

REGULAR MEETING CITY COUNCIL
May 16, 2011

The City Council of the City of Albemarle met in a regular session on Monday May 16, 2011 at 7:00 p.m. in the City Hall. Mayor Elbert L. "Whit" Whitley, Jr. presided, and the following Councilmembers were present, to-wit: Troy E. Alexander, Martha Sue Hall, Judy Holcomb, Jeanette M. Napier, Jack F. Neel, Dexter Townsend and T. Ed Underwood. Absent, none.

The Mayor and City Council presented a retirement certificate to Mr. Kenneth W. Wall, Department of Public Works for 16.58 years of service. Mr. Wall is retiring as an Equipment Operator III in the Public Works Dept. He was originally hired as a Laborer I on Sept. 28, 1994.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the minutes of May 2 regular session, May 2 closed session, May 5 adjourned session, and May 10 adjourned session minutes were approved as submitted.

A public hearing was held to consider the Fiscal Year 2011/2012 City of Albemarle Budget which has been available for public inspection and review since May 3. The City Manager noted that the FY 2011-2012 budget was presented on May 2, and the City Council held public budget workshops on May 5 and 10 to review the budget in detail. The public hearing has been advertised in the Stanly News and Press, and the proposed budget has been available for inspection at City Hall, the Stanly County Public Library in Albemarle, and on the City's website. No one from the public spoke for or against.

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

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall, and unanimously carried, an Ordinance entitled (Ordinance 11-11) "2011-2012 BUDGET ORDINANCE FOR THE CITY OF ALBEMARLE, NORTH CAROLINA" passed first reading.

Mr. Mike Manis, Centralina Council of Governments came before City Council as an announced delegate to request the adoption of a Memorandum of Understanding resolution for sustainable community initiatives. The City Manager noted that the Rocky River RPO TCC recommended adoption of a similar resolution to the TCC when they met on Tuesday of this week.

Mr. Manis came before City Council and gave a PowerPoint presentation. He asked endorsement of a MOU resolution with CCOG in the Sustainable Community efforts. The goal of the project is to identify critical sites that could be catalytic for community revitalization. The MOU addresses two separate linked project issues.

1) A \$40,000 state grant received by CCOG from the NC Sustainable Communities Task Force which is matched with \$50,000 to study redevelopment opportunities along five strategic corridors in the region. One of corridors is the US 52 Highway running north from Wadesboro through Albemarle to Salisbury.

2) The second project is for a regional federal HUD 2011 Sustainable Communities grant.

Also, he stated that in order to start the grant, NC Sustainable Communities is requiring a MOU with each participating jurisdiction. There is no money involved by each jurisdiction, but request data-gathering and participation in stakeholder groups and helping guide the process. Mr. Manis gave the timeline of the project starting in April 2011 through March 2012. He asked that Council consider the MOU resolution tonight and participation in stakeholder groups could be decided later.

Councilmember Neel asked what the City might see as the finished product. Mr. Manis stated that the end result would be a set of development strategies in identified locations. The best strategies and locations will be considered and the lesser will be eliminated. A ranking will be made and then choosing the priority locations.

Councilmember Hall moved to approve the adoption of a Memorandum of Understanding resolution for sustainable community initiatives from Centralina Council of Governments. Councilmember Neel seconded the motion.

Upon questioning of Ms. Hall's involvement with Centralina Council of Governments to not vote on this matter, Ms. Hall rescinded her motion.

Upon a motion by Councilmember Townsend, seconded by Councilmember Neel, the City Council approved the adoption of a Memorandum of

Understanding resolution for sustainable community initiatives from Centralina Council of Governments.

(Resolution 11-14. To adopt a Memorandum of Understanding (MOU) for sustainable community initiatives with Centralina Council of Governments (CCOG).

Mr. Chad Atwater came before City Council as an announced delegate representing the Grandview Subdivision HOA, to request a reduction of the speed limit in the Grandview Subdivision. The request is being made under the City's speed limit reduction policy for closed subdivisions. If approved, the speed limit in Grandview would be reduced from 35 mph to 25 mph per the City. Council reviewed supporting documentation, including the required petition and a copy of the City's policy. It was noted that Mr. Atwater had provided the City with a petition, a check for the \$200 application fee that is to offset a portion of the cost to draft an ordinance, and a copy of the subdivision plat. The plat covers everything that has been approved by the subdivision, though not all of the subdivision is currently developed. Mr. Atwater has accounted for each developed structure in his petition.

Mr. Atwater stated that Grandview is a new subdivision of young residents with kids. Safety is an utmost consideration as residents.

Councilmember Hall stated that the subdivision's Homeowners Association will be responsible for the \$200 application fee for drafting the ordinance and the cost of the speed limit sign which is required to be paid before the installation of the sign. One sign at a cost of \$71.88 would be installed to cover the subdivision.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall unanimously carried, the City Council approved a request for a reduction in the speed limit from 35 mph to 25 mph in the Grandview subdivision.

Ms. Karmen Mock-Phillips came before City Council as an announced delegate to request the removal of the two hour parking restriction on the south side of North Street between North First and North Second Streets.

Ms. Phillips stated that her husband's law firm is the only business on that side of the street. There are 9 parking spaces on this side of the street and 10 spaces on the opposite side of the street. She is requesting the removal of this parking restriction due to some of the law firm clients are in the office longer than a 2 hour period and this

would allow them to park without worrying about a time limit. She also said that her husband's law firm is the only business that is affected by this parking restriction.

Upon a motion by Councilmember Underwood, seconded by Councilmember Holcomb and unanimously carried, the City Council authorized the City Attorney to draft an Ordinance to remove the two hour parking restriction on the south side of North Street between North First and North Second Streets.

Mayor Whitley stated that with the approval tonight that the ordinance be changed, this will come back before Council once drafted for Council's approval. He also told Ms. Phillips that employees in the downtown may want to now park in these spaces all day while at work, once the parking restriction is removed. Councilmember Holcomb stated that if this becomes a problem, she may need to come back before Council.

Ms. Anna Cain, Director of Lifespan was scheduled as an announced delegate to request a 15 Minute Passenger Loading Zone at 233 Montgomery Avenue, Suite, 1A. Ms. Cain was not present for the request.

Councilmember Hall stated that Council can wait until Ms. Cain can appear before them, but she has no problem voting on this item tonight.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend and unanimously carried, the City Council authorized the City Attorney to draft an Ordinance to create a 15 Minute Passenger Loading Zone at 233 Montgomery Avenue, Suite 1A.

Mayor Whitley stated that City Council has a copy of the monthly departmental reports in their agenda packets and asked if there were any questions.

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

(Ordinance 11-10. A budget amendment to appropriate funds received during Fiscal Year 2010-2011 for items previously approved by City Council.)

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood, and unanimously carried, an Ordinance entitled (Ordinance 11-12) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE BE AMENDED BY REVISING CHAPTER 77, SCHEDULE XXXI TO PROVIDE A NO PARKING ZONE ON THE NORTH SIDE OF GREENWOOD STREET FROM COLUMBUS STREET TO CAROLINA AVENUE” passed first reading.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier, and unanimously carried, an Ordinance entitled (Ordinance 11-13) “AN ORDINANCE TO AMEND FY 2010-2011 BUDGET.” passed first reading.

The Mayor and City Council considered a request of Home Savings Bank to amend a street closing request previously granted by City Council. This request is to close the streets previously approved for 5:00 p.m. on Saturday, June 25 at 4:00 p.m. The City Manager noted that the bank intended to request that Second Street from West Main Street to King Avenue and Main Street from First Street to Third Street be closed at 4 pm instead of 5 pm, but there was a misunderstanding that the request was for 4 pm.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved Second Street from West Main Street to King Avenue and Main Street from First Street to Third Street be closed at 4 pm on Saturday, June 25 for the Home Savings Bank anniversary celebration.

The Mayor and City Council reviewed the Street Assessment Fees for FY 2011-2012. The City's Code of Ordinances requires that these fees be adjusted based on the prior year cost each fiscal year. Due to lower material costs, the FY 11-12 fees will be lower than in the current fiscal year.

Upon a motion by Councilmember Alexander, seconded by Councilmember Napier and unanimously carried, the City Council approved the Street Assessment Fees for FY 2011-2012.

(Resolution 11-13. To assess the costs of installing street improvements for fiscal year 2011-2012.)

The Mayor and City Council reviewed draft letters regarding the loss of funding for methamphetamine lab cleanups. The City Manager noted that pursuant to the suggestion by Councilmember Holcomb and City Council's request, Chief Michael drafted the attached letters to Governor Perdue and Representative Kissell regarding the recent loss in funding to clean up meth labs.

The City Manager stated that there is a copy of the two letters as attachments in the agenda. He also stated that he has a hardcopy of the original letters, if approved tonight, Council can sign.

Councilmember Hall stated that she would also like for Senator Purcell and Representative Justin Burr to receive a carbon copy of Governor Perdue's letter. And, that Senator Kay Hagan and Senator Richard Burr receive a carbon copy of Representative Kissell's letter.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood and unanimously carried, the City Council approved draft letters regarding the loss of funding for meth lab cleanups.

The Mayor and City Council discussed appointments for City Boards and Commissions. There are several boards with terms expiring on June 30, 2011. The City Council received a list of the boards and commissions with terms expiring as well as a list of citizens who have expressed an interest in serving on a specific board or commission. The City Manager noted the candidates had either responded via the utility bill stuffer or through the City's website. Also, he said these terms do not begin until July 1, we have provided this to you well in advance in the event you need more information or additional time to deliberate on appointments.

Councilmember Hall stated that board terms are not up until July 1 and this gives Council time to review the expiring terms on each board and the list of candidates that have agreed to serve.

The Mayor and City Council received a report on whether the Zoning Board of Adjustment decisions can be reconsidered.

The City Manager noted that at the request of Councilmember Neel staff checked with the UNC School of Government as to whether a ZBA can rehear or reconsider. We have gotten a response from David Owens, who is the Gladys H. Coates Professor of Public Law and Government at the SOG. Mr. Owen advises the following:

The Board of Adjustment has no jurisdiction to rehear a case unless there is a later change in condition or if there are significant amendments to the ordinances governing the situation, which is not the case in this matter. There has been no change in conditions or the City's ordinances. The only recourse is for any party perceiving they are harmed by the decision is to appeal in Superior Court within 30 days of the decision.

Mr. Owens has also written in an article the following: "With quasi judicial land use decisions, such as variance requests and special use permits, the doctrine of res judicata applies, and a board may not reopen or rehear a case previously decided. There is an exception if there is some material change in conditions, such as a new road being constructed at the site, additional development near the site over time, and the like."

Mr. Owens also said that the zoning statutes specifically provide that a lesser variance can be granted than the one originally sought by the petitioner. If the party receiving the lesser variance chooses, they can appeal to the Superior Court as well within the same time frame.

The Mayor and City Council considered mandatory training for the Board of Adjustment. The City Manager noted that some members of City Council have expressed concern over a recent variance granted for a fence by the Board of Adjustment. It was suggested that training for Board members be made mandatory and a discussion of this matter be placed on the City Council agenda. Also, the City Manager noted that the City has provided voluntary training for the Board of Adjustment and the Planning Board in the past through Centralina COG and the School of Government. If training is made mandatory, staff recommends that Board of Adjustment members receive compensation, similar to meeting pay, for attending training.

City Manager Raymond Allen stated that he had talked with Planning and Community Development Director Keith Wolf to see if everyone on the board had received training and not sure who all have received the training.

Councilmember Holcomb stated that members should be trained as appointed and then every 3 years if reappointed with pay similar to meeting pay.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb, and unanimously carried, the City Council approved mandatory training for the Board of Adjustment members where initially everyone will receive the training and then receive the training again every 3 years if reappointed with compensation similar to meeting pay for attending training. Training will be available every year to any new member or someone reappointed to the Board of Adjustment.

The Mayor and City Council were reminded that the City will be coordinating with Green Pieces a drop off recycling event at the City Hall property on Saturday, May 21 from 8:00 a.m. to 12:00 noon.

Councilmember Neel asked about disposing of fluorescent tubes. Public Works Director Mike Lambert stated that most retailers where you purchase them will take the used ones back.

The Mayor and City Council were reminded of the dedication ceremony for the Roger F. Snyder Greenway Phase II. This ceremony will take place at 5:00 p.m. on Tuesday, May 17 at the greenway trail head at Salisbury Avenue.

The Mayor and City Council were reminded that City offices will be closed on Monday, May 30 in observance of Memorial Day.

The Mayor and City Council were reminded of the Stanly County Council of Governments Meeting at First Baptist Church in Stanfield on Tuesday, May 24 at 6:30 p.m.

Councilmember Townsend reminded everyone of the Public Forum for the South Albemarle Community on May 20 at City Hall starting at 2 pm.

Councilmember Hall reminded everyone of the Rural Planning Organization meeting on Thursday at Stanly Commons starting at 6 pm.

Councilmember Underwood reminded everyone about the City employee picnic this Thursday at City Lake Park from 11 am until 1 pm.

Councilmember Alexander reminded everyone about the ADDC Volunteer Appreciation event on Tuesday, May 17 at 6 pm.

City Attorney David Beaver asked for clarification on the mandatory training for the Board of Adjustment members that Council passed tonight.

It was noted that initially every board member will take the mandatory training and also if reappointed, take the training every 3 years as reappointed to another term.

Finally, Mr. Beaver commented on the 7 findings of fact on the board of adjustment application. He asked that maybe Centralina Council of Governments or the League of Municipalities come up with a new application.

City Manager Raymond Allen stated that the original design of the application was by Centralina Council of Governments. Councilmember Hall asked how long ago this was done. Mr. Allen stated this was 6-7 years ago. Mr. Hall stated that maybe it is time to look at this again.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood and unanimously carried, the City Council adjourned until Friday, May 20 at 2:00 p.m. in the City Council Chambers for a public forum discussing the concerns recently raised by residents in South Albemarle.