

113 **ORDINANCES** – presented by City Attorney Mark Tilghman

114

- **Ordinance No. 2344** – 2nd reading – establishing a Community Development Projects
Fund

Mrs. Shields moved and Mr. Spies seconded to approve Ordinance No. 2344 for second
reading.

Mr. Tilghman reported that at the first reading of the ordinance on July 13, 2015,
Council requested that language be added to reflect that the property would not be retained
by the City, but would be returned to the tax rolls or transferred to a nonprofit entity. He
then introduced the amendments.

Mr. Spies moved to amend Line 27 by adding “Budget” after “2016” and Line 32 by
inserting “to be returned to the tax rolls or transferred to a nonprofit entity” after
“properties.” Mrs. Shields seconded, and the vote to amend the Ordinance was unanimous.

Ordinance No. 2344, as amended for second reading, was unanimously approved.

- **Ordinance No. 2345** – 2nd reading – to abandon and relocate an area of land being the unimproved roadbed of the cul-de-sac portion of Stanley Court and the easement that adjoins said roadbed, located near the intersection of Snow Hill Road and the former Johnson Road, now Stanley Court, in the City of Salisbury, Nutters Election District, Wicomico County, State of Maryland

Mr. Spies moved, Mrs. Shields seconded, and the vote was unanimous to approve Ordinance No. 2345 for second reading.

- **Ordinance No. 2346** – 1st reading - approving an amendment of the FY 2015 General Fund Budget to appropriate additional funding for Local Government Insurance Trust

Mrs. Shields moved and Mr. Spies seconded to approve Ordinance No. 2346 for first reading.

Mr. Spies moved, Mrs. Shields seconded and the vote was unanimous to amend Ordinance No. 2346 by striking “City” on Line 8, striking the “s” in expenditures on Line 9, and inserting “an” after “for” on Line 9.

Ordinance No. 2346, as amended for first reading, was unanimously approved.

- **Ordinance No. 2347** – 1st reading - amending Title 12, Streets, Sidewalks and Public Places, Chapter 12.24 Wicomico River Regulations, of the City Code by adding Sections 12.24.040 and 12.24.050 for the purpose of establishing criteria for river access and standards for Riverwalk construction under the direction and supervision of the Public Works Department

Mr. Spies moved and Mrs. Shields seconded to approve Ordinance No. 2347 for first reading.

Mr. Spies moved and Mrs. Shields seconded to amend Ordinance No. 2347 by the following:

- *Line 19 – strike “and” and insert “or”*
 - *Line 33 – insert “s” at the end of the word “Section”*
 - *Line 41 – insert “end” after “west”*
 - *Line 63 – insert “applications” after “submit” and strike “redevelop” and insert “redevelopment”*
- **Ordinance No. 2348** – 1st reading- to amend Chapter 15.22.040(b) of the Salisbury Municipal Code to change the registration billing date for vacant buildings located in the City

Mrs. Shields moved and Mr. Spies seconded to approve Ordinance No. 2348 for first reading.

Mr. Spies suggested striking “procedures” and inserting “procedural” on Line 13 and Mr. Tilghman recommended capitalizing all the departments named within the ordinance.

Ordinance No. 2348 for first reading was unanimously approved.

- **Ordinance No. 2349** – 1st reading – amending Sections 1.16.100 C to increase the amount of fines contained therein (changing the municipal infraction limit from \$500 to \$1,000)

Mrs. Shields moved, Mr. Spies seconded, and the vote was unanimous to approve Ordinance No. 2349 for first reading.

- **Ordinance No. 2350** -1st reading - amending Section 8.20 Noise, of the Salisbury Municipal Code

Mrs. Shields moved and Mr. Spies seconded to approve Ordinance No. 2350 for first reading.

Mr. Spies moved, Mrs. Shields seconded, and the vote was unanimous to amend Ordinance No. 2350 by the following:

- *Line 119 - strike “or less”*
- *Line 158 - strike “motor vehicle or horse-drawn”*

Ordinance No. 2350, as amended for first reading, was unanimously approved.

- **Ordinance No. 2351** -1st reading - amending Section 17.184 – Environmental Noise Standards, of the Salisbury Municipal Code

Mr. Spies moved, Mrs. Shields seconded, and the vote was unanimous to approve Ordinance No. 2351 for first reading.

115

116 **ADJOURNMENT**

117 *There being no requests for public comments, Council Vice President Mitchell Day adjourned*
118 *the Legislative Session at 7:31 p.m.*

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*CITY OF SALISBURY, MARYLAND
CLOSED SESSION
JULY 13, 2015*

TIME & PLACE: 7:44 p.m., Government Office Building – Council Chambers, Room 301
PURPOSE: to consider the acquisition of real property for a public purpose and matters directly related thereto

VOTE TO CLOSE: Unanimous (5-0)

CITATION: Annotated Code of Maryland §10-508(a)(3)

PRESENT: Council President Jacob R. Day, Council Vice President Laura Mitchell, Councilwoman Eugenie P. Shields, Councilman John “Jack” R. Heath, Councilman Timothy K. Spies, Assistant Director Internal Services – Procurement Jennifer Miller, City Clerk Kimberly R. Nichols, City Administrator Tom Stevenson, Assistant City Administrator Julia Glanz, City Attorney Mark Tilghman

NOT PRESENT: Mayor James Ireton, Jr.

The City Council convened in Legislative Session in Council Chambers (Room #301) of the Government Office Building at 6:03 p.m. Upon the conclusion of the legislative agenda, Mr. Spies moved, Mrs. Shields seconded, and the vote was unanimous to convene in Closed Session consider the acquisition of real property for a public purpose and matters directly related thereto in accordance with the Annotated Code of Maryland §10-508(a)(3).

Council discussed the Parking Lot 30 RFP (development of the property) and the lease with the State of Maryland (for the lot located at the Multi-Service Building).

At 7:55 p.m., on a motion and seconded by Mrs. Mitchell and Mrs. Shields, respectively, and by unanimous vote in favor (5-0), the Closed Session was adjourned and Council reconvened in Open Session.

President Day reported that while in Closed Session Council agreed to the Lot 30 RFP and to the lease terms with the State of Maryland.

With no further business to discuss, the meeting thereafter adjourned.

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CITY OF SALISBURY, MARYLAND
CLOSED SESSION
JULY 20, 2015

TIME & PLACE: 1:09 p.m., Government Office Building – Council Chambers, Room 301

PURPOSE: before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process

VOTE TO CLOSE: Unanimous (4 - 0)

CITATION: Annotated Code of Maryland §10-508(a)(14)

PRESENT: Council President Jacob R. Day, Vice President Laura Mitchell, Councilwoman Eugenie P. Shields, Councilman Timothy K. Spies, City Clerk Kim Nichols, Assistant City Administrator Julia Glanz, Assistant Director Internal Services – Procurement Jennifer Miller, Planning & Zoning Director Jack Lenox, and City Attorney Mark Tilghman

NOT PRESENT: Mayor James Ireton, Jr., Councilman John “Jack” R. Heath

The City Council convened in Open Session in Council Chambers (Room #301) of the Government Office Building at 1:09 p.m. Mrs. Shields moved, Mr. Spies seconded, and the vote was unanimous (4 – 0) to convene in Closed Session to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process in accordance with the Annotated Code of Maryland §10-508(a)(14).

Council discussed the Parking Lots 1 & 11 development and Comcast Cable Franchise Agreement negotiations with Attorney Dan Cohen, CBG Consulting President Tom Robinson and PAC 14 Executive Director Creig Twilley.

At 7:24 p.m., on a motion and seconded by Mrs. Shields and Mr. Spies, respectively, and by unanimous vote in favor (4 – 0) the Closed Session was adjourned. Council reconvened in Open Session and Mr. Day reported that while in Closed Session Council had discussed the nearly completed Comcast Cable Franchise Agreement with the consultants and PAC 14 leadership.

The Open Session adjourned at 5:19 p.m.

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*CITY OF SALISBURY, MARYLAND
CLOSED SESSION
JULY 27, 2015*

TIME & PLACE: 5:53 p.m., Government Office Building – Council Chambers, Room 301
PURPOSE: to consult with counsel to obtain legal advice on a legal matter and to consult with staff, consultants, or other individuals about pending or potential litigation
VOTE TO CLOSE: Unanimous (3-0)
CITATION: Annotated Code of Maryland §10-508(a)(7)(8)
PRESENT: Council Vice President Laura Mitchell, Councilwoman Eugenie P. Shields, Councilman Timothy K. Spies, City Clerk Kim Nichols, City Administrator Tom Stevenson, Assistant City Administrator Julia Glanz, and City Attorney Mark Tilghman
NOT PRESENT: Mayor James Ireton, Jr., Council President Jacob R. Day, and Councilman John “Jack” R. Heath

The City Council convened in Open Session in Council Chambers (Room #301) of the Government Office Building at 5:53 p.m. Mrs. Shields moved, Mr. Spies seconded, and the vote was unanimous (3–0) to convene in Closed Session to consult with counsel to obtain legal advice on a legal matter and to consult with staff, consultants, or other individuals about pending or potential litigation in accordance with the Annotated Code of Maryland §10-508(a)(14).

Council discussed the legal matter with City Attorney Mark Tilghman and received an update on a pending case.

At 6:00 p.m., on a motion and seconded by Mr. Spies and Mrs. Shields, respectively, and by unanimous vote in favor (3-0), the Closed Session was adjourned. Council immediately reconvened in Legislative Session and Mrs. Mitchell reported that while in Closed Session Council had consulted with the City Attorney on a legal matter and pending litigation.

City Clerk

Council President

City of Salisbury



MARYLAND



125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801
Tel: 410-548-3190 Procurement
Fax: 410-548-3192 Procurement

KEITH A. CORDREY
DIRECTOR OF INTERNAL SERVICES

JENNIFER MILLER
ASST. DIRECTOR OF INTERNAL SERVICES

JAMES IRETON, JR.
MAYOR

M. THOMAS STEVENSON, JR.
INTERIM CITY ADMINISTRATOR

JULIA GLANZ
ASSISTANT CITY ADMINISTRATOR

TO: Tom Stevenson, City Administrator

FROM: Jennifer Miller
Asst. Director of Internal Services – Procurement & Parking

DATE: July 13, 2015

RE: Donation of portable stage

Joey Gilkerson, a local resident and businessman, wishes to donate a portable stage and steps to the City of Salisbury. This stage has been used in the past for several downtown events including 3rd Friday and New Year's Eve, and is being donated to the City for use at public events within City limits in need of a stage.

Upon Council's acceptance of the donation, the stage would be stored in a City-owned facility and would be available for public use upon request to the Department of Public Works.

cc: Julia Glanz
Mike Moulds
Keith Cordrey

RESOLUTION NO. 2533

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND, ACCEPTING A DONATION OF A PORTABLE STAGE AND STEPS FROM JOEY GILKERSON, RESIDENT AND BUSINESS OWNER FROM SALISBURY, MARYLAND, FOR PUBLIC EVENT USAGE.

WHEREAS, the City of Salisbury has a large number of public events that occur within the City limits; and

WHEREAS, many such events are in need of a speaking or performance platform which would physically heighten the speaker or performer above crowd level; and

WHEREAS, the stage will serve to add value to public events; and

WHEREAS, the stage will be stored by the City of Salisbury and made available for public use, conditional upon execution of liability waivers and other documentation as required by the City’s insurance carrier and the Department of Public Works;

NOW, THEREFORE, BE IT RESOLVED THAT, the City of Salisbury, Maryland, does hereby accept a donation of a portable stage and steps from Joey Gilkerson for public usage.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland, held on August _____, 2015, and is to become effective immediately.

Kimberly R. Nichols
CITY CLERK

Jacob R. Day
COUNCIL PRESIDENT

APPROVED BY ME THIS

_____ day of August, 2015

James Ireton, Jr.
MAYOR

City of Salisbury



MARYLAND



125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801
Tel: 410-548-3170
Fax: 410-548-3107

MICHAEL S. MOULDS, P.E.
DIRECTOR OF PUBLIC WORKS

JAMES IRETON, JR.
MAYOR

TOM STEVENSON
CITY ADMINISTRATOR

JULIA GLANZ
ASSISTANT CITY ADMINISTRATOR

Memorandum

To: Tom Stevenson, City Administrator
From: Mike Moulds, Director of Public Works 
Date: August 5, 2015
Copy:
Re: ESIMBA Mountain Bike Trail Way Finding Signage Donation

The Eastern Shore International Mountain Bicycling Association (ESIMBA) has submitted the attached proposed plan for purchasing and installing bike trail directional, cautionary and informational signage in City Park for public use of the existing mountain biking trails. The project involves the installation of 4 wood Kiosks with a trail map and trail information. The kiosks would be located at existing parking areas around the park utilized by the bikers. Additional signage in the form of 35 Carsonite posts would be located along the trails to designate trail name, direction, and difficulty.

In accordance with the Memorandum of Understanding between the City and ESIMBA, the Association was allowed to develop trail directional, cautionary and informational signs. ESIMBA will be responsible for purchasing and installing the signage. ESIMBA recently became aware of a grant from the Department of Health for purchasing the sign materials. The grant has a deadline of September 18th for expending the funds.

The Parks Supervisor along with the Department of Public Works and the Parks Committee have reviewed the proposal from ESIMBA and is in support of the project.

We are requesting approval of the attached Resolution accepting the donation from ESIMBA. The estimated value of the materials for this project is \$2,605.

Attached is a copy of donation request, the trail map, materials budget, photo of the kiosk and a typical Carsonite post along with the proposed Resolution.

Unless you or the Mayor have any questions, we are requesting approval to include this on the August 17th Workshop Session Agenda and following August 24th Legislative agendas.

EASTERN SHORE IMBA

ESIMBA
Head Quarters
22 Moonraker Rd.
Ocean Pines MD
21811

July 27, 2015

Mayor James Ireton, Jr.
City Council
City of Salisbury, Maryland 21801-21804

Dear Mayor and City Council,

It is with great pleasure that I am writing you on behalf of the Eastern Shore International Mountain Bicycling Association, Bike SBY, Eastern Shore running Club and all trail users in the Salisbury City Park. We have worked together to bring these multi use, single track, legacy trails back to a standard that will make them sustainable and enjoyable for many years to come. We appreciate the opportunity to create the MOU, Memorandum of Understanding, with the City of Salisbury regarding the city park trails. We will continue to create, enhance and protect this trail system. Now the time has come to finish the job so to speak.

The trails are going to receive \$2600.00 worth of Trailhead Kiosks, Trail name signs, and trail markers. These will become the property of the city. Please put us on the City Council Agenda promptly so we may come to the appropriate meeting and present our gift to the city. Thank you for the opportunity to make a better community.

Sincerely yours,

Tres Denk

President

tres@esimba.org

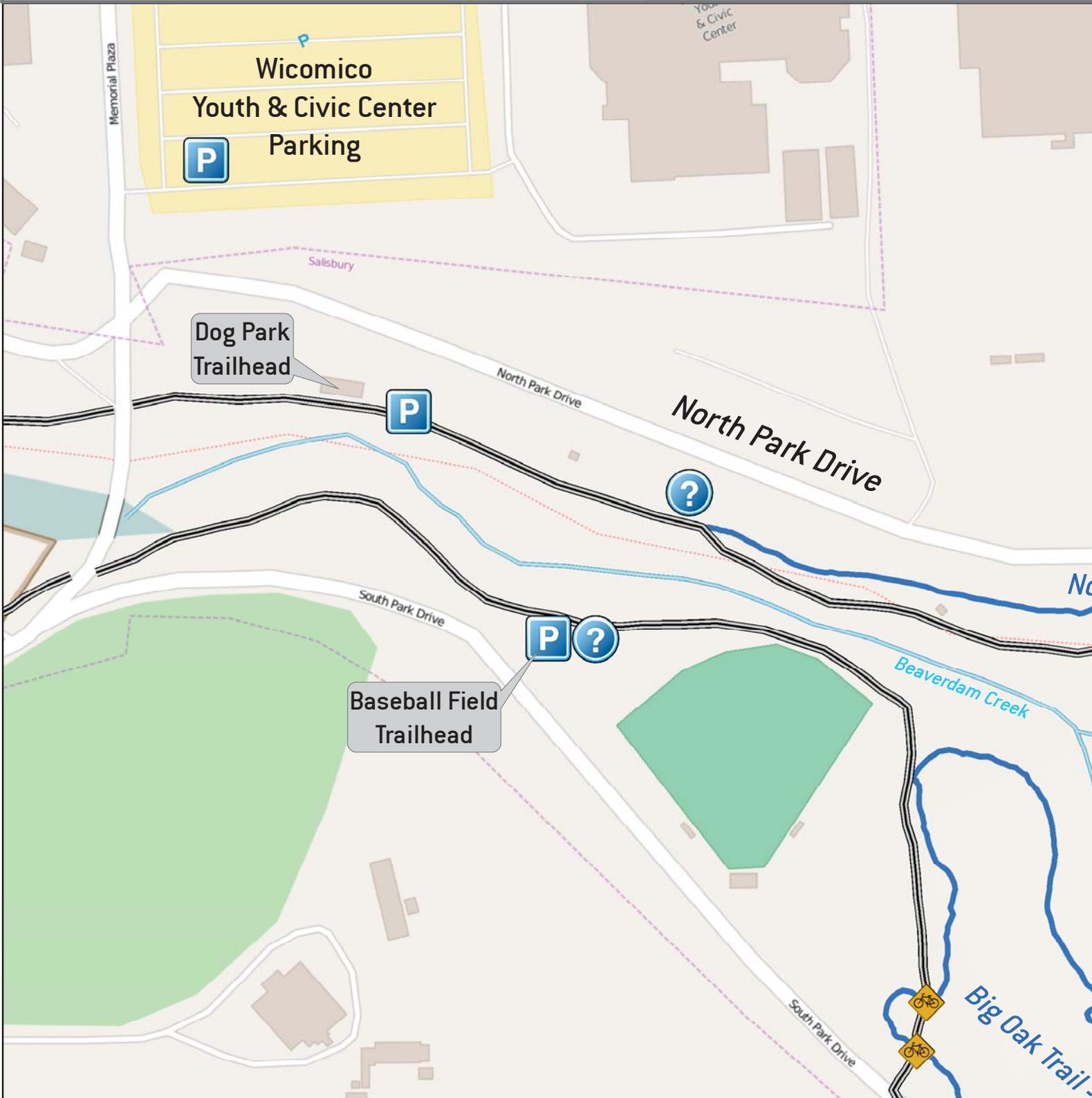


Salisbury

Poor Trail Conditions

More Info: www.esimba.com

Ride At Your Own Risk





Salisbury City Park Trails

Prepared for: City Park Committee and City Council

Prepared by: Tres Denk President

July 13, 2015

Mountain Biking Trail Signs

EXECUTIVE SUMMARY

Objective

Our objective is to provide the Salisbury City Park Trails with needed signage. Starting with trail head kiosks that will include a detailed map and information about proper conduct, hours of use and contact info.

Goals

We must gain approval for the information kiosks design and location. Complete details for maps that include other user groups. We want to provide trail difficulty rating signs for safety. We also want well designed trail name signs and directional signs to enhance the user experience and reduce trail user conflict. Once we meet the Parks Committees approval along with Public Work we will ask City Council to pass an ordinance and except our contributions as a gift.

Project Outline

- Complete necessary kiosk prototype and gain approval.
 - Complete map and Informational sign for approval.
 - Design trail name signs and order supplies.
 - Begin installation asap.
-

EASTERN SHORE IMBA

BUDGET

Salisbury City Park Mountain Bike Trail Signs

The information here is subject to change until all issues are approved.

Description	Quantity	Unit Price	Cost
Information Kiosk	4	200	800
Trail Name signs	14	40	560
Difficulty Rating Signs	10	3	30
Maps	4	30	120
Trail Info Signs	4	30	120
Carsonite Trail Posts	35	18	630
Trail direction stickers	70	2	140
Carsonite Utility Post driver	1	205	205
Total			\$ 2,605





1 RESOLUTION NO. 2534

2
3 A RESOLUTION OF THE CITY OF SALISBURY MARYLAND ACCEPTING THE
4 DONATION OF MOUNTAIN BIKE TRAIL WAY FINDING SIGNAGE FOR CITY PARK.

5
6 WHEREAS, The City of Salisbury is interested in improving the City’s Park recreation
7 facilities; and

8
9 WHEREAS, the City has a Memorandum of Understanding with the Eastern Shore
10 International Mountain Bicycling Association (ESIMBA) dated July 13, 2013 where ESIMBA
11 shall “recommend, purchase and install with (approval of the Parks Supervisor) the types,
12 location and language for trail directional, cautionary and informational signs”, and

13
14 WHEREAS, the proposed signage and trail markings have been reviewed and approved
15 by the Parks Supervisor, as well as the Department of Public Works and City Park Committee;
16 and

17
18 WHEREAS, ESIMBA is requesting approval to purchase and install the mountain bike
19 trail way finding signage as a donation to the City; and

20
21 NOW, THEREFORE BE IT RESOLVED, that the Council of the City of Salisbury, will
22 accept the donation of the mountain bike trail way finding signage on completion of an
23 acceptable inspection by the Department of Public Works.

24
25 THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting
26 of the Council of the City of Salisbury held on this ____ day of _____, 2015 and is to
27 become effective immediately upon adoption.

28
29 ATTEST:

30
31 _____
32 Kimberly R. Nichols
33 CITY CLERK

34
35 _____
36 Jacob R. Day
37 PRESIDENT, City Council

38 APPROVED by me this ____ day of _____, 2015

39
40 _____
41 James Ireton, Jr.
42 MAYOR, City of Salisbury

Office of Community Development

MEMO

To: Tom Stevenson
From: Ginny Hussey, CAP-OM
Subject: Resolution Accepting Program Open Space Funds for Waterside Park
Date: July 27, 2015

Attached is a copy of the letter from the Maryland Department of Natural Resources (DNR) informing us that our Program Open Space (POS) grant application for Waterside Park – restore the existing basketball courts with a new surface, line painting and goals has been approved by the State Board of Public Works.

Through this grant award the Waterside Park project receives \$90,000. This grant will provide the funding necessary to restore the existing basketball courts with a new surface, line painting and goals.

Attached is a Resolution accepting these grant funds which have been awarded to the City of Salisbury. Please forward this Resolution to the City Council so that it may be placed on their agenda for the work session scheduled for August 3, 2015.



Ginny Hussey, CAP-OM

Administrative Support Specialist

Community Development

Attachments



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Mark J. Belton, Secretary
Mark L. Hoffman, Acting Deputy Secretary

July 20, 2015

The Honorable James P. Ireton, Jr.
Mayor
City of Salisbury
125 North Division Street
Salisbury, Maryland 20801

Dear Mayor Ireton:

It gives me great pleasure to inform you that the Board of Public Works has approved your request for Program Open Space funds regarding Waterside Park Basketball Court Renovations in Wicomico County. A copy of the agenda item is enclosed for your reference.

You may proceed with this project at your earliest opportunity. When the project commences, please have your staff contact the Program Open Space representative with whom they have been working so that arrangements can be made to coordinate reimbursement.

Thank you for your interest in improving the quality of our parks and recreation for the citizens of Maryland. It is a pleasure to be able to provide these funds and to assist you with this important public outdoor recreation project. If I may be of further assistance on this or any other Program Open Space matter, please do not hesitate to contact me at (410) 260-8450.

Sincerely,

Hilary Bell
Deputy Director
Land Acquisition and Planning

HB:mls
Enclosure

cc: Deborah Stam
Andrew Wisk

Supplement A
Department of Natural Resources
ACTION AGENDA
July 16, 2015

Contact: Emily Wilson (410) 260-8436
emilyh.wilson@maryland.gov

3A. PROGRAM OPEN SPACE LOCAL SHARE
Wicomico County

Recommendation: Approval to commit \$90,000 for the following **development** project.

Waterside Park Basketball Court Renovations - \$90,000
City of Salisbury, Wicomico County
POS #6349-22-223 MD20150513-0380

Background: Restore the existing basketball courts with a new surface, line painting, and goals.

Fund Source:

Maryland Consolidated Capital Bond Loan of 2013, Chapter 424, Acts of 2013
Program Open Space – Local, Prior Funds Replacement
Source Code: 13080 Item 080 \$90,000

BOARD OF PUBLIC WORKS

THIS ITEM WAS:

APPROVED

DISAPPROVED

DEFERRED

WITHDRAWN

WITH DISCUSSION

WITHOUT DISCUSSION

1
2 **RESOLUTION NO. 2535**
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5 A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND ACCEPTING
6 FUNDS AWARDED THROUGH A GRANT FROM PROGRAM OPEN SPACE FOR
7 BASKETBALL COURT RENOVATIONS AT WATERSIDE PARK, SALISBURY,
8 MARYLAND.
9

10 WHEREAS, the Council of the City of Salisbury recognizes the important role that our
11 local parks, playgrounds and recreational areas play in maintaining a healthy, pleasant, attractive
12 environment for the enjoyment of our local residents, and;
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14 WHEREAS, the Council wishes to rehabilitate, improve and expand the parks,
15 playgrounds and recreational areas within the City of Salisbury in order to improve the quality of
16 life for all citizens, and;
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18 WHEREAS, the Department of Natural Resources has awarded a Program Open Space
19 grant to the City for a recreational project in the following amount:
20

21 Waterside Park –
22 Basketball Court Renovations (POS #6349-22-223)\$90,000
23

24 NOW, THEREFORE, BE IT RESOLVED THAT, on this 10th day of August 2015, that
25 the Council of the City of Salisbury, Maryland, does hereby accept the funds awarded through
26 the Program Open Space for the project as funded and in the amount outlined above.
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28 THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the
29 Council of the City of Salisbury, Maryland held on August 24, 2015, and is to become effective
30 immediately.
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33 _____
34 Kimberly R. Nichols
35 CITY CLERK
36

Jacob R. Day
COUNCIL PRESIDENT

37
38 APPROVED BY ME THIS

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40 _____ day of August, 2015
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43 _____
44 James Ireton, Jr.
45 Mayor

City of Salisbury



MARYLAND

JAMES IRETON, JR.
MAYOR

M. THOMAS STEVENSON, JR.
CITY ADMINISTRATOR

JULIA GLANZ
ASSISTANT CITY ADMINISTRATOR

125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801
Tel: 410-548-3170
Fax: 410-548-3107

MICHAEL S MOULDS, P.E.
DIRECTOR OF PUBLIC WORKS

DRAFT

To: Tom Stevenson, City Administrator
From: Michael Moulds, Director of Public Works *MM*
Date: July 8, 2015
Re: Pohanka Vehicle Storage – Capacity Fee Waiver

Attached is an email request on behalf of Pohanka of Salisbury requesting consideration for a Capacity Fee waiver for the phased development of a property located at the intersection of West Gordy Road and Windsor Drive in the Northwood Industrial Park. The property will be initially developed to construct an automobile detailing building. The second phase of the project will redevelop the property to include a carwash and vehicle storage area. The owner is seeking a Capacity Fee waiver in accordance with Ordinance No. 2258 for 4.8 EDU's as part of the Equivalent Dwelling Unit (EDU) Incentive Area for the second phase redevelopment. This is the third request for an EDU allocation under Ordinance No. 2258. There were a maximum of 300 EDUs available, and to date, eleven (11) have been allocated.

Per the Ordinance, Public Works has evaluated the eligibility of this project for the EDU Incentive Area requiring all of the following criteria to be met:

1. The project location is within the Enterprise Zone.
2. The project within the Enterprise Zone proposes in Phase 2 to revitalize an existing building.
3. The project is not eligible for a capacity fee waiver for public sponsored or affordable housing.
4. The project complies, or will comply, with all applicable Zoning and Building Code criteria.
5. The project does not have to comply with any requirements of the Salisbury Historic District Commission.
6. The project is consistent with the adopted Comprehensive Plan of the City of Salisbury. Development of this property meets the comprehensive plan's objectives to direct development to areas suitable for development of commercial properties, and to create and retain employment.
7. While not located within the Salisbury Sustainable Community Area boundaries, the proposed project would meet the Sustainable Community (SC) Plan goal of "supporting existing communities and reducing environmental impacts".

8. The project is consistent with the following benchmark objectives of A Plan for Transformation (2012): Increase the number of permanent, living wage jobs in the City and increase the amount of commercial square footage in the City.

Public Works has evaluated the number of EDUs in the request and has found the amount to be consistent with MDE's flow projection guidelines.

Attached is a Resolution for consideration to waive the Capacity Fees associated with Phase 2 of the development. If this EDU waiver is approved, then it will be valid for two years from the date of the Resolution. Additionally, the EDU Incentive Area will have 284.2 EDUs remaining for other projects.

Unless you or the Mayor has further questions, please forward a copy of this memo, request email and Resolution to the City Council.

Michael Moulds

Subject: FW: Pohanka Automotive - Revised Concept Site Plan for Northwood Drive
Attachments: Ord2258.pdf

From: Matt Drew [<mailto:mdrew@awbengineers.com>]
Sent: Monday, July 6, 2015 12:18 PM
To: Brian Wilkins
Cc: Dan Tolbert; Matt Smith; Ben Kamm; Sandy Fitzgerald
Subject: Pohanka Automotive - Revised Concept Site Plan for Northwood Drive

Hi Brian--

Thanks for taking the time to meet with Dan Tolbert and me today to discussed our revised concept site plan for Pohanka Automotive.

As we discussed, our revised plan is to the divide the proposed site improvements into two, separate project phases.

Phase 1's project scope consists of construction of a single-story building for automotive detailing, an entrance from Windsor Drive onto the site, limited paving adjacent to the proposed detailing building, and storm water management facilities to address run-off form the Phase 1 impervious areas. Phase 1 of the project would also provide curb & gutter and roadway resurfacing along Windsor Drive and a portion of Gordy Road, as well as sidewalk along this portion.

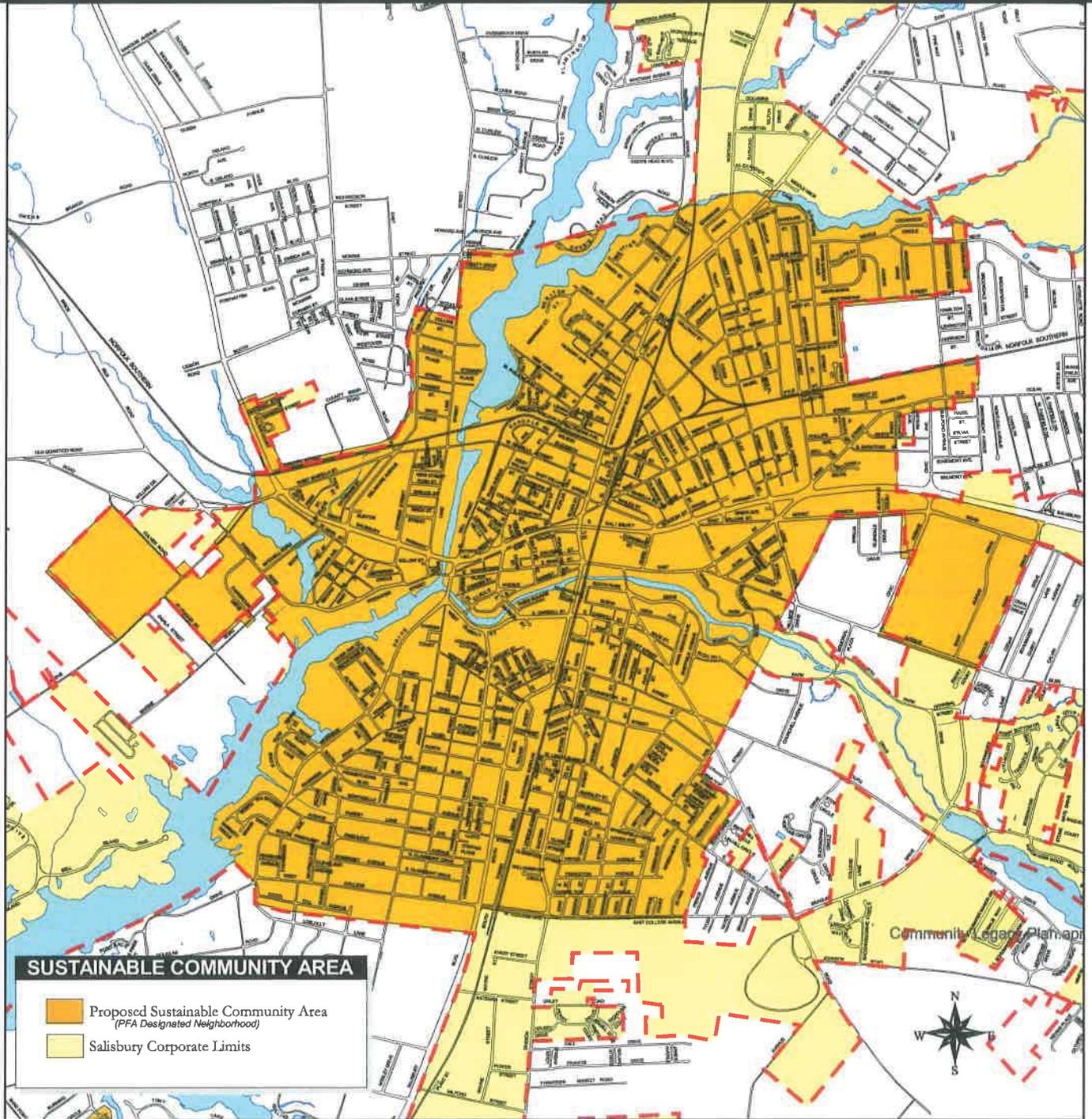
The owner plans to construct all Phase 1 improvements as a stand-alone project, and only proceed with Phase 2 after a certificate of occupancy has been issued for the detailing building.

Phase 2's project scope will consist of a small building addition to the detailing building (for a car wash), an entrance onto Gordy Road, site paving and stabilization for the remainder of the site, and storm water management facilities to address run-off from the Phase 2 impervious areas. Phase 2 of the project would also provide curb & gutter and roadway resurfacing along the remainder of Gordy Road, and Northwood Drive, as well as sidewalk along this portion.

As we discussed, this property is located within the Enterprise Zone. As such, we feel that the owner will be exempt from paying any capacity fee charges associated with the Phase 2 portion of the project, as the Phase 2 construction would be considered a renovation of an existing building; that is the building constructed during Phase 1 of the project. This is in keeping with ordinance 2258.

I would like to receive confirmation of this statement prior to proceeding with a detailed plan submission.

CITY OF SALISBURY



City of Salisbury *"Sustainable Community Area"*



AS AMENDED ON SEPTEMBER 23, 2013
ORDINANCE NO. 2258

AN ORDINANCE OF THE CITY OF SALISBURY TO ELIMINATE OR REDUCE WATER OR SEWER CHARGES FOR EQUIVALENT DWELLING UNITS (EDUs) IN ACCORDANCE WITH CHAPTER 13.02 OF THE CITY CODE TO ENCOURAGE DEVELOPMENT IN THE DOWNTOWN AREA AND THE ENTERPRISE ZONE.

WHEREAS, Chapter 13.00.070 states that the Council may allow discounts for the comprehensive connection charges established in this chapter; and

WHEREAS, the City seeks to encourage development and redevelopment in the Downtown Development District, the Central Business District, the Riverfront Redevelopment Area, and the Enterprise Zone; and

WHEREAS, the City seeks to reduce the capacity fees for eligible development and redevelopment in the Downtown area by means of an Equivalent Dwelling Unit (EDU) Incentive Area; and

WHEREAS, the Director of Public Works made due diligence efforts to notify as many developers as practical that may be potentially impacted by an EDU Incentive Area; and

WHEREAS, the Director of Public Works provided the City Council with a recommendation of the proposed EDU Incentive Area at the May 20, 2013 and June 17, 2013 City Council work sessions, and the July 22, 2013 City Council legislative meeting.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that Chapter 13.04 be amended by the addition of Section:

13.04.110 EDU Incentive Area

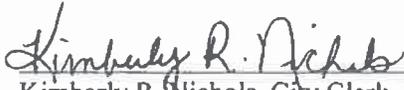
A. An Equivalent Dwelling Unit (EDU) Incentive Area is established for a period of five years from the date of final passage of the ordinance. The incentive shall be reevaluated prior to the end of the five year period. Three hundred (300) EDUs are hereby available to be allocated reallocated from the former Linens of the Week property for use in the EDU Incentive Area.

B. A developer may submit written documentation to the Director of Public Works to establish eligibility for a project within the EDU Incentive Area if the project meets all of the following criteria:

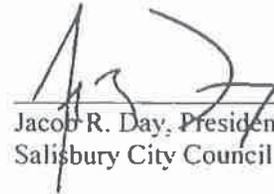
- ~~1. The project is within the Downtown Development District, the zoning district entitled the Central Business District, the Riverfront Redevelopment Area, or in the Enterprise Zone.~~
- ~~2. In the downtown area, the project must be either new development or revitalization of an existing building. Outside of the downtown area and in the Enterprise Zone, the project must be a revitalization of an existing building.~~
- ~~3. The project meets the zoning criteria at the time of application.~~
- ~~4. The project does not receive the capacity fee waiver for public sponsored or affordable housing.~~

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 9th day of September, 2013, and thereafter, a statement of the substance of the Ordinance having been published as required by law, was finally passed by the Council on the 23rd day of September, 2013.

ATTEST:

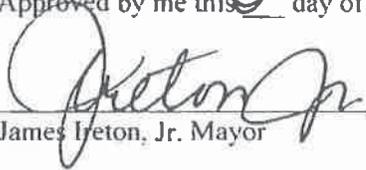


Kimberly R. Nichols, City Clerk



Jacob R. Day, President
Salisbury City Council

Approved by me this 30th day of September, 2013



James Iyeton, Jr. Mayor

RESOLUTION NO. 2536

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND AUTHORIZING THE CAPACITY FEE OF THE CITY'S COMPREHENSIVE CONNECTION CHARGE BE WAIVED FOR A DEVELOPMENT KNOWN AS POHANKA VEHICLE STORAGE AT WEST GORDY ROAD AND WINDSOR DRIVE.

WHEREAS, Pohanka of Salisbury has requested a waiver of the Capacity Fee for the Phase 2 redevelopment of their property to construct a car wash; and

WHEREAS, the proposed redevelopment is located inside the City Limits and the Enterprise Zone; and

WHEREAS, the City seeks to encourage development and redevelopment in the Enterprise Zone; and

WHEREAS, the City seeks to reduce the capacity fees for eligible development and redevelopment in the Enterprise Zone by means of an Equivalent Dwelling Unit (EDU) Incentive Area; and

WHEREAS, the proposed Phase 2 redevelopment of an existing building at West Gordy Drive and Windsor Drive to construct a carwash requires four point eight (4.8) Equivalent Dwelling Units of water and sewer service; and

WHEREAS, the Capacity Fee for 4.8 Equivalent Dwelling Units is \$16,958.40; and

WHEREAS, the City Council approved a Capacity Fee waiver process under Ordinance No. 2258 for redevelopment in the Central Business District; and

WHEREAS, the Director of Public Works reviewed the request and has determined that the project could be eligible for the Capacity Fee waiver; and

WHEREAS, the Mayor reviewed the request and supports sending the request to the City Council; and

WHEREAS, if approved, the EDU allocation for the Capacity Fee waiver is valid for two years from the time of the signing of this Resolution; and

WHEREAS, the property owner has the option to request an extension of the allocation for two one-year terms if approved in writing by the Public Works Director prior to expiration of the term; and

WHEREAS, the allocated EDUs are assigned to the Pohanka of Salisbury redevelopment site at West Gordy Drive and Windsor Drive and cannot be transferred by the recipient.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Salisbury, Maryland approves the waiver of four point eight Equivalent Dwelling Units of Capacity Fee for the Phase 2 redevelopment of a carwash facility.

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THIS RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on _____, 2015 and is to become effective immediately upon adoption.

ATTEST:

Kimberly R. Nichols
CITY CLERK

Jacob R. Day
PRESIDENT, City Council

APPROVED by me this _____ day of _____, 2015

James Ireton, Jr.
MAYOR, City of Salisbury

AS AMENDED ON JULY 28, 2015
ORDINANCE NO. 2346

AN ORDINANCE OF THE CITY OF SALISBURY APPROVING AN AMENDMENT OF THE
FY 2015 GENERAL FUND BUDGET TO APPROPRIATE ADDITIONAL FUNDING FOR LOCAL
GOVERNMENT INSURANCE TRUST.

WHEREAS, the City Local Government Insurance Trust has informed the City that additional funds
are needed for an insurance related expenditures; and

WHEREAS, the City's FY 2015 budget does not contain an appropriation sufficient to cover this
expenditure.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY,
MARYLAND THAT THE City's Fiscal Year 2015 General Fund Budget be and hereby is amended as follows:

- 1) Increase Current Surplus Available (01000- 469810) by \$41,250
- 2) Increase Debt Services and Other Uses Budget by \$41,250

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury
held on this 27 day of July 2015, and thereafter, a statement of the substance of the Ordinance having been
published as required by law, was finally passed by the Council on the ____ day of _____, 2015.

ATTEST:

Kimberly R. Nichols, City Clerk

Jacob R. Day, President
Salisbury City Council

APPROVED BY ME THIS ____ day of _____, 2015.

James Ireton, Jr., Mayor

43 **Chapter 6.05**

44 **URBAN CHICKENS**

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47 Sections:

48 **6.05.010 Definitions**

49 **6.05.020 Purpose**

50 **6.05.030 Unlawful acts**

51 **6.05.040 Number of chickens permitted**

52 **6.05.050 Registration**

53 **6.05.060 Enclosures**

54 **6.05.070 Henhouses**

55 **6.05.080 Odor and noise impacts**

56 **6.05.090 Lighting**

57 **6.05.100 Predator, rodent, insect and parasite reduction**

58 **6.05.110 Feed and water**

59 **6.05.120 Waste storage and removal**

60 **6.05.130 Veterinary care**

61 **6.05.140 Removal of chickens**

62 **6.05.150 Violations and penalties**

63 **6.05.160 Appeals**

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65 **6.05.010 Definitions.**

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67 As used in this chapter, the following terms shall have the meanings indicated:

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69 “Urban chicken” means a hen chicken permitted under this article.

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71 **6.05.020 Purpose.**

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73 The purpose of this article is to provide standards for the keeping of domesticated chickens. It is
74 intended to enable residents to keep a small number of chickens while limiting the potential adverse
75 impacts on the surrounding neighborhood. The City recognizes that adverse neighborhood impacts may
76 result from the keeping of domesticated chickens due to noise, odor, unsanitary animal living conditions,
77 unsanitary waste storage and removal, the attraction of predators, rodents, insects, or parasites, and
78 unconfined animals leaving the owner's property. This article is intended to create standards and
79 requirements that ensure that domesticated chickens do not adversely impact the neighborhood
80 surrounding the property on which the chickens are kept.

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82 **6.05.030 Unlawful acts.**

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84 A. It shall be unlawful for any person to keep chickens in violation of any provisions of this
85 article or any other provisions of the Salisbury Municipal Code.

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87 B. It shall be unlawful for any owner, renter, or leaseholder of property to allow chickens to be
88 kept on the property in violation of the provisions of this article or any other provisions of the
89 Salisbury Municipal Code.

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C. No person shall keep chickens inside a dwelling unit.

D. No person shall keep chickens on a vacant or uninhabited parcel of land.

E. No person shall raise any animal for fighting.

6.05.040 Number of chickens permitted.

A. The maximum number of chickens allowed is six (6) per occupied single-family dwelling unit.

B. No roosters are permitted.

6.05.050 Registration.

Chickens shall be registered with the State Department of Agriculture, Domestic Poultry and Exotic Bird Registration Division, pursuant to MD Agriculture Article §3-804, before being housed on an allowed property site.

6.05.060 Enclosures.

A. Chickens shall be kept in an enclosure or fenced area at all times. During daylight hours, chickens may be allowed outside of their pen in a securely fenced yard if supervised by the owner or responsible person. Chickens shall be secured within the henhouse during non-daylight hours.

B. Enclosures shall be clean, dry, and odor free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impacts.

C. The henhouse and chicken pen shall provide adequate ventilation and adequate sun and shade, and both must be resistant to rodents, wild birds, and predators, including dogs and cats.

D. Enclosures, henhouses and pens may not be closer than five (5) feet to any residence or property line.

6.05.070 Henhouses.

A. A henhouse shall provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood.

B. An enclosed chicken pen shall consist of sturdy wire fencing. Opening windows and vents shall be covered with predator- and bird-proof wire with openings of less than one inch. The pen shall be covered with wire, aviary netting, or solid roofing.

137 C. The enclosed chicken pen area shall be kept clean to prevent manure-borne pathogens such as
138 coccidia and nematodes.

140 D. The structure shall be enclosed on all sides and shall have a roof and doors. Access doors
141 shall be equipped to be shut and locked at night.

143 E. Full sized hens shall be given at least two square feet of personal covered living space and an
144 additional three square feet of yard space in which to move freely about. The square footage
145 may be in any reasonable configuration.

147 F. The henhouse shall have a well maintained interior and exterior.

149 **6.05.080 Odor and noise impacts.**

151 A. Odors from chickens, chicken manure, or other chicken-related substances shall not be
152 perceptible at the property boundaries.

154 B. Perceptible noise from the chickens shall not be loud enough at the property boundaries to
155 disturb persons of reasonable sensitivity.

157 **6.05.090 Lighting.**

159 Only motion-activated lighting may be used to light the exterior of the henhouse and the pen.

161 **6.05.100 Predator, rodent, insect and parasite reduction.**

163 The property owners shall take all necessary action to reduce the attraction of predators and
164 rodents and the potential infestation of insects and parasites.

166 **6.05.110 Feed and water.**

168 Chickens shall be provided with feed and clean water at all times; such feed and water shall be
169 rodent-proof.

171 **6.05.120 Waste storage and removal.**

173 Provisions shall be made for the storage and removal of chicken manure. The proper methods for
174 removal of chicken waste are composting or double bagging and placing in tightly covered trash
175 receptacles. All stored manure shall be made rodent-proof by using a fully enclosed structure with a
176 secured roof or lid over the entire structure. All other manure not used for composting or fertilizing shall
177 be removed. The henhouse, chicken pen and surrounding area shall be kept free from trash and
178 accumulated droppings. Uneaten feed shall be removed in a timely manner.

180 **6.05.130 Veterinary care.**

182 All chickens shall be afforded veterinary care if they are known or suspected to be sick or injured.

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6.05.140 Removal of chickens.

- A. Detection of the Avian influenza virus (HPAI), as known as "avian flu" or "bird flu", or any other disease determined by the Maryland Secretary of Agriculture, may result in immediate culling of the flock. Removal of the flock shall be determined by the Maryland Department of Agriculture.
- B. If an order of removal is issued, the violator shall be given 30 days to remove the chickens or any chicken related structures that are in violation. If the City is required to expend resources to remove the chickens or any chicken related structure, the violator shall be responsible for all related removal fees.
- C. Any City enforcement officers in 6.05.150 (A) or inspector in 6.05.140 (A), may order the removal of the chickens upon a determination that the chickens pose a health risk.
- D. If a chicken dies, it shall be disposed of promptly. Carcasses shall be buried on site at a depth not less than two (2) feet, then firmly covered with soil. Bricks, large stones, concrete blocks or other heavy, solid objects shall be placed over the filled hole to discourage digging by dogs or other animals. These may be removed once decomposition is assured. Powdered lime may be spread on the carcass before filling the hole to hasten decomposition and minimize odor. It is illegal to place animal carcasses of any kind in city trash containers.

6.05.150 Violations and penalties.

- A. The Animal Control Officer or Neighborhood Services & Code Compliance officer may issue violations and fines.
- B. Any person found in violation of any code in this Chapter may be issued a corrective action letter or notice of violation or a municipal infraction. They will be ordered to comply within a reasonable amount of time. If a person has five (5) violations on the same property within a 365-day period, said property will be designated a chronic nuisance property.
- C. Any person who trains or uses a dog, bird, fowl, cock, or any other animal; or who permits same to be trained or used for the purpose of fighting; or who arranges or conducts an animal fight or participates as a spectator of an animal fight shall be subject to a criminal penalty of One Thousand Dollars (\$1,000.00) and/or imprisonment of not less than ninety (90) days but not more than six (6) months. The Court may also impose an order requiring a psychological evaluation of the convicted offender.

6.05.160 Appeals.

A person appealing the issuance of any violations and/or fines by the Permitting Officer may appeal to the Housing Board of Appeals and Adjustments within 21 days of the decision being appealed. (or Apply 15.27.060 from Ordinance no.2265, Chronic Nuisance Property Owners on Appeals)

BE IT FURTHER ORDAINED that this ordinance shall take effect immediately upon adoption.

