

REGULAR MEETING CITY COUNCIL  
June 16, 2008

The City Council of the City of Albemarle met in a regular session on Monday, June 16, 2008, at 7:00 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, T. Ed Underwood and T. E. White. Absent, none.

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Mayor Whitley made a special presentation of a Retirement Certificate to Jason B. Smith for 19.25 years of service in the Fire Department.

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Mayor Whitley made a special presentation to Special Projects Officer in the Department of Public Works Darren Preslar from the Stanly County Chapter of the American Red Cross in recognition of the October 24, 2007 City of Albemarle employee blood drive.

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Mayor Whitley made a special presentation of a North Carolina Department of Labor Safety Achievement First Year Silver Award to Fire Chief Eddy McDaniel.

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Mayor Whitley made a special presentation of a North Carolina Department of Labor Safety Achievement First Year Silver Award to Director of Engineering Services Jon Mendenhall for the safety achievement of the Administration, Planning and Community Development, Engineering, and Public Housing Departments.

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Mayor Whitley presented a North Carolina Department of Labor Gold Award for Outstanding Work in Accident Prevention to Parks and Recreation Director Toby Thorpe.

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Upon a motion by Councilmember Hall, seconded by Councilmember Napier and unanimously carried, the minutes of the June 2 regular session, were approved as submitted.

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Mr. Stephen Aldridge and Mr. Tom Ramseur, Stanly County Chamber of Commerce, appeared as announced delegates to provide an update on the Chamber's activities. Mr. Ramseur began by thanking the City for its support of the Chamber and noted the City has been a member of the Chamber since it was formed. Mr. Aldridge, Chairman of the Stanly County Chamber of Commerce, also thanked the City of Albemarle for its continuing support of the Chamber. He offered the Chamber's assistance in economic development activities.

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The Mayor and City Council were provided with copies of the May Departmental Reports.

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

(Ordinance 08-21, To amend the Zoning Ordinance to allow wineries and tasting rooms in a GHBD/General Highway Business District.)

(Ordinance 08-23, To amend the positions and classification pay plan.)

(Ordinance 08-24, To amend the FY 2008/2009 City of Albemarle Budget to reallocate funds between the Water and Sewer Plants Division and Systems Division.)

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The Mayor and City Council considered a Municipal Agreement and Utility Agreement with the North Carolina Department of Transportation for the relocation of US Highway 52. The City Manager reminded Council that at the

meeting the Mayor and he had with County representatives two weeks ago, the County indicated they may be willing to pay for a portion of the cost to upgrade the water lines in the area beyond what is necessary to serve the City.

The City Manager reported that he received a call from the County Manager just prior to the meeting and the County Manager said the County Commissioners had agreed to pay the cost to upgrade the water line from an 8-inch line to a 12-inch line from NC Highway 24/27 southwardly to the end of the project and to pay to relocate the meter. He said that if the Council is ready to approve the project, they can do so with an amendment to the agreement that if local legislation passes to exempt the City from utility relocation costs that it will supercede the agreement and the City will not have to pay these costs.

Mayor Whitley noted the City will make three annual payments for the utility relocation at no interest.

Upon a motion by Councilmember Hall, seconded by Councilmember Napier and unanimously carried, the City Council approved the Municipal Agreement and Utility Agreement with the North Carolina Department of Transportation for the relocation of US Highway 52, that if local legislation is adopted to exempt the City from utility relocation costs that it will supercede the agreement, and that the City accepts the County's offer to pay the cost to upgrade the water line throughout the project from an 8-inch line to a 12-inch line and to relocate the water meter.

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The City Manager provided his regular update on the status of the City Hall project. He indicated there are change orders for the Mayor and Council to consider that need to be addressed in order as to not delay the contractor.

Mr. Kelvin Benfield, Narmour, Wright and Creech, reviewed the change orders with the Mayor and City Council. Change Order #2 is for a larger vault, Change Order #3 is for a change in conduit and Change Order #7 is for additional structural steel. The structural steel is the most expensive item and Mr. Benfield said that the amount that would be necessary was not known until after the contract was awarded and demolition began. Mr. Benfield recommended the approval of all three change orders.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Neel and unanimously carried, the City Council approved Change

Order #2 in the amount of \$9,026.00, Change Order #3 in the amount of \$6,281.00 and Change Order #7 in the amount of \$86,018.00.

Councilmember Neel asked when plans will be available for the review of the plaza. Mr. Benfield said the plans are completed soon and are available for Council's review.

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The Mayor and City Council considered a Renewable Energy Development and Services Agreement with the North Carolina Municipal Power Agency #1. Mr. Mark Ostersen, ElectriCities of North Carolina, said the agreement would designate NCMPA #1 as the City's agent in determining, developing, coordinating and administering the energy efficiency standards mandated by recent State legislation.

Upon a motion by Councilmember Neel, seconded by Councilmember Underwood and unanimously carried, the City Council approved a Renewable Energy Development and Services Agreement with the North Carolina Municipal Power Agency #1 designating NCMPA #1 as the City's agent in determining, developing, coordinating and administering the energy efficiency standards.

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The Mayor and City Council considered a proposed agreement with Union Power Cooperative to designate electric service territories. The City Manager said an adopted agreement is a requirement. The map showing the boundaries are essentially the same since Council last reviewed it.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved a Territorial Agreement with Union Power Cooperative.

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The Mayor and City Council considered a Utility Relocation Agreement with the North Carolina Department of Transportation for the NC Highway 73 Bridge Relocation Project. Director of Public Utilities Ernie Borders noted that only City electric would be affected, but that all of these relocation costs would be borne by the North Carolina Department of Transportation and the utilities have been in this location for a significant period of time.

Upon a motion by Councilmember Hall, seconded by Councilmember White and unanimously carried, the City Council approved a Utility Relocation Agreement with the North Carolina Department of Transportation for the NC Highway 73 Bridge Relocation Project.

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The Mayor and City Council considered Change Order #1 with Thalle Construction for the expansion of the City Landfill in the amount of \$100,800.00. Mr. Wayne Sullivan, Municipal Engineering, said the Change Order is requested for a hydraulic hammer rental and rock crusher. He said part of the rock crushing will take place in the current phase 2 construction site, while other rock will be obtained from the phase 3 site and used in phase 2. Taking from the third phase at this time will save expenses when phase 3 construction begins.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved Change Order #1 with Thalle Construction in the amount of \$100,800.00.

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Upon a motion by Councilmember Neel, seconded by Councilmember Hall and unanimously carried, the following Resolution was duly adopted:

(Resolution 08-23, To continue operating a construction and demolition debris landfill on top of closed MSW landfill.)

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Councilmember Hall indicated she would like to make an adjustment to the agenda and discuss the naming of Stafford Drive and the designation of a stop intersection.

The City Council considered Ordinance 08-22, to add Stafford Drive to the list of City Street names.

Councilmember Neel asked if the street was constructed to City standards. The City Manager indicated that it was constructed to those standards

that were required through the special agreement the Council made with Mr. George Ray Smith. Council exempted Mr. Smith from the requirement to install sewer as well as curb and gutter and sidewalk. There was discussion as to how far the City would be maintaining on the Stafford Drive right of way, as not all of Stafford has been improved. The Assistant City Manager noted the City would only be maintaining the improved, paved section and a description of the length to be accepted and maintained by the City is in the Ordinance so there would not be confusion in the future.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, an Ordinance entitled (Ordinance 08-22) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, AMENDING SCHEDULE XIV-A (NAMING STREETS) OF CHAPTER 77 OF ALBEMARLE OF SAID CODE BY ADDING STAFFORD DRIVE THERETO” passed first reading.

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Upon a motion by Councilmember White, seconded by Councilmember Hall and unanimously carried, an Ordinance entitled (Ordinance 08-26) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE TO DESIGNATE STAFFORD DRIVE A “STOP STREET” AT ITS INTERSECTION WITH ARBOR WAY IN THE CITY OF ALBEMARLE, NORTH CAROLINA” passed first reading.

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The Mayor and the City Council discussed access and utility issues for a proposed house on Stafford Drive. Councilmember Hall asked that this matter be placed on the agenda.

Mr. Dolph Myrick spoke before the Mayor and Council on this matter. He said he is proposing to build a home on Stafford Drive and would like for his driveway access to be the unopened right of way of Brenda Drive, as is currently done by another resident. Mayor Whitley said the house can be constructed because the property adjoins 35-feet of public maintained roadway on Stafford Drive. Mayor Whitley said the City does not regulate driveway location, but he understands there may be a protective subdivision covenant that requires a paved driveway. With this portion of Brenda Drive not being improved, the subdivision covenants may not permit driveway access at this location. He

suggested Mr. Myrick consult the homeowners association or a private attorney on this matter.

Councilmember Neel said it is his interpretation that the Ordinance requires a house have access to and face the public right of way. Mayor Whitley said the City has never been involved in determining the configuration of the house on the property.

Upon questioning, Mr. Myrick indicated water service is currently available on Stafford Drive and sewer will be installed privately and pumped to the existing City sewer line on Arbor Way.

City Attorney Beaver said he has done quite a bit of private work in this subdivision and he recalls that Mr. Myrick's tract was not part of the original numbered lots in the subdivision and therefore is not sure the restrictive covenants apply to this lot.

Mr. Richard Almond said he agrees with the interpretation that the intent of the City development standard is that there be access constructed to the right of way and that the houses face the public right of way. He said the house currently using Brenda Drive as their driveway in lieu of having their own access to the public street was allowed by a previous subdivision developer.

Councilmember Alexander said he thought this situation is different from Mr. Smith's development situation because the Myrick property currently has 35-feet adjoining a publicly maintained road. Mr. Smith had to build the road to secure his 35-feet. Councilmember Neel reiterated he feels the intent of the Ordinance is to require access to the public right of way and that the house should face the right of way.

Upon a motion by Councilmember Neel, seconded by Councilmember Alexander and unanimously carried, the City Council tabled further discussion of this matter until staff has an opportunity to review the situation and make a presentation to the City Council and the City Council can determine what is in the best interest of the City.

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The Mayor and City Council considered the awarding of a contract for design and permitting of a Clean Water Management Trust Fund Grant stormwater retention basin. Director of Engineering Services Jon Mendenhall noted in a memorandum the recommendation is to contract with Baker

Corporation, which is the company that has assisted with the flood study and the grant application.

Councilmember Neel said there is a problem with foul balls being lost in a ditch running east and west across the City's property just north of the City's regulation baseball field. He felt something should be done with this area once work is undertaken to construct the flood retention basin.

Upon a motion by Councilmember White, seconded by Councilmember Underwood and unanimously carried, the City Council awarded a contract for the design and permitting of a stormwater retention basin to be constructed at Don Montgomery Park to Baker Corporation in the amount of \$97,250.

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Director of Public Utilities Ernie Borders was present to discuss the preliminary findings of the City's water system study. Mr. Borders said the study focused initially on the Muirfield Subdivision area to address the specific water pressure issues the homes in the subdivision have been experiencing. He said there is some valving changes that can be made to improve the water pressure with the expectation that it would not harm any other customers. Mr. Borders hoped the only noticeable change beside the desired water pressure increase might be a temporary discoloration of the water. Councilmember Holcomb asked that Council be informed when these changes are implemented in case they receive any citizen comments.

Upon a motion by Councilmember White, seconded by Councilmember Hall and unanimously carried, the City Council authorized valving changes to try to improve the water pressure in the area of the Muirfield Subdivision.

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Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, an Ordinance entitled (Ordinance 08-25) "AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA, ADOPTING A GRANT BUDGET ORDINANCE RELATING TO A CLEAN WATER GRANT BY CLEAN WATER MANAGEMENT TRUST FUND SUPPLEMENTED BY MATCHING IN-KIND FUNDS FROM CITY OF ALBEMARLE" passed first reading.



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Upon a motion by Councilmember Alexander, seconded by Councilmember Holcomb and unanimously carried, the City Council granted an exception to the City Ordinance to allow the Cub Scouts to hold BB and archery classes.

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Upon a motion by Councilmember Neel, seconded by Councilmember White and unanimously carried, the City Council reviewed and signed letters of appreciation to fire departments that assisted with the fire at American Fiber and Finishing on May 28, 2008.

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The Mayor and City Council reviewed and signed a letter to ERA Four Season Realty asking they not distribute and use the American flag for advertising purposes.

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Councilmember Hall provided an update on the Centralina Council of Governments Executive Committee meeting. She said the Lillian Mills Project the City participated with was the featured project of the meeting.

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The Mayor and City Council were advised of the Resident's Appreciation Day in the Department of Public Housing on June 27 and 28.

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Councilmember White thanked the Public Works Department for addressing street maintenance issues he reported and with addressing a handicap accessibility issue on East Main Street.

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Upon a motion by Councilmember White, seconded by Councilmember Alexander and unanimously carried, the meeting was adjourned to

the next regular meeting on July 7, 2008, at 7:00 p.m. in the City Council Chambers.