

ADJOURNED MEETING CITY COUNCIL  
December 2, 2008

The City Council of the City of Albemarle met in an adjourned session on Tuesday, December 2, 2008, at 6:00 p.m. at the City Hall Annex. Mayor Elbert L. Whitley presided and the following Councilmembers were present, to wit: Troy E. Alexander, Martha Sue Hall, Judy Holcomb, Jeanette M. Napier, Jack F. Neel, and T. Ed Underwood. Absent, none.

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Ms. Deborah Crowder, an attorney with Poyner and Spruill made a presentation to the Mayor and City Council on the treatment of utilities in bankruptcy proceedings, and strategies to avoid preference exposure. Ms. Crowder outlined what actions utilities can take prior to the declaration of bankruptcies and restrictions on actions they can take after a customer declares bankruptcy. She noted that if there is an indication a customer may be having financial difficulties, a utility can request a financial statement. If the financial statement indicates the company is solvent, but later declares bankruptcy the City can offer this evidence in a bankruptcy proceeding to protect against preference liability. She noted that these should be obtained on a periodic basis, such as annually for companies in this situation. She advised the Mayor and City Council that if the financial statements indicate the customer is not solvent, the utility can require the customer to switch to a prepayment basis. Members of City Council expressed concern about the financial viability of local companies that are suppliers to the automotive industry due to the financial difficulties being experienced by American automobile manufacturers. The City Manager noted that Gentry Mills had recently become behind in their utility payments, and that the staff had worked with them to set up a payment plan to allow them to catch up on their payments due to the large potential job loss if the company's utilities were disconnected. The Mayor suggested that City Council review the information provided by Ms. Crowder, and to consider any future action the City Council should consider taking.

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Upon a motion of Councilmember Neel, seconded by Councilmember Holcomb and unanimously carried, the City Council appointed City Manager Raymond Allen as Acting City Clerk for this meeting.

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Upon a motion of Councilmember Holcomb, seconded by Councilmember Underwood and unanimously carried, the City Council voted to go into closed session pursuant to NCGS 143-318(a) 5 to discuss real estate negotiations.

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Upon a motion of Councilmember Holcomb, seconded by Councilmember Hall and unanimously carried, the City Council voted to return to regular session. Mayor Whitley stated that there was nothing to disclose from the closed session at this time.

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Mayor Whitley provided a brief status report on negotiations to sell water to the City of Concord. He noted that discussions were ongoing, but that he did not expect any concrete steps to take place for several months.

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There being no further business, the meeting was adjourned.