

ADJOURNED MEETING CITY COUNCIL  
January 20, 2010

The City Council of the City of Albemarle met in an adjourned session on Wednesday, January 20, 2010, at 6:30 p.m. at the Rosebriar Restaurant. Mayor Elbert L. Whitley 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 City Council held a dinner meeting with the members of the Planning and Zoning Board and Zoning Board of Adjustment.

-----

Planning and Zoning Board Chairman Nancy Jolly called the meeting to order. She asked Mayor Whitley for his comments.

-----

Mayor Whitley inquired to City Attorney David Beaver as to the status of the fence in violation of the Zoning Ordinance at the corner of Yadkin Street and Laura's Lane. The owner requested a variance and was denied by the Board of Adjustment. Council has asked Mr. Beaver to pursue legal remedies to have the fence come into compliance.

City Attorney Beaver said he recently provided an update on the matter to the City Council and he has drafted a demand letter to the property owner that he intends to send certified mail. Mr. Beaver said the City can take legal action, however, if the City were to prevail it would not give the City the right to remove the fence. If it was not removed voluntarily by the property owner, the City could go back to court to have him held in contempt. Fines could be assessed and recouped if the property is sold or refinanced.

Mayor Whitley said he understood and asked that Mr. Beaver proceed as the fence has been in violation for several months.

-----

Mayor Whitley said Council recently had discussions about the procedure for filling vacancies on the Planning and Zoning Board and the Zoning Board of Adjustment. He said Councilmembers are at odds with how to do this.

Some want the alternates moved up when vacancies occur, others feel Council should be free to move anyone into an open position.

Councilmember Hall said she is of the opinion alternates should be moved up and there is an expectation of those serving as alternates that this occur. Councilmember Neel said alternates were added to the Zoning Board of Adjustment to achieve meeting quorums, but to also have enough members present to obtain the supermajority necessary to grant a variance.

Planning and Zoning Board Alternate Mr. Perry Moser said he has been an alternate for ten years and has a wealth of experience and knowledge that can immediately be applied if he is appointed to fill a vacancy. Someone who has never served as an alternate would not have this benefit.

Mayor Whitley indicated he felt alternates were necessary to ensure quorums.

Zoning Board of Adjustment Alternate Mr. Terry Pleasant questioned why Council would appoint someone to the Board who has never served in any capacity on the Board over someone with experience as an alternate.

Councilmember Holcomb said alternates should not always be moved automatically because other factors, such as attendance, need to be considered. Mr. Moser noted there are currently rules in place for removal of members with poor attendance and the issue can be addressed at any time by Council.

Planning and Zoning Board Chairman Nancy Jolly indicated she felt alternates were necessary.

Senior Planner Keith Wolf said alternates are very helpful in achieving a meeting quorum. Not having a quorum is very inconvenient to the public who needs to have matters heard and decided upon in a timely manner.

-----

City Attorney Beaver said at all quasi-judicial hearings there should be some evidence introduced to support the decisions. He said often no one speaks at hearings. If such a matter ever went to court, there would be no evidence introduced at the hearing to justify the decisions.

-----

