

REGULAR MEETING CITY COUNCIL

October 4, 2010

The City Council of the City of Albemarle met in a regular session on Monday, October 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.

Police Chief Michael and Accreditation Manager Captain Danny Bowen presented the Law Enforcement Accreditation Certificate for the Albemarle Police Department. The Albemarle Police Department has been reaccredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA) for the sixth time. The City Manager noted that he was very pleased to be able to report this to Council. Only a small percentage of law enforcement agencies across the country have received this designation. Designation requires adherence to the highest professional standards and agencies have to go through a rigorous process to receive accreditation.

Representative Justin Burr and Senator Purcell came before City Council and Representative Burr read the joint resolution of the North Carolina General Assembly Honoring the 100th Anniversary of the Albemarle Electric System. The North Carolina General Assembly adopted a resolution in the recent legislative session commemorating the centennial of the City's electric system which was introduced by Senator Bill Purcell and Representative Justin Burr.

Councilmember Hall thanked Woodie Wilson and Mia Bailey with ElectriCities, Assistant Public Utilities Director Judy Redwine and Representative Justin Burr and Senator Purcell for their participation in the 100th Anniversary of the Albemarle Electric System.

Assistant Public Utilities Director Judy Redwine presented the Century Award from the American Public Power Association in recognition of 100 years of electric service to the Mayor and City Council for the City's customers and the community. The City Manager noted that the plaque was received a few months ago, but we wanted to present this in conjunction with National Public Power Week and the City's electric centennial observances.

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

A public hearing was held to consider a conditional use permit for a bed and breakfast at 415 North Second Street.

Mr. John Williams came forward and was sworn in by the Mayor. He spoke on behalf of David Scarrboro, owner of the property located at 415 North Second Street. Mr. Williams stated that the original owner of the property was the Denning Family and he gave the history of the house and the renovations that had been performed.

Councilmember Holcomb asked Mr. Williams if they want to change from having a CUP for a Tea Room to a CUP for a Bed & Breakfast. Mr. Williams stated that they would like to keep the CUP for a Tea Room and add a CUP for a Bed & Breakfast. The garage may be used later as a tea room and therefore not have to construct an addition.

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

Councilmember Neel stated that his understanding is that there is already one conditional use permit the property and asked if having two at the same time was legal.

The Mayor stated that a property could have both or if Council decides to rescind one, there will have to be a public hearing.

Senior Planner Keith Wolf stated that planning has checked with other towns and found nothing that would not allow 2 CUP's per property.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend and unanimously carried, the Council approved 415 North Second Street being able to have more than one conditional use permit.

The City Council considered the following findings of fact as read by Mayor Whitley:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved finding of fact #1.

2. The use meets all required conditions and specifications.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council approved finding of fact #2.

3. The use will not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hall and unanimously carried, the City Council approved finding of fact #3.

4. The location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of Albemarle and its environs.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved finding of fact #4.

Councilmember Hall moved to pass Resolution 10-31. Councilmember Underwood seconded the motion. Upon a vote, Councilmembers Alexander, Hall, Holcomb, Napier, Townsend and Underwood voted in favor of the motion. Councilmember Neel voted against the motion, which passed.

Councilmember Neel stated that not all of the property meets code to be a tea room and he has a problem with that. Mayor Whitley stated that approval for use of being a tea room would not override the need for a sprinkler system.

(Resolution 10-31. To establish a bed and breakfast inn in RO-Residential Office District.)

Mr. David Phillips, District Manager for Government and Community Relations, Duke Energy Carolinas gave a presentation on current energy related issues. The City Council had previously requested a presentation on these issues from Duke Energy after receiving a letter from the company offering this opportunity.

The presentation included information of a plan for a sustainable energy future. Some of the topics included:

- 1) New Generation, the environment, our carbon footprint.
- 2) Energy Efficiency such as getting customers to replace incandescent bulbs with compact fluorescent.
- 3) Renewable Energy using hydro operations, solar on commercial rooftops, and landfill gas,
- 4) Customer Billing by keeping cost as low as possible. With new technology cost, there will have be an increase for customers,
- 4) National Policy involving Cap and Trade and two types which involves auction or allocation by the government. Duke Energy prefers allocation.

Mr. Phillips stated some of the challenges that Duke Energy faces is modernizing power plants, keeping a keen eye on the environment and being a leader in clean energy.

Councilmember Alexander asked Mr. Phillips if Duke Energy uses solar on rooftops of residential homes. Mr. Phillips stated that their solar rooftops are on large commercial buildings.

Mr. Gene Starnes, President, Stanly County Veterans Council came before City Council to request street closings for the Stanly County Veterans Day Parade on Thursday, November 11 at 11 am.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the Council approved the closing of streets for the Stanly County Veterans Day Parade on Thursday, November at 11 am.

Ms. Pat Bramlett, Uwharrie Storytelling Festival came before Council to request the closure of Railroad Street beside Market Station on Saturday, October 30.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the Council approved the closure of Railroad Street beside Market Station on Saturday, October 30 for the Uwharrie Storytelling Festival from 12 noon until 11 pm

Ms. Elaine Nelson, Chairman, Tree Commission came before City Council to present a recommendation of the Tree Commission to plant Cryptomeria Japonica for City Hall Christmas Tree.

Ms. Nelson came before Council and reviewed the data that Parks and Recreation Director Toby Thorpe had sent to the City Manager of which Council received a copy of. The cost of a Cryptomeria Japonica from a Charlotte nursery with the transport expenses added is \$270 versus a Frazier Fir with transport expenses added being \$927.00. The Cryptomeria Japonica is a one time purchase, where the Frazier Fir would recur year to year. The Tree Commission recommends the Cryptomeria Japonica.

Councilmember Neel asked Ms. Nelson is there a guarantee the Japonica will live and if not, they replace it. Ms. Nelson stated that she was not sure.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the Council approved the planting of a Cryptomeria Japonica by the Tree Commission for the City Hall Christmas Tree at a one time cost of \$270

Ms. Wanda Watkins, 313A Love Street had a request for an exemption from policy regarding the Equal Payment Plan. She was to appear before Council but did not attend the meeting. Ms. Watkins would like an exemption from the policy that requires good payment history for 12 months. The City Manager noted that the City's Custer Service Policy requires that customers be a good credit customer to be eligible for

the Equal Payment Plan. This is defined as having no delinquencies, no bad checks and no disconnections in the most recent 12 months. Ms. Watkins was delinquent on her account twice in the past 12 months, with the most recent month being February. With no further delinquencies she would be eligible to go on this plan this coming February.

Councilmember Hall stated that Council has to depend on Scott Hopkins and customer service when making decisions of this nature. Ms. Watkins' 12 month period will be up February 2011 and she will be eligible for the equal payment plan.

City Council decided to deny this request at this time. Mayor Whitley asked the City Manager to have Scott Hopkins in customer service notify Ms. Watkins.

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

Councilmember Neel stated that the Stanly County Christmas parade is showing on October 13 instead of December 13 on the calendar. The City Manager said that it is correct on the list but misplaced on the calendar. He told Mr. Neel that we would correct the calendar.

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

(Ordinance 10-33. To establish a grant budget ordinance for the Rural Center Grant to the City of Albemarle for building reuse and restoration)

The Mayor and City Council discussed the expiration of a 90 day extension to condemn property at 1136 Gibson Street. On July 6, City Council provided Mr. Rorie a second 90-day extension to make improvements to his property. Council asked that he be far enough along in his renovation that at least one of the elements of the project be reviewed by the Stanly County Building Inspections Department.

Senior Planner Keith Wolf stated that Council had received photos of the Rorie Property taken this past Wednesday and that one wall has not been completed.

A comment from Council was that the building should be looked at by the County building inspector.

Mr. Wolf stated that Mr. Rorie has not contacted Mr. Sasser or responded to the letter sent to him.

Councilmember Neel stated that it is his understanding that Council is to ask the building inspector to come out. We should not continue to let Mr. Rorie accumulate expenses if the City is going to condemn the property. He said that Council should encourage the building inspector to not renew his permit.

Councilmember Hall stated that Mr. Rorie has yet to appear before City Council. A letter was not sent until September 16. The homeowner should be the one to request an inspection from County inspections.

Councilmember Townsend stated that Mr. Rorie has had ample time to complete this but the building is a lot better now than in June 2009. It is now an enhancement to the neighborhood but has not passed code. Mr. Townsend said that Council should not ask the building inspector to not renew his permit. If the building is inspected and passes, the City should move away from this because enough time has already been spent on this.

Councilmember Underwood said that he hates to see Mr. Rorie spend this money and then lose the property to condemnation.

Councilmember Holcomb and Hall stated that Mr. Rorie should come before Council based on the September 16 letter he received.

Councilmembers requested that the City Manager draft another letter to Mr. Rorie to ask him to appear before Council either in October or by November 15 at the latest.

Mayor Whitley stated that at looking at this property, it will not meet the building code. The structure has been bricked on 2 sides and the front, the back wall has not. It meets the condition of not being an eye sore and people cannot just walk in and use this for illegal uses.

Councilmember Neel stated that the structure needs to meet code period. Councilmember Alexander stated that the building looks better than originally and the progress we wanted has been met.

Mayor Whitley stated that the letter sent to Mr. Rorie should request that he appear before Council and state his plans at the October 20, November 1, or November 15 Council meeting.

The Department of HUD has awarded the 2010 Capital Fund Program Grant. This grant will be used to support the site improvement at both public housing sites. The Public Housing Dept. submitted the 2010 CFP grant application to City Council in April 2010 before submitting the 5-year agency plan & annual update to HUD. This grant will support the Site Improvement bids for both public housing sites.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend, and unanimously carried, an Ordinance entitled (Ordinance 10-34) "AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, 2010 GRANT ORDINANCE FOR A PUBLIC HOUSING CAPITAL FUND PROGRAM." passed first reading.

The Mayor and City Council received bids for new stove & refrigerators in public housing units. On September 23, 2010 until 2:30 pm at the City's Purchasing Agent's Office, bids were received to replace stoves & refrigerators. The low bidder is R. Black Associates @ \$182,979 + \$7900.92 = \$190, 879.92. Funds are available in the HUD 2009 Capital Fund Program Grant to support this project.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall and unanimously carried, the Council approved

(Bid Tabulation)

The Mayor and City Council received bids for site improvements in Public Housing. Bids were received on September 23, 2010 until 3:30 pm at the City's Purchasing Agent Office for site improvements for the public housing properties. Council received a copy of the certified bid # 2010-07. The City Manager noted that although funds are available in the HUD 2010 Capital Fund Program grant, additional

operating reserves will be needed to complete this site improvement project upon authorization from City Council.

Mr. Wayne Stogner with Stogner Architecture came before Council and stated there were issues with several of the bids and bidders. Mr. Stogner asked that Council reject all bids and allow a rebid for October 15. Mr. Stogner stated that he would review the results with Council at its October 18 meeting.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the Council approved rejecting all bids and allowed a rebid for October 15.

The Mayor and City Council considered a Brownfield Assessment Grant Application. The City has an opportunity to apply for this Grant which is due by October 15, 2010. The City Manager noted that if we elect to apply, then the Mayor is asked to write a letter of support. City Council would also need to appoint 2 -3 people to serve on a Brownfield Advisory Committee. The category of appointments recommended by CCOG are developers, realtors, attorneys, bankers, neighborhood Association representatives or citizens residing in target areas. There are no matching funds from the City required for this application, and this would provide an opportunity to move closer to identifying and assessing sites that could be cleaned up and redeveloped.

Upon a motion by Councilmember Hall, seconded by Councilmember and Councilmember Holcomb, and unanimously carried, the Council approved the Mayor writing a letter of support for the Brownfield Assessment Grant Application.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Neel and unanimously carried, the Council approved appointing 2 people, Kathy Almond and Mary Burt Allen, to serve on a Brownfield Advisory Committee.

The Mayor and City Council considered an appointment to fill a vacancy on the Parks and Recreation Advisory Board. The District 3 representative, Elaine Plowman, has resigned from this board and an appointment is needed to fill the unexpired term. Her term is set to expire on June 30, 2011. The City Manager noted that a person will need to be appointed to fill the unexpired term.

Councilmember Hall moved to nominate Mark Dennis to fill the unexpired term of Elaine Plowman, District 3 representative on the Parks and Recreation Advisory Board. The motion died for lack of a second.

Upon a motion by Councilmember Napier, seconded by Councilmember Underwood and unanimously carried, the Council approved Star Cagle to fill the unexpired term of Elaine Plowman, District 3 representative on the Parks and Recreation Advisory Board expiring June 30, 2011.

The Mayor and City Council considered an architectural proposal for the Niven Center Evaluation. WHN Architects of Charlotte has submitted a proposal for services related to renovations at the Niven Center facility. The City Manager noted that the City has received the deed for the homeless conveyance and anticipate receiving the deed for the parks and recreation conveyance in the next few weeks.

Toby Thorpe has discussed this project with WHN Architects who designed the recent EE Waddell Center renovation, and they have provided a proposal to do an initial assessment of the facility which can be used to determine the extent of renovations needed to bring the facility up to code for the proposed occupancies.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb, and unanimously carried, the Council approved WHN Architects to do an initial assessment of the Niven Center to determine the extent of renovations to bring the facility up to code.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Townsend, and unanimously carried, an Ordinance entitled (Ordinance 10-35) "AN ORDINANCE TO AMEND FY 2010-2011 BUDGET " passed first reading.

(Ordinance 10-35. To appropriate Funds received from Build America Bonds as debt proceeds for Equipment Purchase.)

The Mayor and City Council considered a resolution to provide employee participation in the NC Deferred Compensation Plan (NC 457). This program would

provide employees with another voluntary retirement program. The City would not be required to provide any matching funds for this program if adopted.

Upon a motion by Councilmember Hall, seconded by Councilmember and Councilmember Underwood, and unanimously carried, the Council approved a resolution to provide employee participation in the NC Deferred Compensation Plan (NC 457).

(Resolution 10-33. A qualified Governmental Deferred Compensation Plan under Internal Revenue Code § 457(b) for public employees of North Carolina.)

The Mayor and City Council considered a resolution to revise compensation for the Albemarle ABC System board members. At the September 20 meeting, Council approved changing the compensation for ABC board members. The new law limits ABC board compensation to a maximum of \$150.00 per meeting unless the City reports a higher level to the State ABC Commission. The Council approved setting compensation at \$125.00 per meeting for board members and \$150.00 per meeting for the Chairman at its last meeting.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hall, and unanimously carried, the Council approved a resolution to set ABC board compensation to \$125 per meeting for board members and \$ 150 per meeting for the chairman.

(Resolution 10-32. To revise the ABC Board compensation.)

The Mayor and City Council considered a joint meeting with the Albemarle ABC Board. This meeting is proposed for Wednesday, October 20 at 6:00 pm at City Hall. The City Manager noted that he had been in touch with Karen Cranford regarding the requested joint meeting with the ABC Board. The ABC Board has recommended Wednesday, October 20 at 6:00 pm in the Community Room at City Hall for Council's consideration.

The Mayor and City Council determined there were no conflicts with this date for the joint meeting.

The Mayor and City Council reviewed a draft of proposed changes to the Concord - Kannapolis Water Sales Agreement. Pursuant to City Council's request, the City Attorney drafted the attached language to amend the amended language recently proposed by the Kannapolis City Attorney. The City Manager noted that we have submitted this proposed change to Concord and Kannapolis, along with the wording change requested by Mayor Whitley to amend the second sentence in paragraph 3.3 on page 4 to the following: "After the expansion and when its maximum allowable withdrawal is increased by FERC, Albemarle will reserve a total of 10 MGD of water treatment capacity for Concord and Kannapolis."

City Attorney David Beaver stated that he had spoken with the City Manager and that the time frames in the agreement may not be realistic. To go ahead and send the revised agreement to Concord and Kannapolis and see what their response is or if they approve.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the Council approved sending the revised agreement to Concord and Kannapolis for their response or approval.

The Mayor and City Council considered a request of Ms. Faith Davis, 747 South Fifth Street for exception to utility billing adjustment policy. Council received a copy of Ms. Davis' letter, last utility bill, two plumbing bills, and the City's utility billing adjustment policy. The City Manager noted that based on this policy, Ms. Davis' bill was adjusted by eliminating \$812.57 in charges, which was one half of the above normal water usage and 100% of the above normal sewer usage for her August bill. Although this was not technically a leak, the outside faucet is located away from the house and was not visible to the occupants, so we felt the customer should get the benefit of the doubt and receive the adjustment.

Ms. Davis had a plumber check the problem twice and the plumber fixed a slow leaking faucet the first visit, but this did not solve the problem. He did not find the outside faucet until the second visit. Ms. Davis is requesting an adjustment for the second month, which is an exception to the policy. If you want to consider an adjustment, you may want to consider the sewer only, since the City did not have to treat the sewage. This would be an adjustment of approximately \$550.00 to the second bill.

Upon a motion by Councilmember Townsend, seconded by Councilmember Holcomb, and unanimously carried, the City Council approved an adjustment of \$550 for sewer only and suggested Ms. David cap off the outside line for her future benefit.

The Mayor and City Council reviewed a draft letter to Stanly County Schools regarding littering. Pursuant to a request from Ms. Linda Francis the City Council requested this letter be drafted at the September 20 meeting of Council.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood, and unanimously carried, the City Council approved a letter drafted by the City Manager to Stanly County School System.

The Mayor and City Council considered a designation for the 2010 Christmas Holidays. The Code of Ordinances provides that the City Council designate the days each year for Christmas holidays. Christmas Day is on Saturday, December 25. The management team polled employees at random, and by a large majority employees requested that Friday, December 24 and Monday December 27 be designated as this year's holidays.

Upon a motion by Councilmember Neel, seconded by Councilmember Hall, and unanimously carried, the City Council approved Friday, December 24 and Monday December 27 to be designated as this year's holidays.

The Mayor and City Council reviewed information on Albemarle's ABC System Distributions for alcohol education and treatment. At the September 20 meeting Councilmember Hall had asked for information regarding ABC System distributions for alcohol education and treatment. Council received spreadsheets that include this information along with information regarding other distributions from the system drafted by Karen Cranford.

Councilmember Hall encouraged Council members to visit one of the schools this week where ElectriCites will be making presentations for Public Power Week.

Councilmember Hall congratulated Parks and Recreation Director Toby Thorpe on the bicycle ride he participated in for Cycle NC.

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