

REGULAR MEETING CITY COUNCIL
April 19, 2010

The City Council of the City of Albemarle met in a regular session on Monday, April 19, 2010 at 7:00 p.m. in the City Hall Annex. Mayor Elbert L. "Whit" Whitley, Jr. presided, and the following Councilmembers were present, to-wit: Troy E. Alexander, Judy Holcomb, Jeanette M. Napier, Jack F. Neel, Dexter Townsend and T. Ed Underwood. Absent, Councilmember Martha Sue Hall.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the minutes of April 5, 2010 regular session and April 5 closed session minutes were approved as submitted.

A public hearing was held to consider a conditional use permit for Prospect Baptist Church.

Mr. Matthew Johnson speaking in favor of the CUP and for Prospect Baptist Church stated that a couple of years ago the church built a family life center after getting a conditional use permit. By the church creating this master plan, it will allow them to build the individual buildings in their long range proposed campus plan without having to come back to the Planning Board and City Council each time.

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

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 Alexander, seconded by Councilmember Townsend 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 Holcomb, seconded by Councilmember Napier 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 Neel, seconded by Councilmember Townsend and unanimously carried, the City Council approved finding of fact #4.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the following resolution was duly adopted:

(Resolution 10-09. To approve a conditional use permit for Prospect Baptist Church.)

Mr. Daniel Ridenhour, JD Shuckers came before City Council to request a street closing on Saturday, May 22 for a street festival. Mr. Ridenhour was representing the Albemarle Downtown Business Association and the Albemarle Downtown Development Association who are event cosponsors. He is requesting that North 1st Street between West Main Street and North Street be closed from 10:30 am until midnight.

As noted by the City Manager, NCDOT must also concur in this approval. The event is to include music, food, activities and a business expo. There is an overlapping event that will be held on portions of Main Street and Second Street on that same date. Vicki Coggins has advised that the sponsors of Quake 2010 have been contacted and they do not object to this event being held at the same time.

Mr. Ridenhour stated that the event is called Albemarle Downtown Live 2010 to promote downtown businesses. There will be live bands all day and between each band segment, some of the downtown businesses will perform showing there products or services.

Councilmember Holcomb asked if both events are going to share the cost of having off duty officers there. Mr. Ridenhour said yes they are going to share this cost.

Councilmember Neel asked which street is to be closed. Mr. Ridenhour stated that with the two events, sections of both 1st Street and 2nd Street will be closed.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved the closing of North First Street between West Main Street and North Street from 10:30 am until midnight on May 22 for a street festival.

Ms. Kim Fisher came before City Council to request a business license on behalf of Mr. Clayton Dean Maready. Ms. Fisher stated that Mr. Maready is requesting a peddler license to have a hotdog cart in Albemarle to promote his construction business located in Mount Pleasant.

Councilmember Townsend asked if he would be having several carts or just one cart. Ms. Fisher stated that there would be just one cart.

Upon questioning, Ms. Fisher stated that they would be setting up a calendar schedule to hand out to businesses stating where they will be on any given day.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved the request of a peddler license to Clayton Dean Maready for a hotdog cart.

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.

The Mayor and City Council reviewed an update on the request of Mr. Jennings Kennedy for a special utility billing adjustment. City Manager Raymond Allen noted that the Public Utilities Department contacted Mr. Kenneth Helderman regarding potential water line connections at this property in addition to the house. City Council had requested that Mr. Helderman engage a licensed plumber to investigate the possibility of any lines going from this house to the adjacent Service Distributing property. Mr. Helderman sent his maintenance personnel back out there to check this and indicated that they are experienced in detecting this type of leak or connection. Mr.

Helderman indicated that he is certain that no such connections exist, and that he does not feel the cost of engaging a plumber would be warranted since he is certain there are no other connections to the meter.

Councilmember Neel stated that in respect to the property owner, he is not sure if the proper research has been done. The City needs to know for sure that it was not a toilet leak because, if so, there is nothing the City can do. He requested that the City Water and Sewer Systems Division check this area with a M-Scope to determine if there are any other water lines.

Councilmember Holcomb stated that the test should be run and then we can move forward on this.

A decision to grant a request for a special billing adjustment for Mr. Kennedy on Hawthorne Avenue is pending on the City Water and Sewer Systems Division scoping the water line and bringing the results before Council at a later meeting.

The Mayor and City Council received an update on the nuisance abatement activities at 1228 Lennox Street. Letters were sent to three properties that could potentially be where Mr. Pulley, the owner of 1228 Lennox, is residing. Councilmember Townsend provided addresses after the last Council meeting on April 5 to Senior Planner Keith Wolf, but these were addresses that are now foreclosed properties. Violation notices were sent to the three addresses where Mr. Pulley may pick up mail providing a compliance date 15-days after April 6, the date of the mailings.

City Manager Raymond Allen noted to Council that in addition to requiring compliance, the letters also asked Mr. Pulley to contact Mr. Wolf upon receipt so that the City will be aware of his intentions. If no voluntary compliance by Mr. Pulley, Mr. Wolf will have a contractor lined up to remove the debris as soon as the deadline expires. If this takes place Finance will attach a lien to the property for the amount of the debris removal contractor's cost.

Mr. Wolf came before Council and stated that he received a call today from Mr. McDonald, acting in behalf of Mr. Pulley, and he stated that the property had been completely cleaned up. Mr. Wolf said that he went by the property today and there was only a small pile in the very back of the property and a small water heater. Mr. Wolf said that he had never meet Mr. Pulley.

Upon questioning by Councilmember Townsend, Mr. Wolf said that he will follow up and see if Mr. McDonald will be representing Mr. Pulley for future reference.

The Mayor and City Council received a report from the City Attorney on drafting ordinances to institute term limits for City Boards and Commissions.

City Attorney David Beaver passed out the draft ordinances for the Planning Board and Board of Adjustment to Mayor and Council before the start of the meeting. Mr. Beaver stated that this draft is for Council to review and no action is needed tonight. He stated that he will get with Planning and Community Development Director Bob Sasser and review the drafts with him.

Councilmember Neel stated that on the draft ordinance for the Planning Board, the term has been changed from a three year term to a two year term. He stated that this is not something that had been decided on that he is aware of.

Mr. Beaver stated that this can be changed back to the three year term.

The Mayor and City Council considered a recommendation of the Planning Board to amend the Subdivision Ordinance to require access connection for commercial development. As noted by the City Manager, the Planning Board on 3-23-10 recommended that the following be added to the Subdivision Ordinance: A 22' wide driveway connection shall be made to adjoining lots so that traffic can move from one parking lot to another without reentering the public street on commercially developed property. This will require a public hearing.

Upon a motion by Councilmember Townsend, seconded by Councilmember Underwood and unanimously carried, the Council approved setting public hearing for Monday, May 17 to consider amending the Subdivision Ordinance to require access connection for commercial development.

The Mayor and City Council considered a recommendation of the Planning Board to amend the Zoning Ordinance regarding accessory structure location. As noted by the City Manager, the Planning Board on 3-23-10 approved a request of George Ray Smith for a text change amendment to allow an accessory structure to be placed on the side or in front of the primary residential structure. The Planning Board added a recommendation of staff to apply this policy only to lots equal to or exceeding 5 acres and that the accessory structure(s), be setback 200' or more from the street right-of-way. This will require a public hearing.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the Council approved setting public hearing for Monday, May 17 to consider amending the Zoning Ordinance regarding accessory structure location.

The Mayor and City Council considered a recommendation of Albemarle Community Appearance Commission to replace inactive members. Over the past several months, six members of the ACAC have either resigned or have not attended several meetings. The ACAC is submitting several names as possible replacements. The Commission meets monthly the first Monday of the month at noon.

Councilmember Townsend stated that Deborah Blanding had been busy planning a wedding and also with the death of her husband causing distraction, all of this probably contributed to her absenteeism problems.

Planning and Community Development Director Bob Sasser reviewed the handout given to Council of the six members that have either resigned or stopped coming to meetings. There are six positions to fill and the Community Appearance Commission has 18 people listed that they recommend for consideration. The candidates have not been asked if they are willing to serve.

Councilmember Townsend stated that he would like to add Eddy Baldwin to the list of candidates. Councilmember Holcomb asked Mr. Sasser if he needed an answer tonight and Mr. Sasser said no. Mr. Sasser stated that he had written a letter to the three members that have not yet resigned to see if they are interested in continuing to be a board member.

City Manager Raymond Allen stated that the members whose term ends July 2010, a candidate will be appointed to that seat to expire July 2013. The members whose term ends July 2011, a candidate will fill their unexpired term until July 2011.

The Mayor and City Council considered the approval of an audit contract with Anderson, Smith and Wike PLLC for FY 2009-2010. The contract is not to exceed \$34,250.

Finance Director Colleen Conroy has recommended the approval of this contract for FY 2009-2010 with Anderson, Smith & Wike PLLC. The audit would be performed by Ken Anderson, whose firm has been merged. This

would be the fourth year for the audit to be performed by Mr. Anderson, and would be a one year extension of the original three year contract.

Councilmember Neel asked Ms. Conroy the cost of the audit last year. Ms. Conroy stated that it was \$34,000.

Upon a motion by Councilmember Townsend, seconded by Councilmember Holcomb and unanimously carried, the Council approved an audit contract with Anderson, Smith and Wike PLLC for FY 2009-2010.

The Mayor and City Council considered authorizing the Mayor to sign the deed to accept the homeless assistance portion of the former Niven Army Reserve Center from U S Army Corps of Engineers.

As noted by the City Manager the document was prepared by the USACE. This will convey that portion of the former Niven Center property that is being designated for homelessness assistance in accordance with federal law. The remainder of the facility, which will be for parks and recreation purposes, will be conveyed in a separate deed to be prepared by the US Department of the Interior.

Upon a motion by Councilmember Neel, seconded by Councilmember Townsend and unanimously carried, the Council authorized the Mayor to sign the deed to accept the homeless assistance portion of the former Niven Army Reserve Center from the US Army Corps of Engineers which will become the Homes of Hope headquarters. And, to hold additional funds requested by Homes of Hope, until the cost is determined on the headquarter facility for them.

The Mayor and City Council considered approval of Ordinance 10-12 Budget Amendment for the Morrow Chase Housing Grant.

Planning and Community Development Director Bob Sasser came before Council and stated that these funds the City received from past housing grants. He stated that this development will require a road prior to leasing. Of the \$11,000 CDBG funds, an estimated \$ 7,000 will be needed to obtain the 401 water quality permit needed for the on site stream and \$ 4,000 to expedite the survey work for the street design.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood, and unanimously carried, an Ordinance entitled (Ordinance 10-12) "AN ORDINANCE TO AMEND FY 2009-2010 BUDGET." passed first reading.

The Mayor and City Council considered approval of Ordinance 10-13 to amend the FY 2009-2010 Budget to appropriate additional revenue in the Police Department. The City Manager noted that this budget amendment would increase the appropriation to the Police Department from a vehicle insurance settlement, sale of surplus property and other miscellaneous received by the department. The funds will be used to help cover the cost of a vehicle purchase and for building repairs and other equipment.

Upon a motion by Councilmember Underwood, seconded by Councilmember Napier, and unanimously carried, an Ordinance entitled (Ordinance 10-13) "AN ORDINANCE TO AMEND FY 2009-2010 BUDGET" passed first reading.

The Mayor and City Council considered a resolution to establish street assessment fees for FY 2010-11.

As noted by City Manger Raymond Allen, we are required to adjust these assessment rates each year based on the actual costs for the prior year. Council received a memo and recommendation from Public Works Director Mike Lambert along with a proposed resolution.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the Council approved a resolution to establish street assessment fees for FY 2010-11.

(Resolution 10-10. To Establish Street Assessment Fees for FY 2010-11.)

The Mayor and City Council considered approval of surplus scrap cast iron pipe and order sold by sealed bid. The Public Utilities Department currently has approximately 30,000 lbs. of scrap cast iron pipe that we would like to sell. The pipe is no longer of any use and is no longer serviceable. Kenneth Sheppard, Warehouse Superintendent, will be handling the sale.

Councilmember Neel asked if the monies received for the scrap cast iron pipe will go into the General Fund. The City Manager stated that the money received will go back into the Water and Sewer Fund.

Upon a motion by Councilmember Neel, seconded by Councilmember Townsend and unanimously carried, Council approved approximately 30,000 lbs. of scrap cast iron pipe surplus and ordered sold by sealed bid.

The Mayor and City Council received an update on the status of the EE Waddell Community Center Project. The renovation project for the Waddell Center building is nearing completion. Council received a summary of expenditures along with some final change orders.

Parks and Recreation Director Toby Thorpe stated that the EE Waddell project is in its final stages. He said that Councilmember Townsend had been over to tour the community center. Councilmembers Neel and Underwood stated they had also.

Mr. Thorpe stated that he wanted to give Council an update on the walk through of this past Friday, April 16. Items were identified that need to be corrected and a punch list is being set up at this time. Council has received a copy of change order #3 for the Waddell Center. Estimated change order #3 will probably come in at \$32,000 instead of \$34,664.50. There is also \$26,000 which is not shown on the sheet, including \$11,000 for kitchen appliances and \$15,000 for furnishings. The project should come in around \$41,000 under budget. There will be a grand opening when they determine the completion date. There will be a community meeting at the center on April 22 at 6 pm.

Mr. Thorpe stated that item 46 – Drinking fountain in corridor for \$2,300 will probably be taken off. Councilmember Townsend asked about item #49- Paint existing canopy of \$9,400 and the cost factor.

Mr. Thorpe stated that this change order will move the completion date up some from the original date.

Upon a motion by Councilmember Townsend, seconded by Councilmember Holcomb and unanimously carried, Council approved change order 1, 2, 3 for the EE Waddell Community Center Project.

The Mayor and City Council considered participation in the NCLM Municipal Environmental Assessment Coalition. City Manager Raymond Allen noted that this is a new initiative sponsored by the League of Municipalities to advocate for cities in the upcoming triennial review of State of North Carolina surface water quality rules. This review could prompt regulatory changes that could affect wastewater treatment, storm water systems and other areas. This initiative is designed to provide the

League with the resources needed to be a strong participant in this process. The cost to the City would only be \$1,000 and would be split between the current budget period and FY 2010-2011.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the Council approved participation in the NCLM Municipal Environmental Assessment Coalition.

The Mayor and City Council considered a joint meeting with the Cities of Concord and Kannapolis on May 5 at 6:00 p.m. City Manager Raymond Allen noted that the staffs and attorneys of the three municipalities have been working on the framework for an agreement for water sales. It would be a joint meeting in the community room at City Hall for a presentation by the engineering firm that has been working on this project, and discussion by the three boards about the concept that has been developed.

There was no opposition by Council concerning the date and time for the joint meeting with Cities of Concord and Kannapolis.

The Mayor and City Council considered the approval of an employee appreciation picnic on Wednesday, May 19. The City Manager noted that a similar event was held last year and was well received by City employees. Members of the City's management team would prepare and serve the food, with assistance from other employees.

There was no opposition by Council concerning this item.

The Mayor and City Council considered a request to study conversion to non partisan municipal elections. Councilmember Underwood requested that this be placed on the agenda for Council discussion. City Council received a memo that Michael Ferris wrote in 2007 for City Council about the mechanics of changing the election method.

Councilmember Underwood moved that discussion of non partisan municipal elections be postponed until all 7 Councilmembers are present. The motion was seconded by Napier. Voting for the motion were Councilmembers Napier, Alexander and Underwood. Voting against the motion were Councilmembers Holcomb,

Neel and Townsend. Mayor Whitley broke the tie by voting against the motion and the motion was denied.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Townsend and unanimously carried, the Council approved considering a request to study conversion to non partisan municipal elections tonight and not postponing.

Councilmember Underwood stated that if Council decides on non partisan elections, there would not be a primary and this would save the City money. Councilmember Neel stated that there are three options of non partisan elections and that it would depend on which choice of non partisan election that the City would choose.

Councilmember Townsend stated that he represents District 1 and since the early 1980's, having Afro-Americans represented on Council was not an easy task. Removing the partisan in municipal elections will, most likely, eliminate the single factor that allows Afro-American candidates to be elected to office.

Councilmember Neel mentioned that the US Department of Justice is to be notified and in the City of Kinston, the US Department of Justice overturned a referendum approving non-partisan city council elections there.

Councilmember Townsend moved to deny the request to study the conversion to non partisan municipal elections. The motion was seconded by Councilmember Holcomb. Voting for the motion were Councilmembers Holcomb, Neel, and Townsend. Voting against the motion were Councilmembers Alexander, Napier, and Underwood. Mayor Whitley broke the tie by voting in favor of the motion and the motion to deny the request to study conversion to non partisan municipal elections carried.

The Mayor and City Council considered a request to increase the fee for taping and broadcast of Council meetings from \$100 to \$150 per meeting.

Upon questioning, the City Manager stated that Ms. Mann requested the pay increase and that this fee is currently being paid by Stanly County and Stanly County Schools to tape and broadcast their meetings. Also, this is partly due to the additional complexity of the AV system in City Hall.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Neel and unanimously carried, the Council approved a request to increase fee for taping and broadcast of Council meetings from \$100 to \$150 per meeting.

The Mayor and City Council considered rescheduling the July 5 Council Meeting due to conflict with Independence Day Holiday.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood and unanimously carried, the Council approved rescheduling the July 5 Council meeting to Tuesday, July 6 due to the conflict with the Independence Day holiday.

The Mayor and City Council discussed ideas for the recognition of the 100th Anniversary of the City of Albemarle's Electric System. 2010 is the 100th anniversary of the City's electric system, and we would like to recognize this milestone some time during this year. Director of Public Utilities Ernie Borders has had discussions with staff at ElectriCities and below are some of the ideas that other communities have used. ElectriCities will provide \$2,000 in funding to help with the celebration to include promotion of Public Power.

- Set up a booth or kiosk at fairs, festivals, and other events
- Have a luncheon with Electric System employees and elected officials to celebrate anniversary
- Have an industrial customer event such as a luncheon to celebrate anniversary
- Banners
- Event for school children with displays of electrical equipment with picnic type meal served
- Design 100th Anniversary logo to use at events and on displays (ElectriCities will design logo)

Councilmember Alexander stated that the City needs to have the 100 year history of the City's electric system placed in a brochure.

Mayor Whitley stated that a deceased member of his church started the Albemarle Electric System and the City then took over. Duke Power would not furnish power to the residents only to the industries at that time including The Efird Manufacturing Co. (later American and Efird Mills) which opened its first mill in Albemarle in 1896, and was followed soon thereafter by the Wiscasset Mill Company, and others.

Public Utilities Director Ernie Borders stated that he had researched this to some extent. His primary source was the minute book from July 1907 which was written by hand. In April 1908 a contract was made with Southern Power Company and started in 1910. Five customers were served by initial service. The town was very aggressive in

wanting to bring electricity here. The mills had power supplied through Duke Power. At the turn of the 20th century (1900), the population of Albemarle was 1,000 people.

Councilmember Neel stated that in 1947 and 1979 annexation tripled the area size. Those were the biggest annexations of the 20th century and there is an aerial map of 1947.

City Council will consider the ideas given tonight and make a decision at a later Council meeting.

The Mayor and City Council reviewed information that the NC Local Government Commission has approved the City's Loan for Improvements to the Long Creek Wastewater Treatment Plant. This loan is in the amount of \$3 million and will be at an interest rate not to exceed 4%. As noted by the City Manager, this will be part of a total of \$5 million dollars in improvements at the plant, including a \$1 million Rural Center grant, and \$1 million in City matching funds to be budgeted over two years.

Emily Flynn with Municipal Engineering has advised that the final plans should be submitted to NCDENR by May 14, with final approval by mid July. She anticipates advertising for bids in July with award in September and construction starting the first of October, to be completed by the end of 2011.

The Mayor and City Council were reminded about the City's Red Cross Blood Drive on April 22nd at Fire Station One/East Community Police Office from 11:30 am to 3:30 pm.

The Mayor and City Council received a reminder of the Arbor Day Ceremony on April 22nd at 12:30 pm at City Hall. City Manager Raymond Allen noted that this event will include a tree planting on the lawn behind City Hall and presentation of the City's Certificate for its recognition once again as a Tree City USA. The kindergarten students from Central Elementary School will join the ceremony.

The Mayor and City Council received a reminder of the Chamber of Commerce Business Before Hours on April 22nd at City Hall beginning at 7:30 am. A

continental breakfast will be served in the Community Room and the City Hall will be open for visitors who have not toured the facility.

Councilmember Neel reminded everyone about the Legislative Breakfast at SRMC in the Magnolia Room on May 3 at 7:30 am.

Mayor Whitley and Councilmembers Townsend, Holcomb, Alexander, Neel and Underwood stated that they would be attending. Councilmember Napier stated that she would call the City Manager and let him know.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier, and unanimously carried, the City Council adjourned to a closed session pursuant to NCGS 143-318.11 (a) 3 to consult with the City Attorney.

Upon a motion by Councilmember Alexander, seconded by Councilmember Holcomb, and unanimously carried, the City Council reconvened to open session. Mayor Whitley announced a closed session was held pursuant to NCGS 143-318.11 (a) 3 to consult with the City Attorney and that there is nothing to report at this time.

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