

REGULAR MEETING CITY COUNCIL
September 7, 2010

The City Council of the City of Albemarle met in a regular session on Tuesday, September 7, 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.

The Mayor and City Council were presented with the Public Power Awards of Excellence plaques. Assistant Public Utilities Director Judy Redwine and Special Projects Coordinator Jonathan Misenheimer presented the plaques to Council that the City received for awards in the categories of Customer Service, Grassroots Building Political Strength, Training, and Energy Efficiency from Electricities of North Carolina.

Upon a motion by Councilmember Underwood, seconded by Councilmember Hall and unanimously carried, the minutes of the August 16 regular session and August 16 closed session were approved as submitted.

Mr. Rick Mullis came before City Council to request City funding to establish a drop off recycling collection center requesting a subsidy of \$1,200.00 per month from the City for this program. The City Manager noted that this cost of \$14,400.00 per year is not currently budgeted. Mr. Mullis met with Mike Lambert and Michael Ferris recently regarding this proposal and he is proposing to lease a building on Old Aquadale Road for an unmanned recyclables drop off collection center. Mr. Mullis requested to be on the Council agenda to present this proposal.

Mr. Mullis briefly explained the collection center and that it would be located on the Old Aquadale Road. Residents would be able to drop off items 24 hours a

day/7 days a week. He also stated that this would cost \$14,400 a year/\$1200 monthly for a cost of \$.25/per resident.

Councilmember Townsend asked Mr. Mullis how soon this could be implemented. Mr. Mullis said that it could be implemented as soon as the City would like within a 30/60 day window. Upon questioning, Mr. Mullis stated that this would be an unmanned site.

Councilmember Hall stated that the City is now in the 3rd month of the current fiscal year and in 5 months the City will start planning for next year's budget. The Mayor stated that the budget is currently frozen. Ms. Hall asked about the possibility of promoting Mr. Mullis with this type of franchise service for residents.

Councilmember Holcomb asked Mr. Mullis if starting this service is subject to the City's financial support. Mr. Mullis said that it would be a stepping stone to something more and that he has spoken with the County also.

Mayor Whitley stated that a recycling center is needed and also residents if they choose, having a curbside service as with Green Pieces for a fee. He said that he appreciates Mr. Mullis coming forward. The Mayor said that Council has an obligation to speak further with Steve Megson with Green Pieces and Council may consider this option in the future.

Ms. Pam Atkins came before City Council representing a citizen group from Greenwood Park Circle to discuss the City's dog ordinance. Ms. Atkins came by City Administration on Tuesday, August 31 and asked to be placed on the agenda for the next Council meeting. Her father lives at Greenwood Park and he and his dog were attacked by a dog in the vicinity. Ms. Atkins has already spoken with Stanly County Animal Control, City Police and the Board of Health.

Ms. Atkins named several ordinances with the City that she is interested in discussing possible changes that should be considered.

Ordinance 81.17 – Licensing of domestic animals

Ordinance 81.26 – Unlawful

Ordinance 81.23 – Investigation and Interference with officers

Regarding Ordinance 81.23, Ms. Atkins requested that the ordinance state that the owner carry insurance of at least \$100,000. She said that if someone is bitten

again this may cause a potential lawsuit. She stated that Representative Justin Burr was one of the primary legislators supporting Bill 626 – Restraining of Dogs and Bill 1456 – Drug Felon/No Large Dogs. Ms. Atkins talked about DNA testing to determine a dog's breed. Any animal that bites or scratches should be confined within four walls.

Ms. Atkins stated that the police department is to determine if an animal is vicious. The City does not differentiate between vicious and potentially vicious. She gave the dates and the incidents that occurred involving a Pit Bull Boxer mix who lunges at pedestrians and bit an elderly man and his dog. On August 10 the health department determined that the animal was potentially vicious. On August 18 there were communicating threats by this dog's owner. Animal Control is requiring the dog stay in the house or be placed in a fence except when being walked. When being walked, the dog is required to wear a muzzle.

Ms. Atkins is asking that the dog be put down. She said that Greenwood Park Circle citizens love and respect pets and are owners of pets, but the safety of the entire community is at stake. She asked that the Albemarle Police Department work in conjunction with the Stanly County Board of Health to do this.

Councilmember Hall asked Ms. Atkins where she lives. Ms. Atkins stated that she lives in New London and her father lives on Greenwood Park Circle and that he and his dog were bitten by the Pit Bull Boxer mix.

Mayor Whitley asked Ms. Atkins if she had filed a lawsuit about this situation and she said yes.

Albemarle Police Chief Michael came before Council and said that around 1982, the City turned animal control responsibility over to the Stanly County Animal Control. The City has had a vicious dog ordinance since 1999. With the City not having an animal control department, this function is handled by Stanly County Animal Control for all of Stanly County, including the municipalities. Since this incident was involving a dog bite, animal control is required to be involved by law. When a bite occurs, SCC Animal Control enforces the County ordinance and the City does not become involved in their investigation unless they request our assistance. Chief Michael stated that he would be meeting with the Board of Health in a couple of weeks and they will be looking at the County and City ordinances. He stated that this could be a long and drawn out process to make changes.

Councilmember Hall said that she appreciated Ms. Atkins bringing this to Council's attention. Chief Michael said that the City and County will be looking at several other cities and counties and their ordinances involving animals and restraints.

Councilmember Holcomb said that once someone is bitten, the animal needs to be placed behind a fence. Councilmember Alexander stated that the City is fortunate that we do not have very many problems of this nature to deal with.

Mayor Whitley thanked Ms. Atkins and stated that the City will move forward with this.

Battalion Chief Tony Upchurch and Assistant Public Works Director Nina Underwood came before City Council concerning this year's United Way Campaign. They serve on the City's United Way Campaign Committee along with Assistant Police Chief Ted Smith.

Battalion Chief Upchurch discussed this year's campaign and requested approval of 5 additional annual leave days for a drawing for fair share givers.

Councilmember Neel asked Chief Upchurch how many of the City employees are fair share givers. Chief Upchurch stated that 35% of the employees are.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council approved 5 additional annual leave days for a drawing for fair share givers in the City's United Way Campaign for a total of 20 days.

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

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

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| 10--29 | To amend the 2009 Grant Ordinance 09-32 and 10-25 for a CDBG for the Morrow Chase Project. |
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- 10-30 A Grant Project Budget ordinance relating to the 2010 Local Solicitation Justice Assistance Grant from the US Department of Justice.
- 10-31 To appropriate funds from General Fund Balance for RESERVED CDBG Projects.

The Mayor and City Council Council reviewed the progress on the Bobby Rorie property at Gibson Street and Arey Avenue. The City Manager noted that Planning and Community Development staff have looked at the property and they report that as of September 1 the front and west side brick work appears to be complete, with no activity on the rear and east side since early August. The City Council approved another 90 day extension at the July 6 meeting to bring this property into compliance. At that time Councilmember Napier requested that City Council be given a status report every 30 days.

Planning and Community Development Director Bob Sasser came before Council and reiterated the situation at the Bobby Rorie property and that there seems to have been no progress on the property since early August. There is only 30 days left on the extension.

Councilmember Holcomb asked if staff could write Mr. Rorie a letter reminding him that there is only 30 days left on his extension. Mayor Whitley stated that allowing him to continue to spend money is unfair if the City is going to condemn the property. Mr. Rorie needs to understand that.

Councilmember Townsend stated that if Mr. Rorie completed the exterior, it would not be as much of a concern having the interior completed because it would be an enhancement to the neighborhood.

Councilmember Hall stated there is a clause in the minutes that states Mr. Rorie would have to have building inspector approval. The City Manager stated that it would be at a point when the exterior could be approved.

Councilmember Townsend said that once the brick is completed on the exterior, it may be a good time for the City to back away.

The Mayor and City Council considered a recommendation of the Planning and Zoning Board to approve a request of David Scarboro for a Conditional Use Permit for a bed and breakfast in (RO) Residential Office Zone at 415 North Second Street. The Planning Board on August 24th, 2010 unanimously recommended approval of this. City Council approved a CU Permit for a tea house at this location on April 7, 2008. Mr. Scarboro requests that the tea house CU permit be allowed to remain as a possible future use. Staff sees no problem in doing this. A public hearing can be set for Oct 4th.

Councilmember Neel stated that a conditional use permit in his understanding is for a specific use for a specific property. He said that he is not aware of more than one conditional use permit being given to an individual for a specific property.

Mayor Whitley stated that Council will go into further discussion at the public hearing on October 4.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb and unanimously carried, the City Council approved setting a public hearing for Monday, October 4, 2010 to consider a recommendation of the Planning and Zoning Board to approve a conditional use permit for a bed and breakfast in (RO) Residential Office Zone at 415 North Second Street.

Upon a motion by Councilmember Hall, seconded by Councilmember Alexander, and unanimously carried, an Ordinance entitled (Ordinance 10-32) "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 XIV-A (NAMING OF STREETS) TO INCLUDE ADDITIONAL STREETS IN THE ANDERSON RIDGE SUBDIVISION IN THE CITY OF ALBEMARLE, NORTH CAROLINA." passed first reading.

The Mayor and City Council considered a petition for voluntary annexation of Stanly Community College property. A public hearing can be set for October 4, 2010 to consider this annexation. The City Manager noted that the City Council previously authorized proceeding with this annexation with SCC paying the out of pocket costs such as for the survey and attorney's fees. This will annex that portion of the SCC property

that is not currently in the City limits, so that all of the campus will be inside the City. A public hearing is required to consider this, which can be set for Monday, October 4, 2010.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved setting a public hearing for Monday, October 4, 2010 to consider a petition for voluntary annexation of Stanly Community College property.

The Mayor and City Council considered approval of a financing resolution. Financing for the landfill and Public Utilities Equipment was approved in August. City Council previously approved this financing for equipment at the landfill and for Water and Sewer. This is a resolution required by the bank as part of their procedures.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council approved a financing resolution required by RBC Bank for the landfill and Public Utilities Equipment.

(Resolution 10-29 - Approval of financing for the purchase of equipment for the Landfill and Public Utilities with RBC Bank in the amount of \$332,916.17)

The Mayor and City Council discussed a request to amend a policy regarding private attachments to City utility poles. The City Manager noted that the City has received a request from a local business to allow them to attach private fiber optic cable to the City's utility poles. The City has not previously allowed any attachments for individuals or private businesses. There are issues to consider in allowing such requests such as capacity on pole lines due to mandated separation requirements, liability, and establishment of a precedent that could create additional requests.

The City Manager noted that he had talked with utility directors in several other cities with municipal electric systems and learned their policies as follows:

Gastonia- Do not allow.

Monroe- Do not allow on public rights of way. They have one installation where they have a pole line on a manufacturer's property and they allowed in this instance.

Lincolnton- Have not had a request. Would have concerns about allowing this.

Morganton- Have not had a request from a private business. They have allowed for the County and Community College. They would consider if they received a request, but do not know what the decision would be.

Statesville- Do not allow.

High Point- They allow this with a pole attachment agreement.

Upon questioning, the City Manager stated that if approved, each person applying would have to come before Council for approval.

Mayor Whitley stated that Council needs to think long and hard before making a decision on this. Councilmember Neel asked that Council wait and discuss this at the next Council meeting after the ElectriCities meeting he will attend next week.

The Mayor and City Council reviewed draft guidelines regarding 25 miles per hour speed limits in closed residential subdivisions. The City Manager noted that at the request of City Council, Chief Michael drafted guidelines based on the NCDOT policy that was provided to City Council and input provided by City Council and other staff. This originated with the request that Council received from the chairman of the Anderson Ridge Homeowners Association. This policy would allow "closed" subdivisions to have 25 miles per hour speed limits based on a petition of a majority of the residents and the approval of City Council.

Upon a motion by Councilmember Alexander, seconded by Councilmember Townsend and unanimously carried, the City Council approved a draft of guidelines based on the NCDOT policy and input provided by Council and City staff allowing "closed" subdivisions to have 25 miles per hour speed limits based on a petition of a majority of the residents.

The Mayor and City Council reviewed the East Albemarle Community Schools Sidewalk Supplemental Agreement. A supplemental agreement from the NC Department of Transportation amending the original agreement for sidewalks in the vicinity of East Albemarle (serving E Albemarle Elementary School and Albemarle Middle School) in order to address scope, budget, and schedule changes. The City Manager noted that the City received this grant last year to construct sidewalks where none currently exist in the vicinity of Albemarle Middle School and East Albemarle

Elementary School. The sidewalks would be constructed using City force account labor but with all the engineering and materials cost paid for by the grant. The grant is from NCDOT but uses federal funds.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved the East Albemarle Community Schools Sidewalk Supplemental Agreement.

The Mayor and City Council considered approval of Bid 2010-4 for the sale of surplus scrap metal. This metal was declared surplus by City Council, and was advertised for sale by sealed bid. Bids were received from three scrap metal companies, and recommend award to the highest bidder, AL Lowder of Albemarle.

Upon a motion by Councilmember Alexander, seconded by Councilmember Townsend and unanimously carried, the City Council approved the lowest bidder, A.L. Lowder, Inc. on Bid 10-04 for the sale of surplus scrap metal.

(Bid Tabulation 2010-04)

The Mayor and City Council considered approval of a bid award for energy efficiency street lighting on the Main Street corridor. The City Manager noted that the Main Street grant is through the American Recovery and Reinvestment Act which will allow replacement of all the street lights on Main Street throughout town. This is a 50% matching grant, but the City's force account labor and equipment can be considered part of the City's match. The estimated cost of these new LED lights was \$82,125, and the low bid came in slightly under budget at \$75,211.00. This means that the City's cash match will be approximately \$25,000 which is included in the current Electric Fund budget. Jonathan Misenheimer prepared the grant application and will administer the grant.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council approved the lowest bidder, H. D. Supply in North Carolina, in the amount of \$75,211 for energy efficiency street lighting on the Main Street corridor.

(Bid Tabulation 2010-05)

The Mayor and City Council discussed proposed activities and programs to commemorate Albemarle Electric System Centennial.

Councilmember Hall came before City Council to give a PowerPoint presentation of plans for the 100th anniversary of Electricity celebration scheduled the week of October 4. Ms. Hall stated that Mia Bailey with ElectriCities was in Albemarle two weeks ago on August 23 and met with representatives of the schools and with Kathy Almond and others about the proposed events.. Ms. Hall said that Ms. Bailey has been working with her and the Public Utilities staff on this project. Also, pole banners have been ordered and Assistant Public Utilities Director Judy Redwine applied and received \$2,500 in special funds to assist in the cost of the banners.

Ms. Hall described in detail the activities that are planned for Albemarle Middle School and Albemarle High School students.

Ms. Hall talked about the City being invited to participate in a Day of Caring event where the City Staff and Councilmembers will be a part of personally visiting with some of their neediest citizens who use public power to educate them about energy saving devices from the Public Power energy kits in their homes. The proposed date of September 29 for this event will be done in partnership with the Stanly County Senior Center. Ms. Hall requested that this date be approved tonight if possible.

Ms. Hall also stated that Senator Purcell and Representative Burr would like to take active part in our celebration. She stated that a resolution created by Senator Purcell and Representative Burr recognizing and honoring Albemarle on their 100th anniversary in Public Power was read on the Senate floor and passed in both Chambers.

Upon a motion by Councilmember Neel, seconded by Councilmember Alexander and unanimously carried, the City Council approved permission to proceed with plans and activities to commemorate the centennial of the City's Electric System and to approve September 29 for the Day of Caring Event.

The Mayor and City Council reviewed legislation regarding the NC Alcoholic Beverage Control System. City Council received a copy of this legislation along with a summary of the legislation prepared by the NCLM staff. At the City Council meeting on August 16 Councilmember Hall had suggested that the City Council review these changes to the law governing local ABC systems.

Councilmember Neel stated that he would be attending the North Carolina League of Municipalities meeting this Friday and this item will be a principle part of

discussion. He asked that Council give him any questions or comments before the meeting on Friday.

Mayor Whitley stated that Council could meet at a later time to discuss this with the ABC Board. The Mayor asked the City Manager to set up a meeting for a joint meeting of both boards.

The Mayor and City Council considered a designation of a voting delegate and alternate for the NCLM Annual Meeting. This meeting will be on Monday, October 25 in Winston Salem. The City Council typically designates two of the elected officials that will be attending the League meeting. This year Councilmembers Hall, Neel and Townsend are registered to attend.

Councilmember Townsend asked that Councilmember Hall be designated as the voting delegate. Councilmember Neel was assigned as the alternate.

The Mayor and City Council received information about a report on a request to modify criteria for placement on banned lists for City property. The Police Department is waiting on information from the UNC School of Government about this policy and the City expects to have the recommendations in time for the September 20 Council meeting.

Councilmember Holcomb congratulated Mayor Whitley for being elected to his 28th term as chairman on the Stanly Community College Board and to honor his 33 years as a trustee. The college unveiled a bronze bust crafted in his likeness.

Councilmember Townsend stated that he is concerned that Kannapolis failed to make a decision on the water agreement with the City. Councilmember Neel agreed.

Councilmember Hall mentioned that a definite date needs to be determined for the Day of Caring activity for the 100th year anniversary celebration. If September 29 will not work for most of Council, another date can be set.

Councilmember Holcomb stated that anytime the last two weeks of September she may not be able to attend, but she will attend if she can.

The Councilmembers decided to keep the date of September 29, 2010 for the Day of Caring activity.

Parks and Recreation Director Toby Thorpe and ADDC Director Kathy Almond came before City Council to update Council on the NC Cycle event and to request the partial closing of Glenn Street. This would begin from North 1st Street, down Glenn Street allowing about a 50 yard length to place covered shower trailers back to back on one side of the road for the cyclists. This will block the entrance to 1st Street United Methodist Church parking lot. Ms. Almond stated that she has been in contact with the church and she is waiting to hear back from them.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Townsend and unanimously carried, the City Council approved the closing of Glenn Street from N. 1st Street allowing about a 50 yard length to place covered shower trailers.

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