

REGULAR MEETING CITY COUNCIL
August 4, 2008

The City Council of the City of Albemarle met in a regular session on Monday, August 4, 2008, at 7:00 p.m. in the City Hall Annex. Mayor Elbert L. “Whit” Whitley presided, and the following Councilmembers were present to-wit: Troy E. Alexander, Martha Sue Hall, Judy U. Holcomb, Jeanette M. Napier, Jack F. Neel, and T. Ed Underwood. Absent, Councilmember T. E. White.

Mayor Whitley delivered the invocation.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the minutes of the July 21 regular session was approved as submitted.

A public hearing was held to consider an application for a Community Development Block Grant for street, water, and sewer improvements for the development of a senior citizen community on Heathwood Drive. The purpose of the hearing is to hear public comments about the City’s intention to submit a CDBG grant application for this project.

Ms. Wendy Painter with the Wellons Foundation came forward to speak with Council and to express on behalf of the Wellons Foundation a thank you and that she would be available for any assistance that the City might need from her.

Upon a motion by Councilmember Hall, seconded by Councilmember Neel and unanimously carried, the public hearing was closed.

Councilmember Neel stated that the paperless agenda software does not provide a comment area for agenda adjustments. He asked that staff look into this and discuss with the software provider.

Councilmember Hall asked if there was any other action that Council needed to take on this item. The City Manager stated the purpose of the hearing was for public input and that there would be a second public hearing and that Ms. Painter would let us know the time frame and she would be back at that time.

Mr. Scott Cole, Traffic Engineer for NCDOT Division 10 appeared as an announced delegation to discuss the request for signalization changes at the intersection of East Main Street and Pee Dee Avenue. Mr. Cole stated that NCDOT did not support the installation of a traffic signal at the East Main Street and Pee Dee intersection. He stated that a traffic signal assigns right of way and does not control speed based on the Manual on Uniform Traffic Control Devices (MUTCD). He noted there was no conflicting traffic movement to warrant a signal.

Councilmember Neel stated that if a signal was added then the green light at the time would determine the route traffic would take. Councilmember Hall added that placing a traffic light there would cut down on the number of vehicles on Pee Dee Avenue.

Mr. Cole stated that the City's decision to add two 4-way stop signs on Pee Dee Avenue would probably reduce traffic on Pee Dee Avenue. He also proposed that the intersection be reconfigured and that it would be less costly to remark the lanes leading westwardly to this intersection so that the through lane goes to East Main Street. He also added that DOT would grind the old markings and put new ones in their place.

Councilmember Hall asked Mr. Cole to walk through the needed action by pointing out the locations on the maps provided by Engineering Director Jon Mendenhall. Mr. Cole said that the change would begin at the East Main Street and Moss Springs Avenue intersection and that the cost for the markings would be approximately \$5,000. The merge would be from right to center and cause traffic to move and take the route down Main Street. Mr. Cole also stated that with this change as well as adding the 4-way stop signs on Pee Dee Avenue, this should encourage people to use Main Street over Pee Dee Avenue as the thoroughfare. Mr. Cole advised Council to consider putting these steps in place and see if the improvement creates the results needed and if not to go to the next alternate plan.

Mayor Whitley asked about the cost factor of the signalization and Mr. Cole did not have a cost breakdown on this but stated that the estimate would be around \$75,000 for the added traffic light. He also said the City would be responsible for changing the curb lines and adding concrete islands. Councilmember Neel stated that adding a signal was his main interest in correcting the traffic problem.

Councilmember Hall confirmed from Mr. Cole, Traffic Engineer for NCDOT Division 10 that DOT would not allow adding the traffic light at the intersection of Main Street and Pee Dee Avenue. Mr. Cole stated that her assumption was correct. Councilmember Holcomb had Mr. Cole to confirm that the striping would be free to the City.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood, the City Council decided to follow the recommendation of Mr. Cole, Traffic Engineer for NCDOT to remark the lanes as proposed. Voting in favor of the motion, which carried, were Councilmembers Underwood, Holcomb, Alexander, Hall, and Napier. Voting against the motion was Councilmember Neel.

Mr. Barry Cooper appeared as an announced delegation to request an extension of time for condemnation proceedings on his property at 503 South Second Street. Mr. Cooper stated that he was in the process of removing personal property from his residence and had not finished at this time. He also stated that he had an interest in restoring the property or selling. Mr. Cooper had contacted Bob Sasser and the City Manager on Tuesday of last week to advise that he had contacted an auction company about auctioning this property. He indicated that as a result he would like to request additional time to remove his personal property from the structure, and to allow the auction to take place.

Mayor Whitley asked Mr. Cooper how much time should he need to complete this and he stated that based on the auctioneer, it would take 60-90 days to complete. This is allowing for a proper amount of time for advertising of the sale.

Councilmember Napier asked Mr. Cooper how long had he known about this and Mr. Cooper said since the hearing of 2004 he had wanted to restore the property and had hired a contractor to restore the property but the cost and locating the materials needed based on its historic replacement was impossible.

Mayor Whitley asked Council if they would like to take any action at this time. No action was determined at this time and the Mayor stated that the action taken at the last Council meeting to continue with the condemnation procedure stands at this time.

Mr. David Sells of 931 East Main Street appeared before Council as an unannounced delegate to discuss problems with the noise ordinance being enforced on East Main Street. Mr. Sells thanked Council for amending the noise ordinance quickly and efficiently but that there were problems in the enforcement of the ordinance.

Mr. Sells stated that there had not been enough citations written based on the daily and weekly continuance of loud vehicle music being demonstrated on his street. Mr. Sells said that some of the loud car music can be heard over and across several streets.

Mr. Sells also wanted to talk to Council about drinking and driving and he brought beer cans and bottles to demonstrate what type of items are being thrown out of vehicles from Five Points all the way to the water tower on East Main Street. These bottles were gathered from the curb and sidewalk along the way. He had two bags of collected bottles he had gathered two different times using the same route each time. Mr. Sells said that people that play music extremely loud in their vehicles have no respect for others and may disregard the laws of the City. Mr. Sells asked Council to consider encouraging the enforcement of the noise ordinance.

Mayor Whitley stated to Mr. Sells that Chief Michael was present and is notating all that has been said tonight and would ask the police force to be attentive to this.

Chief Michael of the Albemarle Police Department stated that this carries a \$100 civil penalty when given a citation. He stated that on tickets not paid they take this to court and most citations given that violate the noise ordinance are paid. Mr. Michael also stated that the amount of \$100 is probably the maximum amount that the City could collect on, any amount larger probably would be a problem.

Mr. Charles Daugherty came forward to speak to Council as an unannounced delegate pertaining to the resurfacing schedule approved by Council at the July 21 meeting. Mr. Daugherty talked about the history of McCurdy Avenue and that he had lived there for 58 years and that this street had never been completely resurfaced. He stated he had talked with Councilmembers several times about this issue. He also stated that he had been aware of what has been paved in the last several years and that McCurdy Avenue has a lot of school buses, sport activities which involve parking and that the residents had hoped that this year was going to be their year to have the street resurfaced. Finally, he said that McCurdy Avenue was on the original list to be paved this year and was taken off and he wanted to bring Council's attention to this and ask that their street be paved if possible before the start of the school year.

Councilmember Alexander asked that Council take a close look at this and also clarified that Hearne Street is on the list of streets to be paved. Mr. Alexander also asked if Hearne Street needs paving more than McCurdy Avenue.

Councilmember Hall wanted to clarify that McCurdy Street was on the original list to be paved this year and that two weeks ago it was taken off. Ms. Hall said that she had also been contacted by residents on this street and said that this street was more in need of resurfacing than Hearne Street.

Councilmember Holcomb stated that McCurdy Street was bumpy but that there were others more in need.

Upon questioning, Public Works Director Mike Lambert stated that from the original list McCurdy Avenue was taken off and replaced with Avondale Avenue from Tenth Street to Smith Street in the second proposed list. He was asked the cost of paving McCurdy Avenue and he stated the cost was \$21,000 to complete. Mr. Lambert said that he did not disagree with the residents of this street and that he originally had a \$1.2 million list of projects to narrow down to the \$272,000 that was available to spend on resurfacing.

In further discussion the City Manager said that Council had previously emphasized when paving to try to resurface the entire street and not partial streets in making the list of priority streets for resurfacing.

Discussion continued as Councilmembers looked at the different streets on the list to be resurfaced and the costs of each to determine the strategy in getting McCurdy Avenue resurfaced entirely this fiscal year.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood and unanimously carried, the addition of McCurdy Avenue (entire length) to the resurfacing list for this fiscal year and removal of Avondale Avenue from North Fifth Street to Sharon Road was approved.

The Mayor and City Council discussed attending the NC League of Municipalities Annual Meeting which will be held in Charlotte from October 12 through October 14. Information regarding the program was available to Council. Mayor Whitley asked Council to let the City Manager know as soon as possible if they would be attending and how many events.

City Manager Raymond Allen stated that the narrative in the agenda explained the information about the City Hall construction update. Councilmember Hall stated that she appreciated seeing the list of change orders that had been requested by Council.

Councilmember Alexander asked if it was too early to visit the project and see exactly what has been done. The City Manager said for Council to call Engineering Director Jon Mendenhall and set up a time to view the site. Mr. Allen also stated that they would be pouring the entire concrete pad on Thursday of this week and Council may want to come over and see this.

Councilmember Hall mentioned that since Council will be at the City Hall Annex for a meeting to view the Master Plan this Wednesday, they may also want to view the job site at this time.

Albemarle Downtown Development Director Vicki Coggins said that due to the 12-1pm time slot already taken by Stanly Community College on Wednesday, she had changed the times to only 3 to 4 pm and 4 to 5 pm.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, an Ordinance entitled (Ordinance 08-28) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE BE AMENDED BY REVISING CHAPTER 77, SCHEDULE XXII TO PROVIDE THAT TRAFFIC UPON PEE DEE AVENUE SHALL STOP AND YIELD THE RIGHT OF WAY BEFORE ENTERING INTO AND UPON ITS INTERSECTION WITH NORTH NINTH STREET AND TRAFFIC UPON NORTH NINTH STREET SHALL STOP AND YIELD THE RIGHT OF WAY BEFORE ENTERING INTO AND UPON ITS INTERSECTION WITH PEE DEE AVENUE IN THE CITY OF ALBEMARLE, NORTH CAROLINA.” passed first reading.

Upon a motion by Councilmember Hall, and seconded by Councilmember Alexander, an Ordinance entitled (Ordinance 08-29) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE BE AMENDED BY REVISING CHAPTER 77, SCHEDULE XXII TO PROVIDE THAT TRAFFIC UPON PEE DEE AVENUE SHALL STOP AND YIELD THE RIGHT OF WAY BEFORE ENTERING INTO AND UPON ITS INTERSECTION WITH NORTH SIXTH STREET AND TRAFFIC UPON NORTH SIXTH STREET SHALL STOP AND YIELD THE RIGHT OF WAY BEFORE ENTERING INTO AND UPON ITS INTERSECTION WITH PEE DEE AVENUE IN THE CITY OF ALBEMARLE, NORTH CAROLINA.” was introduced. Councilmembers Hall, Alexander, Holcomb, Napier and Underwood voted in favor of the motion, which carried. Councilmember Neel voted against the motion.

A motion was made by Councilmember Holcomb, and seconded by Councilmember Napier to establish a Parks and Recreation Advisory Board to assist the governing authorities of the City of Albemarle in the operation of its Parks and Recreation system.

Councilmember Neel stated that there was an error in the wording of the Ordinance that needed to be corrected. On the second page, Section 21.68. Term of Office, the word North needed to be added in front of Albemarle Elementary School on line 2.

Councilmember Neel stated that the term in the Ordinance should state not only the month but the day that the term expires. He suggested June 30. City Attorney David Beaver was present and noted the changes needed for the ordinance.

Upon a substitute motion by Councilmember Neel, seconded by Councilmember Holcomb and unanimously carried, to approve as amended, an Ordinance entitled (Ordinance 08-30) "AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA AMENDING CHAPTER 21, TITLE II, "BOARDS AND COMMISSIONS" OF THE CODE OF ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, TO ESTABLISH A PARKS AND RECREATION ADVISORY BOARD TO ASSIST THE GOVERNING AUTHORITIES OF THE CITY OF ALBEMARLE IN THE OPERATION ITS PARKS AND RECREATION SYSTEM" passed first reading.

The Mayor and City Council considered a recommendation from the Planning and Zoning Board at its July 22 meeting to allow the use of RV (recreational vehicles) or campers while a home damaged by fire, flood, or other natural disasters is rebuilt.

Upon a motion by Councilmember Hall, seconded by Councilmember Alexander and unanimously carried, the Council voted to set the public hearing for September 2, 2008 to consider this proposed amendment to the Zoning Ordinance.

The Mayor and City Council discussed the new Flood Maps and Flood Damage Prevention Ordinance.

Planning and Community Development Director Bob Sasser came before Council and stated that the Planning Board is holding a special meeting on August 13 at 7:00 pm to present the new National Flood Insurance Mapping (NFIP) maps. Mr. Sasser explained that the new flood maps are provided by FEMA and that they flew the entire state using LIDAR technology and that some of the flood zones have changed but not that many. He also stated that his department has sent out over 600 notices of the August 13 meeting. There are more than 600 parcels affected, but some property owners own multiple parcels. The City is required to participate in this program in order for local property owners to obtain flood insurance.

Mr. Sasser outlined the schedule to have this ordinance approved by September 3 as follows:

- Planning Board meeting 8/13
- Public Hearing (1st reading) 9/2
- Public Hearing (2nd reading) 9/3 – called meeting

Upon a motion by Councilmember Alexander, seconded by Councilmember Holcomb and unanimously carried, the Council voted to follow the recommended schedule put forth by Planning and Community Development Director Bob Sasser in approving the new Flood Mapping and Flood Damage Prevention Ordinance.

Bob Sasser came forward to speak to Council about the appointments for the Historic Resources Commission which expired in July and that Daniel McAuly is moving to Boone and can no longer be re-appointed to the HRC board..

Councilmember Holcomb stated that she had no problem with reappointing all of the existing members except to replace Mr. Dan McAuly who had moved to Boone.

Councilmember Hall asked if this commission was included in the survey for volunteers and the City Manager said he thought so but would check to make sure.

Councilmember Neel said this should be held over until the next Council meeting when Councilmember White could be involved.

At this time no decisions were made for the Historic Resources Commission appointments.

The Mayor and City Council discussed and reviewed the purpose and need and the preliminary alternatives in regards to the proposed widening of NC 24- 27 from Albemarle to Troy. The purpose of this project is to improve traffic flow and level of service on the section of NC 24-27 from NC 740 in Albemarle to the Troy Bypass in Montgomery County and to replace Bridge No. 51 over the Pee Dee River in Stanly County. The agenda packet consisted of 3 alternatives: a north alignment, a south alignment, and a "best fit" alignment. Dana Stoogenke with the RPO provided the project information that Council reviewed and asked that the City provide any comments that they may have about this project.

Councilmember Neel questioned why NCDOT needs 400 to 500 feet of corridor space. Mr. Neel named some of the businesses along this route that would be affected.

Mayor Whitley commented that the best thing to do would be to let Ms. Dana Stoogenke with the RPO handle this and to leave this in the states hands at this early stage of the project. He also stated that the right of way acquisition is not scheduled until FY 2013.

Councilmember Hall asked what happens if Council does nothing at this time and the City Manager responded saying that it should have no impact and that there would be an environmental impact for all of the alternatives. Mr. Allen also stated that Council should try to stay informed and monitor the project, but it is still early in the process at this time.

Councilmember Neel said that something should be said now to Ms. Stoogenke about insisting on a five lane section rather than a four lane divided highway with a median. Mr. Neel said that the absence of a comment means acceptance of the current options. Councilmember Alexander stated that the state wants to place a four lane divided highway in.

The City Council requested that City Manager Raymond Allen write a letter to Ms. Stoogenke advising of the City Council's concerns about the project design.

The Mayor and City Council discussed the proposed agreement for the relocation of a portion of the City's twelve inch water line on NC 73 in conjunction with the replacement of the bridge on NC Hwy.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb and unanimously carried, the Council approved the agreement for the relocation of a portion of the City's twelve inch water line on NC 73 in conjunction with the replacement of the bridge on NC Hwy 73.

Councilmember Neel stated that he thought the estimated cost of this relocation of \$47,066 was high and the City had given them the land for the relocation.

The Mayor and City Council discussed complaints about the Nightie Night Lingerie at 142 West Main Street. Councilmember Holcomb had received complaints about this business relating to the last downtown Cruise In and requested that this be placed on the agenda for discussion. These complaints are regarding live models in lingerie that were in the storefront of this business and out on the sidewalk during the last Cruise In event. Several of the Councilmembers had received calls complaining about this situation.

Councilmember Hall said that she would not want this situation to have any association with the Cruise In if possible. Councilmember Holcomb added that the models do this at every downtown event.

Chief Ronnie Michael came forward to report to Council that there is really nothing that the City can do because of it being a constitutional rights issue and that the City cannot adopt a law that cannot legally be enforced. He continued to say that he had checked with the District Attorney and the Attorney General's office and that this is not illegal and there is no ordinance for this.

After further discussion, the Council decided to have a letter drafted by the City Manager for approval at the next regular City Council meeting to express concern to the owner regarding this situation.

Councilmember Hall asked that the letter be drafted and signed by Council this week and sent to the owner now ahead of the next Cruise In which is scheduled for August 15.

The Mayor and City Council discussed the report on the regional meeting held in Monroe to discuss the future for water and sewer infrastructure. This meeting was hosted by Union County and representatives were invited from Cabarrus, Stanly, Anson, and Lancaster counties, Charlotte Mecklenburg Utilities, and Albemarle, Monroe, Concord and Kannapolis city governments.

City Manager Raymond Allen reported that he and Public Utilities Director Ernie Borders attended this meeting. He stated that this was a beginning to see where the cooperation between jurisdictions may help jurisdictions that are able to provide the sale of water and sewer services with excess capacity and supply to those that are deficient. Mr. Allen also said that the group decided to invite an elected representative from each jurisdiction to attend a meeting and asked that the Mayor and Council if interested designate someone to represent the City.

Councilmember Neel stated that he had noticed on the news where someone from the state level may supply water to cities that are in need. Mr. Neel asked if the City could be forced to do this.

The City Manager stated that legislation to require such connections had been debated by the North Carolina General Assembly.

Councilmember Hall stated that at the next Centralina Council of Governments meeting the Secretary of the N.C. Department of Environment and Natural Resources will talk about the issues of water and drought and she said that she had asked the City Manager to place this item on the agenda for tonight.

Ms. Hall asked if the recent regional utility meetings would always be hosted by Union County or can the other jurisdictions offer to host. The City Manager said that counties can offer to host or Union County could continue and that the next meeting is not until early September and that the date had not yet been set.

Councilmember Neel stated that an elected representative should be named at the next regular Council meeting on August 18.

The Mayor and City Council considered dates for a joint meeting with Handy Sanitary District Board of Directors to discuss the potential sale of water. The City Council had asked the City staff to set up a meeting with Handy Sanitary District at the July 21 Council meeting. The Handy Sanitary District manager has suggested the evening of either Tuesday, August 19 or Thursday, August 21.

The Mayor and City Council agreed on the meeting taking place at the Tuckertown Water Treatment Plant on Tuesday, August 19 at 7 pm.

The Mayor and City Council considered attendance at the National League of Cities Congress of Cities Annual Meeting in Orlando, FL from November 12 through 15.

Mayor Whitley asked the Council to contact the City Manager as soon as possible if considering attending this conference.

The Mayor and City Council discussed the information of the Centralina COG Board of Delegates Meeting on August 13.

Councilmember Hall stated that she had asked the City Manager to place this item on the agenda and she mentioned that the Secretary of the NC Department of Environmental and Natural Resources would be speaking at this meeting about water issues in NC. The meeting will be at 6:30 pm at the Pine Island Country Club. Councilmember Hall said that it was near the airport and she also stated that this meeting is on the same night as the Planning Board meeting. She also said to let her know if anyone wanted to come with her to the meeting.

The Mayor and City Council considered approval of the thank you letters for donation gifts for the ElectriCities Annual meeting. Councilmember Napier received donations from several local businesses for door prizes for this annual meeting, and the City Manager drafted thank you letters from the Mayor and City Council for these businesses.

Mayor Whitley commended Councilmember Napier for the hard work of locating gift donations for the ElectriCities Annual meeting. Councilmember Napier stated that there were a lot of nice gifts donated.

City Manager Raymond Allen stated that he had the letter and if approved would like to get all Council members to sign.

Councilmember Holcomb said that she went down to Mississippi to see Public Works Director Mike Lambert and his baseball team play in the World Series and that they lost by 1 run for the title.

Councilmember Hall said that Public Works Director Mike Lambert spoke to the people of Ocean Springs where the City of Albemarle sent aid during Hurricane Katrina. She also said that Ms. Lambert's wife and children could not believe what they heard from the people there and that they thanked the people of the City of Albemarle and him for these efforts.

Mayor Whitley made an announcement to the audience that the City of Albemarle had received a letter from Governor Easley pertaining to the City of Albemarle receiving a \$499,979 grant from the Parks and Recreation Trust Fund Grant (PARTF) for the EE Waddell Center Project.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb and unanimously carried, the City Council adjourned.

