

REGULAR MEETING CITY COUNCIL

January 4, 2010

The City Council of the City of Albemarle met in a regular session on Tuesday, January 4, 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 delivered the invocation.

Upon a motion by Councilmember Underwood, seconded by Councilmember Hall and unanimously carried, the minutes of December 20 regular session were approved as submitted.

Mr. Ken Anderson, CPA from Anderson, Smith & Wike, PLLC came before City Council to present the Fiscal Year 2009-2010 Audit for year ending 6/30/2010. The City received an unqualified opinion on its audit on their June 30, 2010 financial statements which is the highest audit opinion that can be rendered.

Mr. Anderson briefly reviewed the summary that Council had been given about the available fund balances, tax collection percentages, and other audit information.

There were two single audits:

1. Public Housing Capital Fund within the Public Housing Fund Federal Grant and;
2. NC Parks & Recreation Trust Fund within the EE Waddell Renovations Fund State Grant. Both audits received an unqualified opinion and had no findings and or questioned costs.

Mr. Anderson stated that there was one finding in the City's Landfill Division over budgeted by \$17,829. He also covered the net change in the fund balance general fund and the enterprise funds, changes in long term liabilities, and compliance audits. The City audit was submitted to the Local Government Commission on November 21, 2010 and was accepted.

Councilmember Hall questioned Mr. Anderson about the finding in the Landfill Division. Mr. Anderson stated that this was a misunderstanding and oversight at the end of the year. Ms. Hall also asked Mr. Anderson what the fund balance was last year for the City. Mr. Anderson said that the fund balance was at 19% last year compared to 11% this year. The largest decrease this year was in the transfers for the City Hall project and grant match for the EE Waddell center renovations.

Mr. Anderson concluded his presentation by noting that he found staff to be very responsive, good financial controls in place and the City's finance function operating as it should.

Mr. Andy Fleming with Davenport Lawrence came before City Council to provide an update on the project to develop new pole attachment agreements. Mr. Fleming has been working with City staff to develop new pole attachment agreements to submit to Windstream and Time Warner Cable. The City Manager noted that there has not been an increase for pole attachment fees since the CATV system was established in Albemarle in the late 1970's.

Assistant City Manager Michael Ferris came before City Council and introduced Mr. Fleming with Davenport Lawrence and stated that the pole attachment agreements had not been updated in over 30 years. He stated that he had a proposal to present to Council and he feels good about the draft to be presented.

Mr. Ferris stated that Judy Redwine and he have been working with Mr. Fleming on this project. Currently, the City only charges \$5.00 per pole attachment, and this fee does not cover the City's expenses for tree trimming, pole inspections and replacement, etc. The City is allowed to make a charge to recover these costs, and Mr. Fleming will present a summary of his findings in this regard.

Mr. Fleming came before City Council and gave a PowerPoint presentation of the findings and recommendations as follows:

1. Davenport Lawrence and their consulting specialties.
2. Agreement renewal and modification of rate structures.
3. Determining accuracy of attachment licenses.
4. E.A.R.N. – the process of Evaluation, Analyzing, Recommending and Negotiating.
5. Attachments to City poles presently:

Time Warner Cable 5,869 @ \$5 Windstream – 5,456 @ \$2

City will receive per pole/per year in annual revenue:

2010 License Revenue - \$35,885

Future revenue to be determined

6. Timeline:

Notification to Time Warner Cable and Windstream – December 17, 2010

Negotiations began this week (week of 1/3/2011)

Contract renewal will take 2-3 months

New rates will be retroactive back to February 1, 2011 after agreements are finalized and signed.

Upon questioning by Councilmember Neel, Mr. Fleming stated that Time Warner does not own any poles. Councilmember Neel asked Mr. Fleming if the City owns around 6,000 poles and Mr. Fleming confirmed this.

Upon questioning, Mr. Fleming explained the order attachments occur on a pole, which is power first at the top, TWC next, and Windstream at least 12” below cable.

Mayor Whitley asked who will take this forward to Time Warner and Windstream. It was explained that Assistant City Manager Michael Ferris and Assistant Public Utilities Director Judy Redwine along with Davenport Lawrence on the City’s behalf.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council approved the new pole attachment agreement to submit to Windstream and Time Warner Cable.

The Mayor stated that Council had a copy of the municipal calendar in their agenda packets and asked if anyone had any questions.

Upon questioning by Councilmember Hall, the City Manager stated that he is working on the 2011-2012 Budget Preparation Schedule and has tentively scheduled the City Council Planning Retreat for Saturday, February 19. He also said that this date can be changed to a week day or any other day that Council may prefer.

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

(Ordinance 11-01. To add street names in the Anderson Ridge Subdivision.)

The Mayor and City Council discussed the property of Bobby Rorie. Mr. Rorie's second 90-extension expired in October. The City Manager noted that Council asked that a letter be sent requesting Mr. Rorie to appear at the January 4, 2011 meeting. The City Council had previously requested that Mr. Rorie appear in person to discuss this property at an earlier meeting, but Mr. Rorie had advised that due to his work obligations he would be unable to attend a City Council meeting before the end of 2010.

Mayor Whitley stated that Mr. Rorie had been given a second 90-day extension which ended in October, and Council had requested Mr. Rorie to appear tonight at the meeting. Planning and Community Development Director Keith Wolf spoke with Mr. Rorie over the phone at 4 pm today.

Mr. Wolf came forward and stated that due to Mr. Rorie's work schedule, he was unable to attend tonight. Mr. Wolf asked Mr. Rorie several questions during their phone conversation about the property. Mr. Rorie stated that he has completed most of the brick work on the exterior and has plans to work on the roof. He said that he has window replacements but has not placed them due to fear of them being broken. Mr. Rorie's main concern is to have the structure presentable to the neighborhood, not live-in condition. Also, Mr. Rorie told Mr. Wolf that he can send a representative to the Council meeting on his behalf if necessary.

Mr. Wolf also stated that he had contacted the Stanly County Building Inspections Department on December 29 to determine if Mr. Rorie had requested an inspection of his property and found that no inspections have been requested. Mr. Wolf also discovered that due to an action of the NC General Assembly during the most recent session, building permit deadlines have been extended by the State to December 31, 2011.

Councilmember Alexander asked how many other properties are in this condition within the City. He also asked why are we continuing to pursue this. Mayor Whitley said that this situation came about due to a complaint made to the City. Mr. Alexander stated that if the structure is presentable to the community, why should we continue. Mayor Whitley said if his building permit is extended until December 2011, there is not much we can do anyway.

The City Manager stated that you cannot condemn a property with an active building permit. Upon questioning, the City Manager stated when certain aspects are completed, inspection will be completed by the County.

Councilmember Townsend suggested to place this item to the side. He said nothing can be done until 2012 anyway. Councilmember Neel asked to have progress checked by the building inspector to see if it meets code. There is no need in continuing the work on the structure if present work does not meet code. Mayor Whitley stated that Mr. Rorie now has until January 2012 and suggested that Council drop this because enough time has already been spent on this.

The Mayor and City Council discussed setting a public hearing to consider zoning 2.01-acres belonging to Anderson Grove Baptist Church which was annexed on March 1, 2010. This is the initial zoning of this property annexed earlier this year. This matter was unanimously approved by the and Planning and Zoning Board at its December 28, 2010 meeting. A public hearing is required and can be set for February 7. The zoning recommended by the Planning and Zoning Board is R10 Single Family Residential.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb and unanimously carried, the City Council approved setting public hearing for February 7 to consider zoning 2.01acres belonging to Anderson Grove Baptist Church to R10-Single Family Residential which was annexed on March 1, 2010.

The Mayor and City Council received information on the status of the initial zoning of 89.19 acres belonging to Stanly Community College that was recently annexed into the City. The Planning Board discussed this matter at length at their meeting on December 28, 2010 and voted to table this item until possible alternatives are explored.

The City Manager noted that three residents of Park West Subdivision came and spoke at the meeting with concerns about zoning such a large acreage to General Highway Business and the possible future use of the property as a second access to the campus were expressed by them. GHBD is the only zoning district in which a community college is currently allowed and that is why that zoning is being proposed.

The Planning Board would like Planning and Community Development Director Keith Wolf to look at other communities and how they have zoned property for

use as community colleges. The Planning Board voted to table this item until additional information can be obtained by staff. The City Manager stated that the Planning Board will then make a recommendation to City Council.

Councilmember Neel asked about a zoning for educational structures and not GHBD. The City Manager stated that this had been one of the suggestions and Mr. Wolf will be looking into this.

The City Manager stated that he had talked with Dr. Michael Taylor President of SCC about GHBD only for community colleges. The Planning Board want to look at alternatives that are out there.

Councilmember Neel stated that City Council and the Planning Board and Board of Adjustments in the past, had quarterly meetings to discuss items as this. There should be some future consideration in the budget for those meetings to be able to continue.

The Mayor and City Council considered a resolution to transfer surplus computers to Albemarle Downtown Development Corporation. The City Council at its December 20 meeting authorized staff to post this proposed transaction in accordance with NC General Statutes.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved the following resolution:

(Resolution 11-01. To donate two computers, monitors and hardware to the ADDC.)

The City Council was presented with information on the Procurement Card Contract with Wells Fargo. The City Manager noted that the standard customer agreement has been reviewed by City Attorney Beaver who has no concerns with what is proposed. Also proposed is a copy of the City's internal policy for administering the procurement card program. Any major changes to the policy will be brought back to Council for their consideration.

Finance Director Colleen Conroy came before City Council and stated that a few weeks ago, Mr. Allen Westbrook with Wells Fargo was here and made a presentation on local government procurement cards. At that time, Council approved the

program in theory and we have the agreement tonight for approval. City Attorney David Beaver has reviewed this and Assistant City Manager Michael Ferris, Purchasing Coordinator Linda Lewis, and she have been working on the City policy for this agreement.

Councilmember Holcomb asked about the limit of \$499 for each employee holding a card and what happens if they exceed this limit. Ms. Conroy stated that if an employee exceeds the limit, the City will be notified or the purchase would be declined. Also, Ms. Conroy said that the City will be learning how it works and determine the limit over amount allowed. This program will be monitored closely at all times.

Councilmember Holcomb asked that after several months of this program being in place, that a report be brought back to City Council.

Councilmember Hall stated that she uses this type program with another bank in her job and loves the process, theory and the controls. She also said that she would have liked having bidders for this program and Council choosing the best one. Ms. Colleen Conroy stated that the City was trying to keep continuity with the current bank the City uses.

Upon a motion by Councilmember Alexander, seconded by Councilmember Holcomb, the City Council approved the Procurement Card Contract with Wells Fargo. Voting in favor of the motion were Councilmembers Alexander, Holcomb, Napier, Neel, Townsend and Underwood. Voting in opposition was Councilmember Hall. The motion carried.

The Mayor and City Council considered an appointment to the Albemarle ABC Board. This is to fill the unexpired term and new term of ABC Board Chairman Don Frey who is retiring from the ABC Board effective January 31, 2011. The City Manager noted since Mr. Frey is stepping down January 31, the City Council will need to appoint a new member and chairman and recommended that the appointee to replace Mr. Frey be appointed to fill the remainder of his unexpired term as well as for the full term of 3 years and expire on March 16, 2014. Also, the City Manager received a phone call from Mr. John McIntire who has also asked to be considered by City Council for this vacancy.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved holding this item over until the January 18 City Council meeting.

The Mayor and City Council considered an appointment to fill a vacancy on the Planning and Zoning Board. Mr. Terry Hatley has informed the City that he cannot serve on the Board. The City Manager noted that Mr. Hatley was appointed by the City Council to fill the unexpired term of Mr. Henkenjohann and Mr. Hatley informed Director of Planning & Community Development Keith Wolf that he will not be able to serve, leaving a vacancy on the Board. The City Council can appoint a replacement to fill the remainder of this term, which expires July, 2013.

Councilmember Underwood made a motion to appoint Curtis Ragsdale to fill the unexpired term of Peter Henkenjohann on the Planning and Zoning Board. Councilmember Napier seconded the motion. Voting for the motion were Councilmembers Alexander, Holcomb, Napier, Neel and Underwood. Voting against the motion were Councilmembers Hall and Townsend. The motion carried.

Councilmember Hall stated that we cannot ask people to submit their names if interested in serving on a City board, if we are not going to consider them. The lists of names are kept in administration where people have signed up through information in our bill stuffer. People need to have an interest in certain boards by volunteering to be a candidate.

Mayor Whitley asked the City Manager to add this item to the bill stuffer again.

The Mayor and City Council received a status report on loose leaf collection. The City Manager noted that Waste Management has been on schedule with leaf collection up until the snow that occurred on December 25 and 26. Since leaves could not be picked up until the snow melted, activities had to be suspended on Monday and Tuesday of that week. He also stated that they are working in Zone 4 today on schedule and that Waste Management has done a good job staying on schedule this season.

The Mayor and City Council reviewed information on the process to obtain field data for design and right of way acquisition for the Concord Kannapolis Albemarle water line which has begun. The City Manager noted that a letter was sent to property

owners in Stanly County along NC 49 which Council reviewed, along with a copy of the public notice about the environmental scoping meeting that has been published in the Stanly News and Press. This meeting will be held at 4:00 pm in the Community Room at City Hall, and will be conducted by representatives of WK Dickson. Similar meetings will be held in Concord and Kannapolis in February.

The Mayor and City Council announced that Keith Wolf began as the new Director of Planning and Community Development on December 19.

Mayor Whitley congratulated Mr. Wolf on his new position.

The Mayor and City Council were informed of the letter from Governor Perdue to Mayor Whitley congratulating the City on its Playful City USA designation.

Mayor Whitley recognized Reverend Mattie McRae who will be 98 years old on January 15, 2011.

Mayor Whitley stated that he had received a call from Charlie Frye, Boardmember on the Zoning Board of Adjustment due to the fence of Dr. William C. Stacy of 909 Lauras Ln. City Attorney David Beaver stated that he had spoken with Dr. Stacey today and he thinks he can get it voluntarily removed. Mr. Beaver said he would get with Planning and Community Development Director Keith Wolf for the date of the next Board of Adjustment meeting and attend the next meeting.

Dr. Stacey's fence was built in violation of City code and he asked for a variance. It was denied by the Zoning Board of Adjustment. The Planning department referred the incident to City Attorney David Beaver to follow through. Mr. Beaver talked with Dr. Stacey and will assist him in a new variance and take this to the next Zoning Board of Adjustment meeting for approval.

Councilmember Townsend reminded everyone about the Dr. Martin Luther King, Jr. Birthday Celebration "I Have a Dream" on Monday, January 17 from 6 to 8 pm at the EE Waddell Community Center.

Councilmember Hall congratulated all Public Power employees and mentioned the great photos in the Hometown Connection newsletter in October.

Ms. Hall also mentioned Centralina Council of Governments' annual Region of Excellence Awards. These awards honor local governments for their creative efforts to improve efficiency and more effectively serve its citizens. There are several categories that municipalities can choose from. Ms. Hall stated that the City could be recognized for development, energy, efficiency and effectiveness, planning, or service. Criteria includes an application, summary of a maximum of 3 typed pages and supporting materials by January 21, 2011.

Councilmember Neel mentioned the current mailing of the ElectriCities Hometown Connection. There is a section asking municipalities to nominate their City for the All-America City award. Mr. Neel asked that staff get with Albemarle Downtown Development and look at this. Mayor Whitley stated that this project could take some time for employees to develop and there is a cost factor to consider. The Mayor said that we could look further into this.

City Manager Raymond Allen stated that he had a draft of the resolution to honor Albemarle High School on their 2010 1AA State Football Championship. He asked that Council take a look at this document and adjust anything if needed before signing.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb and unanimously carried, the following Resolution was duly adopted.

(To honor Albemarle High School on their 2010 1AA Yadkin Valley Conference State Football Championship)

Mr. Allen also stated that he had been in touch with NCDOT about the signage for the above football championship and has given them alternative language to

consider for the signs. They are suppose to get back with the City Manager some time this week.

Upon a motion by Councilmember Underwood, seconded by Councilmember Alexander and unanimously carried, the meeting was adjourned.