

REGULAR MEETING CITY COUNCIL

November 3, 2014

The City Council of the City of Albemarle met in a regular session on Monday, November 3, 2014, at 7:00 p.m. in the Council Chambers of City Hall. Mayor Ronnie Michael presided, and the following Councilmembers were present, to-wit: Troy E. Alexander, Bill Aldridge, Benton H. Dry, II, Martha Sue Hall, Martha E. Hughes, Dexter Townsend, and Chris Whitley. Absent none.

Mayor Michael gave the invocation.

The Mayor and City Council presented a resolution to Donny Thompson honoring his participation in CBS Big Brother.

North Carolina Public Power Awards of Excellence were presented by Roy Jones, Chief Operating Officer of ElectriCities of North Carolina for the following categories:

Competitive Business Environment
Energy Efficiency
Financial Stability
Legislative Involvement
Service Excellence

Mayor Michael thanked Mr. Jones for presenting the awards and also thanked staff for all that they do.

Upon a motion by Councilmember Aldridge, seconded by Councilmember Alexander, and unanimously carried, the City Council approved the October 16 Adjourned Session, October 16 Closed Session, October 20 Regular Session and October 20 Closed Session Minutes as submitted.

The Mayor and City Council held a public hearing to consider rezoning two lots at 2412 West Main Street to R-8A/Multi-Family Residential Conditional Use District.

Mayor Michael stated Mr. Claude Reid with Community Housing Administration is making an appeal to Council that in his opinion the Planning Board made an error in having a negative recommendation for this rezoning and to state his reasons for appeal.

Mayor Michael asked each Councilmember to state if they had had any conversations with anyone pertaining to this public hearing prior to this meeting and if so they would need to recuse themselves at this time if they could not provide a summary of these discussions. Councilmember Whitley and Aldridge gave accounts of brief conversations they had relating to this matter.

Councilmember Dry stated had had held several conversations regarding this matter.

Upon a motion by Councilmember Alexander, seconded by Councilmember Townsend, and unanimously carried, the City Council approved excusing Councilmember Dry from the voting process and to leave the chambers until hearing is complete.

Councilmember Dry left the hearing at this time.

Mayor Michael stated that under G.S. 160(a) 385, a qualified protest against a zoning map amendment shall not become effective except by favorable vote of three-fourths of all the members of the City Council. Vacant positions on the Council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. The protest petition presented was qualified by the City Planning and Community Development Director Keith Wolf.

To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.

Mr. Wolf measured the 100 foot buffer zone extending along the entire boundary of the area proposed to be rezoned. The area of the buffer is

approximately 5.26 acres. He then measured the area of the properties within the buffer that are owned by persons who signed the protest petition and it is approximately 4.11 acres. This second figure includes one property on the west side of the subject property that had a signature but was not shown on the map submitted with the petition. Finally, he divided the area with signatures (4.11 acres) by the total area of the 100 foot buffer around the subject property (5.26 acres) and found that 78% of that buffer is owned by people who signed the petition. This is well above the required 5% required for a protest petition to be qualified.

Mayor Michael stated that anyone wanting to speak for or against will have to be sworn in because this is a quasi-judicial conditional use hearing. Everyone wanting to speak for or against came forward and was sworn in at that time.

Mayor Michael stated that as each person comes forward to speak, they will need to state if they feel there was an error made by the planning board in their negative recommendation to City Council and why they feel the hearing should be denied or approved.

Mr. Claude Reid representing the Community Housing Administration, Columbia, SC came forward to speak on its behalf. He stated that Community Housing is a 501 c (3) non profit subsidized by HUD. He stated that the error made by the Planning Board consist of the rights of the elderly to locate affordable housing.

Mr. Reid stated that the complex would be funded by a grant from the Department of Urban Development. There will be 24 units, 12 units per building with each unit having approximately 400 square feet for 55+ seniors. The Community Housing Administration will manage the property and an experienced architect will design the facility. Upon questioning, Mr. Reid stated that this location was chosen because of the need for low crime housing, quietness, local shopping, and transportation.

Mr. Reid answered any questions that Council had.

Mr. Chip Furr owner, representing Poplin & Furr LLC came before Council and stated the history of the property and that his aunt and uncle lived there until their death. He gave the condition of the brick house and the white house and the issues they have and how hard it would be to sell as two single

residences due to the conditions of the houses. He has only had developers interested in the property in the past.

Mr. Furr gave his reasons for wanting Community Housing Administration to be able to purchase since they will be accountable to their board members and HUD. He said that there needs to be more affordable housing for 55+ all over the country. The error that the Planning Board made was their looking at this as two single family homes but it is 5.26 acres with two houses on it.

Mr. Furr answered any questions that Council had.

Ms. Angie Hatley, 2311 Edgewood Street came before Council stated that she is in favor of this property becoming a multi-family dwelling for 55+ seniors with low income. She stated that she does not see that this would cause a serious traffic problem.

Jim Runyon, 2604 Oaklawn Court, College Park came forward and stated that he is not in favor of this zoning. He said the Planning Board did not make a mistake in their judgment. He asked that Council wear two hats this evening as an elected official and neighbor in this neighborhood.

Mr. Runyon stated that there is confusion when Mr. Reid states this is housing for 45+ and the senior housing is for 55+, stating he did not notice children in this area, and he will be a manager there most of the time, not always which means instability. If we have any concerns we will have to travel to Columbia, SC to address the board.

Mr. Runyon stated that a contract with HUD can be amended at any time based on his experience. The City should also check if they would be able to collect tax monies from a non profit project as this. This includes a map change and a zoning permit and will affect all four of the findings of facts.

Mr. Runyon asked that City Council stand as a neighbor in this neighborhood. There are other City areas that are much better than this neighborhood for this type of housing.

Ms. Mimi Cotton, 106 Poplins Grove Church Road came before Council came before Council stated that if Mr. Reid would just drive by our street, he would definitely see children in the neighborhood. She stated that the error is in assuming these units would be purchased not rented which the proposal represented. She feels the surrounding single family homes property values will be affected. She stated her family chose this area because it would be a great area to raise a family. She had concerns of flooding and reiterated some of the same issues that Mr. Runyon had.

Ms. Jennifer Odom, 2504 West Main Street came before Council stating that as far as environmental issues there had been no evidence of this being done. She asked with only 24 units, why there would be 55 parking spaces allotted taking up space. She stated Community Housing does not have a good track record established of what this proposal will be and if this would be good for this neighborhood. She stated the Planning Board did not make an error in their decision and this would not be the best thing for this neighborhood.

Mr. Robert Ward, 209 Royal Avenue came before Council and stated this project will not create revenue for the City. If anything, this may cause extra expenses with the use of rescue, police, fire, etc. which are costly items for a City. He stated that he agrees with the Planning Board and finds no error. He said there are insufficient findings of fact and they were not filled out by the Community Housing Administration. He asked who will pay for the maintenance and upkeep if the revenue is insufficient. He asked that Council deny this application.

Mr. Ward answered any questions that Council had.

Mr. Dorsey Lilly, member of the Planning Board came before City Council and stated that he feels the Planning Board made an error. He stated that he feels the Planning board did not fully understand when they first voted. He said he voted against the approval the first time and voted for the approval the second time this issue came before the Planning Board. At the second vote, there was so much hostility from residents, the board voted to reject the project. We as a community should pass this zoning for senior citizen housing.

Mr. Lilly answered any questions that Council had.

Mr. Jon Neumeyer, 2407 West Main Street came before City Council and stated that he was responsible for the protest petition which includes 59 signatures with a map and information of residents concerning the 100 foot buffer zone. He stated that 7 of the 12 residents shown on the map to be in the buffer zone signed the petition. He stated his concerns of sewage issues with apartment complexes. He said the Planning Board's negative recommendation to Council was not in error.

The Reverend Richard Carlisle of Poplins Grove Church, 220 Poplins Grove Church Road came before Council and stated that he resides beside the church in the parsonage and will retire soon. No one here tonight wants to deny a needy elderly any assistance in housing. He further stated that it is just the location chosen and this project should be considered somewhere else because it will not lift up the neighborhood. He mentioned the old graves back into the 1880's in the cemetery at Poplins Grove Church that have to be considered also. Normally adjacent property does not increase in value with apartment rentals in the same neighborhood. He does not feel the Planning Board made an error in their decision.

Mr. David Odom, 2504 West Main Street came before City Council and talked about the first time this zoning issue came before the Planning Board on August 26 and they voted 3 in favor and one opposed but sent it forward to City Council with no recommendation. The City Council then requested the Planning Board to give their recommendation before Council moved forward with the public hearing. The Planning Board then voted a second time and 2 in favor and 4 opposed and gave a negative recommendation to City Council. He feels like the Planning Board did not make an error in their decision and this was the right move. He said he attended all of the Planning Board meetings concerning this issue.

Mayor Michael thanked everyone who came forward to speak for or against this public hearing issue.

1. Councilmember Hall moved that that the use will materially endanger the public health or safety if located where proposed and developed according to the plan as submitted. Councilmember Alexander seconded the motion.

Councilmember Townsend offered a substitute motion to approve the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted. The motion was seconded by Councilmember Whitley. With a vote of 2 In Favor and 4 Against the motion did not carry.

The Council then voted on the original motion with Councilmember Hall making the motion and Council Alexander seconded the motion. With a vote of 4 In Favor and 2 Against and the original motion carried that the use will materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.

2. Councilmember Alexander moved that the use does meet all required conditions and specifications. Councilmember Townsend seconded the motion. With a vote of 3 In Favor and 3 Against the motion did not carry.

3. Councilmember Hall moved that that the use will substantially injure the value of adjoining or abutting property, or that the use is a not a public necessity. Councilmember Aldridge seconded the motion. With a vote of 3 In Favor and 3 Against the motion did not carry.

4. Councilmember Townsend moved that the location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and not in general conformity with the plan of development of the City of Albemarle and its environs. Councilmember Whitley seconded the motion. With a vote of 2 In Favor and 4 Against the motion did not carry.

Councilmember Hall voted to deny the resolution. Councilmember Aldridge seconded the motion. Voting for the motion were Councilmembers Aldridge, Alexander, Hall, and Hughes. Voting against the motion were Councilmembers Townsend and Whitley. The motion carried and the resolution was denied.

Upon a motion by Councilmember Hall, seconded by Councilmember Whitley and unanimously carried, the City Council closed the public hearing.

Councilmember Dry came back into the meeting at this time.

The Mayor and City Council held a public hearing to consider a text amendment to add Sober Living Facilities, to Section 92.079 NBD NEIGHBORHOOD BUSINESS DISTRICT under Subsection (C) Conditional Uses. No one from the public spoke for or against this matter.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend and unanimously carried, the City Council closed the public hearing.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend and unanimously carried, the City Council approved

(Ordinance 14-34. Text amendment to add Sober Living Facilities to the Zoning Ordinance.

Ms. Vicki Coggins, Esther House Board of Directors came before City Council to request use of space in the former Fire Station One for office space for Esther House.

Ms. Coggins stated that the Esther House is being displaced from their current offices and they are asking to use the administrative offices in the old fire station. They would also like to be able to use the former day room, which is currently being used by the museum for storage of artifacts at some point in the future.

The City Manager noted another request from Rusty Starnes of Central Piedmont Search and Rescue to use one of the bays at the former station and also one room that could be used to secure files. Mr. Starnes can attend a future Council meeting to discuss this if City Council is willing to entertain this request.

Upon a motion by Councilmember Aldridge, seconded by Councilmember Townsend and unanimously carried, the City Council approved to remove Councilmember Hall from participation to avoid a conflict of interest.

Ms. Hall left the meeting at this time.

It was the consensus of City Council to have City staff draw up an agreement spelling out the responsibilities of the owner and tenant. The tenant paying utilities and also being responsible for the unfitting of the building for a term of a 1 year rent free lease, then moving to a month to month lease of the building. The City will repair any damage the building currently has. Staff will bring this lease back before City Council for final approval.

Ms. Hall came back into the meeting at this time.

The Mayor stated that Council had a copy of the municipal calendar in their agenda packets and asked if anyone had any questions.

The Mayor and City Council considered an appointment for the East Albemarle Elementary School representative to the Parks and Recreation Advisory Board. East Albemarle Elementary School Principal Dr. Rick Hessman has nominated Andra Bennett to serve as its district representative on the Albemarle Parks and Recreation Advisory Board. The term is through June 30, 2016.

Upon a motion by Councilmember Alexander, seconded by Councilmember Townsend and unanimously carried, the City Council appointed Andra Bennett to serve on the Parks and Recreation Board as the East Albemarle Elementary School representative with the term expiring July, 2016.

The Mayor and City Council considered an appointment for Third Alternate on the Zoning Board of Adjustment.

Upon a motion by Councilmember Hall, seconded by Councilmember Whitley and unanimously carried, the City Council appointed

Kristine Bryson to fill an unexpired term as 3rd alternate on the Zoning Board of Adjustment with the term expiring July, 2015.

The Mayor and City Council considered approval of a Final Subdivision Plat for Stanly Community College (Tax Record 27988), 130 College Drive. Stanly Community College is planning to build a new building for the Cosmetology Department on College Drive beside the National Guard Armory. In order to obtain financing, they need to create a separate lot for this project.

On October 28, 2014, the Planning Board voted unanimously to recommend approval of this subdivision plat. It has been reviewed by Planning Staff and it meets the requirements in the Subdivision Ordinance.

Mayor Michael announced that this item was being withdrawn at the request of the County Manager since this may have to be amended.

The Mayor and City Council considered setting a public hearing for a request to allow “Crematory” as a Permitted Use in § 92.084 LID/Light Industrial District and § 92.085 HID/Heavy Industrial District for Monday, December 1, 2014.

Upon a motion by Councilmember Hall, seconded by Councilmember Dry and unanimously carried, the City Council approved setting a public hearing for a request to allow “Crematory” as a Permitted Use in § 92.084 LID/Light Industrial District and § 92.085 HID/Heavy Industrial District for Monday, December 1, 2014.

The Mayor and City Council reviewed the Department of Public Housing’s completed Section 8 Management Assessment Program (SEMAP) certification and they received a score designation of High Performer.

The Mayor and City Council considered a pole attachment agreement with TW Telecom.

Upon a motion by Councilmember Dry, seconded by Councilmember Hughes and unanimously carried, the City Council approved an agreement with tw Telecom for a pole attachment agreeing to pay the City \$15.00 annually per pole attachment. The standard insurance, notice, coordination, and shared cost provisions would apply.

The Mayor and City Council considered declaring surplus and offering for sale certain City owned parcels. The properties to be considered are Roosevelt Ingram Park, a vacant lot at Morrow and Pee Dee Avenues, a vacant lot on South Fourth Street near Dr. Martin Luther King, Jr. Drive, and a vacant lot on North Ninth Street across from the intersection with East Oakwood Avenue, etc.

Upon a motion by Councilmember Dry, seconded by Councilmember Hall and unanimously carried, the City Council approved the sell of Roosevelt Ingram Park establishing the listing price as \$1,450,000, as the listing price, and Economic Development Director Mark Donham to prepare marketing materials and market this property.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall and unanimously carried, the City Council approved starting the process of rezoning the Roosevelt Ingram Park to General Highway Business (GHB)

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend and unanimously carried, the City Council approved staff contacting adjoining owners of properties of Morrow Avenue, Pee Dee Avenue, S Fourth Street, N Ninth Street, Dr. MLK Jr., etc. to see if they are interested in buying those vacant lots and other numerous properties the City locates and decides to sale.

Upon a motion by Councilmember Hall, seconded by Councilmember Aldridge and unanimously carried, the City Council approved if owners of these adjacent properties are not interested in purchasing these City lots, to do a request for proposal (RFP) to real estate brokers to bid for listing these properties to market and sale.

The Mayor and City Council reviewed a draft letter to Rocky River RPO Executive Director Dana Stoogenke. Councilmember Dry had suggested sending a letter to Ms. Stoogenke for submitting this planning assistance grant application, so the attached letter was drafted for City Council's consideration.

Upon a motion by Councilmember Aldridge, seconded by Councilmember Hughes and unanimously carried the City Council approved the letter to Rocky River RPO Executive Director Dana Stoogenke for submitting the planning assistance grant application.

The Mayor and City Council designated a voting delegate and alternate for NCLM Advocacy Goals Conference. Mayor Michael, Councilmember Hall, and Assistant City Manager Michael Ferris are planning to attend this meeting.

Councilmember Alexander to approve Councilmember Hall as the delegate and Mayor Michael as the alternate for NCLM Advocacy Goals Conference in Raleigh on December 11. Councilmember Dry seconded the motion. Voting for the motion were Councilmembers Aldridge, Alexander, Dry, Hughes, Townsend, and Whitley. Voting against the motion was Councilmember Hall. The motion carried.

The Mayor and City Council considered rescheduling January 19, 2015 City Council Meeting which is in conflict with the Dr. Martin Luther King, Jr. Holiday.

Upon a motion by Councilmember Alexander, seconded by Councilmember Aldridge and unanimously carried, the City Council approved rescheduling the rescheduling January 19, 2015 City Council regular meeting until Tuesday, January 20, 2014 due to being in conflict with the Dr. Martin Luther King, Jr. Holiday.

The Mayor and City Council discussed participation in the Hospice Festival of Trees which is \$37.50 per person. This is entirely discretionary on the part of City Council as to whether you wish to participate in this again this year or not.

Upon a motion by Councilmember Hughes, seconded by Councilmember Townsend and unanimously carried, the City Council approved participation in the Hospice Festival of Trees which is \$37.50 per person.

The Mayor and City Council were reminded of the Veterans Day Parade- Saturday, November 8 at 11:00 a.m.

Councilmember Aldridge, Alexander, Dry, and Townsend confirmed their attendance.

The City Manager will make sure Councilmembers have a vehicle to ride in the parade.

Mayor Michael congratulated Police Chief Halliburton on another successful Call-In on Thursday, October 30, 2014. The attendance was very good.

Planning and Community Director Keith Wolf introduced his new Senior Planner Nasser Rahimzadeh who started to work on Monday, November 3, 2014. He worked an internship while completing his master's degree in the summer of 2013 and decided to apply for this full time position once it came open.

Councilmember Aldridge congratulated Fire Chief Oke for a successful fund raiser last week.

Finance Director Colleen Conroy came before City Council to request approval of an interest rate decrease on a loan with BB&T from 3.43% to 2.37% with a savings of \$136,960.00.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hughes and unanimously carried, the City Council approved allowing the City Manager and Finance Director permission to enter into an agreement with BB&T for an interest rate reduction from 3.43% to 2.37% on the City Hall loan with a savings of \$136,960.00.

Upon a motion by Councilmember Hall, seconded by Councilmember Hughes and unanimously carried, the City Council adjourned to a closed session pursuant to NCGS 143-318.11(a) 5 to discuss real estate.

Upon a motion by Councilmember Hughes, seconded by Councilmember Alexander and unanimously carried, the City Council reconvened to open session. Mayor Michael announced a closed session was held pursuant to NCGS 143-318.11(a) 5 to discuss real estate and there is nothing to report at this time.

Upon a motion by Councilmember Hall, seconded by Councilmember Hughes and unanimously carried, the meeting was adjourned until Monday, November 10 for a Pay Plan Study adjourned session beginning at 6 pm at City Hall.