

**REGULAR MEETING CITY COUNCIL**

August 1, 2022

The City Council of the City of Albemarle met in a regular session on Monday, August 1, 2022 at 6:30 p.m. in the Council Chambers of City Hall. Mayor Ronnie Michael presided, and the following members were present, to-wit: Mayor Pro Tempore Martha Sue Hall and Councilmembers Martha E. Hughes, Chris Whitley, Benton Dry, Dexter Townsend, and Shirley D. Lowder. Absent, Councilmember Bill Aldridge.

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Mayor Michael called the meeting to order.

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The Mayor gave the invocation.

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Upon a motion by Councilmember Townsend, seconded by Councilmember Hall, unanimously carried, the minutes of the July 11, 2022 regular and closed meetings, and July 18, 2022 recessed and closed meetings were approved as submitted.

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**PUBLIC HEARING**

Ordinance 22-26 - To Consider ZMA 22-07 Rezoning of Six Parcels Totaling 4 Acres on Johnson Street and Highway 52 North from GHBD and R-10 to HID

Council continued a public hearing from May 16th and June 20<sup>th</sup> to consider MHK Property Management LLC’s request for tax parcels 14402, 28, 7505, 24949, and 24534 be rezoned from GHBD to HID, Heavy Industrial. Also requested is tax parcel 1455 from R-10 to HID Heavy Industrial. The applicant wants to be able to have more than 5 junked, inoperable or unlicensed vehicles on their property for their tow business.

Planning and Development Services Director Kevin Robinson updated Council on further discussions between his department and the business owners on this rezoning. Since the last Council meeting Planning has done the following:

- Staff provided the applicants with a list of approximately 30 different properties in the City which were zoned HID or would potentially be appropriate to be rezoned to HID so that more than 5 junked, inoperable or unlicensed vehicles could be kept there long term. The applicants did not wish to proceed with this option.
- Staff subsequently suggested that the applicants build a simple shed or garage on the property to store the vehicles. As these would no longer be outside there would be no violation. The applicants did not wish to do so.

The Planning and Zoning Board heard the request on at its May 5<sup>th</sup> meeting and unanimously recommended that Council deny the requested rezoning and adopt a statement of inconsistency.

Staff recommendations to Council at this point are:

- Although the applicants are still requesting the properties be rezoned to HID so that the vehicles can still be stored there. Planning and Zoning Board and Staff still highly recommend against this. HID in this location is not consistent with the future land use map, would represent spot zoning and would allow for several uses which would be in conflict with the adjacent neighborhood and other commercial businesses. It would be a bad precedent for the City.
- The only other option Staff has seen is a text amendment. This could be done by amending junkyards to allow them in GHBD OR to amend tow yards definition and allow them in GHBD as a special use with conditions. This will take additional time and require Planning and Zoning Board approval. While this would be a better option than spot zoning these parcels to heavy industrial, Staff still has concerns with the precedent this will set and with enforcement throughout the City.

Staff has reviewed several city and county ordinances in the region as well as the state. The City's ordinances are largely in line with others and in most ways are less restrictive. Staff believes that storage of junk and inoperable vehicles and the expansion of this use at this location is not consistent with City plans and will potentially harm property values in the adjacent neighborhood. Amending City ordinance to make exception for the applicant is likely to make enforcement across the City harder and the City's goal of cleaning up junk vehicles harder.

The Mayor noted that this is a continued public hearing and asked if anyone would like to speak on the topic. Owner Brandon King came in front of Council. He remarked that he thought that this was an ongoing conversation with the Planning Department and said he was shocked that these recommendations are being brought up to Council since he felt that the department did not follow up with him or his business partners about this.

The Mayor then read the following letter sent anonymously from a resident into the record:

[insert scan of letter here]

Mr. King responded to the letter by stating that his business is not a junkyard and is not selling parts.

The Mayor asked if Council had any questions. Mayor Pro Tem Hall, in response to Mr. King's claims that the business has not been contacted by the Planning Department about options, asked Mr. Robinson to confirm whether since June 20<sup>th</sup> if there has been any communication between his department and the business owners. Mr. Robinson replied that in fact the department has had conversations with them. She then followed up by asking what the consideration is currently in front of Council. Mr. Robinson confirmed that the Council consideration tonight would be on the rezoning request only; other options would be considered later on at a future meeting.

Upon a motion by Councilmember Townsend, seconded by Councilmember Dry, unanimously carried, the public hearing was closed.

Upon a motion by Councilmember Dry, seconded by Councilmember Hall, unanimously carried, Council upheld the Planning and Zoning Board's recommendation to deny the rezoning request, with the following inconsistency statement:

The Albemarle City Council finds the action to amend Tax Records 14402, 28, 7505, 24949, 1455, and 24534 from GHBD/General Highway Business District and R-10/General Residential District to HID/Heavy Industrial District be inconsistent with the adopted 2028 Land Use Plan. More specifically not meeting Section Five: Goals, Objectives and Strategies, Policy Directives Objectives O-5.a, O-5.c, and O-5.f. Council finds the Neighborhood Residential District zoning on these parcels not to be reasonable and in the public interest.

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## **ADMINISTRATIVE REPORTS**

### Albemarle Police Department Annual Report

Police Chief Jason Bollhorst, along with Assistant Chief Johnathan T Cranford, came in front of Council to review the 2021 Annual Report, 2022 Citizen Survey, and Uniformed Crime Report 2019-2021. Chief Bollhorst reviewed highlights from the report, crime statistics from the state, and community survey results. For the balance of 2022 into 2023 the Police Department aims to accomplish the following:

- Enhance engagement strategies with the public. He called on the community to contact the Police Department when they see something occur or when they are concerned about something in order for the officers to proactively work on issues.
- Officers engaging in problem solving policing.
- Developing strategies based on the strategic plan involving the leadership through the detective level officers.

Per the community survey APD developed and distributed with the assistance of Public Information Officer David Fath, survey results showed that the top concerns in the community are: drug use and abuse; homelessness; and tie for burglaries and traffic. Strengths are a perception of safety in the community during the day and respect for officers.

Next steps are to get community feedback then distribute an internal questionnaire around the department to gauge the work environment.

Chief Bollhorst addressed questions from Council. Mayor Pro Tem Hall asked if the department still taking applications. Yes it is. Recently 4 officer candidates have been locked in, and there are 4-5 candidates in progress.

Councilmember Lowder commented that Chief Bollhorst and Assistant Chief Cranford are doing a great job and thanked them.

Councilmember Townsend noted that the narcotics and drug seizure rate for the City seemed high and wondered how it compared to state and national rates. Chief Bollhorst replied that the rate is comparative to the state and national rates, due to the focus on fentanyl and fentanyl-laced drugs.

Council thanked Chief Bollhorst and Assistant Chief Cranford.

#### Department Monthly Reports

Council reviewed June 2022 departmental monthly reports. The Mayor asked if anyone on Council had any questions or comments.

Councilmember Townsend remarked that he saw again that WM call logs are not included in the monthly reports.

Mayor Pro Tem Hall had a series of comments/questions. She gave an “attaboy” to ADDC for getting their hands in there at Market Station. She commented that for the Finance Department report the footnote states that figures are year-to-date based on the month being reported but since it was the June report, the figures are for the fiscal year ending June 30th. Finance Director Jacob Weavil confirmed that yes the figures represented end of fiscal year tabulations. She noted in the Fire report that 3 new firefighters were hired and asked when they were onboarded. City Manager Michael J. Ferris replied they were onboarded in June. Councilmember Hughes followed up with a question about whether the Fire Department was fully staffed. Mr. Ferris noted that the department needed to fill 1 more position to be fully staffed. Finally Mayor Pro Tem Hall wanted to ask a question related to Public Housing but held it noting that a representative from the department was not present.

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#### **MUNICIPAL CALENDAR**

Mayor Michael and Council members received the municipal calendar prior to the meeting. The Mayor asked if Council had any questions or comments about the calendar.

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#### **CONSENT AGENDA**

##### Consider Road Closure for Big Truck Day

Stanly County History Center will be hosting a Big Truck Day on Saturday, August 6th from 10:00 am - 2:00 pm on Second St. The event will kick-off their exhibit on loan from the Smithsonian. Trucks and vehicles from all types of work settings will be on display for guests to learn more about how these vehicles are used in day-to-day operations.

Road Closure Request:

\* Second St. from North St. to W. Main St.

### Consider Road Closure for Tour de Elvis 5K

The annual Tour De Elvis 5K will take place in downtown Albemarle on Friday, September 9, 2022 at 7:00 pm. This is an annual fundraiser for the City of Albemarle Greenway fund.

Road Closures:

\* S. Depot St. from W. Main St. to South St.

### Consider Road Closure for Pfeiffer 5K

Pfeiffer University is hosting a 5K Run on Saturday, October 8, 2022 at 7:00 pm in downtown Albemarle. The run's proceeds will be used for Down's Syndrome.

Road Closures:

\* Fourth St. from W. Main St. to E. North St.

### Consider Approval for Sole Source Purchase

The Public Works Department has been utilizing the Posi-Shell product as the daily covering for the landfill facility for many years. The designation of a sole source vendor must be approved by the governing body. The information received below is information provided by the vendor along with the attached sole source certification.

Posi-Shell® per the attached sole source letter certifies that The United States Patent Office has issued Patent Number 7,544,243 and Patent Number 8,029.616-B2 which cover the formulation of ingredients and methods unique to Posi-Shell® Environmental Coatings. No other vendors may infringe on these mixtures, including the use of pozzolanic mineral binders in landfill cover formulations, and therefore LSC Environmental Products, LLC is the sole source supplier of these methods and materials. LSC Environmental Products, LLC does not sell Posi-Shell® through any partners in the United States for use of alternate daily cover. All landfill operation sales of Posi-Shell® are direct from plant to our customer operations. There are more than a dozen landfills in North Carolina who all use Posi-Shell® for alternate daily cover like Albemarle and receive shipments directly from the manufacturing plant and invoiced by LSC.

Mayor Pro Tem Hall requested an explanation for the recent sole source purchase requests prior to the vote. City Manager Michael J. Ferris noted that although the City prior to this year has upheld the General Statute regarding sole source purchase requests, after a review of internal procedures, it was decided that bringing these requests in front of Council would further ensure the City's compliance with the General Statute, due to such considerations such as the example of the request tonight where the item to be purchased is trademarked.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hughes, unanimously carried, Council approved the following:

- Road closure for Big Truck Day on Saturday, August 6<sup>th</sup>;
- Road closure for the Tour de Elvis 5K Friday, September 9<sup>th</sup>;
- Road closure for the Pfeiffer 5K Saturday, October 8<sup>th</sup>; and
- Approval for the sole source purchase of Posi-Shell® from LSC Environmental Products, LLC.

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## **NEW BUSINESS**

### Resolution 22-27 – Consider Adoption of Public Records Request Policy

City Attorney Britt Burch came in front of Council to present the policy. Staff is requesting Council consideration of a public records request policy to provide a standard process in line with General Statutes. Comparative research was done to provide a process which allows for generation of public information to requestors within a framework that limited City staff can practically manage.

The procedure is actually being executed as proposed in the policy, but the policy is expressly being developed to make the process more transparent to the public. Fees being proposed are in line with what other municipalities are charging and are only meant to cover any excess City administrative staff time (but not legal review time) and resources used to comply with a given records request. Public record requests can be taken in person, via phone or electronically. The only exceptions to public records requests are listed in the policy and are in line with the General Statute.

Ms. Burch took questions and comments from Council. The Mayor commented that the fees sounded fair. Mayor Pro Tem Hall asked about whether all requests should be in writing. Ms. Burch replied that per General Statute, in order for the process to be truly accessible, requests need to allow for in person and phone requests due to the fact that not everyone has access to technology. Councilmember Townsend asked how far back do public records requests need to be maintained. Ms. Burch noted that it depends on the type of data being requested which all have different retention schedules per the state requirements.

Mayor Michael announced that an unannounced delegation wished to speak about this topic and asked him to come forward. Jake Furr, residing at 1247 Salisbury Avenue in Albemarle came forward. He noted that the policy was very helpful but was concerned about the fee structure. He already has records requests which are ongoing but was interested in how future requests would be handled with assessing fees. He questioned how City staff would account for their time with assessing the fee for large volume requests. Ms. Burch replied that the City of Albemarle would handle this like other municipalities in terms of taking raw data and refining it. It would be an honor policy, citing the City's mission to serve the public and its intent to not unnecessarily charge them but to rather balance an excessively large or staff-intensive request with reasonable fees.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall, unanimously carried, Council adopted Resolution 22-27 establishing a City records request policy.

[Resolution 22-27 – Consider Adoption of Public Records Request Policy]

### City of Albemarle Historic Marker Program

Planning Specialist Brittani McClendon and Planning and Development Services Department Director Kevin Robinson co-presented a program proposal for installation of historic signs in the City. Mr. Robinson noted that there is rich history in Albemarle and that it would spur interest in foot traffic if a historic marker program were established. The Planning team discussed the proposed aspects of a program which is summarized in a 1-page information sheet. That was not in the agenda packet so Ms. McClendon presented the highlights of the proposed program with Council.

Mr. Robinson first noted that typically there are metal signs affixed on a pole, but when pricing these metal signs found them very expensive. Instead a lightweight sign which can be clipped to an existing pole could be used. Planning staff passed around a sign sample to Council and noted each of these signs would be \$50 to produce and has desirable features such as reflective material on them.

Ms. McClendon noted that the idea would be to focus on the downtown and have prompts on the signs to promote a walking tour. Examples of possible historic locations would be: old Albemarle Hotel, the Snuggs House, Starnes Jewelers, old Courthouse site, etc. QR codes could be added to the sign which would connect to information about the historic site and other links and resources. Planning has been working with the Public Information Officer (PIO) David Fath to develop ways to engage the community and promote the sites, such as a kick-off event, and interactive activities like a scavenger hunt among other ideas.

Ms. McClendon and Mr. Robinson took questions from Council. What funds does Planning have to source signs? Planning could purchase 10 signs with existing funds. The signs can be attached to an existing pole? Yes they can. Is the sample size the actual size of the sign? Yes. Can the signs be 2-sided? They could but Planning would have to look into whether they could be easily visible on both sides when affixed.

Upon a motion by Councilmember Dry, seconded by Councilmember Hughes, unanimously carried, Council approved the creation and installment of historic marker signs in downtown Albemarle as recommended by City staff.

### Discussion of Grand Marshal for Christmas Parade

Mayor Pro Tem Hall noted that the Special Events Committee recently met and discussed the Grand Marshal for the Christmas Parade to be held on Saturday, December 10th per Council approval earlier this year. Suggestions were to allow the community to nominate folks and then allow folks to vote for one on line. This is being brought to Council for discussion first.

The Mayor suggested that Council could be polled tonight on whether to proceed with this idea. He wondered if it was too cumbersome for staff. Parks and Recreation Director Lisa Kiser came in front of Council and mentioned that she would work with PIO David Fath for community polling. What if there were many names? If there were more than 10-15 names then the idea would have to be thought out more. Will there be criteria developed for nominees? Yes. What will be the timing of this

search for grand marshal? The idea would be to get the polling done in late summer from mid-August to mid-September, with voting open from mid-September through mid-October.

Council consensus was that it was ok to go ahead with this idea. There was no Council vote.

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### **COMMENTS**

#### Councilmember Hughes:

- She wanted to know if the social district was operational. The City Manager did not know and would need to find out and let Council know.

#### Councilmember Townsend:

- Is there any update on whether there will be a state tag office coming to Albemarle? No one has heard anything and Mayor Pro Tem Hall said she met with Wayne Goodwin recently and he never mentioned it.
- Re Walk of Fame Committee – are there enough nominees to move forward? If not could Council move forward with the nominees they have soon? Council agreed to bring this up again soon and to try to get a 5<sup>th</sup> nominee secured.

The Mayor noted to Council that Councilmember Townsend received notice recently related to the expiration of their 3 year agreement for sponsorship of the Fab 40 Booster Club sign for Albemarle High School to defray costs for sports equipment. Councilmember Lowder asked what that was and the Mayor and Councilmember Dry explained the sponsorship to her. She asked if Council sponsored elementary or middle school aged kids too. The Mayor and Mayor Pro Tem Hall replied that the City co-sponsors a DARE program and conducts presentations during Public Power Week. Council agreed to renew its sponsorship.

#### Mayor Pro Tem Hall:

- She noted that ElectriCities has a series of grant programs which are now open for submission of applications by member agencies. She wondered if the City should submit for a grant to obtain more funding for the Alleyway Project currently on hold.
- She directed a comment to the Public Information Officer about possibly researching an entertainment personality named Louis Cato who is from Albemarle and maybe posting something on social media about him.
- She asked about a location on Church Street called Grace Place and wanted to know what was going on there. There is a church there and food is being given out there.

#### Councilmember Dry:

- He told Chief Bollhorst and Assistant Chief Cranford that they have done a lot of great work in the short time they have led the Police Department. He also called out and thanked the Planning Department for preparing Council and working with the public even when it gets rough.

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**CLOSED SESSION**

Upon a motion by Councilmember Hall, seconded by Councilmember Lowder, unanimously carried, Council approved moving into closed session pursuant to N.C.G.S. 143-318.11(a)(3) Consultation with the City Attorney and regarding Polk v. City of Albemarle, 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.

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**RETURN TO OPEN SESSION**

Upon a motion by Councilmember Dry, seconded by Councilmember Whitley 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 the City Attorney and regarding Polk v. City of Albemarle, 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.

There was nothing to report.

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Upon a motion by Councilmember Whitley, seconded by Councilmember Hughes, unanimously carried, the meeting was adjourned to Monday, August 15, 2022 at 6:30 pm in Council Chambers at City Hall.