

MONDAY-7:00 P.M.

JANUARY 12, 2009

CITY COUNCIL

The City Council of the City of Elizabeth City held its first meeting of 2009 on the above date and time in the City Council Chambers of the Municipal Building with Mayor S. S. Atkinson presiding. Council Members attending were: J. M. Baker, D. B. Evans, L. A. Hummer, R. E. King, B. S. Meggs, J. A. Stimatz and V. C. Watts. E. K. Rivers was absent. Staff Members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, City Manager Intern R. A. Lyons, Deputy City Clerk V. D. White, Finance Director S. E. Blanchard, Planning Director J. C. Brooks, Police Lieutenant J. Lacombe, Fire Chief L. M. Mackey, Inspections Director S. E. Ward, Parks and Recreation Director J. D. Overman and Public Utilities Director P. A. Fredette.

Mayor Atkinson opened the meeting and welcomed those attending. He called upon Pastor Phil Dowdy for the Invocation after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} APPROVAL OF THE AGENDA:

Mayor Atkinson stated that he would request Items #7 & 8 be move up to come right after the approval of the minutes.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman R. E. King to approve the prepared agenda to include the move in items as stated above. Those voting in favor of the motion were: Hummer, King, Baker, Evans, Meggs, Stimatz and Watts. Against: None. Motion carried.

2} PROCLAMATION:

Mayor Atkinson presented a proclamation commemorating the observance of Martin Luther King, Jr. Day on Monday, January 19, 2009.

3} APPEARANCE:

Mayor Atkinson called upon Dr. Willie Gilchrist, Chancellor of Elizabeth City State University for comments.

Dr. Gilchrist presented an overview of the new siren alert system the University has installed. He advised as how the siren would work and of the measures that the University is taking to ensure the safety of people on campus and near

campus. He stated that on January 27th the siren would be tested and he wanted the elected officials to be aware of what was happening.

4} COMMENTS FROM THE PUBLIC:

Mayor Atkinson called upon the City Clerk to call those having signed up to speak under this section of the agenda.

Jennifer Palestrant, Director of the Chamber of Commerce, 502 E. Ehringhaus Street, Elizabeth City spoke regarding her displeasure with the way the signage amendment is going.

Manny Lovgren, 107 Quail Run Road, Elizabeth City, advised that as an owner in Trios, the former City Meeting Place, that they were working on keeping the noise level down.

L. Quidley, 212 Meekins Street, Elizabeth City, spoke of the amount of noise coming from the nightclub, Trios. He asked the City to do something about the noise as it keeps him and his family up at night. He also indicated a problem with people parking in the driveways of homes in the area. He was greatly disturbed when a deputy sheriff came to his home and advised that he would be arrested if he kept calling 911 to report the loud noise.

Lenwood Quidley, Sr., 210 Meekins Street, Elizabeth City also spoke regarding the loud noise from the Trios Club. It keeps him from getting a good nights rest and at 82 years old he feels that he is entitled to a good night's rest.

Martha Quidley, 210 Meekins Street, Elizabeth City asked Council to please help this neighborhood with the problem of the loud noise coming from Trios.

Rosa Williams, 208 Meekins Street, Elizabeth City advised that she and her husband were both elderly and she would ask that the City instruct their police officers to take some sort of action and help reduce the level of noise coming from this nightclub. They are robbed of a good night's sleep every night the club is open.

Timothy Gilbride, 1306 W. Church Street, Elizabeth City asked that once again the Trios nightclub is allowing loud music and large number of vehicles disturbing the residents of the area immediately surrounding the club. He asked that City take some sort of action to have them reduce the noise as on weekends it goes on until 2:00 a.m. or later.

Maxine L. Moore, 708 Harney Street, Elizabeth City spoke her opinion concerning the way the Customer Service Department employees treat customers and her concerns over her utility bill after having moved.

Roger S. Ambrose, 112 Chadburn Avenue, Elizabeth City, expressed his opinion on the proposed amendment to the sign ordinance. He offered his help in preparing the final ordinance.

Sam Davis, 308 Continental Place, Elizabeth City stated he was one of the owners of Trios and he assured everyone that they are working on keeping the noise level down.

5} APPROVAL OF THE MINUTES:

Mayor Atkinson called for approval of the minutes of the Regular Council Meeting held on Monday, December 8, 2008.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to approve the minutes of Monday, December 8, 2008 as presented. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

6} CONSENT AGENDA:

Mayor Atkinson called upon City Manager Olson to read the Consent Agenda. Afterwards Mayor Atkinson called for action.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman B. S. Meggs to approve the following Consent Agenda as presented. Those voting in favor of the motion were: Stimatz, Meggs, Baker, Evans, Hummer, King and Watts. Against: None. Motion carried.

Consent Agenda:

a} Adopted the following resolution awarding Service Gun and Badge to Captain G. Frank Koch and Sergeant Steve P. Terrill upon their retirement.

**RESOLUTION #0911
AWARDING BADGE AND SERVICE SIDEARM
TO RETIRING POLICE OFFICERS**

WHEREAS, N.C.G.S. §20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality; and

WHEREAS, N.C.G.S. §20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member; and

WHEREAS, Captain G. F. Koch, III served as a member of the Elizabeth City Police Department for a period of 30 years and retired from the Department on December 31, 2008; and

WHEREAS, Sergeant S. P. Terrill served as a member of the Elizabeth City Police Department for a period of 20 years and retired from the Department on December 31, 2008,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City, North Carolina that the badge and service weapon worn and/or carried by Captain G. F. Koch, III and Sergeant S. P. Terrill be awarded to them on the occasion of their retirement.

ADOPTED, this 12th day of January 2009.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Called for a public hearing to be held on Monday, January 26, 2009 to be held in the Municipal Administration Building beginning at 7:30 p.m. for consideration of Application RZ-10-08 to rezone approximately 1.49 acres located in the 400 blocks of East Church Street and East Grice Streets and the 300 blocks of South Martin L. King, Jr. and McMorrine Streets from Central Business to General Business.

c} Accepted the donation of 6.74 acres of property from Perkins Lane, LLC and they would reserve an easement across the property to install a sewer line to service their Perkins Lane Development. The property has an approximate value of \$75,000.

End of Consent Agenda.

7} PUBLIC HEARINGS:

a} Moratorium on Subdivisions:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson stated this item was brought forward by Councilman Rivers concerning the possibility of putting a moratorium on subdivisions to indirectly address some of the drainage problems we have in certain parts of the City. Since 2004, the City has approved 19 subdivisions and also created over 2,800 lots. In addition the City has a Pre-Development Agreement with Tanglewood Development, LLC that allows them on their 850 plus acres to be exempt from any moratorium. Members of the City Council should have received a letter from the City Attorney this morning expressing some of his concerns about imposing such a moratorium. If the Council decides to impose a moratorium after this public hearing, the Council will need to decide exactly how long the moratorium will need to be in place.

Mayor Atkinson declared the meeting into public hearing. Since no one was present who wished to speak for or against the proposed moratorium, Mayor Atkinson declared the public hearing closed. He called upon City Attorney Morgan for comments.

Mr. Morgan said that he sent out a memorandum this morning that he thinks is self explanatory. He does have some concerns about the possibility of a moratorium and the impact that could have on the City. He really doesn't have anything to add that wasn't included in the memo.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King that we take no action on this item. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Stimatz and Watts. Against: None. Motion carried.

b} Application TA-03-08 – Request to amend the Table of Allowable Uses and Development Ordinance §9-3.1 (a), and newly created §11-4.60.1 to regulate the operation of private tourist guide service operations in all residential zoned districts.

Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks advised that TA-03-08 is a proposal to amend the Table of Allowable Uses and Development Standards for individual uses that is authorized in the Unified Development Ordinance in Section 9-3.1(a), Table 9-3.1 and newly created section 11-4.60.1 to allow and regulate the operation of private tourist home guide service with operations in residential zoning districts. The proposed text amendment is in direct response to a citizen's request to amend the ordinance. Ms. Bonnie Calliotte desires to operate a tour and tea business in a residentially zone district. However, with the exception of home occupations, limited neighborhood-oriented convenience retail stores in R-6 Districts, and the customary accessory, recreation, education and institutional land uses, the current Ordinance does not permit business operations in residential districts. At the initiation of the applicant, staff drafted the following amendments to the Interpretations and Definitions, Zoning and Development Standards chapters after consideration of the applicant's proposal, a review of development standards established for conditional/special uses accommodated in Ordinance and Planning Commission recommendation.

For several weeks, City staff and the applicant worked separately on the proposed text amendment without consensus on the premise of the requested uses and their appropriateness. Staff is of the opinion that permitting private tourist guide services commercial operations, including tea rooms/houses, in residential areas will open the door to expanded commercial activity in residential areas not deigned for mixture of land uses, infringe on the expectation of residential privacy and detract from the general quality of life in residential neighborhoods. At your November meeting, staff was asked to modify several sections of the proposed code amendment.

She presented a table that reflects the original language given to you last month as well as the modified table reflecting a more restrictive permitting district use. This item was discussed at several Planning Commission meetings. At the November 4, 2008 Planning Commission meeting, they recommended to deny the text amendment.

Mayor Atkinson declared the meeting into Public Hearing. He asked the City Clerk if there was anyone signed up to speak. Upon a reply of yes, Ms. Pierce-Tamplen called the speakers to the podium.

Holly Koerber, 600 W Main Street; Pamela Payne, 407 W Main Street; Kit Neiderer, 904 W Main Street; Jim Calliotte and Bonnie Calliotte, 400 W Main Street, Pat Franzese, 400 W Church Street and Georgene Falcon, 200 South

Road Street, all spoke in favor of the proposed text amendment. All encourage Council to vote in the affirmative on this issue.

Since there was no one else who wished to speak for or against the proposed text amendment, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman L. A. Hummer to approve Text Amendment, TA-03-08 as presented.

Mayor Atkinson called for discussion.

Councilman Stimatz stated he would like to point out some facts. Now there is no barrier to having tours in this city. Ms. Calliotte can run a tour business regardless. What it appears is being asked for in this UDO text change are three things: 1} Ability to run a tour service from a residential location; 2} a desire to run a food service operation from a residential location and 3} to allow people to come into a residence for a tour. He does not have a problem with the tours given as there are pretty stringent requirements regarding parking and other things that make it difficult. He does have some problem with the food service issue. While Ms. Calliotte and others like to indicate that her food service does not need to meet commercial standards, he would like to disagree. The Department of Agricultural does not regulate food services but the preparation of food items in a kitchen. If you are going to prepare foods to be served on premises they should be regulated by the Department of Environmental Health. They are very stringent and require you to have a commercial kitchen. If you can meet that requirement then that is ok. When it comes to food service in a residence, we don't define "light refreshments". We don't limit that. Some of his constituents don't have a problem with the tours but do have a problem with the food service out of the home. Without the definition of "light refreshments" you leave it open. We can start serving three course meals. There are people that will push the limits.

The other question is, allowing people into the home for the tour. It is not clearly defined to him and he would defer this question to Ms. Brooks. In the broad language in the section that says, meet all federal, local and state permitting, does that include things like equal access protection under ADA, egress and emergency lighting requirements and insurance requirements. These are all things that have to be done. If you are going to allow this then allow it everywhere. He wouldn't restrict it to the local Historic District because he is sure in these tough economic times people in Sawyertown and other parts of the City would like to be able to do the same things. They would like to run their own tour business. There is some alternate language proposed by staff and he is not sure that is what the motion includes. He can't vote for this mainly

because of the food service issue and a well written section regarding in home tours.

Councilwoman Hummer said that she doesn't think Ms. Calliotte is trying to open up a food service business. She thinks she has explained very well what she is trying to do. She and her husband came here and bought a fine old home. She had the opportunity to go through her house and she showed her exactly what she is doing. She said that the Department of Agricultural had approved her kitchen and also the list of items that she would serve which are very limited. She thinks the most important thing is when we have an outpouring from the neighbors who are just as excited as she is about this, she doesn't see how we can say no to it. She sells Elizabeth City by allowing people to come and go on this tour. Most tours are walking tours and not a lot of automobile traffic in the neighborhood. You see a lot of people walking around with the brochures they get from the Chamber and they have to stop and read where they are and look around and we now have somebody that can show them through the Historic District and explain a lot of things to them. She does not think it has to do with food services. She thinks it has to do with promoting Elizabeth City and our Historic District.

Councilwoman Meggs said that she was one of the ones that got an opportunity to go to Ms. Calliotte's home and there were seven ladies from New Bern that wanted to come and have her show them the proper way to give a tea. She heard from them and they had it during Christmas and they had a wonderful time. Everybody wanted to know where they learned all the finery of giving a tea and there is an art to giving a tea. All those women are interested in coming back and going through the tour again. She thinks it is something great for the City. She knows that there could be some problems but she thinks it is great for the City and it would be awful to put a damper on Ms. Calliotte's business.

Mayor Pro Tem Baker said that she thinks to have all these neighbors come up and support Ms. Calliotte is great for Elizabeth City and its history. She does not think it is a food service either and she does not think people are going to come in droves to start serving food in their homes. The tours are limited to 30 people. The teas are limited to 12 or fewer. How much money can you make serving cucumber sandwiches and scones to 12 people? The Conditional Use Permit that is required is renewable annually so if there is a problem we can fix it or don't renew it.

Mr. Olson asked to give a point of clarification. What the motion reflects is to revise the language of the City Council meeting on November 4, 2008. He wants to make sure since we have had alternate language and he wants to make sure that is what Council is approving. This does not approve Ms. Calliotte's business because she still has to go through the Conditional Use Permit process which

also comes back to this body. It allows the zoning text amendment to go forth so she can go forward to the next step.

Mayor Atkinson called for a vote on the motion on the floor.

Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs and Watts. Against: Stimatz. Motion carried.

c} TA-04-08 – Request to amend §3-7.3(b), §3-7.3(e), and §3-7.4(c), Administrative Mechanisms of Article III of the Unified Development Ordinance

Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks informed Council that these proposed changes would explicitly make the Historic Preservation Commission a quasi-judiciary board, change the annual reporting preparation and submittal deadline from June to October and amend the NCGGS reference in the UDO authorizing local jurisdictions to create and empower Historic Preservation Commissions to promote, enhance and preserve the character of their local historic districts. Since its ratification of the Historic Preservation Commission it has functioned as a quasi-judiciary board in accordance with its bylaws. As a quasi-judicial administrative body, the Commission operates on a level between the enforcement officers/staff and the courts. Staff has determined that the quasi-judiciary of the Commission is inferred and not officially adopted in the City Code or UDO. The NCGS does not state whether historic preservation commissioners are quasi-judiciary or not; only that they must comply with the law. The present members would like to have the quasi-judiciary status clearly defined and explicitly stated in the City Code. Staff prepares the annual certified local government report to the North Carolina Department of Cultural Resources Division of Archives and History Preservation Office. Previous deadlines have been July 1 of every year. In fiscal year 2008, the new SHPO deadline moved to October 15th. For effective record keeping staff would like to continue to coordinate our Council reporting deadline with the SHPO deadline. The third amendment is to change the reference of a General Statute number in our UDO to correct the statute number of §160A-400.1 through §160A-400.14. Planning Commission recommends approval of this Code amendment.

Mayor Atkinson declared the meeting in Public Hearing. Since there was no one who wished to speak for or against the proposed text amendment, Mayor Atkinson declared the public hearing closed.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve text amendment TA-04-08 to amend §3-7.3(b), §3-7.3(e), and §3-7.4(c), Administrative

Mechanisms of Article III of the Unified Development Ordinance as presented. Those voting in favor of the motion were: Stimatz, King, Baker, Evans, Hummer, Meggs and Watts. Against: None. Motion carried.

d} TA-05-08 – Request to amend §12-8.2(a) Historic District Overlay Requirements of Article XII of the UDO

Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks stated this is a request to amend §12-8.2(a) of the UDO. The subparagraph reads with the intent of restricting specific uses, building types, and setbacks within the two local historic districts. However, item number four as written is grammatically incorrect and unclear in its interpretation. Staff has researched and attempted to locate the original documents in order to clarify and comprehend the author's intent. Section 9-3.5(e)(1) and all of these have been referenced in the staff report, prohibits multifamily dwellings including duplexes and triplexes within residentially zoned Historic Districts, however, §12-8.2(a) 4 is not clear in prohibiting these uses. Please note that in items 1, 2 and 3 have the word "no" before each use, however, Item 4 has been amended. This amendment would insert the word "no" and add language "shall be located". This amendment has been before the Planning Commission and they are recommending approval.

Mayor Atkinson declared the meeting into Public Hearing for consideration of the proposed amendment. Since no one was present who wished to speak for or against the proposed amendment, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman L. A. Hummer to approve Text Amendment TA-05-08 as presented. Those voting in favor of the motion were: Baker, Hummer, Evans, King, Meggs, Stimatz and Watts. Against: None. Motion carried.

e} Rezoning Application – RZ-09-08 – Request of Betty Lou Murphy to rezone .45 acres located on the north side of US 17 from Highway Business to General Business

Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks informed Council that this was a rezoning request of Betty Lou Murphy to rezone .45 acres of property on the north side of US 17 from Highway Business to General Business. This tract is the southeastern most portion of a

larger parcel of approximately 40 acres. There is a shopping center adjacent to the eastern property line and a gas station to the west. A heavily forested wetland area separates this site from the residential uses further to the north. The development along the US 17 corridor and South Hughes Boulevard is predominately commercial. The rezoning of this site would be transitional and adjacent to general business to the east. As proposed the applicant meets the general criteria for the zoning designation and its applicability to the corresponding Future Land Use category of General Commercial. This rezoning request was heard by the Planning Commission and they are recommending approval.

Mayor Atkinson declared the meeting into Public Hearing. He called upon the City Clerk for the number of individuals signed up to speak. Ms. Pierce-Tamplen replied that one person had signed up to speak and she called Jason Mizelle to the podium.

Mr. Mizelle, 117 C North Water Street, Elizabeth City spoke in favor of this rezoning request.

Since there was no one else who wished to speak for or against the proposed rezoning, Mayor Atkinson declared the public hearing closed.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to approve Application RZ-09-08 from Betty Lou Murphy to rezone .45 acres located on the north side of US 17 from Highway Business to General Business. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

f} Amendment too metes and bounds description of Ordinance #04095 – Klenke and Byrum Annexation.

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised that back in September 2004 City Council authorized the annexation of what was previously known as Klenke and Byrum Track which consisted of 84 acres adjacent to River Road. It has recently been brought to our attention that the legal description including in Ordinance #04095 was in error. After consulting with the City Attorney we have decided to amend the ordinance.

Mayor Atkinson declared the meeting into Public Hearing. Since there was no one who wished to speak for or against the proposed amendment, Mayor Atkinson declared the public hearing closed.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to adopt the following Ordinance amending Ordinance 04095 regarding the Klenke & Byrum Annexation of 84 acres adjacent to River Road. Those voting in favor of the motion were: Stimatz, King, Baker, Evans, Hummer, Meggs and Watts. Against: None. Motion carried.

**ORDINANCE #0911
AMENDMENT TO ORDINANCE #04095
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
KLENKE & BYRUM ANNEXATION**

WHEREAS, the City Council has been petitioned under G. S. 160A-31, as amended, to amend Ordinance #04095 to correct the metes and bounds description of the Klenke & Byrum Annexation; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this amendment was held at City Hall at 7:30 p.m. on the 12th day of January, 2009 after due notice by publication on the 31st day of December 2008 and the 2nd day of January 2009; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G. S. 160A-31, as amended;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Elizabeth City, North Carolina:

SECTION 1. By virtue of the authority granted by G. S. 160A-31, Ordinance #04095 is hereby amended as of January 12, 2009.

KLENKE PARCEL:

All that certain parcel of land situated in Pasquotank County, North Carolina being more particularly described as follows:

BEGINNING at an iron pin located on the westernmost right-of-way of River Road (SR1169), said right-of-way being 60' in width, at a common corner of the Klenke and State Board of Education properties and running N 81° 41' 00" W 1568.34' along the center of a ditch and along the property now or formulary the State Board of Education to an iron pin; thence N 11° 08' 10" E 41.97' to an iron pin; thence N 85° 09' 39" W 600.19' to an iron pin; thence N 84° 19' 17" W 424.98' to an iron pin; thence N 07° 42' 00" E 541.19' to a calculated point.

Thence turning S 84° 35' 26" E 1059.55' away from the State Board of Education property to a calculated point; thence N 11° 05' 34" E 354.34' to a calculated point; thence S 73° 34' 26" E 1500.27' to a calculated point at the westerly right-of-way of River Road (SR 1169); thence S 20° 31' 20" W 22.50' along and with the westernmost right-of-way of River Road (SR 1169) to a calculated point; thence S 11° 55' 19" W 100.72' to a calculated point; thence S 06° 20' 44" W 114.41' to a calculated point; thence S 04° 00' 24" W 101.75' to a calculated point; thence S 03° 10' 38" W 386.37' to an iron pin. **THE POINT OF BEGINNING.** Containing 41.81 acres more or less. Reference is hereby made to a map entitled "Boundary and Recombination survey for Heron's Ridge, LLC, ET AL prepared by Hyman & Robey, PC., Dated 08-03-05, recorded at M. B. 38, Pg 43, for a more complete and accurate description. NOTE: This legal description is not to be used for sales or conveyances.

BYRUM PARCEL:

All that certain parcel of land situated in Pasquotank County, North Carolina being more particularly described as follows:

BEGINNING at an iron pin located on the westernmost right-of-way of River Road (SR 1169), said right-of-way being 60' in width, at a common corner of the Byrum and Etheridge properties and running S 23° 10' 55" W 42.97' along and with the westernmost right-of-way of River Road (SR 1169) to a calculated point; thence S 22° 40' 11" W 559.21' to a calculated point; thence S 20° 31' 20" W 132.82' to a calculated point. Thence turning west away from the River Road (SR 1169) right-of-way N 73° 34' 26" W 1500.27' to a calculated point; thence S 11° 05' 34" W 354.34' to a calculated point; thence N 84° 35' 26" W 1059.55' to a calculated point. Thence turning north along the property line of the State Board of Education N 07° 42' 00" E 445.67' to an iron pin. Thence along the Edgewood Subdivision, Bay Island Residential, LLC and Herons Ridge, LLC properties N 71° 52' 35" E 1453.41' to a calculated point; thence S 74° 25' 26" E 1453.41' to an iron pin. **THE POINT OF BEGINNING.** Containing 42.76 acres more or less.

Reference is hereby made to a map entitled "Boundary and Recombination Survey for Heron's Ridge LLC ET AL" prepared by Human and Robey, PC, dated 08-03-05, recorded at M.B. 38, Pg 43, for a more complete and accurate description. NOTE: This legal description is not to be used for sales or conveyances.

SECTION 3. The Mayor of the City of Elizabeth City shall cause to be recorded in the office of the Register of Deeds of Pasquotank County, and in the office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly

certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections as required by G. S. 163-288.1.

ADOPTED this the 12th day of January 2009.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

8} REGULAR AGENDA:

a} 2009 Council Meeting Schedule:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson replied the 2009 calendar reflects the Council's current meeting schedule of the second and fourth Mondays of this month. The Council meeting that would normally fall on May 25th and October 26th has been moved to each of the following Tuesday. Staff also included the dates for the normal joint City/County meetings.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to adopt the following Council Meeting Schedule for 2009. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

**CITY OF ELIZABETH CITY
CITY COUNCIL
2009 CALENDAR**

MONTH	FIRST REGULAR CITY COUNCIL MEETING OF THE MONTH	SECOND REGULAR CITY COUNCIL MEETING OF THE MONTH	JOINT CITY COUNTY MEETING
January	12th	26th	
February	9th	23rd	

March	9th	23rd	30th
April	13th	27th	
May	11th	26th Tuesday	
June	8th	22nd	29th
July	13th	NONE	
August	10th	24th	31st
September	14th	28th	
October	12th	Possible Work Session & Regular Meeting on November 2, 2008	
November	9th	23rd	30th
December	14th	NONE	

***Regular City Council Meeting to begin at 7:00 p.m.**

****Work Session will begin at 5:30 p.m. prior to Second Regular City Council Meeting**

b} Call for a public hearing to gather public input regarding a water and sewer increase of 4%.

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson stated that at your last meeting he brought before Council three rate increase options that would generate approximately \$750,000 in additional revenues required within our Water and Sewer Fund. The three options that he has provided are as follows:

Option I

Option I would be to keep the base rate at the existing \$18.82, but only provide one unit of water for the base rate charge. This change would generate \$557,000 annually. To meet the required revenue needs, a 3% increase would be applied to the base rate and per unit rate. The sewer rate would change

similarly. The new rate would be \$19.38 and the per unit cost would be \$5.87. The total projected income would be \$807,085 annually.

Option II

Option II would be a 12% increase to the base rate for water and sewer and a corresponding 12% increase per unit. This would raise \$867,390 annually. The new base rate would be \$21.08 while the per unit cost would rise to \$6.38 for water. The sewer rate would be a base of \$13.05 and a per unit cost of \$3.60.

Option III

Option III would be to keep the base rate at \$18.82, but only provide one unit of water for the base rate, keeping the per unit cost at \$5.70 for the first ten units. All units over ten would be charged \$6.63 per unit. The sewer rate would be \$11.65 for the first unit and \$3.21 for any additional unit up to ten. All units over ten would be charged \$4.14 per unit. This rate would have the least amount of impact on most of our residential customers. The rate structure would promote conservation and would, in staff's opinion, meet the inclining block rate structure the Legislature is promoting.

Option IV

Option IV would be to decrease the units included in the base rate 2 units to 1 unit. Keep the base rate the same but increase the per unit cost by 4.4%.

There are pluses and minus with all four of these options. Staff needs general direction. The purpose of tonight's agenda is once Council approves which option you want to go forward with then we will go ahead and have a public hearing on that at your January 26th meeting. He went over a comparison of the different rate structures discussing the strengths and weakness of each option.

Councilwoman Watts said so we don't have to necessarily increase our rates as it is kind of left up to the City to decide to increase it. Her heart goes out to Ms. Moore and others like you who cannot afford the utility bills in which we have inflicted on our citizens and we increase rates there and money is supposedly gathering in as the rates have increase for each of us to pay. Now we are looking at increasing water and sewer at the worst times of our lives. She thinks that we should definitely take into consideration some relief for some of our citizens especially the elderly and those who are on low income. If it is something that we don't have to do right this minute then she would like to be informed of that but if it can wait she wants to know that also. When she makes a decision to increase a rate she wants to make sure that she is fully informed about all of the options or whatever options there are.

Mr. Olson said that roughly two months ago the City auditor informed Council and strongly encouraged Council to address the under funding of our water and sewer funds. In addition we have received letters from the LGC advising us the same. This indicates to staff that we have a problem that needs to be addressed. How we go about addressing those issues is something that Council needs to decide.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman D. B. Evans, for staff to present Option IV at the public hearing. Those voting in favor of the motion were: Stimatz, Evans, Baker, Hummer, King and Meggs. Against: Watts. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to call for a public hearing to be held on Monday, January 26, 2009 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building to receive public input on Option #4 for the increase in water and sewer rates. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

c} Call a public hearing to receive public input regarding an electric rate increase of 4%.

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson stated that back in November he forwarded a number of memos regarding the action that was taken by the Eastern Municipal Power Agency at their November 19th meeting where they authorized a 4% rate increase to our wholesale power rate. That rate increase goes into affect February 1, 2009. Back three or four years ago the Council recommended a target of fund balance of \$7 million in the Electrical Fund. Staff was specifically told then when that fund went below \$5 million we were to notify you of that. We presently have in our reserve account \$4,994,982.00. The 4% increase costs the City \$100,000 per month and over a one month period that would be \$1.2 million if we do not pass this along to our customers. With less than a \$5 million fund balance in staff's opinion we can no longer absorb this and we need to pass this along as soon as possible. We are asking that you call for a public hearing for our next meeting.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to call for a public hearing to be held

on Monday, January 26, 2009 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building to receive public input regarding a proposed 4% increase in electric rates. Those voting in favor of the motion were: Stimatz, Baker, Evans, King, Meggs and Watts. Against: Hummer. Motion carried.

c} UDO Text Change Amendment TA-01-08 to amend the Unified Development Ordinance, to update definitions and regulations of signage in the City.

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson stated what you have in front of you is Text Amendment TA-01-08. At the last meeting city staff was instructed to bring back the November 24th original ordinance and that is what we have distributed. We have discussed this issue numerous times. In his opinion there are a number of outstanding issues that we seem to be going around in circles on. They are billboards signs, pole signs and window signs.

Ms. Brooks stated that for Council's information the Planning Commission has had five meetings/work sessions on this code amendment. We have had six meetings with the public. Plus the Chamber and DCI have two additional meetings where they asked city staff if we would not attend because they thought that they could address the comments more in an open form. In total there have been thirteen meetings on the proposal that is before you tonight. We have heard everybody's concerns and we have tried to address those concerns. The three issues Mr. Olson mentions are major issues of contention. The rest we feel pretty solid with and have addressed the issues. Staff needs some direction from Council on where we need to go with these three issues.

The billboards issue, the Planning Commission recommends that we eliminate or get rid of billboards throughout the City. When we come to the public hearing process you will see a lot of information that the Planning Commission has gone through and their evaluation on billboards and how they came to the conclusion that they are recommending elimination of the billboards.

The second item or the pole signs, Planning Commission is recommending that we go to a more monument base sign and get rid up what are pole signs. What we need to know is does Council wish to go in this direction to eliminate the pole signs that create visual clutter. What do you want the City to look like on its major corridors?

The last thing is the window signs. This whole sign ordinance started out with trying to adjust the window signs. This whole process has mushroomed. Do we want to include anything on a window as part of your window calculation?

Ms. Hummer said that we have to be careful not to put people out of business, especially small businesses. This is a critical time in our entire nation. We have had forums, we have set down in groups and we pay a professional planning staff which we pay to help us write our ordinances. We need to get back to what this was originally going to be—window signs because we are talking about a long road if we are going to overhaul the whole sign ordinance. We need to worry about the small businesses.

Councilwoman Meggs stated that we have a lot of rules but we don't do anything about the signs that are out there forever. She feels that we are not doing what we should to eliminate some of the trash. She would like to see us be able to do something about a lot of the things that are deterring our city from having a good image.

Councilman Stimatz said we have undefined esthetic goals. We don't know what we want the City to look like. Our staff has no clue what the Council's desire is. It started out as an individual thing and now it has escalated into doing away with pole signs, doing away with billboards, only have monument signs, etc. He sees it as we have undefined esthetics goals verses a clear negative commercial impact. He has made many suggestions to Ms. Brooks. At the last work session we were going to go over the things that he had added. A council person who did not want to deal with that and hadn't read it isn't here tonight. So we have gone back to this other version instead of making progress at the last meeting. One thing, the glossary is incomplete and inconsistent. He went to the International Sign Association which represents signs. There is also the Outdoor Advertisers Association that represents billboards. They are two large associations. They are very involved with looking out for businesses and sign makers interest when it comes to signs. The glossary that they referred him to is the Small Business Administration Glossary. What he found was there are a lot of terms in there that aren't defined in our ordinance that need to be defined and we define things that are in conflict with what is in there.

The billboard and pole sign change is way premature. How can we tell staff that we do or don't want billboards or pole signs? That is somebody's personal choice. We have three commercial corridors in our City and if we want those people staying in business that puts sales taxes out there and to pay property taxes then we have to be very careful about what we do to impact those three major corridors.

There is a huge overlap between characteristics. It is not clear what is being done. It is not clear about what you are trying to accomplish and what you are trying to regulate. The ordinance outline is not followed. There are areas in the ordinance that talks about specific things but information shows up in definitions which really ought to be in a later section of the ordinance. The change in the process has not been explained. Why we are going from tax value to whatever else it is?

The question is what is our desire? Do we want to have moving parts, yes or no? It is not clear from the ordinance if they are banned or allowed. It depends on which part of the ordinance that you read. He gave several other examples showing what he meant.

He feels the pole sign issue and billboards needs to be looked at later down the road. You have had 13 meetings and there has been so much discontent that you are not very effective. Whether you like it or not you may need to go back and have another meeting. He thinks that we are not ready for public hearing. Council owes staff the answers to some questions.

Mayor Pro Tem Baker said she too feels that we are not ready for a public hearing yet. She headed up a committee even before she was on Council to study the portable sign issues we were facing and that was in 2001. We were able to get seven restrictions on portable signs into the UDO that we are still using. If you involve the people that are impacted or affected and we sit down with community meetings again we might make some headway. She is not a fan of billboards although you can't take them all down and stop using them instantly. There has to be a phase out process. She thinks there is lot more to do before we send this to public hearing.

Councilman King said that he doesn't have a problem with not having a public hearing but if we sit down and send this back to Planning are we going to give the specific things to address or will they go back to the whole issue of discussing everything? This is where we are at now. We started out with something very simple and now we are talking about this and that. He thinks we should give Planning directions on what we specifically want to discuss.

A motion was made by Councilman R. E. King that we don't go to public hearing and give Planning specific instructions to look at only pole signs, billboards and window signs. Motion died for lack of a second.

Mr. Olson stated that staff needs clear directions. We know what the problems are. We have three areas in the ordinance that everyone on this dais probably agrees on. How do you want us to address those issues? What format do you

want us to use. We have had thousands of staff hours involved on this subject. He knows certain members of council are getting frustrated just like staff is but how do you want us to address these three issues? We work on something and we take it to the Planning Commission. They have some pretty strong opinions on what should be in the sign ordinance. He is not sure how we go about getting what you want to accomplish. He agrees that those are the three issues that need to be addressed but how do we go about that approach.

A motion was made by Councilman J. A. Stimatz that staff be directed to develop a window signage section as been talked about; clean up the definitions in the glossary using the Small Business Administration Glossary as your guide; that the billboard and pole sign issues be held in abeyance pending further development; portable changeable lettering signs issue be clarified and have a historic district overlay sign section. Motion died for a lack of a second.

Councilman King said with that motion we are right back where we were eight months ago.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman J. A. Stimatz to table this item and we schedule a workshop not just for council but for a community workshop in the near future in these chambers. Those voting in favor of the motion were: Baker, Stimatz, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

D} Update – County’s new Storm Water Drainage Ordinance:

Mayor Atkinson called upon Public Utilities Director P. Fredette for comments.

Mr. Fredette informed Council that the City has been invited to participate in the process of preparing a Drainage Design Manual and Storm Water Ordinance with the County. The Drainage Design Manual has been developed to provide guidelines necessary to evaluate the impact of storm water events on the drainage systems that exist in the county and provides a consistent approach to evaluating the impact that new development will have on the existing drainage facilities. The Manual also provides guidelines for the design of storm water management and control design features to mitigate the impact of storm water events on the existing drainage facilities and to minimize or eliminate storm water related impacts that may be associated with proposed development. The Storm Water Ordinance is being developed to codify and make consistent all storm water and drainage related regulations and to address the enforcement of said regulations. The proposed ordinance also attempts to address property

owner's responsibilities for the operation and maintenance of BMP's designed for their property. Mr. Fredette then went over the following issues for Council to consider in their comments for the County Commissioners to consider before the formal adoption of both the Drainage Design Manual and the Storm Water Ordinance.

Drainage Design Manual

1} Definition of Flood Plan – Division 7 Section 1 restricts construction within a floodway or non-encroachment zone. Reference is made to the FIRM maps of Pasquotank County as areas depicted as floodway areas in the zone AE. (There is no apparent definition of a non-encroachment zone.)

The wording as currently used and as described in the meetings leaves some confusion as to what the actual area is where there can be "no filling or construction." If it is to be the Floodway as defined by FEMA that could be more clearly stated. The non-encroachment area is very loosely defined in the current City's UDO. Clarification here would help.

2} Evaluation of pre and post development – The Design Manual requires that both the 10 yr-24 hour storm and the 25 yr-24 hour storm be evaluated and that the post development flow cannot exceed the pre development flow, a requirement that the City supports. But the latest version of the Manual includes evaluation of the 1.5 inch storm; we are not sure how this contributes to an evaluation of development impact and if it is relevant given the State requirements for treatment of the first inch of runoff.

Storm Water Ordinance:

1} Application and Jurisdiction – Sub-section (B) of this section defines the criteria for the development projects that are subject to this Ordinance differently than those projects subject to a State Storm Water Permit. The proposed Ordinance applies to projects that disturb more than 10,000 sq-ft. State permitting is required for projects that require an Erosion Control Plan (Disturb more than 1 acre), are defined as a major CAMA project or increase the impervious area by more than 10,000 sq-ft.

It seems that consistency with State required permits would not compromise the benefit of the proposed Ordinance and would simplify the regulations for applications.

2} Storm Water Administrator – The proposed Ordinance calls for a Storm Water Administrator to be appointed by the County Commissioners. The Ordinance should also provide for a Storm Water Administrator to be appointed

by the City Council. The two administrators could collaborate on all proposals in the County and each be the recognized authority for Storm Water issues in their prospective jurisdictions.

3} Post Construction Permitting – Section 4 of the proposed Ordinance addresses standards for the operation and maintenance of BMP's. There should be a post construction permit that will provide an enforceable monitoring and reporting requirement on the owner's of the BMP's, which would be separate from the State requirements. In the instance where there is a property owner association or condo association the special requirements of the proposed Ordinance speak to the requirement of having adequate funding to maintain and repair the BMP. This could also be addressed in a renewable post construction permitting system.

4} Formal report from storm water administrators – The Ordinance should include a sunset provision (perhaps 3 years) that requires the Storm Water Administrator to formally report back to the Commission regarding the Design Manual and the Ordinance to report on provisions that are not working and proposed changes that can be implemented with experience using the documents.

Mr. Olson said what we are requesting is a position paper to the Board of County Commissioners addressing the issues Paul presented. One thing that concerns him and it is a hot issue right now is the post construction permit for a couple of our subdivisions. We have at least two home owners associations that he is aware of where they are thinking about dissolving their homeowners association. Unfortunately, the homeowners association has all the permits in their name for all the BMP's. This is an issue especially with the economy and the foreclosures. Individuals are not paying their homeowners association dues or their condo dues. They are going to be looking at the local units of government to come in and bail them out and take over their storm water ponds and it is going to be a political program that this council is going to face in the next three or four months.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to direct staff to prepare a position paper from Council to be signed by the Mayor indicating our position on this issue. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

8} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:

Mayor Atkinson advised that he would go around the dais for those wishing to speak.

City Manager Olson stated that we have with us tonight our new Fire Chief Larry Mackey. He started working with us on January 5th and he would like to welcome him on board. He also told Council that we have ordered a new mixing board to correct our sound issue in council chambers.

Councilman Stimatz wished everybody a Happy New Year. We have a lot on our plates for this year and a lot of issues that we have to decide. It is important that our citizens come to the podium and let us know your thoughts and opinions on this stuff. We need to hear from you. Whether you call us or not it is just important that you come to that podium and speak to us in public and we can't ignore you.

Councilman Evans said that he had somebody call him today about the Waterfront Park, the sound at the pavilion. The sound system and how we don't have the proper sound equipment.

Mr. Olson said that it is the electricity. The electricity we have out there is undersized and one of our projects in-house will be increasing the amount of electricity to the pavilion.

Councilwoman Watts said, Ladies and Gentlemen she would like to say something to you tonight and she hopes that you will be listening to her very clearly and if the City Clerk will please take note of this and please quote her verbatim and any comments to her comments hereafter. "I would like to challenge the Daily Advance, you know I was reading in the paper not long ago about the favorite restaurants that we all like to go to and we all like to see who has the prettiest or the best Christmas lights in the paper. We enjoy seeing those things or reading about them. I would like to know what the public thinks about City Council and your city officials, your Mayor, your City Manager, your City Attorney. I would love for the Daily Advance to put a poll in the paper and have the public, you the public and Mr. Stimatz said it very well. You know, let us know what you think. Look at us. How do we look? Do we look like city officials that you want to represent you? Are we doing a good job? Are we embarrassing or are you proud of us? I would like to know.

Secondly, I would like to make a point to the Daily Advance that I received a letter from our Honorable Mayor. And I want you to know that the Mayor is requiring me to give \$180.18 for gas that was used in my vehicle to pick me up from South Carolina to bring her home during the Electro-ElectriCities meeting that we had down there. Now, do you think we are all created equal? Well then I hope and pray that you feel the same way that I do about the City Council. Are

we above the law or should we be subject to the law? I don't know very many people up here who have received a letter from the Mayor to my knowledge to give back money that they have already received. How long has it been since I've been to South Carolina? Now, I have got a \$2400 medical expense every single month that I live at the pharmacy. And, I receive \$600 from the City for my service to you and I cannot afford Mr. Mayor for you to take \$1.00 of my check from me. You are going up on the electric bill, you are going up on the water bill, and you are going up on lots of bills that we haven't even talked about or discussed yet. And, I am going to tell you ladies and gentlemen I don't feel that I owe this. I think I am being treated unfairly and I feel that I am being treated unequally as my comrades. Do you know why? Because we don't have a procedure manual, did you all know that? Been asking the Mayor to help us out with this thing and we had a guy come here from Raleigh, Chapel Hill I believe, Raleigh in September around October and we have not voted on a procedure manual yet. Ladies and gentlemen if you don't come here and voice your opinion about our customer service, about our inspections office, about us, then we are going to be in the same old rut this year in 2009 as we were in 2008 and the years prior to it. I need you to help me. If we are going to have change I can not do it alone and it takes all of us to work together and I want you to listen to me plead to the Mayor on my behalf to help me to remedy this wrong accusation against me. I don't owe this Mayor and you know it. May God bless you and I thank you for listening and please come and make your presence known at that podium and let this council and this city manager and our Mayor known how you feel about those of us who govern you. God bless you."

Councilwoman Meggs said she had no further comments.

Councilman King asked how much money did we have in the Contingency Fund. Upon a reply of \$3,344.00 he stated the reason he was asking is the police department has been donated \$4000 for a canine dog. The dog costs approximately \$5,000. They need \$500 more dollars. We have people out there that are trying to support our department. He thinks Council should come together and give the police department the \$500 to get an extra dog. The reason why they need another dog is they have four squads and right now we have three dogs. What he would like to see done for the department is to get that additional money so they can get the dog and it can be trained. After that the Chief can add it to his yearly budget and do what he has to do with the dog. Here is a way to give the police department another tool to help them out.

Mr. Olson stated that we can take that out of the police department' budget. It does not have to come out of the Council's Contingency Fund. He will talk with Chief Crudup about this when he gets back in town.

Mr. King stated that he talked with the City Manager about the old Wal Mart building. There is a lot of traffic going through there. The people from Chesterfield Heights are complaining about the traffic that is coming out of the old Wal Mart. He thinks that the City Manager told him what needs to happen is it is a DOT road and we need to talk with them but he has gotten several more calls after having talked with the Manager. Something needs to be done about that. He agrees there was more traffic before than there is now but what the people are saying is the traffic is coming out and not yielding and going right across the street. He thinks we need to take a look at it.

Mayor Pro Tem Baker said that she hopes that we can schedule the community signage meeting before our next meeting and call for the public hearing at our next council meeting.

Councilwoman Hummer said that she would like to mention that our additional surveillance cameras are in and they are being installed. She would also like to request for her own benefit that a copy of City Council's travel policy be provided every council member.

Mayor Atkinson said that we had a couple of ribbon cuttings this week. One out at McDonalds and it was very successful. They have a wonderful new signature store. It was well done and a great outing there.

There was a great event out at the Museum this weekend. We had a USO party and it was well received. They had in the neighborhood of 270 people to show up. It was very well done. One of the finest events that he has attended in the City.

Beyond that the only other comment that he would like to make is that we do have a travel policy and we will be sure that we get that out to everyone.

9} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Atkinson adjourned the meeting at 10:00 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Stephen S. Atkinson
Mayor