

REGULAR MEETING CITY COUNCIL  
September 8, 2009

The City Council of the City of Albemarle met in a regular session on Tuesday, September 8, 2009, at 5:30 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, Martha Sue Hall, Judy Holcomb, Jeanette M. Napier, Jack F. Neel, Dexter Townsend, and T. Ed Underwood. Absent, none.

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Mayor Whitley delivered the invocation.

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Councilmember Hall joined the meeting at this time.

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The Mayor made a special presentation of the Public Power Awards of Excellence from Electricities. The City has received awards in the areas of customer service, energy efficiency, key accounts management and training for 2009. These awards were presented at the NCMAPA#1 Board of Commissioners meeting in Charlotte on September 1. Mayor Whitley, Councilmember Neel, Public Utilities Director Ernie Borders and the City Manager attended the meeting. Ernie Borders presented these awards to the City Council.

The Mayor stated that Public Utilities Director Ernie Borders, Finance Director Colleen Conroy and Electric Division Superintendent Charles Burris were very influential in the City receiving these awards.

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Councilmember Neel stated that there were a few typographical errors that needed to be corrected in the August 17 regular session minutes.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the minutes of the August 17 regular session were approved as corrected and August 31 adjourned session were approved as submitted.

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A public hearing was held to consider a recommendation to amend the Zoning ordinance concerning the circumstance under which school additions require a conditional use permit.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall and unanimously carried, the public hearing was closed. No one from the public spoke for or against.

Upon a motion by Councilmember Alexander, seconded by Councilmember Townsend, the following Resolution was duly adopted:

(Resolution 09-42. To amend the Zoning ordinance not to require a conditional use permit for schools provided that a proposed addition is not over 10% of the total building square footage and is not closer than 50 feet to adjoining property lines.)

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier, and unanimously carried, an Ordinance entitled (Ordinance 09-29) "TO AMEND THE ZONING ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE BY REVISING CHAPTER 92 (ZONING REGULATIONS) TO REDEFINE THE CONDITIONAL USE DESCRIBED IN SUBSECTION C(2) OF SECTION 92-074 RELATING TO A CONDITIONAL USE IN R-10 RESIDENTIAL DISTRICTS", passed first reading.

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Councilmember Hall stated that Item #21 on the agenda that will determine the meeting time for City Council meetings starting in October, needed to be discussed now in the agenda adjustments section. This is due to City Council setting several public hearings in October tonight and the public needs to know the time that these hearings will take place on October 5 and October 19.

Councilmember Holcomb asked the audience and the directors how they felt about the meeting time of 5:30 pm or 7 pm and asked for a show of hands.

Councilmember Townsend stated that the 5:30 pm start time in the summer months was fine but the meetings needed to return to the 7 pm time slot starting in October.

Upon a motion by Councilmember Neel, seconded by Councilmember Hall, the City Council voted to approve that the start time of the first City Council meeting in October would return to the original start time of 7 pm.

Voting for the motion were Councilmembers Hall, Neel, Alexander and Townsend. Voting against the motion were Councilmembers Underwood, Holcomb and Napier. The motion carried.

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

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

(Ordinance 09-28. To adopt a grant budget ordinance relating to a Safe Routes To School Grant from the NC Dept of Transportation.)

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The Mayor and City Council considered the Planning Board recommendation regarding off-premises church signs. The Planning Board at its August 25th meeting recommended approval of an amendment to the City's Zoning Ordinance to allow church and institutional off premises signage. A public hearing can be set for October 5, 2009 to consider these changes. The Planning Board has recommended approval of five of the six items recommended for consideration by Councilmember Neel at the joint meeting on August 10 to allow off premises church and institutional directional signage.

Upon a motion by Councilmember Hall , seconded by Councilmember Underwood and unanimously carried, the City Council set a public hearing for Monday, October 5, 2009 to consider approval of an amendment to the City's Zoning Ordinance to allow church and institutional off premises signage.

Councilmember Neel asked if the City Attorney needs to use the exact language in the public notice or if the City Council can make changes at the public hearing.

City Attorney David Beaver stated that the City Council can make changes but it needs to stay as close as possible to the language in the advertisement.

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The Mayor and City Council reviewed the request for rezoning of Storm Technologies. Mr. Richard Storm had indicated that he plans to appeal the Planning Board recommendation not to approve this request to rezone property at the corner of Poplar Street and Monroe Street from R8/Two Family Residential to LID/Light Industrial District. The Planning Board voted not to recommend this rezoning request at its meeting on August 25 by a vote of 6 to 1.

Upon request, the Mayor explained to the viewing audience that Storm Technologies had requested that 631 Monroe Street be rezoned from R8/Two Family Residential to LID/Light Industrial District. The Planning board had voted not to recommend this rezoning request. The City Council can choose to set a public hearing to allow public opinion and to consider this request.

Councilmember Alexander explained to the audience that the public hearing would allow anyone from the public to speak for or against this matter and that this is why a public hearing is being set. It is City Council's choice to either set a public hearing in this case to consider this request, or choose not to approve any appeal. Councilmember Neel stated that the City Council has to follow rules set by the General Assembly for these public hearings.

Upon a motion by Councilmember Neel, seconded by Councilmember Holcomb and unanimously carried, the City Council set a public hearing for Monday, October 5, 2009 to consider an appeal to rezoning 631 Monroe Street for Storm Technologies.

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The Mayor and City Council considered an amendment to the Zoning Ordinance to expand permitted uses in LID/Light Industrial District. The Planning Board at its August 25th meeting unanimously recommended adding to the LID permitted uses. A public hearing is required to consider this recommendation.

Upon a motion by Councilmember Hall, seconded by Councilmember Napier and unanimously carried, the City Council set a public hearing for Monday, October 5, to consider an amendment to the Zoning Ordinance to expand permitted uses in LID/Light Industrial District.

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The Mayor and City Council reviewed the status of improvements to Long Creek Wastewater Treatment Plant. Stephen Chambers of Chambers Engineering, PA came forward to discuss the status of the cleaning of the aeration basins as well as a recommendation regarding replacement costs of some of the aerators at the WWTP.

Mr. Stephen Chambers with Chambers Engineering discussed the need to replace aerators and the pricing that he has found. He explained the need to get preapproval of this expenditure from City Council as a partial match for the Rural Center grant. Upon questioning, Mr. Chambers stated that he bills the City for the hours the field inspector spends on the job which is 10-12 hours a week.

Mr. Chambers stated that the old aerators of 40 horsepower would be replaced with new aerators of 60 horsepower. There are 4 basins with 6 aerators per basin. The following represents vendor prices to replace the aerators:

1. 8 new/4 used aerators - \$ 231,000
2. 12 new aerators - \$249,000
3. 12 new aerators - \$255,000

The City Manager stated that it had been 25-28 years since the change to 40 horsepower aerators and that accumulation of sludge in the aeration basins should not happen again with the proper size aerators.

Upon questioning, Mr. Chambers stated that filters may not be needed and Council may want to defer this. They need to be analyzed and then decide if they are needed. The City Manager stated that there is a meeting with Municipal Engineering on Thursday, September 10 at the City Hall Annex to discuss the terms of the \$1,000,000 NC Rural Center grant.

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The Mayor and City Council discussed a request of the Lillian Mills Group to revise the terms of the loan for the Lillian Mills Project. The developers had previously requested that City Council consider renegotiating the terms of the loan provided to the Group due to the delays in construction and in leasing the property. The City Council had indicated they would be willing to consider this and asked for a proposal from the Group.

Mr. Stephen Chambers came before Council with a request that the terms of the repayment be modified to defer payments until about March 2015 at which time they

would propose to pay the loan in full including accrued interest. They noted that the City has not completed all of the streetscape improvements contemplated. This is primarily sidewalk, which has been delayed due to negotiations with NCDOT, Time Warner Cable and Windstream to try to relocate or place underground as much of the area overhead utilities as possible. It is anticipated that this sidewalk work should be completed by next spring.

Upon questioning by Councilmember Holcomb, Mr. Chambers stated that the middle floor is vacant, there are 4 or 5 short term residential leases on the top floor that he hopes continues because it has been such a success, and that Monarch resides on the first floor.

Upon questioning by Councilmember Hall, the City Manager stated that he checked with the Department of Commerce and that it is between the City and the borrower to determine payment terms. He also said that this would only defer when the monies would be received and the City will not be losing any funds.

Councilmember Hall asked Mr. Chambers how many partners are there in the LLC. Mr. Chambers stated that there are three partners. Bank of America through National Trust will manage this until 2015 because of the IRS tax credit rules pertaining to the contemplated sale of the building.

The City Manager stated that the City will receive the initial \$800,000 to revitalize Lillian Mills plus the interest which will go back into the community. Councilmember Neel asked if there were any guidelines that had to be followed on how this money is used. The City Manager stated that it did not have to be just the downtown area. Mayor Whitley said that the money for the loan could not be gifted. Councilmember Neel asked if a loan like this could be used in the redevelopment of the Wiscasset Mills property. The Mayor stated these questions will be asked and an answer will be brought back before Council.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved payment of said loan be deferred until on or about March 2015 at which time full payment of the loan, including accrued interest, would be made. (based on anticipated start date above total repayment would be \$883,265).

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The Mayor and City Council considered setting a public hearing to close out Alfred Street Community Development Block Grant. A public hearing is required for the Alfred Street Concentrated Needs Project, prior to grant closeout.

Planning and Community Development Director Bob Sasser stated that this will close out the purchase of properties and housing and that the City will receive the final monies in the amount of \$80,000 when the grant is closed out.

Upon a motion by Councilmember Townsend, seconded by Councilmember Hall and unanimously carried, the City Council set a public hearing for Monday, October 19 to close out the Alfred Street Community Needs Project Block Grant (CDBG).

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The Mayor and City Council reviewed the City Hall Furniture Bid Results. Engineering Services Director Jon Mendenhall came before City Council and stated that the low bidder for this bid was Alfred Williams in the amount of \$370,402.87 for the office, conference room, and Council Chamber furniture and partitions for the open office areas. The large majority of this furniture is from High Point Furniture and is assembled in North Carolina. The upholstered items such as larger chairs will be from Smith Novelty Company in Albemarle.

This a request that City Council award the bid as recommended and permit change orders up to \$400,000 for items that may have been overlooked or that are desired to be changed.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council awarded the bid as recommended to the low bidder, Alfred Williams in the amount of \$370,402.87 for the office, conference room, and Council Chamber furniture and partitions for the open office areas and permit change orders up to \$400,000 for items that may have been overlooked or that are desired to be changed.

(Bid List)

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The Mayor and City Council discussed a request of State Judicial Branch for Memorandum of Understanding (MOU) to permit the use of City Hall as a temporary courts facility under emergency circumstances. This request is from Tennelle Wilhelm Hann, who is the Family Court Administrator. She advised that this request was as a result of a pandemic plan being developed by the NC Judicial System. This memorandum would permit the court system to temporarily use City Hall for court as a result of the emergencies noted.

City staff was asked to review the proposed MOU and they raised several

questions that City Council may want to consider. These suggestions can be incorporated into a revised MOU if Council prefers. The concerns that were raised include, is the MOU open ended or should there be a term; how can we prevent damage to the facility by people coming to court; can City Council meet in the City Council chambers for meetings during a time frame that the court is being held; and should we designate specific areas that are part of the MOU. Also, it has been suggested that we offer to enter into a MOU for the City Hall Annex instead since it will be vacant until the future use of the building is determined and funding is available for its conversion.

Councilmember Holcomb stated that she did not think the City should consider this right now and this should be brought back before Council at a later time. Councilmember Hall mentioned the amendment in the packet to allow them to use the City Hall Annex building instead. Councilmember Townsend stated that his concern was with the City paying the costs of utilities for the period of use. Councilmember Hall stated that the County would be the responsible party in providing the facility and power for the NC court system. Councilmember Neel expressed his concern if the courts had to move over to the City Hall 24/7 for a period of up to 60 days, and Council not having access to the Council Chambers.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Neel, the City Council voted to deny the request. Voting for the motion were Councilmembers Alexander, Holcomb, Napier, Neel, Townsend and Underwood. Voting against the motion was Councilmember Hall. The motion carried.

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The Mayor and City Council considered revisions to the Historically Underutilized Business Policy (HUB). There have been some changes in the State's HUB regulations and the City's HUB Coordinator Mrs. Lewis has made suggestions to revise the City's Policy to conform with these changes. The State of North Carolina has changed its policy regarding certification of historically underutilized businesses, which are typically minority or women owned. The policy now requires minority bidders to be certified by the NC Department of Administration or one of the larger urban local governments. The City Council received a memo from Mrs. Lewis and a copy of the City's current HUB policy prior to the recommended amendments.

Finance Director Colleen Conroy came before City Council concerning the changes in the policy regarding the certification of HUB. Upon questioning about the various government workshops to promote our HUB participation, Ms. Conroy stated that Mrs. Lewis has been very active and involved in the numerous committees. Mrs. Lewis helps anyone who calls and inquires but we do not hold workshops to promote this.



Upon a motion by Councilmember Hall, seconded by Councilmember Townsend and unanimously carried, the City Council approved revisions to the Historically Underutilized Business Policy (HUB) and its policy regarding certification of historically underutilized businesses.

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The City Council reviewed the status report on the Jesse R. Niven Army Reserve Center. The revised survey for the Niven Center as required by the National Park Service was completed and delivered to the City this week. This survey reflects the revised areas to be leased to SCCM for homeless assistance programs. City Manager Raymond Allen has already revised the use agreement, lease with SCCM, and sublease with Homes of Hope to reflect this change. These revised documents and survey were submitted to HUD, the National Park Service and the Department of Defense. This will satisfy all requests that has been received to date from the federal government. If these items are approved by these federal agencies then the City can proceed to get these agreements executed.

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The Mayor and City Council considered requirements for requesting street closings. Pursuant to City Council's request, Chief Michael has investigated what criteria other communities use for street closings for special events. He indicated that he did not find any communities with set criteria. With general guidance from Council, a policy can be drafted and brought back before Council for consideration.

Councilmember Hall stated that she would prefer Chief Michael and his staff be involved in the decision making process due to them being responsible for the enforcement of the policies. Councilmember Townsend stated that Council should consider how many times a group or organization can make a request to close streets in a given time frame.

Councilmember Neel stated that each Council member could make suggestions and turn those into the City Manager by a certain date to be considered by Council in a month or so.

The Mayor stated that it cost time and money to close a street. The Public Works Department and the Police Department employees are involved. He asked that Council submit information, questions, and concerns to the City Manager as guidance in drafting a policy.

Councilmember Alexander asked if the City Manager could look back over the past year and bring forth the street closings that were approved and how many times for each. The City Manager stated that he would research this and bring this information to Council.

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The Mayor and City Council considered a waiver of bid process for Police mobile video cameras. The Police Department requests City Council authorize the use of an existing Bid awarded by the Town of Cary for the purchase of Mobile Video Cameras pursuant to NCGS 143-129(g). The City received an American Recovery and Reinvestment Act grant in the amount of \$94,253 for law enforcement. Of this amount, \$24,253 is required to be appropriated to the Stanly County Sheriff's Department. The remaining \$64,479.95 is proposed for the purchase of 11 digital video cameras for patrol cars and 16 collision sensors. This is a 100% grant with no local match required. The Police Department is requesting to piggy back on a purchase from Cary, North Carolina as outlined in the attached memo from Chief Michael.

Upon a motion by Councilmember Hall, seconded by Councilmember Neel and unanimously carried, the City Council authorized the waiver of the bid process for Police mobile video cameras with the use of an existing bid awarded by the Town of Cary for the purchase of Mobile Video Cameras pursuant to NCGS 143-129(g).

Upon a motion by Councilmember Hall, seconded by Councilmember Napier, and unanimously carried, an Ordinance entitled (Ordinance 09-30) AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, ADOPTING A GRANT BUDGET ORDINANCE RELATING TO THE AMERICAN RECOVERY & REINVESTMENT ACT JUSTICE ASSISTANCE GRANT (JAG)", passed first reading.

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The Mayor and City Council discussed the status report on the City Hall Project. The monthly owner/architect/contractor meeting was held on Thursday of this week and the contractor reported that they anticipate that the building will be complete around the first week of October, and that as previously reported all inspections should be completed and a certificate of occupancy issued by the end of that month. This means we will be on schedule to begin moving furniture in the first week of November.

The City Manager reported that the final grading and the pouring of sidewalks are on going. The wooden floors in the historic building will begin to be stained and finished next week. The landscaping should be complete by the end of September.

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The Mayor and City Council considered the designation of a voting delegate and alternate to NC League of Municipalities Annual Meeting. The City has been asked to designate a voting delegate and alternate for the NCLM Annual Meeting in Greenville, NC in October. The board members who are planning to attend this meeting are Councilmembers Hall, Townsend, and Neel.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood and unanimously carried, the City Council designated Councilmember Hall as voting delegate and Councilmember Townsend as alternate for the NCLM Annual Meeting in Greenville, NC in October.

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The Mayor and City Council reviewed the response from NC Department of Transportation regarding a complaint about pedestrian countdown signals. At the request of Councilmember Neel the City Manager had sent a letter to NCDOT regarding a complaint from State Representative Justin Burr about the pedestrian signal at East Main Street and Third Street. City Council received a copy of the City Manager's letter along with a response from NCDOT Division Engineer Barry Moose. The letter indicates that they cannot alter the signal, but only disable it and that NCDOT believes the benefit to pedestrians outweighs any problems with some motorists speeding up to beat the signal.

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The City Manager reported on the appointed category in the Human Resources Department monthly report. At the August 17 meeting of City Council, Councilmember Neel had asked a question about this category of employees on payroll in the Human Resources monthly report. At the time the City Manager indicated that he thought this was referring to the Mayor, City Council and members of the Planning and Zoning Board, all of whom receive compensation, but that he would verify this information for City Council. The City Manager verified that this is what is included in this category. There are 17 persons: The Mayor, 7 Councilmembers, 7 Planning Board regular members, and two alternates. Robert Whitley is going to rename the category to Elected/Appointed for future HR reports so that it is more clear what is included.

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Councilmember Townsend stated that he would like to see some type of recognition given to the three firefighters with the City who were responsible for delivering a baby in a young ladies vehicle while she was in route to the hospital and had to pull over at City Lake Park. Councilmember Townsend also mentioned that Jim Lisk

with the Stanly News and Press had written a nice article about this in the local newspaper.

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Councilmember Hall stated that she would be attending a Council of Government (COG) meeting in Charlotte tomorrow evening at 6 pm if anyone would like to attend with her.

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Councilmember Hall commented on the regional partnerships with the Rural Planning Organization (RPO) including Stanly, Anson and part of Union County. She commended Public Utilities Director Ernie Borders and Public Works Director Mike Lambert for working on proposals for an engine/vehicle replacement class. GRADE PLUS is a reimbursement program that provides money to replace engines and vehicles, thus reducing air pollution.

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Also, Ms. Hall stated that the Community Inn homeless shelter would be opening its doors for the first time tonight at 6 pm and taking in their first people.

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Councilmember Hall stated that since Central School moved to the renovated former Albemarle Middle School, she had been asked if there was the same need for a traffic light at the intersection of Third Street and North Street. She said that a four-way stop might be sufficient.

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Councilmember Alexander reported that at the corner of Ridge Street and Pee Dee Avenue there are some deep pot holes that have not been taken care of by the NCDOT. The City Manager stated that he will get in contact with NCDOT once again on this matter.

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Councilmember Underwood stated that he received information that NCDOT is going to pave South First Street.

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The City Manager asked Public Housing Director Garry Lewis to come forward with information he had for the City Council. Mr. Lewis came forward to address Council about the 2009 Capital Fund Program from the Department of HUD. Mr. Lewis addressed the letter he had sent to the City Manager and that Council had a copy of this at their dais to refer to. He noted that the 2009 Capital Fund grant budget that was approved by City Council on April 6, 2009 had been adjusted as follows:

- line 10 – 1460 Dwelling Structures \$270,203 is now \$269,609
- line 12 - 1470 Non dwelling Structures \$30,000 is now \$ 0
- line 13 - 1475 Non dwelling Equipment \$6000 is now \$31,000

These adjustments were made to replace a 14 year old resident services van and office copier. He asked that Council adopt and approve the grant budget annual statement and performance evaluation report so that it can be submitted to HUD before the September 14, 2009 deadline.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier, and unanimously carried, the City Council approved the changes to the 2009 Capital Fund grant budget to include the replacement of a 14 year old resident services van and an office copier.

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Police Chief Ronnie Michael came before City Council to inform them that Ms. Calloway with the Butterfly House may be coming before them in the near future, as well as other municipalities in Stanly, Montgomery, and Anson counties for funding proposes. He said that the hospital will no longer be funding their salaries, meetings and travel expenses, only the operational costs of the organization.

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Danny Storm with Storm Technologies came before Council to thank them for setting a public hearing on October 5 to consider their request to rezone 631 Monroe Street that the Planning Board had denied on August 25. He stated that he would love to continue working and living in Albemarle.

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