

REGULAR MEETING CITY COUNCIL
August 17, 2009

The City Council of the City of Albemarle met in a regular session on Monday, August 17, 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.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the minutes of August 3, 2009 regular session and August 10, 2009 adjourned session were approved as submitted.

Ms. Karmen Mock-Phillips came before City Council as an announced delegation to request street closings, business license fee and the used of the City Hall Annex restrooms in conjunction with the Stanly County Christmas Parade on Monday, December 14. Ms. Mock-Phillips has been the volunteer coordinator for the Stanly County Christmas Parade for the past several years.

Councilmember Hall stated that the new City Hall should be complete and staff should already be located at 144 N. Second Street and no longer in the City Hall Annex on December 14.

Councilmember Neel asked Ms. Mock-Phillips why this parade is called Stanly County Christmas parade and not Albemarle Christmas parade. He also said that in the past it was always called the Albemarle Christmas parade. Ms. Mock-Phillips stated that it is registered with the Secretary of State as the Stanly County Christmas parade.

Mayor Whitley stated that the use of the restrooms and having an off duty officer could be discussed at a later date.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved the closing of streets and granting the amount in business license fees paid for the Stanly County Christmas Parade on December 14.

Mr. Destrik Burns was scheduled to appear as an announced delegation before City Council to request the closing of Arey Avenue between East Main Street and Pee Dee Avenue for a Back to School Bash but was not present. Mr. Burns' request was to close this area of Arey Avenue for a back to school event to hand out school supplies to school age kids. The request is for Friday, August 21 from 6 pm until 11 pm. This is beside the youth center at the corner of East Main Street and Arey Avenue that is sponsored by Victory Deliverance.

Councilmember Townsend stated that Council had been presented with this request at least 3 times in the last 6 months. He asked Council to approve this request since this is a back to school event for this coming Friday, August 21. He also asked that churches be notified on new policies of the closing of streets when in place.

Councilmember Hall stated that when a request is before Council, the person scheduled to appear should be here to answer any questions that Council may have.

Upon a motion by Councilmember Townsend, seconded by Councilmember Underwood and unanimously carried, the City Council approved the closing of Arey Avenue between East Main Street and Pee Dee Avenue for a Back to School Bash on Friday, August 21 from 6pm until 11 pm.

Mr. Jack Dahlhoff, 43314 Churchview Road, came before City Council as an announced delegation to request an extension of City water service. The annexation study estimates 800-feet of water line would need to be extended from where our service currently ends and estimates \$38.00 per foot installed for a total of \$30,400. The City Council had reviewed memos from Assistant City Manager Michael Ferris and Public Utilities Director Ernie Borders. This is a request for an extension outside the City limits.

Mayor Whitley stated that he had visited the area in question and stated that it would need to be a dedicated right of way before a water line could be put in. The Mayor stated that the total cost of this project would be \$37,016.00. Upon questioning, Mr. Dahlhoff stated that the property owners own to the center of the road and that there are five homes on Churchview Road. He stated that 43177 Churchview Road, at the corner of Churchview Road and Sweet Home Church Road is the parsonage of Sweet Home Baptist Church and is already on City water. Councilmember Neel stated that the City will need to make sure there is a dedicated right of way and also check where the water line is coming from. Mr. Dahlhoff stated that there is a fire hydrant on Sweet Home Church Road near the parsonage.

The City Manager stated that there is a water line there owned by the City. Mayor Whitley told Mr. Dahlhoff that the City staff will look into this and get back with him. Councilmember Holcomb asked Mr. Dahlhoff if he had asked the other owners on Churchview Road if they would be willing to share the cost of this water line. Mr. Dahlhoff stated that he would get with the other property owners on Churchview and see, based on the cost, if they would be willing to share the cost of the water line. Mr. Neel reiterated that the cost would be \$37,016.00 for the owners to share. The Mayor told Mr. Dahlhoff that the City would get back with him on this.

Ms. Cathy Little, Community Action Council came before City Council as an announced delegation to request downtown street closings in May for a concert. Ms. Little has spoken with both Chief Michael and the City Manager regarding this request. City Council reviewed a memo from Ms. Little with details regarding the event. There were some potential conflicts with the date that Ms. Little discussed with Chief Michael. These were chiefly the impact on businesses by closing the streets on a Friday afternoon, and the impact on the Cruise In if this event is continued in 2010. Chief Michael made Ms. Little aware of these potential issues, and she has changed the proposed date to a Saturday instead of a Friday.

Ms. Little came forward and stated that the request is to hold a Christian concert in downtown Albemarle in May of 2010 with the closing of certain streets. Upon questioning, Ms. Little stated that it would take around 5 hours to set up for the concert and they would need this area of Second Street closed from 1 pm, after Bank of Stanly closes, until midnight to allow for clean up after the concert. The concert will start at 7 pm and end at 11 pm. She said that the only store that would be affected would be the Consigning Kids Shop which does not close until 2 pm.

Councilmember Neel asked about the date of Beach Blast and Mayor Whitley stated that it would be two weeks before this event. Also, Ms. Little was asked about the amount of power that would be consumed during the event. Ms. Little was not sure and would have to check on this.

Upon a motion by Councilmember Alexander, seconded by Councilmember Underwood and unanimously carried, the City Council approved the downtown street closing on May 22, 2010 for a Christian concert event from 12 noon until midnight and the use of City power at no charge.

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

Councilmember Neel asked a question about the July Human Resource report from the monthly departmental reports. He asked a question about the separation of certain employees from the City and the City Manager stated that it could be any separation such as someone fired, resigned, or retired. Mr. Neel also asked exactly who are the 17 people that are listed as appointed. The City Manager stated that it should represent the Planning and Zoning Board and the City Council. He said that he would ask the Human Resource Director about this for confirmation.

Councilmember Neel asked the method used and if there is a report produced by the City in recording the mercury vapor lights in use and removed from service. The City Manager stated that there is a report summarizing the usage of these lights such as a customer asking for removal of service, removal for non-payment of service, or new customers added to the service. When the service is turned off, they are left in place in case the next owner or tenant would like this service.

Councilmember Alexander asked if the staff of the Alcoholic Beverage Control are paid by the City. The City Manager stated that the ABC staff and board members receive their salary through the ABC system and are not paid or provided insurance by the City.

Upon a motion by Councilmember Townsend, seconded by Councilmember Napier, the following Ordinance passed second reading and was duly adopted:

(Ordinance 09-26. - To rezone 109 Penny Street from Neighborhood Business District (NBD) to Hospital Medical District (HMD)

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

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier, the following Ordinance passed second reading and was duly adopted:

(Ordinance 09-27. - To amend the zoning ordinance to allow Level IV Treatment Facilities for Mental Rehabilitation for boys and girls under 17 years of age in a Hospital Medical District (HMD)

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

Councilmember Hall stated that at the August 3 Council meeting the State budget had not been appropriated but that it has as of now and that if the City approves a Level IV treatment facility here, the State is longer subsidizing these facilities and does not see supporting a facility here when the state will not continue funding.

Councilmember Holcomb asked if Premier Services of the Carolinas had asked the City to drop their petition for a zoning text change. Councilmember Hall stated that Premier is present tonight. Their organization is a for profit agency for potential placement of different levels of treatment. Councilmember Alexander asked if there was any other zoning ordinance that would allow this. The City Manager replied no and that this would only be allowed in a Hospital Medical District (HMD).

Premier Services of the Carolinas was asked to come before Council for discussion. Mr. Leslie Musagton came forward to speak for Premier Services and stated that Premier is not asking for State funds or County funds in the operation of this facility here. Premier operates a profitable business and will continue and that this service is needed here.

Councilmember Neel asked Mr. Musagton if this would operate solely on their own funds and Mr. Musagton affirmed this and said that these kids will have to be served and Premier has the experience, expertise and finances to do so. Councilmember Townsend asked Mr. Musagton how long they have been in service and Mr. Musagton stated since 1986. Mr. Musagton upon questioning stated that the patients they serve have means to pay such as through private insurance, Medicaid, etc; and he is not asking, nor expecting monies for this in the request.

Councilmember Hall asked if this facility would be as stated in the original application to open a Level IV treatment facility based on the State budget and are they a part of Piedmont Behavioral Healthcare. Mr. Musagton stated that Piedmont Behavioral Healthcare is a local mental health provider. Ms. Hall said that there are only 3 to 4 patients needing these services in five counties. Mr. Musagton stated that the State is financially unable to fund this service and he is not asking them to as an entrepreneur. He said that Premier has the ability to offer these services and has several fundable sources in receiving compensation as previous stated. These kids are here and we have the financial ability, credibility and expertise to serve.

Councilmember Alexander asked Councilmember Hall what is her major concern with approving this request. Ms. Hall said that she is aware that a large

percentage of these youth that need this assistance do not have a way to pay and are dependent on state funding and that is her major concern.

Councilmember Neel asked if this facility would be used for Level IV treatment only and Councilmember Holcomb stated that her understanding is that it would be any level plus allowing Level IV treatment there.

Mayor Whitley asked Mr. Musagton how many patients they would be able to treat. Mr. Musagto stated that they would be able to treat a maximum of 17 patients. Councilmember Townsend asked Mr. Musagton how many people the facility would employ. Mr. Musagton stated that there would be 40-50 people employed. Councilmember Neel asked if the patients would be housed in the facility and Mr. Musagton stated that it would be a 24 hour a day facility and would house the patients.

Upon a motion by Councilmember Hall, seconded by Councilmember Neel, and unanimously carried, an Ordinance entitled (Ordinance 09-28) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, ADOPTING A GRANT BUDGET ORDINANCE RELATING TO A SAFE ROUTES TO SCHOOL GRANT FROM NC DEPT OF TRANSPORTATION, passed first reading.”

The Mayor and City Council reviewed photos taken August 13th of the Rorie property at Gibson Street and Arey Ave. The City Council had requested that staff provide periodic photos of progress on the buildings owned by Mr. Rorie at Arey Avenue and Gibson Street. The photos were provided by Planning and Community Development Director Bob Sasser and Planner II Keith Wolf.

Mayor Whitley stated that he had driven out to the property and the only thing that had been accomplished was the brick work on the front of the building.

Councilmember Neel asked if the small structure behind the store would be taken down and removed also and the Mayor stated that it would. The City Manager stated that if the City proceeds with condemnation that this structure will be torn down with the primary building.

Councilmember Alexander asked the location of the third structure which was not in the photos. Councilmember Neel stated that it is the house on the corner of Gibson Street and Arey Avenue. Mayor Whitley said that it is the house to the left of the store building at 1138 Gibson Street and can be salvaged. The Mayor asked Planning and

Community Development Director Bob Sasser to keep the Council informed on the progress.

The Mayor and City Council reviewed the Alfred Street Condemnations. The City Attorney is preparing resolutions authorizing condemnation for street improvements and future housing development for the Alfred Street Project. These resolutions were authorized at the August 3 meeting of City Council. Planning and Community Development Director Bob Sasser came before Council and handed out the Alfred Street Project resolutions along with a map and explained what each resolution represented.

1. Authorizing condemnation for street improvements and future housing development for the Alfred Street.

2. Authorizing Right of Way condemnation for street improvements and future housing development for the Alfred Street Project.

The properties will be given to a non profit organization, Prosperity Unlimited, Inc who builds homes for low income families at low interest rates. Mayor Whitley asked Mr. Sasser how they arrived at the compensation amounts on each property. Mr. Sasser answered by appraisal and review appraisal for fair market value. Upon questioning, Mr. Sasser stated that all monies are from the Community Development Block Grant (CDBG) and he has tried to contact everyone by mail, but does not know the location or circumstance of some of the owners.

Councilmember Hall asked Mr. Sasser why should we give this to Prosperity Unlimited, Inc when we have Habitat for Humanity here. Councilmember Neel stated that Habitat for Humanity does not work with government entities. Mr. Sasser said that the Block Grant was set up this way with Prosperity Unlimited, Inc. The City Manager replied that James Luster recommended working with Prosperity Unlimited, Inc. because he had worked with them previously. Mr. Sasser stated that this may not have been funded without Prosperity Unlimited , Inc. and when applying for Phase II, they will do whatever Council decides. Councilmember Townsend asked about lot #2 and Mr. Sasser said that this property will probably be condemned.

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

(Resolution 09-40. Authorizing condemnation for street improvements and future housing development for the Alfred Street Project.)

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

Resolution 09-41. Authorizing Right of Way condemnation for street improvements and future housing development for the Alfred Street Project.

The Mayor and City Council considered a request of Crisis Council, Inc for partial waiver of tap fee. The Crisis Council is requesting a waiver of \$511.19 for the balance of the water tap fee for their new facility. The Crisis Council relocated their shelter for women and families after the home on Green Street burned. A two-inch water tap was required due to the required sprinkler system. Two-inch taps are charged based on actual cost. The total cost was \$3,011.19, and they made a deposit of \$2,500.00 so they owe a balance of \$511.19. They have requested that the City Council consider waiving the balance.

Upon a motion by Councilmember Hall, seconded by Councilmember Neel and unanimously carried, the City Council approved the request of Crisis Council, Inc. for partial waiver of tap fee in the amount of \$511.19.

The Mayor and City Council reviewed the proposed street resurfacing recommendations for FY 2009-2010. This year's total appropriation in the General Fund and Powell Bill Fund is \$102,000 compared with \$202,000 last fiscal year.

Public Works Director Mike Lambert came before Council and stated that this is a highly visible program to the community. As a result of the reduction in the General Fund and Powell Bill Fund, staff was unable to recommend any large projects, since these would have used up a large amount of the available funds. Instead, this year we have focused on smaller streets throughout the City in need of resurfacing. City Council reviewed the recommendation that has been formulated from Street Division employee recommendations and citizen requests, with the final recommendation

formulated by the City Manager, Assistant City Manager Michael Ferris, Public Works Director Mike Lambert, and Street Superintendent Jamie Burris.

Councilmember Neel asked Mr. Lambert how they would repair McGill Street. Mr. Lambert stated that they would remove everything and start over curb to curb. Mr. Neel said that with the next available monies, the 500 feet graveled section of Spalding Street should be paved and also Seventh Street between East Street and McGill Street. Mr. Lambert stated that there had been discussion about the gravel streets remaining in the City and a program should be created to get these streets paved.

Upon questioning, the City Manager stated that Council approved the application for the Morrow Chase apartments and received CDBG monies that will finish paving Woodhaven Drive in conjunction with the Morrow Chase apartments.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council approved the proposed street resurfacing recommendations for FY 2009-2010.

(Street Resurfacing List)

The Mayor and City Council reviewed utility payment patterns for large utility customers. The City Council had requested periodic reports from the Finance Department of the payment patterns of the City's largest utility customers.

Finance Director Colleen Conroy came before Council and stated that the Finance Department had provided a chart of the largest utility customers and a separate report for Contech, which filed for Chapter 11 bankruptcy on January 30, 2009. They have subsequently petitioned the court for a Chapter 7 bankruptcy, which is to liquidate the company and its assets. These charts show the trend of payment over a one year period. She explained the spreadsheet and charts that accompanied them.

Upon questioning, Ms. Conroy explained that if a company in bankruptcy determines to pay certain bills they owe and do not pay other bills they owe, the bankruptcy laws determine that the bills being paid are given preference over the others and those monies paid may have to be given back to the company in bankruptcy. This may be why the City had to give some monies back in the Collins and Aikman case. Councilmember Neel stated that looking at Contech and their payment plan, is the City going to give back the last two payments as with Collins and Aikman.

Ms. Conroy asked Council exactly what they are trying to gather in these chart patterns. Mayor Whitley stated that the key point is for the City to continue to

monitor these larger companies and their trend of payment to stay abreast of any changes or concerns.

Upon questioning, Ms. Conroy stated that Contech US, LLC has been sold and invoices are still going to them and not the company that now owns the business. The City Manager stated that the City has asked Poyner and Spruill to petition the court in trying to retrieve some of the \$30,000 still owed.

Councilmember Hall asked where the petition was filed and the City Manager stated in Michigan. The Mayor stated that reviewing charts every couple of months would help Council stay informed. Councilmember Holcomb said that receiving the charts quarterly would be sufficient.

Councilmember Alexander asked the terms of payment for a utility invoice and Ms. Conroy stated that they have 20 days from receiving their invoice. The City Manager stated that it could be whatever Council decides it to be. Mayor Whitley asked Ms. Conroy to talk with the City Manager and the Assistant City Manager and bring back recommendations to Council on this.

The City Manager advised that Gentry Mills, one of the industrial accounts with the City, is still making payments but not completely caught up at this point.

The Mayor and City Council received a status report on the City Hall Project. The monthly Owner/Architect/Contractor meeting was held last week and the contractor advised that they still anticipate completion of construction by the end of September, with clean up, inspection, and approval for occupancy by the end of October. We anticipate furniture delivery the first and second weeks in November. The furniture bids will be taken on Thursday, August 27 and presented to City Council for review and approval at the September 8 City Council meeting.

Councilmember Neel had asked recently if the clock dome was grounded, so the question was posed to the electrical engineer. The City Manager stated that the information requested about the dome is included in the agenda packet. The electrical code does not require the grounding of the dome to the steel structure of the building therefore there is no code that requires lightning protection. Councilmember Neel stated that he will talk to the NC Building Code Council staff about this.

The stone cap on the parapet walls is almost complete, and the concrete steps on the west side were poured this week. The carpet is completely installed except for the Council Chambers and the corridors. The marble lobby has been installed in the

Collections/Customer Service area, and this really looks great. Painting and installation of the walls that call for wall fabric continues.

The Electric Division has completed installing the new underground street light circuit and circuit for electric receptacles from the square down to City Hall, and Public Works should complete this section of sidewalk by next week, except for the installation of the decorative brickwork, which is a more time consuming process.

Mr. Ron Crawley of the ADDC Christmas Open House Committee has discussed with the Mayor the feasibility of planning a large evergreen tree on the lawn of City Hall so that we would have a large tree for an annual tree lighting ceremony. Mayor Whitley stated that planting a 15-20 feet live tree and starting a tradition of lighting the tree each Christmas season would be the goal. Councilmember Neel stated that the tree would need to be grown in this area to be able to live and survive here. The tree would need to be 10 feet tall or larger initially. Councilmember Hall said that this project should be given to the Tree Commission to look into. The Mayor said that the City Manager could pursue this with staff members and the Tree Commission.

The City Manager stated that at the August 3 Council meeting, Councilmember Townsend had requested that City Council consider a letter of support for the candidacy of Stanly County resident Susan Taylor nominated for US Attorney for the Middle District. He stated that he had drafted a letter and had given a copy to each Councilmember to review and that he had the original letter if approved, could be signed tonight.

Councilmember Hall said that she would like to recognize Parks and Recreation Director Toby Thorpe and his staff for the great concert at City Lake Park Amphitheatre on Saturday, August 15. The concert featured a 1950 custom car show and an Elvis impersonator contest.

Councilmember Hall stated that she attended the Charlotte Transportation Summit this past Friday on behalf of Centralina Council of Governments and talked with Secretary of Commerce Keith Crisco and NCDOT Engineer of Division 10 Barry Moose. She said that Stanly County was a prime location for receiving federal money.

Councilmember Hall reminded everyone about the Emergency Management Training Program on August 21-22 at the Badin Air National Guard Facility. She stated that people coming in to this event would be lodging and eating in Albemarle during their stay those two days.

Councilmember Neel stated that he had a question about an item in the July Engineering Department monthly departmental report pertaining to the right of way acquisition at Don Montgomery Park from Duke Energy. Engineering Services Jon Mendenhall said that he had some difficulty in acquiring the needed right of way for the resolution of the intake design and construction to the Don Montgomery Park Storm Water Facility. He had written a letter and also had an on site meeting about this. He continued to say that it had been a long process in acquiring the easement.

Public Works Director Mike Lambert stated that their old street sweeper was replaced with a new one several months ago. He has tried unsuccessfully to sell the old street sweeper on GovDeals. J.T. Russell and Sons, Inc is interested in purchasing the sweeper and paying the reserve and he asked that Council consider approving this so as to start the process for a 10 day upset bid.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Neel and unanimously carried, the City Council approved the Public Works Department starting the process of a 10 day upset bid for the sell of a used street sweeper.

Upon a motion by Councilmember Alexander, seconded by Councilmember Napier and unanimously carried, the City Council adjourned to August 31, 2009 at 7:00 pm to consider recommendations from the ADDC Parking Plan Consultant and consideration of amendments to City Ordinances to update the City's traffic schedules.