

MONDAY-5:30 P.M.

JANUARY 11, 2010

SPECIAL MEETING

A Special meeting of the City Council was held on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor R. A. McLean presiding. Those members of Council in attendance were: J. M. Baker, M. E. Brooks, L. Hill-Lawrence, L. A. Hummer, R. E. King, B. S. Meggs, J. A. Stimatz and J. B. Walton. Staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan Human Resource Director K. W. Felton, Public Utilities Director P. A. Fredette, Planning Director J. C. Brooks and Finance Director S. E. Blanchard.

1} AGENDA:

Mayor Pro Tem L. A. Hummer asked to add, **discussion on the electric rate decreased.**

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman R. E. King to approve the prepared agenda to include the above noted item. Those voting in favor of the motion were: Hummer, King, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

2} THREE AGREEMENTS WITH PASQUOTANK COUNTY:

City Manager Olson stated that as Council is aware we have been negotiating with Pasquotank County about three or four years now concerning a number of different agreements. Those agreements include the Halstead Boulevard Area Extension Agreement, the Bulk Water Purchase Agreement and the Water Boundary Agreement. Since we have some new members on Council he thought it would appropriate if we provide an overview of these agreements.

Public Works Director P. A. Fredette stated that he was asked tonight to present a brief overview of the Water System in Elizabeth City. Dealing with the projected water demand what we have for the current water supply and the costs of the investments into the system to match the demand that we have. He show the projected water supply needs. In 2009, the Wellfield had to produce 2.5 million gallons a day for us to supply the City of Elizabeth City. The maximum safe yield from the Wellfield, when the new wells came on line is going to be 3.0 million gallons a day. The capacity of the water treatment plant given the hydraulic flow is going to max out about 3.0 million gallons a day. He showed a chart showing growth at 1.5% and 2.5%. Our system will max out at

about the year 2024. To achieve the 3.0 million gallons capacity the City has to do a number of things. When we have the expansion of the existing Wellfield going then it would be complete. Then there is a rehabilitation of four existing wells that has to be completed was discussed and evaluated in the development of the new Wellfield. We have to clean and repair the raw water reservoir at the Water Treatment Plant where we received the water before it goes through treatment. We have to repair and replace the meter in the finishing filters as water goes out of the plant. We have to build a second line feed system. There is a water transmission main that goes from the Wellfield to the water treatment plant that is in dire need of replace or supplemental construction.

He presented a chart of the current Wellfield yields. There were tests done on the wells in 1998 and again in 2006. In 2008 these wells tested out at 1.8 million gallons a day. In 2006 they tested out at 1.6 million gallons a day. The purpose of pointing that out is there is maintenance that has to be done on these wells so that they maintain their capacity to produce water.

The next chart showed the new Wellfield yields. There are four wells being proposed and the total of those new wells in safe yield is 1.0 million gallons. The existing wells are at 1.6 million gallons and the rehab wells would be another 30,000 a day. He mentioned that we used 2.25 million gallons a day from the existing wells and then he said in 2006 they tested safe at 1.7 million gallons per day. A safe yield from a well is dependant on pumping the well for only twelve hours a day. We had to pump over the years he has been here about 16 hours a day. That is what caused the State to demand that we expand our Wellfield.

Mr. Olson said that is the reason why the State has put a moratorium on us because we are over pumping our wells and that is what has prompted us to go ahead and start construction on the four new wells.

Mr. Fredette said when those wells come on we will have a safe yield of about 2.7 million gallons. He showed some charts showing where our water transmission main are. You have two items. First is the elevated section of the main along Main Street Extended. That is very much a problem or potential problem for us if a car should come off the side of the road and hit that we would have a problem as we wouldn't have transmission to the plant. The other issue with that water main is actually it provides a lockage to the major culverts under Main Street Extended and part of the Oxford Height issue. Since June of 2006 we have major repairs on that transmission lines. Every time there is a repair there is no water to go to the Water Treatment Plant. We have to rely on the reserves and fortunately we have been able to repair in time so we didn't have to use our reserves. The construction of that water main is currently estimated at \$1.5 million. It is a little bit more than three miles long. It is 1600

feet long and it runs from the Wellfield facility to the Water Treatment Plant. Its sole purpose is to take raw water from the Wellfield to the plant to be treated.

The second major issue of concern to us pertains to the State in terms of capacity of the raw water reservoir. The tank is about fifteen/sixteen deep. At the back part of the tank is sediment that hasn't been cleaned. It is problematic for us for two major reasons. One, is it is a water reserve if the transmission lines are not functioning then we have 3.0 million gallons available to treat. Two because of the short circuit in the system and the amount of solids that has built up in there, those solids are sloughing off into the Treatment Plant and make it even more problematic to treat the waste. The cost to clean that tank and repair the baffle wall is about \$400,000.

The filter media is supposed to be a very smooth sand surface that provides a final filter after the water has been treated and after the water has been chemically treated it then goes through these filters and then it is sent to the reservoir to be pumped into the City's distribution system. The water is not being filtered as it is going through the cracks in the surface media right down to the holding tanks of the distribution system. Those filters were repaired about ten or fifteen years ago. The media has to be replaced and there are some concerns about the collection system at the bottom of the filter tanks that has to be corrected.

We have two excavator tanks and only one can be used at a time. The reason why we can only use one at a time is we have leakage in the tank. It is so bad that it is not practical to use as it will affect the foundation of the buildings adjacent to it as it gets so wet there. The estimated cost to repair the excavator is \$300,000.

The chemical feeds system is a lime system. We have a lime silo. When the plant was designed in the mid 90's there was a plan to have two of the lime silos systems at the plant. For some reason there was a decision made that during the construction, a cost savings measure and only one lime silo system was put in. The cost would be \$700,000.

The conclusion is that the City of Elizabeth City with repairs to the system can produce 3 million gallons of water per day. To get to that capacity you have approximately \$5.5 million of construction. If we were to rely solely on Elizabeth City there would be a need to do that in the next ten to twelve years. Some of the big costs have to be done regardless.

Mr. Olson stated that roughly a year ago we did receive a \$2+ million stimulus grant under the recent legislation that money is being used to go ahead redo the Wellfield. We have approximately \$2 million which we are looking at reallocating

to help make some of these necessary repairs. These improvements we will have to do and they will have nothing to do with the agreements. These are the challenges we face within the Water and Sewer Department. This is just for improvements to the Water Treatment Plant. There are other improvements that need to be made through the distribution system which aren't even mention here. This is just so that we can provide good quality water to our citizens.

The item before you tonight deals with three separate agreements that are all inter related between us and Pasquotank County. We have been working on these agreements for a number of years. He presented charts showing the locations that are under the territorial agreement. We have the exclusive right to service these areas. However, because of how water mains are situated the County may have a water main within this area. We may yield that customer to the County. He showed the areas that are the service area of the County. The area in the red is the Halstead Boulevard Extension area which is covered under the Halstead Boulevard Extension Area Agreement. He showed another chart that showed the Water Boundary Agree Agreement and the City has the exclusive right to service. As the Council is well aware of we do collect a number of impact fees, however in those areas outside the City's the County will receive an impact fee and meter fee of \$2500. The City has the right to charge an additional \$500 for water. The County has a different fee system. We called ours impact fees and they call theirs meter fees. Sometime when we get into meetings those get confused but they are basically the same thing. The City will purchase water from those areas at 90% of the prevailing base retail rate. The Territorial Agreement has been an area where he thinks there has been the least amount of friction between the City and County. It was designed looking at those areas that the County already has the majority of the lines. The Halstead Boulevard Agreement is the one that we have been discussing. The City will purchase water via master meters and all water line improvements pursuit to the City's regulations. The City will pay one half of the transmission line costs. The City will pay one half of the 24-inch. It is estimated to cost \$1.1 million. Also, under the Halstead Agreement we will pay for the upsizing of the 16" line that the County put in there roughly five years ago.

The final agreement is the Reverse Osmosis Purchase Agreement or what we call the Bulk Water Agreement. Under that agreement we have to take 250,000 gallons per day with a 30-day true up period. Certain days of the month we may take 300,000 and other days we may take 150,000 but at the end of the month we have a true up period where we basically exchange the water.

He asked to speak a little about the costs. The County still has not determined what the wholesale price of water is going to be from the plant yet. They are getting very close. What staff has done there is basically told you what your financial commitment is at \$5.00 per unit, \$5.10, \$5.25 and \$5.30. We believe

the price would be about in that area. Our annual usage or consumption based on the 250,000 gpd daily allotment is 91,250,000 gpd. There are problems accepting RO water into the City's system. One of the advantages for the County is the water coming from the RO plant is basically nutrient free. What we are trying to do is utilize the RO water along the Halstead Corridor from Forrest Park out to the by-pass. There are opportunities for us to go ahead and use RO water from Hughes Boulevard out toward the by-pass. Right now the average consumption along the Halstead Corridor is about 50,000 gallons a day. We have a 250,000 gpd so we are 200,000 short of what we can take out of the RO plant. What we will be doing with the County is determining other places in the community where we can open up valves and take the County's conventional water which the plant is located on Weeksville Road and bring that in to our system. The area that we are looking at is Pelican Pointe, River Road Corridor, right now he thinks the County presently serves a number of city customers and that would be roughly \$100,000. We will need to make some modifications to our distribution system so we can take the other 100-150,000 gallons per day. We don't anticipate any pressure problems if we are taking conventional water from the County's plant and we should have no issues with comparably of our finished water supply from the County's.

Mr. Olson then went over the future water and sewer debt payments. Between fiscal year 2010-2011 we are paying off over \$400,000 of debt. Our goal when started this project about three years ago was basically to backfill the debt associated with the 24" finish water main and the daily allotment contract to fill that gap. The annual debt payment on the line is \$133,640; the water purchase obligation of \$5.00 per unit is \$456,000. This is an annual increase in our operating budget for the Water Department of \$589,890. We will see a reduction due to the retirement debt of \$443,112 and a net increase in the budget of \$146,778 and this will most likely occur the latter part of 2011. The County plans to have their RO plant on line in December when they are actually ready to deliver water will probably be March or April and that is when our obligation under the RO agreement would begin. One of the issues that we have was discussed with previous councils was the cost of the 10" line that the County upsized to a 16" line on Halstead. The Halstead Boulevard Extension Area Agreement does not address this upsize. There is a developer who is involved. In our meeting with the County last Friday, what we will do is we will enter into an agreement between the City and Tanglewood Development, LLC and credit the \$119,000 based on the amount of money they owe us for the sewer assessment that occurred five years ago.

Council Stimatz stated this all says if we do nothing then we are going to have to have a rate increase to cover the \$146,000. That doesn't even start to pay the funds needed for repairs and requirements DENER has told us we have to do.

Mr. Olson said we need to preserve the Halstead Boulevard area as we have several inner connections points within the County. When our four wells go on line we will have adequate amounts of water.

Mr. Stimatz said Tanglewood owes us \$115,000 in sewer hook-ups. Do we forgive them in lieu of the \$119,000 that the County decided they wanted to give back to the developer and in doing that they decided that we should pay half? If we do that it is lost income and our taxpayers will be paying half.

Mr. Olson said the 16" line is the primary transmission line along that corridor which is the County's right now but by us paying half of the cost we do have a certain amount of ownership in that line.

Councilman Walton stated he thinks this is a very good meeting as it is putting some of the pieces back together. There was a puzzle in his mind about some that's that has happened. That is one of the things that makes City Council so hard when you change people every two years because if you are not brought up to speed you can be out there lost. Initially back in 2004 he knew when the Council and City met at the joint meetings we started discussing things and it is bad that we have to go through Rodney King thing. Why can't we just get along? We have three representatives and the County has three and why aren't they brainstorming and bringing back to us some thoughts we can discuss. He does not see why it should take four or five years to put an agreement together. We are still bickering five years later over something we decided in 2004. We are helping them with the RO plant because sooner or later we are going to run out of water. We have said it is too expensive to build water. Is that what happened?

Mr. Olson said when we first started working on this agreement we were not planning on expanding our well field and adding one million gallons of water. We were going to purchase it from the County. The RO plant has taken a lot longer because studies needed to be done and additional requirements have been put in place. We were forced to spend \$2 million for four additional wells and we were not anticipating this when we first started.

Councilman Brooks said we need water. It looks like the City is getting the short end of the stick and we need water from the County. If it runs out in 2024, we don't want to get too close to that date before we do something.

Mr. Stimatz said the issue is in May we agreed to this. We sent it off and we agree to all these conditions. What happen is despite what the paper says Jon Crouse did not pay for the upgrade to the transmission line. He had to purchase that line to meet his contractual obligation to fulfill his development contract or he was going bankrupt. He had to buy the 10" line. It was decided to upgrade

and we agreed to half the cost of the upgrade. The County is the one that decided to give the money back to the developer, not us. That is the sticking point. That is in the County's ball park. The only thing we have said is we will not pay the \$119,000.

Mr. Stimatz asked what rules we were following in this Council.

Mayor McLean replied that it is a moot point because we removed the division to pay the developer from the three agreements.

Mr. Stimatz called for a point of order. What rules are we following in this chamber?

Mayor McLean said that he was going to make a comment and he was going to let you decide that. We have already approved two of the three agreements. Those two include take a pay provision and the authorization to approve the purchase of 250,000 gallons of water. He thinks that we should probably go ahead and validate. He does want to ask one question. When we talk about water purchase obligation we had an increase in expenses, are there going to be a corresponding increase in revenues as a result of this?

Mr. Stimatz called a point of order. Mr. Mayor, Robert's Rule of Order says a point of order has to be clarified by the Mayor immediately. We have no rules in this chamber. What rules are we following?

Mr. Morgan said that we have never adopted any set of rules.

Mayor McLean stated that the rules that we are trying to follow are we are trying to get something done. We can't get that done if we only follow the rules that you want to follow. We can't get anything resolved if we go back and forth with the City Manager. You have to give others a chance to speak. He has been involved with this himself and he would like to ask some questions. We have an increase in expenses and is there going to be a corresponding increase in revenues?

Mr. Olson replied that no he doesn't think you will see any increase in revenues but you will see a slight decrease in our expenditures because instead of us providing the 250,000 gallons a day it will be the county providing it. We have to look at our costs of chemicals, electricity and everything else associated with that and it will be a slight reduction in our costs.

Mayor McLean asked if we were going to resell this water that we are getting from the County.

Mr. Olson replied yes.

Mr. McLean said then we would be recovering our costs for the purchase from the County.

Mr. Olson stated that was correct. Whatever we take from the County we are going to resale it. But when we get back to our costs of producing it ourselves, it is \$2.35 and we are buying it at \$5.00 per unit so we are basically losing \$2.65. Like the County a lot of our expenses are associated with debt payment. There is about \$.35 of profit off every unit that we sell from what we get from the County. Until such time we are as we can provide the water ourselves because we have all the fixed expenses, the water from the County is a little bit more expensive.

Mayor McLean asked if we were going to buy water that we don't need because that was a situation that was worked out yesterday.

Mr. Olson replied that all the water that we purchase from the County we will be using it for resell.

Mr. McLean said then we are not purchasing water that we are not going to use.

Mr. Olson replied that is correct.

Councilman Stimatz said that he would like to know what rules this body is working under. If we are following Roberts Rule of Order and Procedure, he would like to pull from them if he may. Is he allowed to speak?

Mayor McLean said go ahead.

Mr. Stimatz stated that Roberts Rules of Order, tenth edition talks about debate on a question. "While the presiding officer should give close attention to each speaker's remarks during debate, he cannot interrupt the person who has the floor as long as that person has not violated any of the assembly rules and no disorder arises. The presiding officer must never interrupt the speaker because he knows more than the speaker does. Basically, when a member starts asking questions he can ask questions as long as they pertain to the issue and they are not to be interrupted nor called out of order. That is why he asked the question, what set of rules are we following. If we are not following Roberts Rules of Order, which has been the tradition of this board for a long time, how long Bill?

Mr. Morgan said right or wrong he has always tried to follow Fleming Bell's Suggestive Rules of Procedures since they are tailored directly to a city council where Robert's Rules are more designed to larger bodies.

Mr. Stimatz said that Fleming's book does not cover debate. He is only asking what rules we are following. That is all that he wants to know.

Mayor McLean said the mayor can interrupt any council person if he or she feels that we are going in the wrong direction and nothing is being accomplished. That is a part of Fleming's guide also. Here again, we are here to get things done. He wants to be as respectful to each council person as he can be. He thinks that Councilman Stimatz there was no way that he intended to embarrass you or to stop you but he wants to make sure that everybody is given the opportunity to speak and that we move forward and get this issue taken care of because we do have limited time. He thinks there are comments that you have made that we need to discuss because you make good points. But, he thinks that we need the chance to allow others to discuss their points.

Councilwoman Baker asked what would we will resell the water for that we purchase from the County.

Mr. Olson replied \$5.95.

Mr. Walton said he would like to make a comment concerning this council. He thinks we put things in disarray when we read in the newspaper certain comments and those comments are not stated right. He has talked with several members of Council and he feels with this going on and whoever it is, it becomes a problem. If you have not talked to all of the Council you should only clarify the article by stating that person's name because out in the general public they feel like everybody is involved in the conversations.

Mr. Brooks stated he is getting a bad vibe. When he was on Council before we had the same discussions about rules. He thought the purpose of coming here tonight was to deal with these three agreements. He understands what all the discussion is about. To be an effective Council we can't get stuck on the little things. We need to stick to the purpose of what the meeting was called for tonight. If he was a member of the County he would see why we can't agree because we can't even agree among ourselves. What we need to go is move forward. The electric rates were added to the agenda and our next meeting starts at seven. The way it looks we aren't even going to have a chance to discuss the electric rates because we are arguing about which rules we are using. We have to move forward. Our jobs are to serve the people and we can't service the public when we are bickering among ourselves. We can do better than this.

Mayor McLean said that we do need to move forward. You have the three agreements before you. Therefore he is going to call for action regarding the Bulk Water Purchase Agreement.

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman R. E. King to reaffirm and approve the Bulk Water Purchase Agreement as presented tonight. Those voting in favor of the motion were: Hummer, King, Baker, Brooks, Hill-Lawrence, Meggs and Walton. Against: Stimatz. Motion carried.

Mayor McLean called for action regarding the Water Boundary Agreement

A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. E. King to reaffirm and approve the Water Boundary Agreement as presented tonight. Those voting in favor of the motion were: Baker, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: Stimatz. Motion carried.

Mayor McLean called for action regarding the Halstead Boulevard Area Extension Agreement

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to approve the Halstead Boulevard Area Extension Agreement as presented tonight. Those voting in favor of the motion were: King, Hummer, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

Mayor McLean called for action regarding the Tanglewood, LLC Agreement.

Mr. Morgan stated that the agreement is very simple in that it states on Page 2 which is actually the part that we are agreeing to that Tanglewood Development will receive a credit of \$119, 163 from the City which is the result of Tanglewood paying for the upsizing of the water transmission line Halstead Boulevard. The credit of course will be applied to the sum of money the entity owes the City under the earlier development agreement that is approximately five years old.

A motion was made by Councilman R. E. King, seconded by Councilwoman J. M. Baker to approve the Agreement that a credit will be given to Tanglewood, LLC as a result of Tanglewood, LLC paying the cost of upsizing the transmission line. Those voting in favor of the motion were: King, Baker,

Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: Stimatz. Motion carried.

Councilman Stimatz said he is correct that our policy does not reimburse developers for water lines. Correct.

Mr. Olson said that is correct. We do pay for upsizing as a matter of fact there is an item on the Consent Agenda tonight which deals with the City paying for an upsizing a water line between two subdivisions.

Mr. Stimatz said that is because we need that in order to supply water to the subdivision.

Mr. Olson said there are some areas around the subdivision that have pressure issues.

Mr. Stimatz said that is different than whereby we decided three years ago that we would make developers pay for their own electric and we would stop subsidizing that. We have never done it for water.

Mr. Olson said that is correct.

Mr. Stimatz said so the policy has been not to subsidize developers for the water lines.

Mr. Olson said that has been the City's long standing policy.

Mr. Walton said he feels that we have got to be subjective in certain areas to make the best decisions for the City. You just can't be un-objective about everything. The way we are trying to do this it will benefit everybody that is involved.

Mr. Stimatz said it is \$119,000 out of every water customer's pocket. They are the ones that pay for it in the end.

3} REMOVAL OF ITEM ADDED ON AGENDA:

Due to the time frame, Mayor McLean called for a motion to remove discussion of the reduction in electric rates from the agenda.

A motion was made by Mayor Pro Tem L. A. Hummer and to place it back on the Regular Agenda. Councilman R. E. King seconded the motion. Those voting in favor of the motion were: Hummer,

**King, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton.
Against: None. Motion carried.**

4} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor McLean entertained a motion for adjournment.

A motion was made by Councilman J. B. Walton, seconded by Councilman R. E. King to adjourn the meeting. Those voting in favor of the motion were: Walton, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs, and Stimatz. Against: None. Motion carried.

Mayor McLean adjourned the meeting at 6:48 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Roger A. McLean
Mayor