

REGULAR MEETING CITY COUNCIL
March 5, 2018

The City Council of the City of Albemarle met in a regular session on Monday, March 5, 2018 at 7:00 p.m. in the Council Chambers of City Hall. Mayor Ronnie Michael presided, and the following Councilmembers were present, to-wit: Mayor Pro Tem Martha Sue Hall, Bill Aldridge, Chris Bramlett, Benton H. Dry II, Martha E. Hughes, Dexter Townsend and Chris Whitley. Absent, none.

Mayor Michael called the meeting to order.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall, and unanimously carried, the minutes of the February 19 regular session were approved as amended and February 19 closed session minutes were approved as submitted.

Agenda adjustments

1. To move New Business item #10 after approval of minutes
2. Approve Resolution 18-01
3. Add Closed Session - Pursuant to NCGS 143-318.11(a) (3) – To Consult with the City Attorney and To Discuss City of Albemarle v. Chucky L. Nance, et al.

Upon a motion by Councilmember Aldridge, seconded by Councilmember Hughes, and unanimously carried, the City Council approved the agenda adjustments as stated.

General Assembly 2017 - Consistency Statements

In 2017 NC General Assembly made modifications to §160A-383 regarding zoning amendments and consistency statements. The purposed of this presentation is to review the changes made by the General Assembly before voting on any zoning amendments.

Senior Planner Nasser Rahimzadeh came before Council to review new state requirements as follows:

New Statutory Requirements

In 2017 the General Assembly amended G.S. 153A-341 and 160A-383 to add more specificity to the law regarding the mandated plan consistency statements.

Section 2.4 of **S.L. 2017-10** amends the statutes and makes these new requirements applicable to all zoning amendment applications filed on or after October 1, 2017. This bill also made amendments to the subdivision statute.

The amended statute still requires approval of a statement and the statement still must describe plan consistency and explain why the proposed action is reasonable and in the public interest.

However, the form of the required statement is changing. As of October, the statement must take one of three forms:

STATEMENT OF ZONING CONSISTENCY WITH ADOPTED PLANS per G.S. 160A-383

1. A statement approving the proposed zoning amendment and describing its consistency with the plan;
2. A statement rejecting the proposed zoning amendment and describing its inconsistency with the plan; or
3. A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.
 - a. A declaration that the approval is also deemed an amendment to the comprehensive plan. The governing board shall not require any additional request or application for amendment to the comprehensive plan
 - b. An explanation of the change in conditions the governing board took into account in amending the zoning ordinance to meet the development needs of the community.
 - c. Why the action was reasonable and in the public interest.

Public Hearing:

Ordinance 18-04 - To Amend the Zoning Ordinance to Allow Tobacco Consumption Establishments in Multiple Commercial Zoning Districts- No one spoke for or against this hearing.

Senior Planner Nasser Rahimzadeh stated the text amendments to the following sections will allow for the establishment of businesses inside the City of

Albemarle with the primary use of on-premises tobacco consumption. Changes are being proposed to the following sections of City Code:

§ 92.008 DEFINITIONS.

§ 92.080 GHBD GENERAL HIGHWAY BUSINESS DISTRICT.

§ 92.081 SCD SHOPPING CENTER DISTRICT.

The Planning Board recommended approval by a vote of 4-1 at their meeting on 2/27/18. Mr. Rahimzadeh answered any questions that Council had.

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

Councilmember Dry moved to pass Ordinance 18-04 along with Consistency Statement #1 as stated below. Councilmember Aldridge seconded the motion. Voting for the motion were Councilmembers Aldridge, Dry, Hughes, and Townsend. Voting against the motion were Councilmembers Bramlett, Hall, and Whitley voted against the motion for a 4-3 vote. Since there was not a majority vote, there will be a second reading on Monday, March 19 at 7 pm.

CONSISTENCY STATEMENT #1

The City of Albemarle Land Use Plan 2028 discusses the need to develop sustainable, mixed-use commercial with an emphasis on connectivity; however, it does not address the subject of commercial uses. In short, the City's Land Use Plan does not address the topic of tobacco consumption establishments.

Public Hearing:

Ordinance 18-05 - To Rezone Multiple Parcels on Charter Street from LID/Light Industrial District to R-8A/Multi-Family Residential District. No one for the public spoke for or against this hearing.

Planning and Development Services Director Kevin Robinson stated the Planning Board found the proposed rezoning to be inconsistent with the City Land Use Plan, but voted to recommend approval by a vote of 3-2 at their meeting on Tuesday, February 27, 2018.

Ms. Traci Dusenbury, representing the applicant, Gardner Capital Development II, Inc. – c/o Halcon Companies, LLC came before Council and gave a PowerPoint presentation concerning the development of this parcel for an apartment complex and the desire to locate on this parcel.

Ms. Dusenbuy answered any questions that Council had.

Mr. Harris Gupton, engineer, came before City Council and stated he is looking for several basic things this parcel has for this development to be considered here.

1. Topography
2. Demographics
3. NCDOT road expansion (widening) of NC Hwy. 24-27
4. Unlike Staley Street, Charter Street is a through street to Anderson Grove Church Road.
5. Planning Board stated that they may want to consider a second entrance off Staley Street.

Mr. Gupton answered any questions that Council had.

Councilmember Hall moved to close the public hearing. Councilmember Dry seconded the motion. Voting for the motion were Councilmembers Aldridge, Bramlett, Dry, Hall Hughes, and Whitley. Voting against the motion was Councilmember Townsend in a 6-1 vote. The motion carried.

Councilmember Hall moved to deny Ordinance 18-05, to rezone 112 Charter Street to R8A-Multi-Family Residential District. Councilmember Townsend seconded the motion. Voting for the motion were Councilmembers Aldridge, Dry, Hall, Hughes, Townsend and Whitley. Voting against the motion (to approve the ordinance) was Councilmember Bramlett. The motion carried. Ordinance 18-05 was denied by a 6-1 vote.

INCONSISTENCY STATEMENT

The Albemarle City Council finds the action to amend the City's Zoning Map around 112 Charter Street tax record #22905 and 29876 from zone LID/Light Industrial District to R-8A-/Multi-Family Residential District to be inconsistent with the adopted 2028 Land Use Plan. The 2028 Land Use Plan calls for Industrial uses on the parcels of interest. The City's R-8A zone will assist the parcels of interest reach their intended goal of onsite industrial uses therefore being reasonable and in the public interest.

(Ordinance 18-05. To rezone 112 Charter Street to R8A-Multi-Family Residential District from LID) - **DENIED**

Unannounced Delegation

Mr. Tommy Jordan, 30404 Dogwatch Trail, Albemarle, NC came before Council to introduce himself as a candidate for the District 3 seat as a Stanly County Commissioner.

The Mayor and City Council received a copy of the municipal calendar for January – April 2018.

New business

1) Urban Archery Public Input

Council received a memo and written public input. This is to conduct public input session on lowering the minimum parcel size for urban archery and any other changes Council would like to make. The current ordinance states urban archery can be conducted on a minimum 5 acre parcel.

Mr. Ray Smith, 203 Stafford Drive, Albemarle NC, came forward and stated that he would like the acreage to stay at 5 acres or more and not lower it for Albemarle. Within the City, hunting could be a problem if acreage lowered to smaller tracts of land being allowed. Hunters have plenty of places to hunt outside the municipalities in Stanly County.

David G. Ritzheimer, Law Enforcement Division of NC Wildlife Resources Commission explained Urban Archery being cross bow archery equipment and the season is only one month. This year the season was January 14-February 17, 2018.

Mr. Roger Martin, 810 Lafayette Drive, Albemarle came forward and stated that if the City is wanting to help reduce the deer population then the acreage needs to be smaller than 5 acres. He said he thinks an acre is not too small.

Mr. Duke Furr, 1007 Northbrook Drive, Albemarle came forward and handed out photos of deer remains left by hunters. The hunters leave what they do not want to use. He stated that he likes wildlife and feeds the deer. He wished the City could plant clover along the sewer line paths and maybe add fruit trees for the deer and they would not come onto residential property for food. He asked that Council leave the acreage requirement at 5 acres or more.

Mr. Rupert Medford, District 6 Management Biologist for the NC Wildlife Commission came forward and stated the urban archery season is another tool to help bring the deer population down. He recommends less than 5 acres if the City wants to help reduce the population here. This is not a mandatory state program per municipality. He stated that the participation is low in the urban archery program and that bow hunting is one of the safest sports that is allowed.

Ms. Colleen Conroy, 944 N. 10th Street, Albemarle came forward and stated that she is opposed to any changes to the ordinance particularly if changed to 1 acre due to families and children at play.

Mr. Mike Macomson, 32108 Austin Road, New London came forward and stated that 13 deer were killed last year in Stanly County during urban archery season and he killed two of them. He used the meat to feed people at several churches. He would like to see the acreage stay at 5 acres or more because it is working fine.

The City Manager reviewed the following current requirements for the City:

2018 Urban Archery- City of Albemarle

The following is a slight adaption of the UAS rules for deer season that would allow for the use of archery equipment to hunt deer within the city limits.

All participants must have a valid NC Wildlife Commission hunting license (or qualify for one of the exemptions) and may only hunt on property they own or the property of another with written consent. Written consent must be carried at all times while hunting. Additionally, due to the risk of this activity in densely populated areas, the City has adopted the following restrictions to protect the public. Despite these restrictions, a substantial percentage of the City limits is available for hunting in the UAS. Other rules include:

- Archery must be conducted from a permanent or portable elevated platform of at least ten (10) feet above the ground.
- Areas of consent (hunting areas) must be greater than five (5) acres in area and may be comprised of contiguous parcels or tracts.

Map of Acceptable Tracts for Urban Archery in Albemarle

- No arrow shall be discharged within 500 feet of any residential dwelling, school, church, commercial building, governmental property, occupied structure, street, park, or other recreational area, nor shall any arrow be discharged within 250 feet of the perimeter of the area of consent.
- No arrow shall be discharged from or onto any City of Albemarle water, sewer or electrical right of way.

- Hunters shall make every reasonable effort to track quarry for the purpose of completing the harvest.
- There is a valid hunting season in effect for which the hunting license applies at the time the bow or crossbow is discharged.
- The hunter adheres to all applicable State and Local regulations.
- The person discharging the bow or crossbow exercises reasonable regard for the safety and property of other persons.
- Hunting for deer ONLY.

David G. Ritzheimer and Rupert Medford answered any questions that Council had.

Councilmember Aldridge moved to change the acreage requirements for the Urban Archery ordinance from 5 acres to 2 acres and that any arrow discharged be changed from 500 feet to 250 feet from a structure park or other recreational area. Councilmember Hall seconded the motion. Voting for the motion were Councilmembers Aldridge, Hall, Hughes and Whitley. Voting against the motion were Councilmembers Bramlett, Dry, Townsend, with a votes of 4-3 and the motion carried authorizing the City Attorney to draft an Ordinance for consideration at future meeting.

Unannounced Delegation

Mr. Doug Craig, 1960 Monza Drive, Albemarle came before City Council asking City Council to consider changes to the stop signs at the intersection of Monza Drive and Pond Street located in the Eastwood Park section. This request is based on making this intersection safer. The stop signs are now for the people traveling on Pond Street. Several of the area residents, and others coming through, are disregarding the signs and just barely slowing down before crossing through or turning right at the intersection. This is the only stop sign for Pond Street which dead ends one block north of the intersection.

He stated he had spoken to all the residents of this intersection and none of them have a problem with making the stop signs apply to Monza Drive instead of Pond Street. His home is the only one west of this intersection and again the street dead ends in front of our house at a pasture fence and several large oak trees. He is in the habit of stopping when leaving his house because he is aware that nearly half of cars approaching on Pond Street do not stop. Another factor to consider is that the two houses on the north side of this intersection are new residents and have small children.

Mr. Craig also stated that he knows that the police patrol this lightly traveled area and can't be expected to focus on this area alone. Changing the orientation of the stop signs would allow the residents to go through this intersection to their homes without violating the law. Speeding is not the problem.

Mayor Michael asked that Police Chief Bowen investigate this concern and bring back before Council at a future meeting. He also stated that Mr. Craig will be notified when this issue is brought back before Council.

2) Consider Qualifications of Firms for Providing a Comprehensive Utility Rate and Cost of Service Studies

Public Utilities Director Michael Leonas noted that three (3) firms submitted Statement of Qualification (SOQ) packages. The SOQs were reviewed by Finance and Public Utilities staff to determine how the firm responded to the requirements contained in the RFQ and provide a subsequent ranking. Also staff reached out to contacts that were provided in the SOQs for information about the consultant in the performance of similar studies that were conducted for other entities.

After review of the SOQs and consideration of the additional information provided, The PUD offers the following ranking for Council's consideration:

1. Raftelis Financial Consultants
2. Willdan Financial Services

Springsted, Inc. submitted an SOQ, but the reviewers of the SOQ were in concurrence that the SOQ submitted did not respond to requirements in the Request for Qualifications. Subsequently, Springsted, Inc. was not ranked.

The Public Utilities is satisfied that either of the above ranked firms have the qualifications to execute the subject rate and cost of service studies for the Water & Sewer operations of the Department. The Utilities Department is recommending that a cost proposal be solicited from Raftelis first based on the proposed ranking and if an agreement can be reached on the scope and cost for the work return to Council to consider and approve the cost proposal and agreement. If an agreement cannot be reached, then the Department will solicit a cost proposal from Willdan and proceed in the same manner described above.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend, and unanimously carried, the City Council approved a cost proposal be solicited from Raftelis first based on the proposed ranking and if an agreement can be reached on the

scope and cost for the work return to Council to consider and approve the cost proposal and agreement.

3) Consider Change Order No. 6 to the Construction Contract with Dellinger, Inc. for the US 52 Water Treatment Plant Rehabilitation Project

This would be Change No. 6 to the Construction Contract with Dellinger, Inc. for the US52 Water Treatment Plant Rehabilitation project in the amount of \$2,885.51 bringing the total contract price to \$9,983,028.26.

This change order covers the installation of handrails and toe boards that were required to meet ADA accessibility requirements associated with the handicap ramp at the North end of the building on the first floor. The need for these were identified by the Building Inspector during the final inspection of the building prior to issuance of a Certificate of Occupancy (CO).

The Engineer, LKC Engineering, Inc., has reviewed the change order and finds the scope and the pricing to be reasonable and fair. The funding agency, DEQ - DWI, has also reviewed the change order and has indicated that the work is eligible to be covered by the SRF loan. Public Utility staff has reviewed the information and concurs with the Engineer's recommendation. There is no change in the contract time associated with Change Order No. 6.

Upon a motion by Councilmember Hall, seconded by Councilmember Hughes, and unanimously carried, the City Council approved Change No. 6 to the Construction Contract with Dellinger, Inc. for the US52 Water Treatment Plant Rehabilitation project in the amount of \$2,885.51 bringing the total contract price to \$9,983,028.26.

4) Consider Proposals for New Electrical Control House and Relay Equipment at the Carolina Delivery Point

This is proposals received via the informal bidding process for the procurement and installation of a replacement control house and replacement of electrical relay equipment at the Carolina Delivery Point. The existing control house and the relay equipment contained within the control house are well beyond the end of their service life

and need to be replaced. The work was included in the PUD's FY17-18 Budget and was approved by Council.

Design work for the project was completed by Southeastern Consulting Engineers, Inc. (SECE). SECE then solicited bids, through the informal process, for both the control house structure and the electrical relay equipment. Bid tabulations for both packages were provided by the Engineer and are attached to this agenda item.

Of the four (4) proposals received for the equipment package, EP2, Inc. provided the lowest proposal at \$ 41,832.00. Of the two (2) proposals received for the control house structure, VFP, Inc. provided the lowest proposal at \$ 61,082.00. Combining the two proposals provide a project cost of \$ 102,914.00. Council had approved this project as part of the PUD's FY17-18 Budget. Sufficient funds are available in the current budget to cover the cost of the two.

Upon a motion by Councilmember Dry, seconded by Councilmember Hughes, and unanimously carried, the City Council approved accepting the proposal for the Electrical Relay Equipment from EP2, Inc. in the amount of \$ 41,832.00 and the Control Building Structure from VFP, Inc. in the amount of \$ 61,082.00 for a total cost of \$ 102,914.00 and authorize the Mayor and/or City Manager to execute the contract documents associated with the work.

5) Consider Adoption of Capital Improvement Plan 2019-2023

On January 9, 2018, Council was presented with a printed draft of the 2019-2023 Capital Improvement Plan (CIP). It was noted that during Council's financial planning meetings with First Tryon, General Fund projects were discussed in length and at initial FY 2018-2019 budget work sessions, departments heads discussed the larger capital needs that will be proposed within the upcoming budget. For the 2019-2023 CIP, staff anticipates the need for approximately \$95.6M in capital costs over the next five years; \$18.3M of which will be analyzed across all funds within FY 2017-2018 budget requests. Projects and needs will be re-analyzed with the adoption of each annual budget and may be adjusted as priorities change and with the availability of revenue and a well drafted CIP displays the City's ability to effectively forecast and successfully plan.

If approved, Council will receive a bound copy of the approved CIP. The draft plan as attached is a duplicate of the hardcopies Council received in January.

Upon a motion by Councilmember Hall, seconded by Councilmember Dry, and unanimously carried, the City Council approved the adoption of the Capital Improvement Plan 2019-23.

6) Consider Attendance at the ElectriCities Annual Conference

The 2018 Conference will be held in Asheville at the Omni Grove Park Inn January 20-22.

Mayor Michael and Councilmembers Aldridge, Bramlett, Hall, Hughes, Townsend, and Whitley affirmed their attendance.

Upon a motion by Councilmember Dry, seconded by Councilmember Hall, and unanimously carried, the City Council approved the following resolution:

(Resolution 18-01. To congratulate Leon Warren's dedicated and professional coverage for news and offer City's best wishes for a long and prosperous retirement)

Upon a motion by Councilmember Hall, seconded by Councilmember Aldridge, and unanimously carried, the Mayor and City Council adjourned to a Closed Session Pursuant to NCGS 143-318.11(a) (3) – To Consult with the City Attorney and To Discuss City of Albemarle v. Chucky L. Nance, et al.

Upon a motion by Councilmember Bramlett, seconded by Councilmember Aldridge, and unanimously carried, the Mayor and City Council reconvened to open session. Mayor Michael announced that a Closed Session Pursuant to NCGS 143-318.11(a) (3) – To Consult with the City Attorney and To Discuss City of Albemarle v. Chucky L. Nance, et al and there was nothing to report at this time.

Councilmember Hall asked if staff had received a response from CCOG Executive Director Ron Smith. The City Manager said staff is still writing the submission of a proposal from CCOG. She stated that there was good attendance at the Stanly County COG meeting on Tuesday, February 27 and the speakers were great.

Councilmember Bramlett stated that there are two great programs currently running in Albemarle presently. Uwharrie Players production of “Drinking Habits at the Annunciation Catholic Church Family Life Center on March 9 and 10 at 7:30 pm and March 11 at 3 pm. Also a program at the art gallery on Saturday, March 10.

Upon a motion by Councilmember Hughes, seconded by Councilmember Hall, and unanimously carried, the meeting was adjourned.