

ADJOURNED MEETING CITY COUNCIL
May 30, 2018

The City Council of the City of Albemarle met in an adjourned session on Wednesday, May 30, 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 Hall, seconded by Councilmember Bramlett, and unanimously carried, the Mayor and City Council approved the following resolution:

(Resolution 18-07. To unanimously support an additional ¼-cent sales tax referendum to assist with the funding of transportation related issues)

Upon a motion by Councilmember Hall, seconded by Councilmember Hughes, and unanimously carried, the Mayor and City Council approved setting a public hearing for Monday, June 11 at 6pm to consider a CUP renewal for Pfeiffer University property located at the corner of East Main Street and North Fourth Street.

Councilmember Dry came into the meeting at this time.

Upon a motion by Councilmember Hughes, seconded by Councilmember Townsend and unanimously carried, the Mayor and City Council adjourned to a Closed Session Pursuant to NCGS 143-318.11(a) (3) (4)- To Consult with Legal Counsel, discuss City of Albemarle v. Chucky L. Nance, et al., and Economic Development.

Upon a motion by Councilmember Dry, seconded by Councilmember Whitley, 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) (4)- To Consult with Legal Counsel, Discuss City of Albemarle v. Chucky L. Nance, et al., and Economic Development.

MOTIONS

1. Pursuant to NCGS 160A-4, the General Assembly has granted to the cities of NC the authority to execute the powers, duties, privileges, and immunities conferred upon them by law, and pursuant to NCGS 160A-11 and NCGS 160A-12, the City Council has the corporate power to exercise the right to sue and be sued and to contract, therefore, Council Member Aldridge moves Council to enter into a resolution for purposes of agreement and acknowledgement within the minutes that the City's Police Chief, Mayor, and City Manager had and have the authority, and express agreement of the City Council to pursue action against all necessary parties to remove the public nuisance, abate the property referred to as the Heart of Albemarle Hotel located at 300 South 1st Street, Albemarle, Stanly County, NC, filed on August 4, 2017, pursuant to NCGS 160A-148 which sets forth the powers and duties of manager, NCGS 160A-175 which sets forth enforcement of ordinances, NCGS 160A-193 which sets forth abatement of public health nuisances, and a City Council vote which took place on July 10, 2017. The motion was seconded by Councilmember Dry and unanimously carried.
2. Pursuant to NCGS 160A-4, the General Assembly has granted to the cities of NC the authority to execute the powers, duties, privileges, and immunities conferred upon them by law, and pursuant to NCGS 160A-11 and NCGS 160A-12, the City Council has the corporate power to exercise the right to sue and be sued and to contract, therefore, Council Member Hughes moves Council to enter into a resolution to challenge, by appeal or other reasonable means, including but not limited to the May 29, 2018 order of the Honorable Julia S. Gullett, Judge Presiding in the State of North Carolina and City of Albemarle, Plaintiffs v. Chucky L. Nance, Jennifer R. Nance, Nancy Dry, and Charlene Smith Defendants, pending in Stanly County Superior Court, File No: 17 CVS 000609. The motion was seconded by Councilmember Aldridge and unanimously carried.
3. Pursuant to NCGS 160A-4, the General Assembly has granted to the cities of North Carolina the authority to execute the powers, duties, privileges, and immunities conferred upon them by law, and pursuant to NCGS 160A-11 and NCGS 160A-12, the City Council has the corporate power to exercise the right to sue and be sued and to contract, therefore, Council Member Dry moves Council to enter into a resolution to retain Cranfill Sumner & Hartzog LLP to handle the appeal of the matter and all attendant responsibilities, which was handled by Attorney Paul L. Whitfield in the Superior Court. The motion was seconded by Councilmember Whitley and unanimously carried.
4. Pursuant to NCGS 160A-4, the General Assembly has granted to the cities of NC the authority to execute the powers, duties, privileges, and immunities conferred upon them

by law, and pursuant to NCGS 160A-11 and NCGS 160A-12, the City Council has the corporate power to exercise the right to sue and be sued and to contract, therefore, Council Member Whitley moves Council to enter into a resolution to end the representation of the City of Albemarle by Paul L. Whitfield and the Law Offices of Paul Whitfield, P.A. effective 5/31/18. The motion was seconded by Councilmember Hughes and unanimously carried.

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

RESOLUTION 18-08

WHEREAS, the City's Mayor, City's Police Chief, and City Manager had and have the authority, and express agreement of the City Council to pursue action against all necessary parties to remove the public nuisance, abate the property referred to as the Heart of Albemarle Hotel located at 300 South 1st Street, Albemarle, Stanly County, NC, filed on August 4, 2017, pursuant to NCGS 160A-148 which sets forth the powers and duties of manager, NCGS 160A-175 which sets forth enforcement of ordinances, NCGS 160A-193 which sets forth abatement of public health nuisances, and a City Council vote which took place on July 10, 2017; and

WHEREAS, the City Council has reviewed the underlying matter and rulings, and has deemed them to be in error, upon information and belief and advice of Legal Counsel; and

WHEREAS, the City Council has voted, and the majority of Council members have agreed by a vote of 7-0 that The State of North Carolina and City of Albemarle, Plaintiffs v. Chucky L. Nance, Jennifer R. Nance, Nancy Dry, and Charlene Smith Defendants, pending in Stanly County Superior Court, File No: 17 CVS 000609, should be challenged by appeal or other reasonable means; and

WHEREAS, the City Council has voted, and the majority of Council members have agreed by a vote of 7-0 that pursuant to NCGS 160A-4, the General Assembly has granted to the cities of NC the authority to execute the powers, duties, privileges, and immunities conferred upon them by law, and pursuant to NCGS 160A-11 and NCGS 160A-12, the City Council has the corporate power to exercise the right to sue and be sued and to contract, therefore, Council is hereby entering into a resolution to retain Cranfill Sumner & Hartzog LLP to handle the appeal of the matter and attendant actions, which was handled by Attorney Paul L. Whitfield in the Superior Court; and

WHEREAS, the City Council has voted, and the majority of Council members have agreed by a vote of 7-0 that pursuant to NCGS 160A-4, the General Assembly has granted to the cities of NC the authority to execute the powers, duties, privileges, and immunities conferred upon them by law, and pursuant to NCGS 160A-11 and NCGS 160A-12, the City Council has the corporate power to exercise the right to sue and be sued and to contract, therefore, Council is hereby

entering into a resolution to end the representation of the City of Albemarle by Paul L. Whitfield and the Law Offices of Paul Whitfield, P.A. effective 5/31/18; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Albemarle, North Carolina, that the City Council believes that the appeal of the rulings in “The State of North Carolina and City of Albemarle, Plaintiffs v. Chucky L. Nance, Jennifer R. Nance, Nancy Dry, and Charlene Smith Defendants”, pending in Stanly County Superior Court, File No: 17 CVS 000609, should be challenged by appeal or other reasonable means; and

BE IT FURTHER RESOLVED, that the City Council has the corporate power to exercise the right to sue and be sued and to contract, therefore, Council is hereby entering into a resolution to retain Cranfill Sumner & Hartzog LLP to handle this matter; and

BE IT FURTHER RESOLVED, that the representation of the City of Albemarle by Paul L. Whitfield and the Law Offices of Paul Whitfield, P.A. will end effective 5/31/18 in the in “The State of North Carolina and City of Albemarle, Plaintiffs v. Chucky L. Nance, Jennifer R. Nance, Nancy Dry, and Charlene Smith Defendants”, pending in Stanly County Superior Court, File No: 17 CVS 000609.

ADOPTED, this the 30th day of May, 2018.

S/ G. R. Michael
G.R. MICHAEL
MAYOR OF ALBEMARLE

ATTEST:

S/ E. Paulette Bowers
E. PAULETTE BOWERS
CITY OF ALBEMARLE CLERK

Upon a motion by Councilmember Hall, seconded by Councilmember Aldridge, and unanimously carried, the Mayor and City Council approved entering into an employment agreement and retaining the law firm of Cranfill, Sumner, & Hartzog, LLP to represent it in seeking to challenge by appeal, the rulings, and any other matters related to City of Albemarle v. Chucky L. Nance, Jennifer R. Nance, Nancy Dry, and Charlene Smith.

Mayor Michael stated that Council also met in Closed Session concerning Economic Development and there is nothing to disclose at this time.

Upon a motion by Councilmember Hall, seconded by Councilmember Hughes, and unanimously carried, the meeting was adjourned until Monday, June 11 at 6:00 pm for a regular session meeting.