

REGULAR MEETING CITY COUNCIL
April 7, 2008

The City Council of the City of Albemarle met in a regular session on Monday, April 7, 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.

The Reverend Jim Tucker was not present to deliver the invocation. Mayor Whitley delivered the invocation in his absence.

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

A public hearing was held to consider the request of Prospect Baptist Church, 502 Prospect Church Road, for a Conditional Use Permit to construct an addition to the Church in a R10/Single Family Residential Zone. Mayor Whitley swore-in Pastor Stony Benfield who gave his support for the project.

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

The City Council considered the following findings of fact as read by Mayor Whitley:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved finding of fact #1.

2. The use meets all required conditions and specifications.

Upon a motion by Councilmember White, seconded by Councilmember Neel and unanimously carried, the City Council approved finding of fact #2.

3. The use will not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hall and unanimously carried, the City Council approved finding of fact #3.

4. The location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of Albemarle and its environs.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved finding of fact #4.

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

(Resolution 08-08, To approve the request of Prospect Baptist Church, 502 Prospect Church Road, for a Conditional Use Permit to construct an addition to the Church in a R10/Single Family Residential Zone.)

A public hearing was held to consider the request of Mr. David Scarboro for a Conditional Use Permit to operate a tea house in a RO/Residential Office District at 415 North Second Street. Mayor Whitley swore in Mr. David Scarboro to provide testimony on the matter. Mr. Scarboro indicated he is now ready to proceed with his project, which there are not currently any in Albemarle.

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

The City Council considered the following findings of fact as read by Mayor Whitley:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved finding of fact #1.

2. The use meets all required conditions and specifications.

Upon a motion by Councilmember Hall, seconded by Councilmember White and unanimously carried, the City Council approved finding of fact #2.

3. The use will not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hall and unanimously carried, the City Council approved finding of fact #3.

4. The location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of Albemarle and its environs.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved finding of fact #4.

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

(Resolution 08-09, To approve the request of Mr. David Scarboro for a Conditional Use Permit to operate a tea house in a RO/Residential Office District at 415 North Second Street.)

A public hearing was held to consider the recommendation of the Planning and Zoning Board to amend the Subdivision Ordinance to allow for gated communities. No one from the public spoke for or against the proposal at the hearing.

Councilmember White moved to close the public hearing. The motion was seconded by Councilmember Hall.

Upon further discussion, Councilmember Neel asked if requests for gated communities would come before Council for their review. The City Manager said all subdivision development requests come before Council for their approval of the site plan. Director of Planning and Community Development Bob Sasser confirmed that Council would have the opportunity to review all proposed gated community developments.

Upon a vote on the motion to close the public hearing, the motion unanimously carried.

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

(Resolution 08-10, To amend the Subdivision Ordinance to allow for gated communities.)

Upon a motion by Councilmember White, seconded by Councilmember Hall and unanimously carried, an Ordinance entitled (Ordinance 08-12) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA PROVIDING THAT ITS CODE OF ORDINANCES BE AMENDED BY REVISING TITLE IX, CHAPTER 91 (THE SUBDIVISION ORDINANCE) OF SAID CODE TO ADOPT GUIDELINES FOR THE DEVELOPMENT OF GATED COMMUNITIES WITH PRIVATE STREETS AND PUBLIC UTILITIES” passed first reading.

A public hearing was held to consider an amendment to the Subdivision Ordinance to exempt industrial developments on existing streets from the requirement to install curb and gutter. Mr. Sam Estridge supported the request

and thanked City staff for recommending the proposed change. He encouraged the City Council to approve the request.

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

Councilmember White said he is concerned the change is a mistake. He said that while the situation this change is being made to address is not a problem, future situations may arise that Council has not anticipated. Councilmember Neel concurred.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood, the following Resolution was duly adopted:

(Resolution 08-11, To amend the Subdivision Ordinance to exempt industrial developments on existing streets from the requirement to install curb and gutter.)

Voting in favor of the motion were Councilmembers Alexander, Hall, Holcomb, Napier, Neel, and Underwood. Voting in opposition to the motion was Councilmember White.

Upon a motion by Councilmember Hall, seconded by Councilmember Holcomb, an Ordinance entitled (Ordinance 08-13) “AN ORDINANCE OF THE CITY OF ALBEMARLE, NORTH CAROLINA PROVIDING THAT ITS CODE OF ORDINANCES BE AMENDED BY REVISING SECTION 91.09 (I)(4) OF CHAPTER 91 OF SAID CODE RELATING TO MINIMUM STREET DESIGN STANDARDS” passed first reading. Voting in favor of the motion were Councilmembers Alexander, Hall, Holcomb, Napier, Neel, and Underwood. Voting in opposition to the motion was Councilmember White.

A public hearing was held to consider an amendment to the Sign Ordinance to regulate electronic changing signs and to amend the Sign Ordinance to allow more than one sign above the first floor window within the Downtown Historic District. No one from the public spoke for or against the matter.

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

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

(Resolution 08-12, To amend the Sign Ordinance to regulate electronic changing signs and to amend the Sign Ordinance to allow more than one sign above the first floor window within the Downtown Historic District.)

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, an Ordinance entitled (Ordinance 08-14) "AN ORDINANCE OF THE CITY OF THE CITY OF ALBEMARLE, NORTH CAROLINA AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALBEMARLE, NORTH CAROLINA BY REVISING SECTION 92.026, SECTION 92.028 AND SECTION 92-032, TITLE IX ENTITLED "ZONING REGULATION" RELATING TO PLACEMENT OF OUTDOOR SIGNS IN THE ZONING JURISDICTION OF THE CITY OF ALBEMARLE, NORTH CAROLINA" passed first reading.

Pastor Scott Shoffner, Grace Baptist Church, appeared before the Mayor and the City Council as an announced delegate to request the closing of Edgemont Street on Saturday, May 17 from 10:00 to 6:00 p.m. for a neighborhood block party.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved the request of Grace Baptist Church for the closing of Edgemont Street on Saturday, May 17 from 10:00 to 6:00 p.m. for a neighborhood block party.

Ms. Jennifer McSwain, Albemarle Downtown Development Corporation Beach Blast Committee, appeared before the Mayor and the City Council as an announced delegate to request approval for a Hospitality Garden in conjunction with the Beach Blast.

Councilmember White moved for the approval of the Hospitality Garden. The motion was seconded by Councilmember Underwood.

Upon further discussion, Councilmember Hall inquired as to the location of the Hospitality Garden. Ms. McSwain indicated she has received permission to locate the Garden on the Wilhelm property at the corner of North Second Street and East North Street.

Upon a vote on the motion, the request for a Hospitality Garden was unanimously approved.

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

(Ordinance 08-10, To appropriate insurance proceeds to repair damage to a fire truck and appropriate funds from installment debt for the vacuum truck.)

(Ordinance 08-11, To create a commercial loading zone on the west side of South First Street in the first parking space north of the intersection with East South Street.)

The Mayor and City Council considered appointments to fill an expiring term on the Albemarle ABC Board. The City Manager reported that the City Council had previously asked the local media to broadcast this upcoming vacancy and no one reported their interest to City staff.

Councilmember Hall moved to reappoint Mr. Don Frey to the Albemarle ABC Commission. The motion was seconded by Councilmember Underwood.

Upon further discussion, Councilmember Holcomb said she would like ABC funds provided to the City and future appointments ought to be made on this basis. Councilmember Neel said he feels that all ABC system revenues, exclusive of those required to pay off debt and operate the store should be provided to the City. Councilmember White said the City should not be placing stipulations like this on its appointees. He believes the City Council appoints individuals to make decisions on what they feel is in the best interest of the City.

He also suggested the possibility of term limits to the City boards. Councilmember Underwood said early repayment of ABC system loans would save several hundreds of thousands of dollars over the life of the loan. Councilmember Neel said they need to be appointing people who think similarly to the City Council. Councilmember Alexander said the City Council needs to make an appointment and then work out their differences of opinion on ABC system revenues and City funding.

Upon a vote on the motion to reappoint Don Frey to a three year term on the Albemarle ABC Board, the motion was unanimously carried.

The City Manager provided a report on the City Hall project. He said the environmental abatement company is continuing their work and the General Contractor will mobilize this week, with the construction fencing being installed next week. Upon questioning from Councilmember Neel, the City Manager said 20 parking spaces will be created on the northeast corner of the property and remain open for as long as the contractor can allow.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved the request of Ms. Catherine Duckworth to subdivide a house at 307 North Second Street from a lot also containing two quadraplexes.

Upon a motion by Councilmember Hall, seconded by Councilmember White and unanimously carried, the City Council set a public hearing for May 5 to consider the request of Mr. Eston West to rezone a 19.1 acre tract east of Heathwood Drive from R10/Single Family Residential to R8A/Multi-Family Residential.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council set a public hearing for May 5 to amend the Zoning Ordinance regarding the regulation of above ground pools.

Upon a motion by Councilmember Hall, seconded by Councilmember Underwood and unanimously carried, the City Council approved the request of the Stanly County Family YMCA to close streets on Saturday, April 12 from 9:00 a.m. to 1:00 p.m. for YMCA Healthy Kids Day.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council approved the request of the Albemarle Police Department to close portions of Second Street and Main Street for a law enforcement memorial ceremony on May 13.

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

(Resolution 08-13, To approve the Albemarle
Downtown Area Revitalization (ADAR) policy.)

Councilmember White asked about the possibility of Stanly County adopting a similar program as the City has previously requested. The City Manager said he has not received official notification from the County on this matter, but that it was his understanding the County was considering a program based on an 80% grant.

The Mayor and City Council considered the possible selection of consultants to undertake an annexation study. The City Manager said Council indicated they would like to undertake an annexation study for potential City-initiated annexations. This would be the first such annexations since 1979. The City staff has met with two firms, both of which are capable of undertaking the study. At Councilmember Neel's request, Centralina Council of Governments was not included, though they have provided a letter that is in the agenda package asking that they be considered in this process. The City Manager recommended a separate meeting date with the potential companies for the interview process.

Upon a motion by Councilmember Neel, seconded by Councilmember White, the City Council approved interviewing The Wooten Company and Benchmark, Inc. for an annexation study. Voting in favor of the motion were Councilmembers Alexander, Holcomb, Napier, Neel, Underwood and White. Voting in opposition to the motion was Councilmember Hall.

Upon a motion by Councilmember Hall, seconded by Councilmember Alexander and unanimously carried, the City Council voted to include the Centralina Council of Governments in the interview process. Voting in favor of the motion were Councilmembers Alexander, Hall, Neel and White. Voting in opposition to the motion were Councilmembers Holcomb, Napier, and Underwood.

Council indicated they would like to hold the interview meetings on either April 22 or April 23 at 5:00 p.m. The City Manager said he would contact the consulting firms about these dates and report back to Council.

Upon a motion by Councilmember Alexander, seconded by Councilmember Hall and unanimously carried, the City Council approved an agreement with Volkert and Associates for the biennial bridge inspections.

The Mayor and the City Council considered a proposal from the North Carolina Department of Transportation for safety improvements on Old Charlotte Road at the Winston-Salem Southbound Railway crossing.

Councilmember Underwood moved for the approval of the City's participation in safety improvements on Old Charlotte Road at the Winston Salem Southbound Railway crossing. The motion was seconded by Councilmember White.

Upon questioning, the City Manager explained the City has no history of accidents at this location, but that it is being suggested by the NCDOT because it meets their criteria.

Upon a vote on the motion, the proposal to participate with the North Carolina Department of Transportation for safety improvements on Old Charlotte Road at the Winston-Salem Southbound Railway crossing was unanimously denied.

Parks and Recreation Director Toby Thorp appeared before the Mayor and City Council to request the City's participation in an update to the County-wide Parks and Recreation Master Plan. He said the current Plan is almost 10-years old and will at that point no longer be able to be used for the submission for Parks and Recreation Trust Fund grants. A meeting was recently held where all the municipalities and Stanly County were invited to discuss a potential update. It was the consensus of those agencies represented that moving forward would be appropriate. Mr. Thorp said the estimated cost is \$1.50 per capita.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council approved the City's participation in an update to the County-wide Parks and Recreation Master Plan.

The Mayor and City Council considered the renewal of a lease for the use of the building at 151 North First Street as the location for the Parks and Recreation Department ceramics program. Councilmember Holcomb said she did not want to rent the facility for more than a one-year term and proposed a counter offer to the \$875 price of \$850.

It was the consensus of the City Council to offer \$850 per month for one-year. Parks and Recreation Director Toby Thorp said he would relay this offer to the property owner.

The Mayor and City Council reviewed the plans for the Arbor Day celebration on April 15. The City Manager said the ceremony will be held at Hearne Park, at which time a representative of the North Carolina Division of Forestry Resources will present the City with its Tree City USA designation.

Council asked that the City Manager provide reminder cards about this so they could attend. The City Manager indicated he would provide these.

The Mayor and City Council discussed an issue with low water pressure in the homes in Muirfield Subdivision. Mayor Whitley reported that he has been recently contacted by residents about this situation. Director of Public Utilities Ernie Borders provided an update on this matter. He said the water pressure in the City system at this location well exceeds minimum pressure standards. He said a lot of issues could be impacting the pressure such as the elevation, the configuration of the City's water system and factors in the homes such as line size and the fixtures. He recommended the City Council approve the engaging of a consultant to study the City's water system and pressure zones, which would help the City with this and other matters in managing its water system. Councilmember Hall inquired as to the length of time a study would take once it begun. Mr. Borders estimated it would take at least a month.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council voted to use retained earnings in the Water and Sewer Fund to undertake a study in the current fiscal year.

Director of Public Utilities Ernie Borders presented the new Water Shortage Response Plan. This plan is a mandate of the State to address how situations of drought will be handled.

Upon a motion by Councilmember White, seconded by Councilmember Hall and unanimously carried, the City Council approved the City's Water Shortage Response Plan.

The Mayor and City Council were presented with bids for the sale of surplus galvanized wire and asked to provide the bid award to the second highest bidder because the low bidder did not pick up or pay for the metal they had won with their bid. Bid tabulation is as follows:

(Bid for the Sale of Surplus Galvanized Wire)

Upon a motion by Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the Bid for the sale of galvanized wire was awarded to the second highest bidder.

The Mayor and City Council were provided with a status report on the sale of previously surplused vehicles and equipment. The Public Works Department and the Police Department requested the appropriation of these funds to allow additional equipment purchases and other expenditures.

Upon a motion by Councilmember Underwood, seconded by Councilmember Hall and unanimously carried, the City Council authorized the appropriation of funds from the sale of surplus vehicles and equipment in the Public Works and Police Departments.

The Mayor and City Council were provided with results of the traffic trailer data from Leonard Avenue.

Upon a motion by Councilmember Hall, seconded by Councilmember White and unanimously carried, the City Council approved a contract with Kenneth R. Anderson, CPA, for the fiscal year 2007/2008 City audit in the amount of \$33,000.

The Mayor and City Council discussed their proposal to meet with the Stanly County Board of Elections to discuss the aligning of the City Council voting districts with the precinct boundaries. The City Manager indicated that the Board of Elections cannot meet until May 15, which is two days after the short session of the North Carolina General Assembly convenes. This would not allow much time for the meeting and for getting proposed legislation to the City's legislative delegation and introduced in the General Assembly.

Councilmember Neel said the City needs to proceed with this matter and cannot wait for a meeting with the Board of Elections. He suggested sending a copy to the Board of Elections, but still proceeding with trying to get local legislation passed. Councilmember White said simplifying the voting process and making it less confusing for citizens is the priority.

Mayor Whitley indicated he would take the draft bill to the Board of Elections and discuss it with them.

The City Manager provided a report on Leteri Waste. He indicated that he, Public Works Director Michael Lambert and Assistant City Manager Michael Ferris met with a representative of this company to discuss recycling options at the City of Albemarle Landfill. The City Manager said the proposal is a little more complicated than what was initially known. The owners would need to construct a gasification plant at the City's Landfill. There would also need to be commitment from other jurisdictions in the County that their waste would be brought to the City's Landfill. There is also the possibility that to have sufficient volume, they may need waste from other counties, and the City's Landfill is currently permitted by the State for only waste generated in Stanly County. Councilmember Hall thanked staff for taking the time to meet and investigate this matter.

Ms. June Mabry spoke concerning a glass crushing operation she may be developing in the downtown area. She also said she is looking for a location in one of the City's Urban Progress Zones to locate a material recovery and recycling facility.

Mayor Whitley reviewed a grassroots organizing initiative of ElectriCities of North Carolina. He said they are seeking commitments from local elected officials who would be willing to make themselves available on short notice to lobby on behalf of ElectriCities on critical legislative issues.

Councilmembers Alexander, Hall and Neel indicated they would participate and assist.

The Mayor and City Council were provided with the results of a staffing and funding comparison for the public safety functions. The City Council had requested this comparative information at a recent budget work session. The City Manager reported that Assistant City Manager Michael Ferris undertook the surveys and developed the comparisons of funding and staffing levels in the Police and Fire Departments.

Councilmember Alexander asked if there has been a problem with getting the requisite number of Firefighters on the scene of a structure call due to staffing. The City Manager said this has not been a problem and the survey results

show the Albemarle Fire Department to have one of the highest number of Firefighter for a City our size, and very high in the number per capita. He said what hurts response time is the size of the City. He noted that Albemarle is one of the least dense and largest municipalities in terms of land area, and this creates a situation that impacts response times.

Council thought the survey was very thorough and a lot of good information has been provided and indicated they would like to study the results further.

The Mayor and City Council received a request from the Crisis Council for City funding in fiscal year 2008/2009 in the amount of \$5,000. Councilmember Neel said that while this is a worthy cause, the City receives a lot of requests for funding from outside agencies. A lot of these agencies requesting City funding are the responsibility of other government jurisdictions. Councilmember Alexander noted that if the City provides funding to other government funded entities, City residents are contributing twice.

It was the consensus of the Mayor and City Council to reschedule the May 14 meeting with the members of the Planning and Zoning Board and the Zoning Board of Adjustment to Wednesday, May 7 due to a conflict with the Centralina Council of Governments meeting.

Mayor Whitley and Councilmember Neel confirmed their attendance at the North Carolina League of Municipalities Town Hall Day in Raleigh on June 4.

The Mayor and City Council were advised the annual printed updates to the Code of Ordinances were ready.

Councilmember White reported illegal dumping on Summit Avenue and Davis Street.

Councilmember White reported a pothole on East Park Avenue.

Councilmember Hall reported the next Rocky River RPO TAC meeting will be held in Locust on May 15. She also indicated that at the last meeting an individual with the North Carolina Turnpike Authority was supposed to attend the meeting, but was not present.

Councilmember Neel reported that limb collection by Waste Management has not been as it is supposed to be. Limbs are often missed for two to three weeks.

Councilmember Neel said that he often observes items placed out for collection that are not eligible for collection by Waste Management. The City Manager said this does happen from time to time and the City contacts these locations about these issues. He noted that it is a particular problem with rental properties.

Councilmember Underwood reported couches in the yard of properties on South Fifth Street and on Old Charlotte Road.

Councilmember Alexander reported sight distance problems at North Fourth Street and East Cannon Avenue and at North Tenth Street and Pee Dee Avenue.

Mayor Whitley said that the weather situation was very dangerous this past weekend. He suggested using the Connect CTY system to notify

residents of potential weather dangers. Councilmember Holcomb concurred and would especially like to see it used when there are tornado warnings in the City.

The City Manager said the system has a great deal of uses and one thing the City must be careful of is over-utilization. Over use could cause residents to hang up on calls by the City or not listen to the messages, which would defeat the purpose of getting critical, time sensitive information to residents. One related matter is that the County of Stanly is looking at purchasing a similar system. They have indicated they may be willing to pay 50% of the cost of the system and allowing the City to utilize it. This would allow the City to cancel its contract for this same service and utilize the County-wide service. Staff has discussed this with County Emergency Management and they have indicated they intend to call residents in the path of tornadoes when a warning is issued. This is the most appropriate responsible agency since they deal specifically with emergency issues and are staffed 24-hours a day.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council asked that the City Manager assign responsibility to a City Department for calling when there are tornado warnings issued inside the City limits of Albemarle.

Assistant City Manager Michael Ferris presented a proposed contract with Time Warner Cable for home internet service for the Mayor and City Council as part of the paperless agenda system. He noted Time Warner considers this a business class service, but is providing it at a greatly reduced rate.

Upon a motion by Councilmember Holcomb, seconded by Councilmember Napier and unanimously carried, the City Council approved a contract with Time Warner Cable to provide home internet service to the members of the City Council and Mayor.

There being no further business, the meeting was adjourned.