

REGULAR MEETING CITY COUNCIL
September 21, 2009

The City Council of the City of Albemarle met in a regular session on Monday, September 21, 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: Martha Sue Hall, Judy Holcomb, Jeanette M. Napier, Jack F. Neel, and T. Ed Underwood. Absent, Troy E. Alexander and Dexter Townsend.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the minutes of September 8, 2009 regular session were approved as submitted.

Mr. Durham Lewis, Lewis and Lewis, CPAs came before City Council to present the FY 2008-2009 ABC System Audit. Chairman Don Frey along with Manager Karen Cranford were present for the annual audit report.

Mr. Lewis stated that he performed an audit of the financial statements ending 6/30/09. He reported that he is able to provide an unqualified opinion, which is the highest opinion an audit can provide. Mr. Lewis pointed out sections throughout the report starting with:

1) Page 3, the opinion paragraph which states that in their opinion, the basic financial statements referred to present fairly, in all material aspects, the financial position of the Albemarle Board of Alcoholic Beverage Control and the results of its operations and its cash flows for the years than ended in conformity with accounting principles an unqualified opinion, the highest that you can receive.

2) Page 6, Statement of Net Assets and

3) Page 14, Note 6 - Long Term Debt

Upon questioning, Mr. Lewis stated that before any distribution can be made to the governing body, there has to be a 5% distribution made to law enforcement and 7% to alcohol education and rehabilitation.

The Mayor thanked Chairman Don Frey and Manager Karen Cranford and also Mr. Durham Lewis, CPA.

Battalion Chief Tony Upchurch came before City Council to discuss the 2009 Employee United Way Campaign and to request that City Council approve providing 15 annual leave days for a drawing for fair share givers. He, Assistant Public Works Director Nina Godwin, and Major Ted Smith have agreed to serve as co-chairs again this year for the employee United Way Campaign again this year.

Battalion Chief Upchurch stated that the City employees contributed \$20,000 to the United Way Campaign last year and that eighty percent of City employees gave a donation. He said that the campaign this year will kick off on October 12 and end October 16. He asked that City Council consider providing 15 annual leave days for a drawing for fair share givers again this year.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved providing 15 annual days for a drawing for the fair share givers.

Mayor Whitley stated that City Council have a copy of the monthly departmental reports in their agenda packet and asked if there were any questions.

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

(Ordinance 09-29. To amend the Zoning Ordinance to not 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.)

(Ordinance 09-30. To adopt a Grant Budget Ordinance relating to the American Recovery & Reinvestment Act Justice Assistance Grant (JAG).

The Mayor and City Council considered an agreement with NCDOT to accept a \$225,000 grant for Phase II of the Roger F. Snyder Greenway. The City has

been awarded this grant from the NC Department of Transportation from American Recovery and Reinvestment Act funding. This will construct a greenway from the south end of the Wiscasset Mills property up to Salisbury Avenue, and will install "missing link" portions of sidewalk on the south side of Salisbury Avenue to connect to the greenway on the east side of US 52. It will also provide a connection from the greenway up to the sidewalk on Glenn Street.

The City Manager stated that this grant requires no matching funds. The greenway will be 10 feet wide along the City owned abandoned railway beginning at Salisbury Avenue and ending at City's sidewalk at Depot Street and the bicycle path at US Highway 52. City Council making a decision a couple of months ago to finalize the design for this project so that it would be "shovel ready" in the event funding was available helped make this possible.

Parks and Recreation Director Toby Thorpe came forward and stated that in reference to lighting for the greenway, other cities do not light their greenways because they are not to be used 24 hours a day. Councilmember Neel said there should be signs at each end of the greenway stating that after sundown they will be closed.

Councilmember Hall stated that she would like for Council to send a letter of thank-you to Division 10 Engineer Barry Moose and Project Manager Ritchie Hearne who were very instrumental in this grant award.

Upon a motion by Councilmember Hall, seconded by Councilmember Napier and unanimously carried, the City Council approved an agreement with NCDOT to accept a \$225,000 grant for Phase II of the Roger F. Snyder Greenway.

The Mayor and City Council considered the delegation of reporting mandatory federal electric reliability standards to North Carolina Municipal Power Agency #1. The Federal Energy Regulatory Commission has mandated certain reliability standards for electric utilities over a certain size. There are 11 members of NCMAPA#1 that are subject to this, including Albemarle. The Power Agency has agreed to manage these requirements for these 11 cities so that they do not have to have individual programs. This is more efficient and means each city will not have to have experts in this matter since the Power Agency will manage this.

The City Manager stated that with the City being subject to the mandatory reliability standards by the Federal Energy Regulatory Commission along with 10 other NC cities, Albemarle would be required to register with the North American Electric Reliability Corporation (NERC). The Power Agency (NCMPA#1) is willing to register

on our behalf with NERC and to accept responsibility for our compliance with the Reliability Standards applicable to Albemarle.

Councilmember Neel stated that there are certain things the City will have to do and will be subject to any fines if violations occur.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved the delegation of reporting mandatory federal electric reliability standards to the North Carolina Municipal Power Agency #1.

Upon a motion by Councilmember Hall, seconded by Councilmember Neel, and unanimously carried, an Ordinance entitled (Ordinance 09-31) "AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE, NORTH CAROLINA BY REQUIRING SEPARATE METERS FOR NEW IN-GROUND IRRIGATION SYSTEMS THAT ARE CONNECTED BETWEEN PRIVATE WATER SYSTEMS AND THE CITY OF ALBEMARLE'S PUBLIC WATER SYSTEM", passed first reading.

The Mayor and City Council considered a resolution to reduce tipping fees at the Landfill for recyclable items. In an ongoing effort to further expand recycling options to the citizens of the City of Albemarle and surrounding communities, this is a request for Council's adoption of a reduced tipping fee for source separated recyclables. City Council received a memo and resolution from Public Works Director Mike Lambert. The Public Works Department has been working to expand the number of recyclable materials they can accept at the Landfill to provide an opportunity for Stanly County residents and businesses to recycle. They have recommended a reduced tipping fee of \$15.00 per ton for separated materials. This is less than half of the regular disposal fee of \$33.00 per ton. In addition, these recyclables are exempt from the \$2.00 per ton state solid waste tax.

Public Works Director Mike Lambert came before Council and stated that by adopting this resolution, the City would adjust its fee schedule and provide a reduced tipping fee. Councilmember Hall asked Mr. Lambert how much affect this would have on the revenue generated by the Landfill. Mr. Lambert said that some of the metals would be processed and resold. Mr. Lambert stated that there had been some debate on determining the \$15 a ton fee for the source separated recyclables.

Councilmember Neel asked about the disposal of televisions, glass, and plastic bottles that is picked up by Waste Management at curbside. He also said that

there are a lot of old televisions being disposed of due to the newer flat screen models now available. Mr. Lambert stated that if they see plastic bottles, they are removed before being disposed of in the Landfill.

Councilmember Neel stated that the public needs to be aware and educated on this and the City can use the utility bill stuffer to explain the importance. Councilmember Hall said that the local newspaper and radio station could also be a great aid in public announcements informing everyone, not just City residents. Councilmember Neel asked if the City is working on a place that will accept the plastic bottles from us after we collect them. Mr. Lambert affirmed this.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved a resolution to reduce tipping fees at the Landfill for recyclable items.

(Resolution 09-43.To reduce tipping fees at the Landfill for recyclable items.)

Councilmember Hall thanked Public Works Director Mike Lambert and Special Projects Officer Darren Preslar for staying on top of this concern.

Darren Preslar confirmed that on October 29 a public awareness event would be taking place between 12-1 pm at Court House Square downtown.

The Mayor and City Council considered the Morrow Chase Elderly Housing Development Grant Policies. The Project Budget and Citizen Participation Plan should be voted on individually. All other policies and agreements can be voted on individually or as a group.

Upon a motion by Councilmember Hall, seconded by Councilmember Neel and unanimously carried, an Ordinance entitled (Ordinance 09-32) “City of Albemarle Community Development Block Grant Morrow Chase Project Ordinance”, passed first reading.

Upon a motion by Councilmember Hall, seconded by Councilmember Napier and unanimously carried, the City Council approved the Citizen Participation Plan Resolution 09-44 for the Morrow Chase Elderly Housing Development Grant.

(Resolution 09-44 - To establish a Citizen Participation Plan for the City of Albemarle Community Development Block Grant (CDBG) Program.)

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved the policies for the Morrow Chase Elderly Housing Development Grant including the Equal Employment and Procurement Plan, the Plan to further Fair Housing, the ADA/504 Compliance, and the Grant Administration being handled by the City.

The Mayor and City Council considered setting a public hearing for the Morrow Chase Elderly Housing CDBG Grant on October 5th, 2009 for the Morrow Chase project on Heathwood Drive. This public hearing is required by the CDBG grant the City received for this project. A public hearing was previously held on August 4, 2008, but the required notice did not get published in the newspaper. The CDBG program is therefore requiring that this public hearing be re-held with the public notice.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood, and unanimously carried, the City Council approved setting public hearing for the Morrow Chase Elderly Housing CDBG Grant on Monday October 5, 2009.

The Mayor and City Council reviewed updates on the Rorie property on Gibson Street. City Council was given an up to date photo that was taken on September 16th of the Rorie property on Gibson Street. Pursuant to City Council's request, Bob Sasser and Keith Wolf are providing periodic photos of this property. According to them, it does not appear that there has been any building activity since August.

Planning and Community Development Director Bob Sasser came before Council and stated that there has been no apparent change to the exterior of the structure since July.

Councilmember Holcomb asked that the City contact Mr. Rorie about his property at Gibson Street and Arey Avenue.

The Mayor and City Council received a report on Chuck Nance's sign appeal to the Board of Adjustment. The Board of Adjustment on August 5th voted 5 to 2 to allow Mr. Nance to keep his portable sign at 201 NC 740 Bypass. The Ordinance required a minimum of 6 positive votes to overturn a decision of the Community Development Director and City Manager. The appeal was therefore not approved. Mr. Nance has indicated he may appeal this decision in court or request that City Council consider an amendment to the ordinance. The

City has never permitted this type of sign, but Mr. Nance believes that the wording in the ordinance is too vague and that this type of sign is not explicitly prohibited.

Upon questioning, the City Manager stated that Mr. Nance would now have to appeal to superior court on this matter. The City Council can change the ordinance. The sign ordinance is not crystal clear and the Planning Board is meeting on Tuesday, September 22 to discuss this and will advise Council. The City Manager stated that Planning and Community Development Director Bob Sasser added this to Council's agenda for reporting purposes only tonight.

City Attorney David Beaver stated that superior court would view this and determine if proper protocol was used like an appellate court would review it.

Planning and Community Development Director Bob Sasser came forward to answer any questions that Council has and stated that the Planning Board will be taking a look at the sign ordinance and let staff and Council understand the intentions.

Councilmember Underwood asked City Attorney David Beaver when he was going to proceed with action to try to get the property owner on Lauras Lane to bring the fence into compliance. It is not currently in compliance and the Board of Adjustment did not grant the owner a variance to keep it like it is. The owner has so far not complied. Mr. Beaver stated that there were several City projects going on right now that have time deadlines that he needs to address. When these deadlines are under way, he will address the fence compliance issue.

The Mayor and City Council received a report on an inquiry regarding the traffic signal at the intersection of North Street and North Third Street. At the September 8 meeting of City Council, Councilmember Hall requested that staff look at the intersection of East North Street and North Third Street to see if the traffic signals could be removed due to the relocation of Central Elementary School. Chief Michael, Jon Mendenhall and Mike Lambert looked at this intersection and recommended that any changes wait until the City Hall reopens and the future use of the old CES building is determined. The reopened City Hall will generate more traffic on Third Street and the School System is discussing alternative uses of the former CES building so it is their recommendation to wait and see what traffic impacts these items have before considering the removal of these signals.

Councilmember Hall asked that every quarter or so information on this be brought before Council on the progression of this matter.

The Mayor and City Council received a status report on the City Hall Project. There are a number of project items that have been completed or are ongoing at the present time. The paving contractor is grading to the final grade and setting stone; the decorative parking lot lights have been installed; the 1938 wing second floor prefinished wood flooring has been installed; the 1938 wing first floor wood flooring staining and finishing is almost complete; work continues on the cupola and on repairs to the joints in the stone in the 1938 building; and the Planning/Engineering area on the second floor is totally finished except for cleaning and the architect's inspection. The irrigation systems are anticipated to begin installation next week.

The Tree Commission held their regular monthly meeting on Tuesday of this week and they endorsed the City Council decision to plant a permanent Christmas tree on the southwest lawn of the City Hall. Terry Ferguson and the landscape architect Cole Jenest Stone are investigating what types and sizes of tree are available in this area to avoid acquiring a tree from a different climate as noted by Councilmember Neel. Cole Jenest Stone has recommended that two identical evergreens be planted on both lawns. The one on the south lawn would be the one that is lighted each year due to the availability of electricity. The City's electric division is planning to run the conduit and electrical service for the tree lighting next week.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved creating an area on the south side lawn for a cut Christmas tree each year instead of planting a living tree due to the security in finding a good species for this climate.

The Mayor thanked the Tree Commission on their efforts in this matter.

Councilmember Neel stated that he is opposed to not having a fence between the church parking lot and City Hall. He is worried about someone from the church not using the designated access points and slipping and falling and the City being held liable.

Upon a motion by Councilmember Neel, seconded by Councilmember Hall and unanimously carried, the City Council approved creating a fence of like material and being 4 foot in height as a barrier along the line of the light posts. The City Manager stated that he would contact the architect and building contractor and have them create a change order for this.

Councilmember Neel asked if the City Hall sprinkler system was in the cupola also. He noted that the State Department of Insurance had stated that this would increase the likelihood of lightning strikes. He was advised the cupola was not

sprinklered. He stated he would like to have a more detailed explanation as to why no lightning rod was included, not just that it is not required by code. Mayor Whitley asked staff to solicit a more detailed explanation.

The Mayor and City Council considered the designation of a voting delegate and an alternate to the NLC Business Meeting. Based on the City's population, we are eligible to cast one vote at the NLC Annual business meeting in San Antonio on Saturday, November 14.

Upon a motion by Councilmember Neel, seconded by Councilmember Napier and unanimously carried, the City Council approved Councilmember Holcomb as the voting delegate and Councilmember Hall as the alternate to the National League of Cities (NLC) annual business meeting in San Antonio, Texas on Saturday, November 14.

Councilmember Hall stated that she would be attending a Rural Planning Organization (RPO) meeting on Thursday in Polkton and she invited any member of Council to attend with her if they would like.

Councilmember Hall stated that she was unable to open the picture attachments that she received via email concerning the Storm Technology rezoning. She asked that IT Manager Gabe Dimeglio please take a look at this problem.

Councilmember Neel stated that there is a sight problem at the corner of Melchor Road and Park Ridge Road due to a large plant that needs to be trimmed back.

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