

ADJOURNED MEETING CITY COUNCIL
July 14, 2020

The City Council of the City of Albemarle met in an adjourned session focusing on reviewing a revised personnel handbook with updated and new personnel policies on Tuesday, July 14, 2020 at 6:00 p.m. in City Council Chambers of City Hall. Mayor Ronnie Michael and the following Councilmembers were present, to-wit: Mayor Pro Tem Martha Sue Hall, and Councilmembers Chris Bramlett, Martha E. Hughes, Shirley E. Lowder, Dexter Townsend, Christopher Whitley, and Bill Aldridge.

Also present were the following City of Albemarle staff:

- Michael J. Ferris – City Manager
- Nyki Hardy – Assistant City Manager
- Britt A. Burch – City Attorney
- Cindy Stone – Clerk/Assistant to the City Manager
- Dana Chaney – Human Resources Department Director
- Mark Donham – Economic Development Director
- Chief Pierre Brewton – Fire Department
- Jacob Weavil – Assistant Finance Director
- Lee Staton – Public Housing Department Director
- Owen Squires – Information Systems Department Director
- Lisa Kiser – Parks and Recreation Department Director
- Kevin Robinson – Planning and Development Services Director
- Chief David Dulin – Police Department
- Judy Redwine – Public Utilities Department Director
- Ross Holshouser – Public Works Department Director

Facilitating the session were HR Director Dana Chaney and OneDigital Senior Human Resources Consultant Marieta Smith.

The Mayor called the meeting to order.

Introduction and Meeting Overview

Ms. Chaney began the meeting with an overview. OneDigital was contracted to draft a new personnel policy document with input from HR and senior Administration. The City wants to grow in a positive way, and part of that process is improving personnel recruitment. To that end, HR has updated recruitment materials and has utilized the term “Shaping Our City” coined by the Leadership Team. She also sees the process of improving employee recruitment and retention as a partnership between City Council and staff.

Moving forward, the City aims to recruit and retain employees who are:

- Highly skilled;

- Committed;
- Innovative;
- Ethical; and
- Responsible

Other revamps to the City's approach to employee recruitment, hiring, and retention include: the desire for equitable systems in hiring; emphasis on training, performance, and compensation; equal opportunity to grow and advance; and inclusion of a wide variety of voices (like the Employee Action Group).

The reasons to revise the personnel policies/handbook include: holding ourselves accountable; shifting from hard-to-read policies to an employee handbook to facilitate conversations between leadership and staff; a focus on the City's values; simplification of policies; and creation of positive partnerships.

The personnel policies revision/employee handbook creation process began in December 2019. In the interim, the Employee Action Group reviewed drafts twice, and the City Management Team and the City Attorney reviewed drafts in February.

The objectives of the personnel policies revision/employee handbook creation process were to create a living document, seek leadership input, and to provide a new voice. The Employee Action Group added the need for simplified policies, better accessibility to these policies by making it more widely available, a need to educate supervisors on personnel policies, and the creation of multiple formats.

Presentation and Discussion of Employee Handbook

OneDigital consultant Marieta Smith came forward to provide a summary of the changes to personnel policies and the composition of the employee handbook. She noted that OneDigital approached this project with the following foundation for changes: consistency, compliance, clarify organization, and a thematic approach.

The first section, "Welcome/Leadership & Values" was developed to set the tone in the handbook. Looking at the listing of policies, she noted that there are 21 new policies and 15 policies that were existing already but were updated to align with current HR trends and the City's new approach to employee recruitment/retention/promotion.

Ms. Smith noted that the updated "introductory period" (rather than "probationary period") policy would no longer include a pay increase after successful completion of that time. The Mayor asked why the pay increase would no longer be offered. Ms. Chaney replied that this cost would be brought up front in the recruitment salary/hourly pay range so as to make the City more competitive up front.

The overtime and compensatory time policy has been updated. The maximum allowable accrued compensatory time has been reduced in order to bring it in line with other municipalities and to reduce this financial liability. For the tuition assistance policy update, the tuition cap has been removed. For the update to the bereavement policy, Ms. Smith noted that extra leave time was introduced so as to avoid an employee using sick time. For the reinstatement and rehiring policy update, OneDigital is

recommending that the time to rehire after leaving City employment be reduced from 365 days to 180 days. A question was asked about the timeframe between leaving and being rehired in order to maintain previous tenure and compensation levels. Ms. Smith replied that would be 6 months.

Ms. Chaney brought up the rewrite of the residency requirement policy to explain the background for the change. Originally HR went to North Carolina League of Municipalities (NCLM) to have the personnel policies reviewed. NCLM noted that the City's residency requirement was a dated one, and that municipalities across the state in general have gotten rid of it. When the City asked for an explanation, NCLM stated that this policy could be seen as discriminatory. Per Ms. Chaney this recommendation to remove this policy aligned with HR's desire to be able to tap into a larger regional pool. The Mayor asked if there would be anything to replace the policy. Ms. Chaney replied that she would recommend a mileage radius requirement instead if Council wanted to retain an alternative to the residency requirement.

Ms. Smith continued her summary of changes. For the Appendices, the salary information chart was removed and placed into a separate document. Appendices added include a statement page confirming receipt of the handbook; a drug and alcohol free workplace statement to be signed; a statement on harassment to be signed; and a blank telework agreement form.

The handbook would be made available in print and electronic formats, and would be distributed to supervisors first as part of a roundtable training session. Then supervisors would be expected to guide their direct reports in reviewing and understanding the handbook.

The presentation concluded with Ms. Chaney opening up the floor for questions from Council and discussion on anything presented. Council initiated a Q&A and discussion around the proposed residency requirement policy change. The following members of Council expressed their views:

- Mayor Pro Tem Hall: Employees should be part of the community here, especially in relation to leadership positions. They should be able to get here on a timely basis if needed.
- Councilmember Bramlett: The City should consider extending the range of the residency requirement to living within the county, and make it applicable to all employees.
- Mayor Michael: Department heads need to live in the county at least.
- Councilmember Aldridge: I would rather have committed department heads living 30 minutes away than one living in town who couldn't care less about the City.

Ms. Smith replied that maintaining a residency policy could open the City up to a civil suit in a scenario where two equally qualified candidates were up for a position and the City decided to go with the one who lived closer to the City. Ms. Chaney followed by stating that she was aware of Council's position on this policy and therefore conducted research with comparable regional municipalities such as Davidson, Mooresville, and Salisbury. None of these municipalities still had a residency requirement.

City Manager Michael J. Ferris addressed Council. Due to a number of retirements on the leadership level over the last few years, he acting as City Manager has had to hire almost all director-level positions. Based on this experience he noted that he weighted a candidate's commitment to the position and a desire to work for the City of Albemarle more than where they lived in relation to

Albemarle. By going through this experience frequently in a short period of time, he has changed his perspective on the issue.

Councilmember Bramlett noted that due to the refusal of medical personnel to reside near Atrium Health Stanly or even in Stanly County over the years has left the hospital community in shambles. It doesn't look good if the leadership team does not live locally.

A counter perspective was voiced by Planning and Development Services Department Director Kevin Robinson and Public Works Director Ross Holshouser. The City will lose talent if it is decided to impose location restrictions on "rank and file" positions. Councilmember Townsend commented that for "rank and file" positions, a "cream of the crop" approach would be warranted, but for the department head positions, living an hour away could be problematic.

Ms. Chaney brought the discussion to a close by offering to look at other municipalities for department head level residency requirements. She suggested to Council based on comments thus far that the "mileage radius" requirement, once approved by Council, would be added into job descriptions. Ms. Smith recommended that targeted verbiage related to this shift in residency requirement be added to the handbook, along the lines of the message that "residency within a mileage radius of ____ miles from the City of Albemarle is recommended."

The Mayor agreed with Ms. Chaney's planned next steps and noted that Council would like to see different options to address the residency requirement issue at a later meeting. Further discussion on this policy was tabled.

Moving on to other policy changes, a question was asked about the social media policy. Would this policy apply if an employee was on or off the clock? Ms. Chaney replied that the policy would apply while an employee was on shift. How would that be monitored? For example what if an employee checked social media while on break? This would become a performance issue to be addressed. An objection was raised: we don't have the manpower to monitor this. Ms. Chaney replied that a way the City could address this is if an employee openly noted that they were employed by the City of Albemarle, and then posted on or accessed social media that was inappropriate, then the City would have standing to address the situation. However there would have to be consideration for freedom of speech. For instance, expressing one's political views on a social media forum would be appropriate, but making a disparaging comment about the job, a co-worker, and/or a boss would not be ok.

A question was asked about the difference between the composition of the Employee Action Group and the leadership team. The Employee Action Group is made up of employees representing every department. Members of this group are asked to serve. The leadership team is comprised of the department heads, along with the City Manager and Assistant City Manager.

How strong is the 6-month introductory period? It is consistently applied across the City, however we need to standardize it per review moving forward. The exceptions are Police and Fire positions, which are one year in length.

For the drug and alcohol free workplace policy change, if an employee was charged with a drug or alcohol-related offense, would he/she have to report this to HR? Ms. Chaney replied that if a background check is done prior to hire then the City may not need this policy. In terms of the wording of

the policy, the phrase “Drug testing may be required...” is an example of attempting to be expansive on this issue. The City chose to leave the phrasing “may be required” instead of “will be required.”

A question was asked about the number of exempt and nonexempt employees per the Fair Labor Standards Act (FLSA). Per Ms. Chaney about 85% of City employees are nonexempt. Traditionally only department heads, upper administration, and some superintendents have held exempt positions. HR, as part of the compensation study to be implemented later this year, will gauge each position against the FLSA checklist to review those which may have the opportunity to shift from nonexempt to exempt.

Councilmember Lowder commented that compensatory time accrual could be a sticky issue. It can be vague, and there is the possibility that an employee feels that more time is owed them. Ms. Chaney replied that there will be more of an effort to encourage employees to take the comp time close to the date when they earned that time. She also noted that in the updated policy in the new handbook the comp time hours will be capped at 120 hours, which is a reduction from current comp time accrual policy.

A question was asked about the intersection of the inclement weather and telework policies. If there is inclement weather, could an employee telework? Yes that could occur, given that the position allows for remote working and that the employee has a telework agreement in place.

There were multiple questions about the change in the bereavement policy. What if an employee wants to use bereavement time for the death of a coworker – does that employee need to belong in the same department as the deceased in order to use bereavement time? No – any employee can use this time regardless of their departmental affiliation in relation to the deceased coworker’s departmental affiliation. Would this time include memorial visitation? No it would not. Councilmember Townsend suggested for the statement that 1 day of bereavement leave will be given to employees for other relatives than those noted under the 3-day rule, the statement should have limitations or should be removed.

A question was asked about how performance appraisals would be conducted moving forward – would they focus on strengths as well as weaknesses? Ms. Chaney replied that the goal would be to train supervisors to have a balanced discussion with direct reports during appraisals. From the feedback they have received they are aware that employees typically want to know how to improve.

Does the City have a nepotism policy? No but we do have a conflict of interest policy.

Mayor Pro Tem Hall commented that due to Council’s approval of the compensatory study to be conducted this fiscal year, Council should be aware in planning the next fiscal year budget that revenue will be needed to cover any recommended salary adjustments. Council is married to the idea of funding this though. She also suggested that staff be mindful of spiking salaries and upcoming retirements per the recent guidance that came out.

Ms. Chaney summarized the action steps she understands needs to occur based on the discussion so far: 1). Research and bring back options for the residency requirement; 2). Strategize how to address the reinstatement policy issue with returning employees; and 3). Make minor employee handbook edits.

Councilmember Lowder told Ms. Chaney that she did a good job.

A question was brought up about the Dress Code and Public Image policy in the handbook. It is hard to legislate what people wear. Should consideration be given to slightly amending the wording of the policy? For instance in the second paragraph where it mentions jewelry, what if an employee has piercings in untraditional locations? How would that be addressed? Or a neon hair color or tattoos? Councilmember Townsend observed that the policy can't be too specific, and that specific application of the policy should be reserved for performance reviews. Ms. Chaney agreed that it would be the realm of a supervisor to have a conversation with an employee about this issue in order to address any problems.

There was further discussion as to the role the employee plays in the City and how the policy could be applied (i.e., a public facing employee vs. employees out in the field and public expectations of dress and appearance). Ms. Smith replied that the language in this section could be reworked. Councilmember Bramlett noted that documentation of actions by a supervisor is critical in case there a disagreement between a supervisor and employee, or the supervisor needs to take action to address the issue. Ms. Smith agreed that there at least should be a consistent application of policies by supervisors.

The Mayor asked if departmental policies (i.e., Police and Fire) can do more re: policy stance or position on a given topic than the standard personnel policies. Ms. Smith responded that they could be more specific or restrictive, but they should not be in conflict with the general City Employee Handbook or City personnel policies.

The presentation/discussion concluded. Ms. Smith left the meeting.

UNFINISHED BUSINESS

Consider Bid for SCBA Equipment in the Fire Department

This item was brought forward after being tabled the night before in the regular Council meeting on July 13th. Councilmember Townsend asked for clarification from the City Attorney on whether this situation would fit the General Statutes exception for compatibility issue. City Attorney Britt Burch replied that this bidding process does not meet the exception for compatibility. The functionality of the equipment from the company that offered the lowest bid was differential in relation to the equipment from the highest bidder, but it is not substandard per the specifications.

Councilmember Lowder asked if this purchase was necessary for the Fire Department. City Manager Michael J. Ferris replied that this expense is currently itemized in the budget, and has mostly been paid for from the FEMA grant the Albemarle Fire Department received. Also, the City has planned for this purchase since 2018. Fire Chief Brewton added that the current tanks are due to be out of compliance by fall 2020 (October or November).

Councilmember Bramlett noted that this is a legal issue with two possible avenues: accept the lowest bid, or re-bid. In actuality, Council cannot arbitrarily make another decision. The Mayor asked Council how can you throw this bid out? It was executed properly within the NC General Statutes for bidding. Chief Brewton responded that yes, although the bid process was conducted in accordance with NC General Statutes for bidding, when the Fire Department received bid information they ceded to manufacturers' information when asking for bids, then they were tasked with evaluating the information provided from bidders.

Chief Brewton added that one of the features on which the Fire Department was evaluating equipment, communication among firefighters when on a call and separated from one another, is a critical firefighting function. In its assessments, the Fire Department deemed the lowest bidder's equipment problematic and not efficient in the communication function. That issue becomes dangerous to safety to firefighters.

Councilmember Aldridge asked: did the committee research vendors? Chief Brewton replied that the committee looked at the three vendors who came in with legitimate bids; one bid was disqualified. The committee evaluated the bidders' equipment on performance criteria. The entire department conducted tests on the bidders' equipment as part of the bid evaluation process.

A Councilmember noted that although Council does not want to fund unsafe equipment, if we went through the bidding process and three bidders met the specifications and standards, how can Council now go with the high bid? Chief Brewton replied that it is his responsibility to protect firefighters and community, but also to use City funds responsibly.

A comment was made that if Council makes the decision to go with the highest bidder then it would set a precedent allowing other City departments to not accept the lowest bidder. Councilmember Lowder agreed with this assessment unless more of a rationale was provided to justify the recommendation to go with the highest bidder. Chief Brewton responded that there were several features that were on the highest bid equipment but not on lower bid equipment.

Councilmember Townsend commented that safety features should be included as an exception to the General Statutes for bidding. Then, Council should petition the General Assembly to take up changes to the General Statute.

Councilmember Whitley asked if it was possible to rebid the equipment with different specifications. Chief Brewton replied that if that was done, the Fire Department would then potentially be under suspicion for collusion.

Mayor Pro Tem Hall brought up that she contacted Leslie Mazingo at CCOG and posed the situation to her and then asked if Council were to approve the highest bidder, would the City of Albemarle have to give up funds from the FEMA grant. She noted that she acquired a copy of the FEMA grant and on page 28 of the grant application there is a phrase that the grantee should acquire "the safest equipment available." Ms. Mazingo told Mayor Pro Tem Hall that she did not see any problem with using the grant money for high-bid equipment, but that she wanted to confirm this response with another contact at the UNC School of Government.

City Manager Michael J. Ferris noted that regardless of the fact-finding process to search for alternative actions, there is a clear statutory hurdle to clear first regarding the bid process and NC General Statutes. In addition, the City Attorney has already provided Council with her legal opinion.

Councilmember Bramlett asked if Council could take a contingency action if it was clear legally. The Mayor asked how could that be done? Councilmember Bramlett specified that if Council met conditions as follows then they should consider the highest bid: 1). Obtain a legal opinion on the situation from UNC School of Government; and 2). Obtain written assurance from FEMA that that grant funds would not be taken away if the City decided to go with the high-bid equipment. Councilmember Whitley agreed with Councilmember Bramlett's recommendation.

Councilmember Aldridge commented that Council wants to do the best thing for the Fire Department, but it is also held by law to go with the low bid. He would not want the City to open itself up to litigation from the low-bid vendor. It also would set a troublesome precedent.

The Mayor concluded discussion on this item by requesting that the City Attorney obtain advice from UNC School of Government and follow up with the contacts solicited by Mayor Pro Tem Hall. Further discussion on the item was tabled.

NEW BUSINESS

2005-2006 Flood Study

The Mayor reported that Planning and Development Services Development Coordination Specialist Jay Voyles came upon a 2005-2006 flooding study among his files. Copies were distributed to Council members. In it were multiple recommendations, including the following:

- The NCDOT bridge over West Main Street needs to be enlarged;
- Detention ponds and diversion needed to be added to Montgomery Park.

Now there is a desire to pipe the ditch at Montgomery Park and build detention ponds to address the flooding issue at least in this area. The Mayor thinks that this could be accomplished, but he is not sure of the cost for hiring an engineering firm or for the permits needed to do this. The City would need to hire a contractor with familiarity on how to address flooding. The contractor noted in the study was Buck Engineering, but the city might have to retain another contractor at this point.

Would this potential work at Montgomery Park help the flooding situation at Salisbury Avenue and Highway 52? The Mayor was not sure.

The Mayor also reported that the study had recommended that the cement pillar from the remnants of the bridge on Salisbury Avenue be torn down. That pillar is still standing in the middle of the stream, but NC DENR has given the City permission to take the pillar down. That is something that could be done by City staff.

Another study recommendation was to activate the flooding alert system for the Salisbury Avenue area. Researching this option, it was discovered that the flood alert system for this area was set to low level alert and not high level alert. The Mayor is trying to get into contact with the appropriate agency in order to get the alert settings changed.

Councilmember Bramlett inquired whether the Army Corps of Engineers could be brought in to help. City Attorney Britt Burch responded that she did finally reach a contact there but they referred her to another entity. Should State representatives such as Brian Reynolds be contacted?

Discussion on this item concluded.

Charters of Freedom Update

The Mayor announced that it would likely be mid-to-late September before installation of the Charters of Freedom would begin. Per the agreement with the non-profit which is subsidizing some of the cost of installation, the City needs to fundraise for its portion of the cost. This could be done through a dinner where tickets would be sold, or through the sale of dedication bricks. The Mayor understands that this can be done after the installation is complete, so there still is time to develop a fundraising plan for this.

COMMENTS

The Mayor asked if anyone had any comments.

Mayor Pro Tem Hall:

- Related to COVID19 leave time provided to employees back in March, should Council be proactive to provide additional time? HR Director Dana Chaney responded by stating that considering the dynamics is constantly changing, and that staff is anticipating legislation to address the issue further, the City is taking a “wait and see” approach right now. For example, with the latest employee to test positive for COVID19, HR has been in contact with that employee and advised that employee to self-quarantine until the COVID19 test came back. If the test is positive, then the employee would have to self-quarantine for an additional 14 days.
- Re: flooding around the City – she hopes that the City has not opened itself up to liability related to the flood damage being caused to private homes and businesses.
- She wanted to confirm the timing of the new sewer line being installed by Melchor Creek. Public Utilities Director Judy Redwine confirmed that it was included in the FY 20/21 budget and the line would be installed this fiscal year.
- She reported that last week the recycling for Second, Third and Fourth Streets was not picked up. She called Marilyn Wells at WM and found out the driver was being trained and was just late picking these streets up. She told Marilyn that the City should be informed about delays so that they can be posted on social media.

- She also noted that there is more illegal dumping by Sixth Street. For instance mattresses are laying out on the street by Monarch. There is old and new stuff to be picked up.
- At the ADDC board meeting, she requested for Pediatric Cancer Awareness Month that the Courthouse Square fountain dye the water gold for the month.

City Manager Michael J. Ferris:

- A reminder was given to Council to read his weekly Friday update emails. There is much information related to Council inquiries and ongoing City work that is available through these weekly updates.

CLOSED SESSION

Upon a motion by Councilmember Lowder, seconded by Councilmember Whitley, unanimously carried, Council approved moving into closed session pursuant to N.C.G.S. 143-318.11(a)(3) Consultation with Attorney, N.C.G.S. 143-318.11(a)(4) Economic Development, N.C.G.S. 143-318.11(a)(5) Real Estate, and N.C.G.S. 143-318.11(a)(6) Personnel.

RETURN TO OPEN SESSION

Upon a motion by Councilmember Hall, seconded by Councilmember Hughes and unanimously carried, Council returned to open session. The Mayor stated that a Closed Session was held pursuant to N.C.G.S. 143-318.11(a)(3) Consultation with Attorney, N.C.G.S. 143-318.11(a)(4) Economic Development, N.C.G.S. 143-318.11(a)(5) Real Estate, and N.C.G.S. 143-318.11(a)(6) Personnel.

Upon a motion by Councilmember Whitley, seconded by Councilmember Hall and unanimously carried, the City Council confirmed that Councilmember Hughes served a Clerk for the personnel section of the closed session.

Upon a motion by Councilmember Lowder, seconded by Councilmember Hughes and unanimously carried, Council approved adjourning until Monday, August 10, 2020 at 6:00 p.m. in Council Chambers in City Hall.