

REGULAR MEETING CITY COUNCIL
July 16, 2012

The City Council of the City of Albemarle met in a regular session on Monday, July 16, 2012, at 5:30 p.m. in the City Hall. Mayor Elbert L. "Whit" Whitley presided, and the following Councilmembers were present to-wit: Troy E. Alexander, Martha Sue Hall, Judy Holcomb, Ronnie Michael, Jack F. Neel, Dexter Townsend, and T. Ed Underwood. Absent, none.

Mayor Whitley called the meeting to order.

The Mayor presented awards received from the N. C. Department of Labor for Outstanding Work in Accident Prevention.

First Year Silver Award - Fire Department
First Year Gold Award - Administration, Community Development,
Engineering & Housing
Fifth Consecutive Year Award - Parks and Recreation

The gold award criteria is based on achieving a rate of days away from work, job transfer or restriction that is at least 50 percent below the industry rate. The silver award criteria includes lost workday cases but not restricted work activity, and the rate for days away from work must be 50 percent below that industry rate.

Upon a motion by Councilmember Underwood, seconded by Councilmember Townsend and unanimously carried, the minutes of the July 2 regular session and July 2 closed session minutes were approved as submitted.

Ms. Pamela Smith and Ms. Rikki Baldwin came before Council to request the closing of streets for an August 18, 2012 Back To School Gospel Fest. They are requesting the closing of Wall Street from MLK, Jr. Drive to Lundix Street and the closing of Gibson Street from Wall Street to Colston Street on

Saturday, August 18 from 9 am until 5 pm. This event is sponsored by Mt. Zion Baptist Church located at 401 Wall Street.

Upon a motion by Councilmember Townsend, seconded by Councilmember Holcomb and unanimously carried, the City Council approved the closing of Wall Street from MLK, Jr. Drive to Lundix Street and the closing of Gibson Street from Wall Street to Colston Street on Saturday, August 18 from 9 am until 5 pm for an August 18, 2012 Back To School Gospel Fest.

Mr. Richard Almond came before Council as an unannounced delegate to speak on behalf of the Ashley Heights and Woodcrest Subdivision concerning the proposed speed limit change from 45 mph to 35 mph on a portion of Snuggs Parks Road. He stated that he had a petition of 73 signatures opposing a speed limit of 35 mph for the entire street of Snuggs Park Road. He stated that there is a 1.1 mile stretch on this road with no homes and he feels as well as the neighborhood, that a 45mph speed limit would be fine for this area of Snuggs Park Road. He requests that only the 35 mph speed be brought south as far as where there are residential homes and then revert back to 45 mph from a point around 1000 ft south of Crestview Drive to Snuggs Street.

Councilmember Holcomb moved that starting at Crestview Drive going 1000 feet south this portion become a 35 mph speed limit, and from that point South the remainder of the road to Snuggs Street be 45 mph, adding reduce speed ahead signs. The motion was seconded by Councilmember Underwood. Voting for the motion were Councilmembers Alexander, Hall, Holcomb, Michael, Townsend, and Underwood. Voting against the motion was Councilmember Neel. The motion carried.

Mayor Whitley noted that the monthly administrative reports were in the agenda package.

The Mayor and City Council reviewed the minimum housing code enforcement activities on the Kearns Property at 1006 Efird Street. Centralina COG has confirmed that all required legal notice requirements were met in this case.

Ms. Kearns came before Council and handed out a copy to Council of the methods of service of complaints and orders and also a snapshot of a legal ad page from the Stanly News and Press of August 14, 2011, showing the Findings of Fact and Order of August 5, 2011 concerning their property at 1006 Efird Street.

It was noted that at the last meeting David and Cheryl Kearns appeared and indicated that they did not receive legally required notification in this process and were unaware of the outcome of the minimum housing code enforcement on their property. Assistant City Manager Michael Ferris and Director of Planning & Community Development Keith Wolf at that time provided an overview of this situation and answered questions. The Mayor and City Council requested that Mr. James Luster with Centralina COG appear at the July 16th meeting to discuss the various steps taken in this process, notifications, form of notification and statutorily required steps. Mr. Luster informed staff that he could not attend the July 16 meeting due to a prior commitment to attend the governing board meeting of another jurisdiction in the region.

Assistant City Manager Michael Ferris came before Council and stated that Mr. James Luster and Central Centralina of Governments (COG) has confirmed that all required legal notice requirements were met in this case. The Complaint and Notice of Hearing (C&N) was dated July 19, 2011, mailed certified, and the "Green Card" confirming receipt of the C&N was signed by Mrs. Cheryl C. Kearns on July 21, 2011. The hearing was held on August 3, 2011 and both Mr. David Kearns and Mrs. Cheryl Kearns attended the hearing. The FFO was dated August 5, 2011, mailed certified, and the "Green Card" confirming receipt of the Finding of Fact and Order (FFO) was signed by Cheryl C. Kearns on August 13, 2011 and copies of the Green Cards were received and viewed by City Council.

Councilmember Hall moved that Mr. and Ms. Kearns be given until August 13, 2012 instead of the original 30 day notice until July 31 to remove items from inside the structure at 1006 Efird Street. Councilmember Michael seconded the motion. Voting for the motion were Councilmembers Alexander, Hall, Michael, and Neel. Voting against the motion were Councilmembers Holcomb, Townsend, and Underwood. The motion carried.

The Mayor and City Council discussed home internet service options for Elected Officials. This item was layed over from the July 2 meeting. Council had requested the options be evaluated at a recent budget work session. Council

received a memo from Assistant City Manager Michael Ferris reviewing the options and issues.

The City Manager reviewed the options for Council to consider as follows:

- 1) The City to continue providing home internet service to those Councilmembers wanting this and a stipend to the other Councilmembers or
- 2) Stipend to all Councilmembers

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb and unanimously carried, the City Council approved the City continuing to provide home internet service to the Mayor and all Councilmember's using Time Warner Cable or to provide a stipend to those elected officials who choose this option.

Upon a motion by Councilmember Michael, seconded by Councilmember Hall, and unanimously carried, an Ordinance entitled (Ordinance 12-24) "AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE RELATING TO THE TERMS OF THE MEMBERS OF THE ALBEMARLE HISTORIC RESOURCES COMMISSION" passed 1st reading.

The Mayor and City Council discussed appointments to City Boards and Commissions.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood and unanimously carried, the City Council approved delaying the remainder appointments for the Community Appearance Commission and the Historic Resources Commission until after the joint board meeting with the Planning Board and Board of Adjustment on Wednesday, July 18 at 6:30 pm.

Upon a motion by Councilmember Hall, seconded by Councilmember Alexander and unanimously carried, the following Ordinance passed second reading and was duly adopted:

(Ordinance 12-23. To amend ordinance relating to the terms of the members of the Parks and Recreation Advisory Board.)

The Mayor and City Council considered a contract for engineering services for relocation of 30" waterline for DOT project. This project is required because of the replacement of the bridge over Curl Tail Creek on NC Hwy 49 by NCDOT and will require the relocation of approximately 600 feet of 30-inch water line.

It was noted that beginning March 2013, NCDOT will no longer pay for the engineering costs for relocating utilities in the right-of-way of any projects. They will allow public utilities to contract and construct relocations instead of NCDOT relocating them and billing the City.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved a contract for engineering services with Chambers Engineering for relocation of approximately 600 feet of 30-inch waterline required in the amount of \$245,942.00 due to the NCDOT project replacement of the bridge over Curl Tail Creek on NC Hwy 49.

Councilmember Hall moved to pass Ordinance 12-25 as amended to specify the 35 mile per hour zone would extend to 1,000-feet south of the intersection of Crestview Drive. The motion was seconded by Councilmember Underwood. Voting for the motion were Councilmembers Alexander, Hall, Holcomb, Michael, Townsend, and Underwood. Voting against the motion was Councilmember Neel. The motion carried and the following Ordinance passed first reading, as amended (Ordinance 12-25, "AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, PROVIDING THAT ITS CODE OF ORDINANCES BE AMENDED BY DELETING SNUGGS PARK ROAD FROM CHAPTER 77: ALBEMARLE- TRAFFIC SCHEDULES-SCHEDULE XII: FORTY-FIVE MILE PER HOUR SPEED LIMIT, CITY STREETS")

Councilmember Neel stated that he is opposed to the amended motion because he feels that the ordinance should remain as it was originally by making Snuggs Street to Crestview Drive 35 mph.

Upon a motion by Councilmember Hall seconded by Councilmember Neel, and unanimously carried, an Ordinance entitled (Ordinance 12-26) "AN ORDINANCE TO PROHIBIT SMOKING AND THE USE OF OTHER TOBACCO PRODUCTS ON GROUNDS OF THE CITY OF ALBEMARLE'S PARKS SYSTEM AND IN BUILDINGS LOCATED IN THE CITY OF ALBEMARLE'S PARKS SYSTEM" as amended adding the effective date of September 15, 2012, passed first reading.

The Mayor and City Council reviewed a conditional use permit for a pool hall at 134 NC 740 Hwy. On May 2, 2011 the Planning Board considered revoking the Conditional Use Permit at 134 NC 740 Hwy, because of problems at that location under a previous management. It was noted that the CUP was not revoked and the owner and new management assured the Planning Board that the new business, Lucky Shot Billiards, would be operated in such a manner that serious problems would not reoccur.

Upon questioning, Chief of Police William Halliburton stated that the number and type of responses reported by the Police Department do not warrant a revocation of the Conditional Use Permit. The Planning Board approved a second motion to recommend that further annual review of this location does not appear to be necessary.

It was the consensus of the City Council that no action further actions be taken concerning the Conditional Use Permit and that no further regular reviews be held.

The Mayor and City Council considered a request of Lifters Gym to be eligible for City employee membership program. It was noted that currently, only two fitness facilities, Stanly County Family YMCA and Gold's Gym, are eligible for the City program where half of the membership cost is paid by the City based upon minimum participation rates.

Councilmember Michael asked Council if this would be consider a conflict of interest with one of the owners of Lifters Gym working for the City. The City Manager stated that since Mr. Chad Taylor (City employee/owner of Lifters Gym) does not have decision making capability on whether we choose this gym as a City employee membership program it would not be a legal conflict of interest.

Councilmember Holcomb stated that no one should profit from the City on any business they own.

City Attorney David Beaver stated that the City Manager's assessment is correct.

Councilmember Alexander moved that City Council approve adding Lifters Gym as a City employee membership program which is a full service facility based on its facilities and programs where half of the membership cost is paid by the City based upon minimum participation rates. Councilmember Townsend seconded the motion. Voting for the motion were Councilmembers Alexander, Hall, Michael, Neel, Townsend and Underwood. Voting against the motion was Councilmember Holcomb. The motion carried.

The Mayor and City Council reviewed the NC League of Municipalities legislative and regulatory goal proposals. These proposals are required to be submitted by August 31, 2012 for the January 24, 2013 Advocacy Goals Conference.

The City Manager stated that this is an opportunity for Council to add goals that are not presently on the list for the League to consider.

Councilmember Hall stated that she would like to have a copy of what goals have been approved so far by the League to get an idea of what is being considered across the state.

Mayor Whitley asked that the City Manager follow through on this matter.

The Mayor and City Council received information concerning 401 Lincolnton Street, 412 Colston Street and 1222 Lundix Street. These three vacant

and abandoned structures were demolished in June as part of the City's Minimum Housing Code Enforcement process.

The Mayor and City Council reviewed information concerning a request that City relinquish its rights to the unopened right of way of North Sixth Street between East Oakwood Avenue and East Cannon Avenue. Council received a letter written by City Attorney David Beaver to Mr. Andrew Laucher, 504 East Cannon Street for Council's review concerning the unopened right of way of North Sixth Street between East Oakwood Avenue and East Cannon Avenue.

The City Manager stated that this item does not need to be voted on and is for information only. The letter was mailed from the City Attorney's office.

The Mayor and City Council reviewed a Thank you letter from Forest Hills Parade Committee.

Councilmember Michael asked that the City Manager contact other cities to see how they handle their board appointments and how they find out information of each one volunteering for service.

Council Hall stated that she still likes the idea of the City being open to individuals applying who want to volunteer their service as we have now and the City being open to the community.

Councilmember Hall asked where the Council stands concerning the Just Us Kids program. The City Manager stated that this item is being held over until the August 6 meeting at the request of City Council.

Councilmember Hall asked the City Manager about what information was gathered concerning Market Station becoming tobacco

free. The City Manager stated that he will talk with Director Kathy Almond and get back with Council.

Upon a motion by Councilmember Alexander, seconded by Councilmember Underwood and unanimously carried, the Mayor and City Council adjourned to a Closed Session Pursuant to NCGS 143.318.11(a) 5 to discuss a real estate transaction.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hall and unanimously carried, the Mayor and City Council reconvened to open session. Mayor Whitley announced that a Closed Session was held Pursuant to NCGS 143.318.11(a) 5 to discuss a real estate transaction, and stated that there is something the Council needs to vote on at this time.

Councilmember Hall moved that City Council approve the purchase of a 105 acre tract of land owned by Millingport Farms, LLC and Mr. Allen Bowers located adjoining the City landfill on the west side. Councilmember Neel seconded the motion. Voting for the motion were Councilmembers Alexander, Hall, Michael, Neel, Townsend and Underwood. Voting against the motion was Councilmember Holcomb. The motion carried.

Upon a motion by Councilmember Alexander, seconded by Councilmember Underwood, and unanimously carried, the City Council adjourned to Wednesday, July 18 for a joint meeting with the Planning Board and Board of Adjustment at Rosebriar Restaurant at 6:30 pm.