

REGULAR MEETING CITY COUNCIL
April 5, 2010

The City Council of the City of Albemarle met in a regular session on Monday, April 5, 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 Reverend Jim Tucker delivered the invocation.

Upon a motion by Councilmember Napier, seconded by Councilmember Underwood and unanimously carried, the minutes of the March 9 adjourned session, March 11 adjourned session, March 15 regular session, March 15 closed session and March 17 adjourned session were approved as submitted.

Mr. Stephen Chambers, Lillian Mill Group came before City Council to present the NC Main Street Awards to City Council. The Lillian Mills Project won a Certificate of Special Recognition for the Best Adaptive Reuse category. He also noted that the Award of Merit was presented to Central Elementary School in the Best Endangered Property Rescue Effort category. These certificates were awarded at the Main Street Conference in New Bern. Mr. Chambers also mentioned that Don Abernathy received an award as Main Street Champion. A framed certificate and program was presented to City Council for the City of Albemarle.

Mr. Kinkine Ewing, President, Amhurst Gardens Resident Council came before City Council to request increased police presence in Amhurst Gardens during the spring and summer months. Councilmember Townsend contacted the City Manager to request that Mr. Ewing be placed on the agenda to appear before City Council.

Councilmember Townsend stated that Mr. Ewing would like to introduce himself to City Council as President of the Residents Council and discuss increased law enforcement presence.

Mr. Ewing stated that he had talked with the residents at Amhurst Gardens about the concerns they have since the weather is getting warmer and more people and traffic being in the area. Their concern is to protect the kids playing outside by possibly having more police visibility in this area.

Councilmember Holcomb asked Chief Michael to check on this and see if the existing patrol in this area is enough. Police Chief Michael stated that for regular patrol this added police visibility is fine but the department does not have extra monies to support overtime hours for patrol.

Councilmember Townsend stated that Mr. Ewing is mainly here tonight as a proactive gesture so hopefully not to have a reactive one. With the warmer weather and outdoor activities starting and kids being out and about, this creates a safety concern.

Jennings B. and Marilyn Kennedy at 401 Hawthorne Avenue came before Council as an announced delegation to request a water billing adjustment due to an unusually high water bill in February.

The City Manager noted to Council that the Kennedy's average use is around 775 cubic feet per month, but the February bill was 12,494 cubic feet. The meter was tested and it actually tested slow for low and medium flow, which means that at these flows the meter was under billing the customer. The customer says that they did not have a leak or other malfunction. The City's policy does not provide for an adjustment unless an outside water leak is documented. Therefore, the customer requests that City Council make a special exception to the policy.

Mr. Kennedy stated that his home is owned by Service Distributing. Mr. Helderman, owner, personally came out and his service people to check for leaks and there were none found. In January the usage was 524 cu. ft. and in February the usage was 12,494 cu. ft. The meter has been changed.

Upon questioning, the City Manager stated that the meter was changed because it tested slow for low and medium flow. Also, the City Manager noted that this is not an AMR meter, so there is no possibility of an AMR reading malfunction such as has been discussed with CMUD recently.

Councilmember Holcomb asked if there was a pool on the premises and they responded that there was not.

Councilmember Neel asked who the owner of the property is and Mr. Kennedy stated that Service Distributing owns the property. Councilmember Alexander stated that there is no way they could have used this much water and the City should do something. Councilmember Neel stated that they need to get a certified plumber to verify that no other Service Distributing property is utilizing water through this meter.

Councilmember Townsend asked if the City is holding the billing amount on an extension until this is determined. Mr. Kennedy stated they have already paid the billing for this. Councilmember Hall said she would like to see the Jennings next billing statement. This should be a more true reading.

Councilmember Holcomb stated that Kenneth Helderman with Service Distributing should be contacted and they should have a certified plumber check this out and then this item can be placed on the next agenda for discussion.

Mayor Whitley asked Mr. Kennedy if during that time if the home was vacant any and Mr. Kennedy said no. The Mayor asked that the Kennedys allow the Council to research this further and bring it back before Council at the next meeting.

Ms. Carrie Lyerly came before City Council as an unannounced delegation to speak on behalf of Bobby Rorie and her concern of his property at Gibson Street and Arey Avenue. She stated that there has been some delay in rehabilitating the property due to weather and Mr. Rorie being sick. She asked that Council kindly consider giving him more time. The building and store has been in the community many years and needs to be restored. She stated that the building was first a gathering place and then became a grocery store and gas station. She would like to keep these old buildings in the neighborhood and see them restored. This building is one of the oldest buildings there.

Councilmember Holcomb asked how long Mr. Rorie had been sick. Ms. Lyerly stated that Mr. Rorie is having surgery tomorrow morning. He has also had serious issues with masonry contractors over the last several months. Mr. Rorie wrote a letter to Council last November asking for a six month extension.

The Mayor asked Ms. Lyerly how long of an extension Mr. Rorie is asking for. Ms. Lyerly stated 90 days.

Councilmember Holcomb stated that if Council approves the extension, it should be for 30 days first. Roosevelt Horne came forward and stated that it would be impossible for Mr. Rorie to accomplish improvements in 30 days to the outside or inside with his physical health condition.

Councilmember Neel stated that with his physical health condition, Council should approve 90 days and he will have to make some real changes with a contractor working there within the 90 days. Councilmember Hall stated that in 90 days it will be a year since he started which was July 2009.

Councilmember Neel moved that the City Council approve allowing Mr. Rorie 90 days to show good faith progress starting April 6, 2010 on the outside within that time period and having a local person overseeing the project. The motion was seconded by Councilmember Underwood. Voting for the motion were Councilmembers Alexander, Hall, Napier, Neel, Townsend and Underwood. Voting against the motion was Councilmember Holcomb. The motion carried.

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

The Mayor and City Council received a report on the Ashley Heights Subdivision sign. As noted by the City Manager, at the March 15 meeting of Council, Councilmember Neel reported on an inquiry he had received from a resident of Ashley Heights regarding their subdivision sign which had been taken down. Chief Michael investigated this complaint and Council received a memo tonight of this report. Chief Michael has contacted the resident to provide her with this information.

The Mayor and City Council received a status report on the Bobby Rorie property at Gibson Street and Arey Avenue.

The Mayor stated a motion was previously approved earlier in the meeting that dealt with this issue.

The Department of Public Housing FY 2010-2014 Agency Plan and Annual Update was presented to City Council at its March 15 meeting for information. The plan was presented to residents and the public on Thursday, April 1 at Amhurst Gardens and

Elizabeth Heights. A board resolution approved by City Council must accompany the plan upon its submission to HUD.

Public Housing Director Garry Lewis stated that there was low attendance at the presentation to the residents on April 1. This is to apply for 2010 capital improvements for amount awarded in 2009. The Five Year Plan includes items we need addressed within the next five years.

(Resolution 10-08)

The Mayor and City Council considered the final change order for the Capital Fund Program at Public Housing. The contract with Central Builders Inc. for apartment improvements to replace windows and siding at public housing sites is complete, and the final change order is ready for City Council to review and approve.

Wayne Stogner of Stogner Architecture came forward to discuss the change order and answer any questions of Council. All of the work is complete with a final deduct change order in the amount of \$9,806.20. This reduces the contract amount from \$906,957.00 to \$897,150.20.

Upon a motion by Councilmember Neel, seconded by Councilmember Townsend and unanimously carried, the City Council approved the final change order for the Capital Fund Program at Public Housing in the amount of \$897,150.20 which reduces the contract amount by \$ 9,806.20.

The Mayor and City Council considered an approval of a Delivery Order of Architectural Services for Department of Public Housing. As noted by the City Manager, the City Council approved an agreement with Stogner Architecture in 2006 for architectural services. The City anticipates receiving funds in 2010. Public Housing staff has estimated that delivery of these work items will extend through December 2010 since the pruning associated with this delivery would not take place until the fall of 2010. Council received a copy of this delivery order for their review.

Wayne Stogner of Stogner Architecture PA, providing the architectural and engineering services, stated that this is the balance of 2008, 2009 and anticipated 2010 funding. He said that we need to go ahead and prepare for the landscaping that will be performed in the fall including implementing the tree project and appliance replacement project. All of this should be complete by this time next year.

Upon a motion by Councilmember Alexander, seconded by Councilmember Townsend and unanimously carried, the City Council approved a Delivery Order of Architectural Services for the Department of Public Housing to implement a tree project and appliance replacement project.

The Mayor and City Council considered the approval of a request of MDS Smith Group, LLC for a .7346 acre lot subdivision on Leonard Avenue.

City Council received a copy of the proposed subdivision. At its meeting on March 23, the Planning Board unanimously approved this request of MDS Smith Group, LLC for this one lot subdivision of 0.7346 acres on the west side of Leonard Avenue across from Murphy Oil. A new Sherwin Williams paint store is proposed to be constructed on this lot.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hall and unanimously carried, the City Council approved the request of MDS Smith Group, LLC for a .7346 acre subdivision on Leonard Avenue.

The Mayor and City Council considered the recommendation of the Planning Board to adopt a proposed Electronic Gaming Ordinance. At its meeting on March 23 the Planning Board voted unanimously to recommend the attached ordinance regulating electronic gaming be adopted. A public hearing can be set for May 3 to consider this ordinance if approved by City Council.

Councilmember Alexander asked Senior Planner Keith Wolf if the proposed wording for this ordinance was adopted from other cities with this type ordinance or if the City created this on their own. Keith Wolf stated that he has been working with Planning and Community Development Director Bob Sasser and most of the wording came from the City of Kannapolis who has already adopted this type of ordinance.

Councilmember Alexander asked Mr. Wolf how this ordinance would be policed. Mr. Wolf stated that by initially seeing how many gaming establishments are within each zoning district. Businesses starting up later will have to meet the distance requirement.

Councilmember Holcomb suggested the Fire Department while doing there regular inspections, check on these machines of the electronic gaming businesses.

Upon a motion by Councilmember Hall, seconded by Councilmember Townsend and unanimously carried, the City Council approved setting public hearing on Monday, May 3, 2010 for a proposed Electronic Gaming Ordinance.

The Mayor and City Council considered a recommendation of the Planning Board to approve a request of Christ Episcopal Church for a conditional use permit for aluminum can recycling trailer. City Council received a copy of this request.

The Planning Board on 3-23-10 approved a request of Christ Episcopal Church for a Conditional Use Permit to place an aluminum can recycling trailer on the lot across the street from the Breakfast Nook. The Church asked for and the Planning Board recommended waiving the \$175 fee in light of providing this recycling service to the citizens of Albemarle. City Manager Raymond Allen noted that Council should be aware that the out of pocket costs of the City for attorneys fees and required legal advertising will exceed \$500.00 if this CUP request proceeds to public hearing. This public hearing can be set for Monday, May 3, 2010.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved setting public hearing for Monday, May 3, 2010 to consider a request of Christ Episcopal Church for a conditional use permit for aluminum can recycling trailer. No action was taken on the request to waive the fee.

The Mayor and City Council considered a proposal for the 2010 Municipal Bridge Inspections. The City is required to have an inspection of its municipal bridges every two years. City Council received a proposal from Volkert and Associates for the 2010 inspection cycle. The cost is \$20,839.13, of which 80% of the City's cost will be reimbursed by NCDOT from federal highway funds.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Neel and unanimously carried, the City Council approved a proposal from Volkert and Associates for the 2010 inspection cycle.

The Mayor and City Council considered the recommendation of the Planning Board to rezone 2816 US Highway 52 North from R10 to GHBD. The Planning Board on 3-23-10 approved a request of MDTs Properties, LLC to rezone a 1.3 acre lot at 2816 Highway 52 North from R10/Single Family Residential to GHBD/General Highway Business District. This lot is located on the east side of US Highway 52 between Prospect Church Road and Holt Road. The lot is bounded on the north by LID/Light Industrial District and on the south by GHBD.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council set public hearing for Monday, May 3 to consider rezoning a 1.3 acre lot at 2816 Highway 52 North from R10/Single Family Residential to GHBD/General Highway Business District.

The Mayor and City Council discussed concerns about large amounts of trash dumped in yard at 1228 Lennox Street. Councilmember Townsend requested that this issue be placed on the agenda to discuss possible measures that the City can take to prevent this type of problem in the future. Councilmember Townsend provided three photos of this location. A memo from Planner II Keith Wolf was available to Council describing the steps he took to address this problem when it occurred.

Councilmember Townsend stated that the landlord apparently evicted the tenant and they left large amounts of trash in the yard and on the porch of 1228 Lennox Street.

Mr. Wolf stated that he had sent the property owner, Mr. Pulley a letter which was returned as undeliverable, and also a notice to the tenant. He stated that he is still trying to locate the property owner at this time.

Councilmember Hall stated that she feels the City should do the cleanup with the aid of Waste Management and bill Mr. Pulley.

City Attorney David Beaver stated that a registered or certified letter could be sent to Mr. Pulley or have the sheriff's office serve him if we have a viable address to use.

Brenda Stanback came forward and stated that other people have also been dumping off items at this site that do not even live there. She said this will continue to be a problem until this issue is corrected.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved the process as follows: 1) To send notice per registered or certified mail to the owner and have the sheriff's office serve the property owner with papers, 2) To give the property owner 15 days to respond, 3) If the property owner does not respond, place a nuisance lien on this property and the City will do the cleanup and collect clean up fees from the property owner.

The Mayor and City Council discussed a request for the City to assume minimum maintenance of an alleyway behind homes on Belmont Circle. As noted by the City Manager, the City received a request from Mr. Gary Poplin at 324 Belmont Circle to take over minimum maintenance of this alley, which runs parallel to Belmont Circle behind the houses that face the former Norfolk Southern railroad tracks. Minimum maintenance would include scraping and placing stone on the road as needed.

The City Manager noted that no records can be located where the City has ever accepted maintenance or maintained this alley. It was dedicated in 1954 and is a 14 foot alley. A two inch water line owned by the City as well as an electric pole line are located in the alley. Due to the steep grade in front of some of the houses on Belmont Circle, trash and yard waste collection are provided via the alley. It is too steep in front for some residents to roll their carts down to the street. Mr. Poplin indicates that the garbage and yard waste trucks create wear and tear on the alley, which the residents maintain at their own expense. Council received an aerial photo showing Belmont Circle and the alley.

Councilmember Neel stated that the City cannot maintain this alleyway due to it being on 14 feet of right of way. It has to be at least a 16 feet of right of way for the City to be able to maintain it. He stated that if residents were willing to donate additional right of way the City could consider this.

The Mayor asked the City Manager to please respond to Mr. Poplin on this matter.

The Mayor and City Council had a discussion with the City Attorney regarding the institution of term limits on all City Council appointed boards & commissions. David Beaver indicated that as his office has begun work on drafting the documents to formalize the term limits, there are some issues with instituting these changes. A memo from Assistant Manager Michael Ferris to David Beaver regarding the changes was made available for Council.

The Mayor stated that Mr. Beaver could go ahead with the term limit changes for the Planning Board and Board of Adjustment by the May 3 meeting. The Mayor asked Mr. Beaver to come before Council with one board at a time after these initial two commissions.

The Mayor and City Council considered approval of surplus scrap metal bids. Council received the bid tabulation of the recent scrap metal bid. Public Works recommends bid be awarded to the highest bidder.

Upon a motion by Councilmember Alexander, seconded by Councilmember Underwood and unanimously carried, the City Council approved awarding the surplus scrap metal bid to the high bidder in each category of bid taken.

(Bid Tabulation)

The Mayor and City Council considered a request of Stanly County Family YMCA to close a portion of Glenn Street on Saturday, April 17. This request is to close Glenn Street between First and Second Streets from 9 am to 12:30 pm for the YMCA Healthy Kids Day.

Upon a motion by Councilmember Neel, seconded by Councilmember Hall and unanimously carried, the City Council approved the closing of Glenn Street between First and Second Streets from 9 am to 12:30 pm for the YMCA Healthy Kids Day on April 17, 2010.

The Mayor and City Council considered a request to participate in the National League of Cities Government Employees Marketplace Program. Councilmembers Hall and Townsend received information regarding this new NLC program while attending the NLC Congressional City Conference and have requested that this program be considered for the City. Council received a flyer describing the program.

Councilmember Hall stated that this program is free. She would like for City employees to have an opportunity to use this program if they choose to. She would just like to see it offered as another choice for employees, not to take away from

purchases they make with City businesses. No one will have to use it, but will have the choice.

Councilmember Holcomb stated that she does not want to take away from City businesses. Once you purchase through this program and pay shipping and handling, the savings may not be as great a deal over purchasing locally. No action was taken on the proposal.

The Mayor and City Council received information regarding the City having to decline the grant from Mecklenburg County for replacement of the wire truck in the Electric Division. As noted by the City Manager, the City could not meet the contract requirements for this grant and has had to decline the grant award. It was recently learned that one of the contract requirements for this grant, which was going to pay 25% of the cost of the purchase of a used truck, was that the City certify that the existing vehicle would be fully operational for another 5 to 7 years. Since it was budgeted this year to replace the vehicle, and since the repair would be expensive, there were no plans to repair the truck. The amount of the grant was \$16,000.

The Mayor and City Council received a reminder regarding the NC League of Municipalities Regional Meeting on April 14, 2010 in Wadesboro from 4-6 pm. Councilmembers Alexander, Holcomb, Napier and Neel as well as Michael Ferris and the City Manager are registered for this meeting. The City Manager noted that he would recommend leaving from City Hall at 3 pm, and taking a van or SUV for transport. There is no charge and this will provide an excellent opportunity to hear League staff discuss the major issues the City will be facing with the coming legislative session.

The Mayor and City Council received information on the City Employee Blood Drive on April 22, 2010. This is scheduled from 11:30-3:30 pm at Fire Station #1 on East Main St. The City's goal is 20 pints.

Councilmember Holcomb stated that she had spoken with someone living in rental property on Eben Street that said there trash had not been picked up this time and there are leaves that have not been picked up all year.

Councilmember Townsend commented on the renovations being performed at the EE Waddell Center. They are completing the finishing touches and it looks nice and is something for the community to be proud of.

Councilmember Hall stated that the Household Hazard Waste / Electronics Recycling Event is scheduled for April 10 from 9 am until 1 pm.

Councilmember Hall stated that she read in the ADDC newsletter about the Legislative Breakfast being held on Monday, May 3 in the SRMC-Magnolia Room at 7:30 am. Also being held on Monday, June 7, the Sports Hall of Fame at the SRMC-Magnolia Room at 6 pm.

Councilmember Neel asked about the problem of the height of the dais members of Council not being able to see over the top of it and where we are on this. The City Manager stated that we have architects looking at this and once evaluated will have one or two options.

Councilmember Alexander asked if Waste Management distributes any type of notice at the end of the leaf season that leaves are to be bagged at this point, to let residents know.

The City Manager stated that the leaf season was completed as of this past Friday or Saturday. He said that if he has the addresses of the residents who have place loose leaves out after this deadline, he will make sure Public Works sends out a letter to let them know.

Mayor Whitley stated that he had a request that needs approval by Council. Tom Medlin is requesting the use of the former Fire Station on Third Street for the

Antique Market this year. There are less people attending the market now and less support in placing the tents on the vacant lot below the Museum Visitor Center.

It was the consensus of the City Council to decline this request. Mayor Whitley stated that the All Star Mills buildings are 75% on the ground and asked Council to take time and go by there and take a look.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood, and unanimously carried, the City Council adjourned to a closed session pursuant to NCGS 143-318 (a) 4 and 6 to discuss economic development incentives and personnel matters.

Upon a motion by Councilmember Hall, seconded by Councilmember Alexander, and unanimously carried, the City Council reconvened to open session. Mayor Whitley announced a closed session was held pursuant to NCGS 143-318 (a) 4 and 6 to discuss an agreement for economic incentives and personnel matters.

The Mayor stated that he had one item to report on at this time which requires a motion by City Council. The City has an existing incentive agreement with IAC and they have only been able to meet 82.35% of this agreement. The payment to IAC from the City is \$35,595.79 and the payment from the County is \$42,636.71. It is recommended the City prorate its incentives to IAC to match the percentage of investment they have been able to achieve. He asked that the incentive payment from the City be held until IAC pays their taxes.

Upon a motion by Councilmember Underwood, seconded by Councilmember Hall, and unanimously carried, the City Council approved the prorating of its incentives to IAC to match the percentage of investment they have been able to achieve.

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