

REGULAR MEETING CITY COUNCIL

June 11, 2018

The City Council of the City of Albemarle met in a regular session on Monday, June 11, 2018, at 6:00 p.m. in the Council Chambers of City Hall. Mayor G. R. Michael presided, and the following Councilmembers were present, to-wit: Bill Aldridge, Chris Bramlett, Benton Dry II, Martha Sue Hall, Martha E. Hughes, Dexter Townsend and Chris Whitley. Absent, none.

Mayor Michael called the meeting to order.

Mayor Michael gave the invocation.

Upon a motion by Councilmember Hughes, seconded by Councilmember Aldridge, and unanimously carried, the minutes of the May 15 adjourned session, May 15 Closed Session, May 16 Adjourned Session, May 16 Closed Session, May 21 Closed Session, May 30 Adjourned Session, and May 30 Closed Session minutes were approved as submitted and May 21 Adjourned Session minutes were approved as amended.

PUBLIC HEARING

The Mayor and City Council held a quasi-judicial hearing to consider a conditional use permit renewal for application 18-01. Conditional Use Permit #17-006 is nearing its 6 month expiration date. Conditional Use Permit #18-01 application seeks a continuation of the use specified in CUP #17-006 - Unlimited electronic, mechanical, manual and skill games, excluding, however billiard tables. The location is 2000 US Hwy 52, #2 and is in the same shopping center as Food Lion. With this being a quasi-judicial hearing, all those wishing to speak must be sworn-in to provide testimony.

Mayor Michael declared the public hearing open at 6:03 p.m. and stated public comments offered in this hearing must be conducted by persons that have standing in the issue only.

SWEAR IN:

Nasser Rahimzadeh, Senior Planner/Zoning Administrator.
Mr. David Chan, Property owner Northwoods Plaza, LLC for
Good Luck LLC at 2000 US Hwy. 52 North
Patrol Sergeant Daniel Morris, City Police

Staff Comments

Senior Planner Nasser Rahimzadeh came before Council to review the renewal application. He stated that one of the conditions was to operate only between 10 am and 12 midnight Monday thru Saturday and on Sunday not before 1 pm or after 12 midnight. No gaming allowed during the times when establishment is required by this chapter to remain closed.

Other Parties Testimony

Sergeant Morris came forward and stated that the City ran a call at this location of 2000 US Hwy. 52 N that was dispatched on Saturday, February 10 at 12:53 am to that location concerning an unconscious/fainting at Good Luck beside Food Lion and the call was cleared back to the station at 1:34 am

Police Chief Bowen came forward and answered any questions that Council had.

Applicant's Counter Argument/Testimony

Mr. Chan stated that there has been a management change since that particular incident. He answered any questions that Council had.

Mayor Michael disclosed that each Council had received an email concerning this issue.

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

Findings of Fact

The City Council considered the following findings of fact:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

Upon a motion by Councilmember Dry, seconded by Councilmember Townsend, and unanimously carried, the City Council approved finding of fact #1.

2. The use meets all required conditions and specifications.

Councilmember Hall moved not to approve the finding of fact # 2. 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. The motion carried with a 6-1 vote to not approve findings of fact # 2.

3. The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.

Councilmember Townsend moved to approve the finding of fact #3. Councilmember Hughes seconded the motion. Voting for the motion were Councilmembers Dry, Hughes, Townsend, and Whitley. Voting against the motion were Councilmembers Aldridge, Bramlett, and Hall. The motion carried with a 4-3 vote to approve finding of fact # 3.

4. The location and character of the used, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of Albemarle and its environs.

Councilmember Hall moved not to approve the finding of fact #4. Councilmember Bramlett seconded the motion. Voting for the motion were Councilmembers Aldridge, Bramlett, Dry, Hall, Hughes, Townsend, and Whitley. Voting against the motion were none. The motion carried with a 7-0 unanimous vote to not approve finding of fact #4.

5. Be in general conformance with adopted plans

Councilmember Dry moved not to approve the finding of fact #5. Councilmember Hall seconded the motion. Voting for the motion were Councilmembers Aldridge, Bramlett, Dry, Hall, Hughes, Townsend, and Whitley. Voting against the motion were none. The motion carried with a 7-0 unanimous vote to not approve finding of fact #5.

Upon a motion by Councilmember Hall, seconded by Councilmember Aldridge, and unanimously carried, the City Council voted not to renew conditional use

permit for application 18-01 for Northwoods Plaza, LLC located at 2000 US Hwy. 52 North.

CUP Order Denied

Mayor Michael stated to Mr. Chan that his last day of operation would be July 8, 2018.

PUBLIC HEARING

The Mayor and City Council held a quasi-judicial hearing to consider a conditional use permit renewal for application 18-02. Conditional Use Permit #17-006 is nearing its 6 month expiration date. Conditional Use Permit #18-01 application seeks a continuation of the use specified in CUP #17-006 - Unlimited electronic, mechanical, manual and skill games, excluding, however billiard tables. (this description is still about the last item, not the Pfeiffer CUP) The location is 245 East Main Street. With this being a quasi-judicial hearing, all those wishing to speak must be sworn-in to provide testimony.

SWEAR IN:

Nasser Rahimzadeh, Senior Planner/Zoning Administrator.
Tom Earnhardt, Pfeiffer
Dr. Colleen Keith, President of Pfeiffer
Sharon Bard, Director of Facilities for Pfeiffer

Staff Comments

Senior Planner Nasser Rahimzadeh came before Council to review this renewal for one year.

Applicant's Testimony

Dr. Colleen Keith stated they are working on an USDA loan for a 4-story building to be located at 245 East Main Street to house their Masters programs in Occupational Therapy and Physicians Assistant (PA) by 2020.

Mr. Earnhardt stated that the plan is the same as presented a year ago. They are working extensively to get the application completed. He asked for Council to consider this extension.

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

Findings of Fact

The City Council considered the following findings of fact:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

Upon a motion by Councilmember Hall, seconded by Councilmember Whitley, and unanimously carried, the City Council approved finding of fact #1.

2. The use meets all required conditions and specifications.

Upon a motion by Councilmember Hughes, seconded by Councilmember Hall, and unanimously carried, the City Council approved finding of fact # 2.

3. The use will not substantially injury the value of adjoining or abutting property, or that the use is a public necessity.

Upon a motion by Councilmember Aldridge, seconded by Councilmember Hall, and unanimously carried, the City Council approved finding of fact # 3.

4. The location and character of the used, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of Albemarle and its environs.

Upon a motion by Councilmember Hall, seconded by Councilmember Whitley, and unanimously carried, the City Council approved finding of fact # 4.

5. Be in general conformance with adopted plans

Upon a motion by Councilmember Whitley, seconded by Councilmember Hughes, and unanimously carried, the City Council approved finding of fact # 5.

Upon a motion by Councilmember Bramlett, seconded by Councilmember Dry, and unanimously carried, the City Council voted to renew conditional use permit for one year for application 18-02 for Pfeiffer University, LLC located at 245 East Main Street.

CUP Order 18-02

Public Hearing

Economic Development Public Hearing for Carolina Treetop LLC Project

Economic Development Director Mark Donham stated that this is to designate 9.9 acres at Rock Creek Park for economic development purposes allowing Carolina Treetop Challenge LLC to operate an outdoor adventure and training course. Economic Development Director Mark Donham thanked Parks and Recreation Director Lisa Kiser, Chris Lambert, Executive Director Stanly County Convention and Visitors Bureau, Alicia Herrin, Albemarle City Manager Michael Ferris, Public Utilities Director Michael Leonas, Bryon Hinson Water/Sewer Superintendent, and Mayor Ronnie Michael.

Comments

Mr. Ken White, Operating Manager of Carolina Treetop Challenge LLC and Ms. Lara Piper-Hall, Marketing Manager, came forward and played a video which reviewed this outdoor adventure that will be built by Outdoor Ventures and its safety and the use. The video was narrated by Dave Johnson, President of Out Play Adventure explaining the design, the building of tree challenges and the installation. Mr. White stated that his dad, Bill White is President of Carolina Treetop Challenge LLC could not be here this evening and also Bill White's brother who is an attorney.

Upon questioning of why choosing Albemarle for their location, Mr. White stated that this treetop challenge will be lined up between Charlotte and Winston-Salem and Albemarle being near the lakes, Uwharries and Morrow Mountain State Park. People are already coming here for outdoor recreation.

Ms. Piper-Hall stated that they will use social media for advertising. They would like to hire boy scouts and/or college students as employees.

Mr. White and Ms. Piper-Hall answered any questions that Council had.

Upon a motion by Councilmember Dry, seconded by Councilmember Aldridge, and unanimously carried, City Council approved continuing this public hearing until Monday, June 25 at 6 pm in Council Chambers at City Hall concerning the Carolina Treetop Challenge, LLC.

Agenda Adjustments:

Mayor Michael notated the following agenda adjustment:

1. Special Event Permit approval at the end of new business.

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

Mr. Lance Howell, 1910 West Main Street, To request Reimbursement of Water Charges due to Excessive Water Usage due to Leak

Mr. Howell came before Council and stated that his utility bill with water, sewer and electric is normally around \$65/month for this location. He stated that if Council reviewed his utility bill, his water usage is normally 0-10 cubic feet each month but for May 2018 the usage was 9880 cubic feet when the leak occurred. He stated that there is a bathroom in the building and outside faucets. He thinks maybe someone turned on the faucet and let it run for a while. Mr. Howell spoke with Customer Service Coordinator Scott Hopkins who said the meter is not running and after checking, there seems to be no leak. Mr. Howell reviewed his sales receipt where he purchased parts to repair the commode. The utility bill is now back to 0 water usage and the amount is what it normally is each month for June.

Upon questioning, it was noted that this is an empty commercial building that use to be a bank.

The City Manager stated that this property would not qualify for a reimbursement if the commode was leaking. The City Manager stated that May 2018 his water billing's total was \$523.07 with the water portion being \$252.91 and the sewer portion being \$270.16. Removing half the water bill and half the sewer bill would remove \$261.54 from the bill, leaving \$261.53 remaining. Removing half the water and

all of the sewer bill would remove \$396.62 of the \$523.07 total bill, leaving only \$126.45 for Mr. Howell to pay for the May bill.

Upon a motion by Councilmember Dry, seconded by Councilmember Whitley, and unanimously carried, the City Council approved the removing of 100% of the excess sewer and 50% of the excess water usage for a total of \$396.62 of the May water and sewer bill leaving, \$126.45 for Mr. Howell to pay for his May monthly bill for the May 2018 billing.

The Mayor stated that Council had a copy of the monthly departmental reports for May in their agenda packets and asked if anyone had any questions.

The Mayor stated that Council had a copy of the municipal calendar in their agenda packets and asked if anyone had any questions. Councilmember Hughes noted that the calendar for the regular session meeting should be changed to 7 pm for September.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend, and unanimously carried, the City Council approved moving item 20 under New Business – Information – Curbside Recycling Cost Adjustment forward to discuss before the 2nd reading of FY 2018-19 Budget.

Information - Curbside Recycling Cost Adjustment

The City Manager noted that the City will receive a 66-cents per household per month price increase from Waste Management beginning July 1. The facility where Waste Management had been taking our recyclables and those of the municipalities they collect in the region, is no longer accepting the material. As a result, Waste Management is hauling to a facility in Winston-Salem. The increase of 66-cents is based on the number of collection points and the volume of recycling collected. The increase is a straight pass through of the additional cost.

The City Manager noted that this was the basis for Council discussion of this very issue at the May 15 budget work session. Also, Waste Management has confirmed once again at his request that no other local facility will accept the

recyclables. The City's June utility bill stuffer does contain information on proper recycling practices to help residents understand what they should and should not place in the recycle bin.

The City Manager stated that the City will absorb the \$.66 increase in the next FY 2018-19 budget before any increase is made to our customers.

The Mayor and City Council consider Ordinance 18-22 on second reading, to approve the FY 18/19 City of Albemarle Budget.

Upon a motion by Councilmember Townsend, seconded by Councilmember Dry, unanimously carried, the City Council approved the FY 2018-19 budget on second reading:

(Ordinance 18-22. To approve the FY 2018-19 Budget.)

New Business

Consider a Utility Relocation Agreement with NCDOT for the Electrical Distribution System to Support the NC 24/27 Widening Project

The City's electrical consultant, Southeastern Engineering, has been working with NCDOT during this process to develop the utility relocation plans for the electrical distribution system located within the construction corridor of the project. The utility relocation plans for the electrical distribution system have progressed to the point that NCDOT has approved them and is prepared to enter into a Utility Relocation Agreement with the City.

The estimated cost for relocation of the electrical distribution system is \$4,867,667.50. The Engineering Consultant and City personnel have negotiated with NCDOT and secured an agreement that the total cost of the relocation will be fully reimbursed by the NCDOT.

It was noted that this project was not budgeted for within the FY18-19 operations budget. Due to the scope and extent of the project it is anticipated that costs for the project will be included and tracked within a Capital Project Ordinance. The City will need to purchase equipment and materials and have them staged in advance to support the actual construction work and be reimbursed for these cost as the work is completed.

Public Utilities recommends that Council approve the Utility Relocation Agreement with the NC Department of Transportation for relocation of the electrical distribution system along the corridor of the proposed widening project of NC 24/27 (NCSHP 34446.2.6; TIP R-2530B) and further authorize the Mayor and/or City Manager to execute said agreement and other instruments as may be associated with the execution of the project.

Upon a motion by Councilmember Bramlett, seconded by Councilmember Hall, unanimously carried, the City Council approved the Utility Relocation Agreement with the NC Department of Transportation for relocation of the electrical distribution system along the corridor of the proposed widening project of NC 24/27 (NCSHP 34446.2.6 ; TIP R-2530B) and further authorize the Mayor and/or City Manager to execute said agreement and other instruments as may be associated with the execution of the project and the total cost of the relocation will be fully reimbursed by the NCDOT.

2) Upon a motion by Councilmember Hall, seconded by Councilmember Hughes, and unanimously carried, the City Council approved the following Resolution:

(Resolution 18-11. To adopt a new Electric Rate Schedule for FY 2018-19.)

3) Upon a motion by Councilmember Hall, seconded by Councilmember Townsend, and unanimously carried, the City Council approved the following Resolution:

(Resolution 18-10. To update the personnel policy to adjust for a COLA increase of 1.7% for employees starting July 1, 2018.)

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

(Resolution 18-09. To update the Planning Development Services Fee Schedule.)

5) Upon a motion by Councilmember Townsend, seconded by Councilmember Aldridge, and unanimously carried, the City Council approved the following ordinance:

Ordinance 18-26. To amend the FY 2017-18 Section 8 budget.)

6) BOARDS/COMMISSIONS

The Mayor asked that City Council reviewed the board rosters and appointments that need to be made and any vacant slots that need a new appointment and be ready to make decisions at our July 9 meeting. The board members even after their term expires are okay to serve until we make the necessary appointments.

Planning and Development Services Director wants Council to consider possibly merging the Planning Board and Board of Adjustment.

Consider Approval for Special Event Permit - Forest Hills Independence Day Parade on Wednesday, July 4 between 10:30 and 12 noon

Upon a motion by Councilmember Dry, seconded by Councilmember Whitley, and unanimously carried, the City Council approved a special event permit for the Forest Hills Independence Day parade on Wednesday, July 4 between 10:30 and 12 noon closing Azalea Drive and Park Avenue from Sixth Street to Ninth Street. They did not request a waiver of fee.

Consider Approval for Special Event Permit – Tour de Elvis 5K Run and Block Party on Friday, July 27 beginning at 2:00 pm Downtown and Cycle Tour Saturday, July 28 beginning at 2:00 pm with street closures

Upon a motion by Councilmember Aldridge, seconded by Councilmember Hall, and unanimously carried, the City Council approved a special event permit for Tour de Elvis 5K Run and Block Party on Friday, July 27 beginning at 2:00 pm

Downtown and Cycle Tour Saturday, July 28 beginning at 2:00 pm with street closures and Council waiving application fee.

Consider Submission of Advocacy Goals to the NC League of Municipalities

The City Manager noted that the City has until August 1 to submit goals to the NCLM for their biennial Advocacy Goals Conference. This year the Conference will be held on November 28, at the Raleigh Convention Center. League members submit their ideas to the League policy committees for study and consideration. These committees make a recommendation to the NCLM Board of Directors, who then submits a package of goals to the League membership for review.

The City Manager stated that something Council may want to consider is the submission of a request to promote a 1/4-cent sales tax referendum to support municipal road/street improvements, as Powell Bill Funding is not sufficient to cover needs. Under the current system, it is up to municipal residents to fund any amount above Powell Bill funding to improve roads that are available to anyone in the public. We have recently adopted a resolution supporting the ability to hold a referendum, and he can easily submit this as a goal for debate and consideration as part of the NCLM Advocacy Goals process if Council so desires.

Information - Report on Sales of Surplus Property regarding sale of assets and surplus property during the fiscal year 2017-2018.

Information - Public Input Session on STIP 10-year Improvement Plan

The Division 10 meeting will be held on June 19 from 5 - 7 pm at Stanly Commons. Councilmember Hall and Whitley confirmed their attendance.

Councilmember Whitley stated that he will speak with Dana Stoogenke with the RPO concerning the priority of NCDOT projects. The RPO can submit up to 18 projects to NCDOT.

Information - The Albemarle ABC has made and After Profit Distribution to the City

The City Manager noted that the \$50,000 check to the City is above and beyond the monthly \$20,000 we receive from the Albemarle ABC Board.

Consider Approval for Special Event Permit – Butterfly House Fundraiser on Colonial Drive on Friday, July 27 from 7-9 pm

They are requesting the closing of Colonial Drive from Northridge to Melchor. It was noted that they do not have the ABC permit yet. This approval is contingent on all permits required being approved.

Upon a motion by Councilmember Aldridge, seconded by Councilmember Hall, and unanimously carried, the City Council approved Councilmember Hughes a special event permit for the Butterfly House Fundraiser on Friday, July 27 from 7-10 pm and to close a portion of Colonial Drive from Northridge to Melchor contingent upon all permits being approved.

Upon a motion by Councilmember Dry, seconded by Councilmember Hall, and unanimously carried, the City Council approved Councilmember Hughes as acting clerk for a closed session pursuant to N.C.G.S. 160A-318.11 (6) - Personnel.

Councilmember Hall asked Public Works Director Ross Holshouser for an update on the leachate project on Stony Gap Road. Mr. Holshouser stated that they are still working on this project and there is an update on the May Monthly Reports for Public Works.

Councilmember Hall stated that she had messaged Planning and Development Services Director Kevin Robinson that one of the deteriorated houses located at 110 Park Ridge Street had the roof collapse.

Councilmember Hall also stated that when speaking with the City Manager he had not received an answer in writing from NCDOT concerning lowering the speed limit on 1st Street.

Councilmember Hall stated that the ADDC volunteer appreciation dinner is next Tuesday, June 19.

Councilmember Dry stated that the building where Falling Rivers Gallery was located is being sold. They are looking for a good location to be in possibly downtown.

Councilmember Whitley reminded everyone of the continuing education workshop held by the Planning and Development Services Department will be Tuesday, June 12 at 6 pm.

Councilmember Bramlett stated that there will be a statewide cleanup for neighborhoods in September. He would love for Albemarle to participate with all our citizens.

Upon a motion by Councilmember Hall, seconded by Councilmember Whitley, and unanimously carried, the Mayor and City Council adjourned to a Closed Session Pursuant to N.C.G.S. 160A-318.11 (4) & (6) – Economic Development and Personnel.

Upon a motion by Councilmember Hall, seconded by Councilmember Bramlett, and unanimously carried, the Mayor and City Council reconvened to open session.

Mayor Michael announced the need to discuss City of Albemarle v. Chucky Nance, et al in closed session.

Upon a motion by Councilmember Hall, seconded by Councilmember Bramlett and unanimously carried, the Mayor and City Council adjourned to a Closed Session Pursuant to N.C.G.S. 160A-318.11 N.C.G.S. 160A-318.11(3)(4) & (6) – City of Albemarle v. Chucky Nance, et al, Economic Development and Personnel.

Upon a motion by Councilmember Hall, seconded by Councilmember Bramlett and unanimously carried, the Mayor and City Council returned to open session. Mayor Michael announced that a closed session was held Pursuant to N.C.G.S. 160A-318.11(3)(4) & (6) – City of Albemarle v. Chucky Nance, et al, Economic Development and Personnel and there was nothing to report at this time.

Mayor Michael and the City Council discussed a request they received from Mr. and Mrs. Wormley for a utility extension for their property on Lakeview Drive in Albemarle. The City has seen evidence of a water leak or extreme water usage. The owners are out of town and will not be present to meet with a plumber until the end of July and are therefore seeking a utility extension beyond the published policy.

It was the consensus of the City Council to provide an extension until the property owners can be present which is estimated to be approximately July 27.

Upon a motion by Councilmember Hughes, seconded by Councilmember Dry, unanimously carried, the meeting was adjourned until Monday, June 25, at 6:00 pm for an adjourned session meeting.