The City Council of the City of Elizabeth City held a regular council meeting on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor C. L. Foster presiding. Those attending were: J. M. Baker, M. E. Brooks, L. A. Hummer, E. K. Rivers, D. K. Stallings, 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, Deputy City Clerk V. White, Planning Director J. C. Overman, Fire Chief W. C. Pritchard, Parks and Recreation Director J. D. Overman, Finance Director S. E. Blanchard, Inspections Director S. E. Ward and Police Chief W. J. Anderson,

Mayor C. L. Foster called the meeting to order by welcoming those attending. He called upon Reverend Phil Dowdy for the invocation, after which City Attorney W. H. Morgan led the Pledge of Allegiance to the Flag of the United States of America,

1} APPROVAL OF THE AGENDA:

Mayor Foster asked the pleasure of Council regarding the prepared agenda.

The following items were either removed from the Consent Agenda for additional discussion or were added to the Agenda.

Item 7-B was removed from the Consent Agenda by Councilwoman Baker.
Item 7-D was removed from the Consent Agenda by Councilman Stimatz.
Add Item 7-F – No Parking signs on Paxton Street by City Manager Olson
Add Item 7-G – Authorization to cost share in purchase of a mobile command center by City Manager Olson.
Add Item 7-H –Required posting for a public hearing was added by Councilman J. A. Stimatz.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman E. K. Rivers to approve the prepared agenda with the noted additions/deletions as noted above. Those voting in favor of the motion were: Baker, Rivers, Brooks, Hummer, Meggs, Stallings, Stimatz and Walton. Against: None. Motion carried.

2} COMMENTS FROM THE PUBLIC:

Mayor Foster asked Deputy Clerk V. White if anyone had signed up to speak under this section of the Agenda.

Deputy Clerk White responded that no one had signed up to speak.

3} APPROVAL OF THE MINUTES:

Mayor Foster asked the Council's pleasure regarding the written minutes of January 9, 2006.

A motion was made by Councilman E. K. Rivers, seconded by Councilwoman J. M. Baker to approve the minutes of the January 9, 2006 to include the stated corrections. Those voting in favor of the motion were: Rivers, Baker, Brooks, Hummer, Meggs, Stallings, Stimatz and Walton. Against: None. Motion carried.

4} CONSENT AGENDA:

Mayor Foster asked City Manager R.C. Olson to read the items that are now on the Consent Agenda.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman D. K. Stallings to approve the following Consent Agenda. Those voting in favor of the motion were: Baker, Stallings, Brooks, Hummer, Meggs, Rivers, Stimatz and Walton. Against: None. Motion carried.

Consent Agenda:

a} Adopted the following resolution calling for a public hearing to be held on Monday, February 13, 2006 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for consideration of Petition for Voluntary Annexation submitted by Eugene and Shirley Meads for 134.88± acres located adjacent to Thunder Road.

RESOLUTION #1066
FIXING PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G. S. 160A-58.2
EUGENE AND SHIRLEY MEADS PROPERTY
134.88± ACRES – THUNDER ROAD

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the City Clerk as to the sufficiency of said petition has been made;

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

SECTION 1. That a public hearing on the question of annexation of the area described herein will be held at the Municipal Administration Building in the City Council Chambers at 7:30 PM on the 13th day of February 2006.

SECTION 2. The area proposed for annexation is described as follows:

Tract One:

BEGINNING at a point said point being on the Northern right-of-way of Halstead Boulevard at the right-of-way monument iron pin located at the Northwestern corner of the intersection of Thunder Road and Halstead Boulevard Extended, said monument being located North 35º 51' 58" West 94.90 feet from a set PK nail in Halstead Boulevard Extended, and from said point of beginning thence continuing along the Northern right-of-way of Halstead Boulevard, South 86º 48' 17" West 1,334.92 feet to a point; thence South 05º 47' 09" East 13.05 feet to a point; thence South 82º 12' 55" West 307.15 feet to a point; thence North 1º 55" 23" West 852.91 feet to a point; thence North 86º 48' 17" East 1,821.03 feet to a point, said point being located on the Western right-of-way (r/w 50 feet) of Thunder Road; thence continuing along the Western right-of-way of Thunder Road South 01º 11' 00" East 154/69 feet to a point; thence South 01º 18' 42" East 112.40 feet to a point; thence South 05º 30' 01" East 138.17 feet to a point; thence South 10º 56' 47" East 110.76 feet to a point; thence South 08º 46' 51" East 124.99 feet to a point; thence South 05º 26' 28" East 126.67 feet to a point. Thence South 31º 21' 30" West 59.16 feet to a point, being the said point and place of beginning.

Being Tract A as delineated on that certain plat entitled "Exempt Parcel Split for Edward W. Murphy Et. Als., Mount Hermon Township, Pasquotank County, North Carolina", prepared by Edward T. Hyman, Jr., Registered Surveyor and dated July 28, 2005, and being recorded in Map Book 38, Page 34 of the Pasquotank County Public Registry.

Track Two:

BEGINNING at a point and said point being the Southwest corner of a tract or parcel same being located on the Northern right-of-way of Halstead Boulevard Extended limited access, said point of beginning being the Southwest corner of Parcel A on the map referred to hereinbelow and from said point of beginning; thence South 79º 58' 28" West 53.13 feet to a point; thence South 76º 21' 10"

West 478.40 feet to a point; thence South 73º 11' 42" West 752.70 feet to a point; thence North 53º 16' 43" West 14.21 feet to a point; thence North 55º 01' 57" East 778.80 feet to a point; thence South 35º 58' 03" East 57.42 feet to a point; thence North 72º 31' 57" East 275.88 feet to a point; thence North 05º 10' 43" West 2,359.15 feet to a point; thence North 77º 17' 03" West 492.83 feet to a point; thence North 05° 10' 43" West 217.27 feet to a point; thence south 78° 24' 23" East 562.86 feet to a point; thence North 13º 32' 57" East 46.20 feet to a point; thence North 04º 24' 03" West 144.54 feet to a point; thence South 84º 42' 03" East 176.22 feet to a point; thence North 68º 56' 35" West 121.49 feet to a point; thence North 21º 41' 29" East 100 feet to a point; thence South 68º 17' 54" East 2,285.72 feet to a point; thence North 62º 43' 48" East 27.60 feet to a point; thence South 02º 12' 38" East 136 feet to a point; thence South 02º 11' 57" East 381.02 feet to a point; thence South 02º 01' 23" East 376.62 feet to a point; thence South 01º 48' 44" East 280.64 feet to a point; thence South 01º 11' 00" East 49.38 feet to a point; said point being on the western right-of-way of Thunder Road; thence South 86º 48' 17" West 1,821.03 feet to a point, thence South 01º 55' 23" East 852.91 feet to a point being the said point and place of beginning.

Being Tract B as delineated on that certain plat entitled "Exempt Parcel Split for Edward W. Murphy Et. Als., Mount Hermon Township, Pasquotank County, North Carolina", prepared by Edward T. Human, Jr., Registered Surveyor and dated July 28, 2005 and being recorded in Map Book 38, Page 34 of the Pasquotank County Public Registry.

SECTION 3. Notice of said public hearing shall be published in the Daily Advance, a newspaper having general circulation in the City of Elizabeth City, at least ten (10) days prior to the date of said public hearing.

ADOPTED, this 23rd day of January 2006.

_____
Charles L. Foster
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Approved the following Budget Amendments:

BUDGET AMENDMENTS
NUMBER 2006-1
JANUARY 23, 2006

BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2006, and the Water/Sewer Capital Improvement Project Ordinance:

SECTION l. That the General Fund Police Athletic League (PAL) Grant (103490.5908) be increased by $14,300 and the PAL Expenditures (105100.3303) be increased by $14,300.

(To record grants received for the Police Athletic League.)

SECTION 2. That the Rural Center Airport Grant (333490.8200) and the Airport Sewer Grant Project 334004-7300) be increased by $25,000.

(To record increased amount for Rural Center Airport Grant.)

ADOPTED, this 23rd day of January 2006.

_____
Charles L. Foster
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Approved the award of an Engineering Contract. Award was made to Hobbs and Upchurch in the amount of $289,990.

d} Approved No Parking Signs for Paxton Street and Cobb Street. Approved the installation of three "No Parking Anytime" signs along Paxton Street and to remove one "2-Hour Parking" sign on Cobb Street between Main Street and Fearing Street.

e} Authorize to cost share in purchase of a mobile command center. Approved to purchase the replacement Mobile Command Center adopting the funding basis for this purchase: Pasquotank County-50%, Elizabeth City 33% and Camden County 17%. The City's share of this project is $9,000 and it will come from both the police and fire departments' operating budgets at $4,500 per department.

End of Consent Agenda.

5} ITEMS THAT WERE WITHDRAWN FROM THE CONSENT AGENDA:

a} Donation of Computers:

Mayor Foster called upon City Manager Olson for comments.

City Manager Olson advised that the Elizabeth City Neighborhood Corporation has made a request for three surplus computers. Three computers have recently been replaced in Customer Service that will no longer be utilized by the City. These computers will be placed on surplus and are available for donation to ECNC. He further advised that ECNC was next on the list for the donation of surplus computers.

Mayor Foster recognized Councilwoman Baker, the counselor removing it from the Consent Agenda for further discussion. She felt that we had set policy on how surplus computers would be donated in the future when we last donated some computers. Wasn't a policy created at that time and is everyone given the same opportunity to receive one?

Mr. Olson replied that he recalls that we received a number of requests but unfortunately we had more requests than we had computers so a list was made and the ECNC was the next non-profit on the list. We are still working on the original list.

Councilman J. A. Stimatz stated that he did research on this and what struck him was that NCDC as part of the grant was required to have a computer lab and were they given the same opportunity to get these particular computers. In researching the property in Asset Management of the City, we don't address this particular issue in any formal way. He has some concerns about that. He would like this to be open to everybody that might want any excess the City has. Technically though, the City's surplus disposal rules and guidelines say, "all property will normally be disposed in one of the following ways: transfer to another department, sale at an auction, sold by sealed bids or destroy." That is our administrative procedure. What concerns him is that we have created a quasi administrative procedure that is at odds with our written administrative which puts us at risk of looking foolish if nothing else. He would just ask after we consider this particular request that staff develop a specific program to add to what we already have if they want a fourth way to dispose of property which is to make it available to non-profit organizations and add that to the purchasing manual so that everyone knows what the rules are and we can put it out there and it is above board and every customer has an equal opportunity.

A motion was made by Councilman E. K. Rivers, seconded by Councilman J. A. Stimatz to donated the three computers to the Elizabeth City Neighborhood Corporation and we authorize staff to look into what Councilman Stimatz is referring to about adding a fourth section to the rules

and regulations guidelines. Those voting in favor of the motion were: Rivers, Stimatz, Baker, Brooks, Hummer, Meggs, Stallings and Walton. Against: None. Motion carried.

b} PA system upgrade and microphones for Council Chambers;

Mayor Foster called upon City Manager Olson for comments.

City Manager Olson advised previously Council was presented with an analysis for updating the Council Chambers PA System and audio presentations. The FTR Gold system has already been installed for the recording of the minutes and will be used for the first time tonight. A quote has been received from the same company that installed the FTR Gold for upgrading the microphones and visual aids system. At the last meeting when this was brought forward, Councilman E. K. Rivers asked the City Manager to look into the areas that he could take the funds to finance the upgrades. He will be taking one third of the funds from the Electric Fund, Water and Sewer Fund and the General Fund. We would like to install two 42-inch plasma screens where they would tie directly into our power point presentations. One so that the audience can see the presentations and the other is so that Council can see it without having to put a screen up thereby blocking the audience from viewing the presentations. The microphones will be adjusted for the best audio and the speakers will be moved to areas that will give the best output.

Councilman J. A. Stimatz stated that his concern is for what we are getting for $9900. There was no breakdown on labor verses equipment. He went on line to look up some prices. He found out that the major equipment is about $5500 which leaves about $4500 in labor and profit to the vendor. We did not get three bids. What was our threshold for going out and getting three bids? Again, in the City's purchasing manual it specifically states that if you are going to purchase anything over $500 you must get three quotes. He was concerned about that without competitive bidding we might be paying a lot more. He understood the desire to try to use the same vendor with the basic system, but this is not that unique system that there are not people that could do the integration. He questions not what we are doing but the costs. Again, here is another case where we didn't follow our own written procedures. He is very concerned that we follow our own procedures. Again, we put ourselves at risk.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman E. K. Rivers to table this item for further information.

Councilman J. B. Walton asked City Clerk Pierce-Tamplen if there were three bids.

Pierce-Tamplen replied that no there were not. We went with this vendor because they are the ones that installed the FTR Gold system. ADS is a sole proprietor for the FTR Gold. We went with them because they will be hooking up to this system which was $8500. She didn't think that we had to have three bids for this amount of money.

Finance Director S. E. Blanchard said that for a formal bid it would be $85000 for equipment or $300,000 for construction. However, City Council has the authority to approve anything under $50,000.

City Manager Olson stated that one of staff's concerns with this issue is that we are ignorant concerning this subject. This system that we have here in this Council Chambers has been hodgepodge together and that is the reason that we have a lot of the sound problems that we have. We have tremendous problems with the TV reception. We have no one on staff that has the expertise for this. If we put this out for bids, we need someone to draw up the specifications. Historically this system has been maintained by the electric department or Adelphia Cable. He knows over the last two years, Council has on numerous occasions discussed the issues associated with the sound system or the television system. That is the reason that we decided that we had an individual who is the sole propriety for the FTR Gold system and who handles a lot of these issues with cities and counties throughout the state.

Councilwoman L. A. Hummer said that she first came on Council in 1993 and for years she was told that she talked too softly. We have been the object of local jokes about our televised meetings because they can't hear us or the sound just doesn't come through half the time. She does not think that it would be good business if we stopped in the middle of the installation of this system and go with someone else. She can't see how that would save any money. After seeing what the small town of Edenton had she thinks that we need to move our City into the 21st Century.

Councilman M. E. Brooks said that he finds it amazing that we are basically fighting the advancement in technology. When they do presentations up here and we are the only ones that can see it and the citizens take their time to come and view us in action, he thinks that it is unfair to them. He listened to the Finance Director say what the cap was for three bids and we are well below that figure so there shouldn't be a hold up and we should go with what we have.

Councilman Stimatz said that this is our own procedure out of our own purchasing manual and we are not following it. This is not about being for this or not, we have to start following our own procedures. If we have rules we have to follow them. That is why people get upset with the Council or the City when they think that people are getting favored treatment. If you need help with writing the specs he will be happy to do them as he has done a lot of them in his life.

Councilwoman B. S. Meggs said if we go with the vendor that has given us what we have so far then you are sure that this will be better and be done correctly. If we don't do it this way then we might be splintering it and cost us more than that in the long run.

Mr. Olson said that one of the concerns is when you have multi vendors that if there is a problem everyone points the finger at the other one. What we are looking at is most

likely a sole source contract and that is why we did not get additional bids which is allowable under state statute.

Councilwoman Baker said that it is not about the best vendor but what is in our purchasing manual. We should do what we have written in the book. It is not the end design but how we get there. Let's not reinvent the wheel here.

Councilman Rivers said that he seconded the motion but he would like to withdraw his second thereby the first motion became null and void. He feels that we should have the same vendor and that way if something goes wrong we will know where to turn.

A motion was made by Councilman D. K. Stallings, seconded by Mayor Pro Tem L. A. Hummer to approve the upgrades to the audio and visual aids for the City Council Chambers and approve spending the $9,940.00 with Analog Digital Solutions, Inc. Those voting in favor of the motion were: Stallings, Hummer, Brooks, Meggs, Rivers and Walton. Against: Baker and Stimatz. Motion carried.

6} PUBLIC HEARINGS:

a} Rezoning Case RZ-13-05 – 1200 George Wood Drive:

Mayor Foster declared the meeting into Public Hearing for consideration of Rezoning Case RZ-13-05 – Request to rezone 1200 George Wood Drive.

Planning Director J. C. Brooks informed Council that Mr. Frankie Meads seeks to rezone 1.98 acres of property on the southwest intersection of George Wood Drive and Pro Grow Road from Industrial I-1 to Industrial I-2. The applicant proposes to use the existing structure for a collection recycling operations center. When making a determination as to whether to approve or deny a rezoning, staff considers the area zoning patterns, adjacent land uses, the Land Use Plan as well as the impact it will have on the adjacent property owners and neighbors. The rezoning request establishes the maximum density and the use of each tract or area shown on the master site development plan. The Planning Commission and the Planning Staff recommend approval of this application

Mayor Foster asked Deputy Clerk White if anyone had signed up to speak on this item.

Ms. White replied no.

Since no one had signed up to speak for or against the proposed rezoning, Mayor Foster declared the public hearing closed.

A motion was made by Councilman E. K. Rivers, seconded by Councilman D. K. Stallings to adopt the following ordinance approving Rezoning Request 13-05. Those voting in favor of the motion were: Rivers, Stallings, Baker, Brooks, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

ORDINANCE #1061
REZONING REQUEST 13-05
GEORGE WODD DRIVE AND PRO GROW ROAD
JANUARY 23, 2006

WHEREAS, the City Council considered a request by Frankie Meads to rezone 1.98 acres of property on the southwest intersection of George Wood Drive and Pro Grow Road from Industrial I-1 to Industrial 1-2. The property is further identified as Parcel #8903343331; and

WHEREAS, North Carolina General Statutes § 160A-364 requires a public hearing be held in order to consider the request; and

WHEREAS, the Planning Commission considered and held a public hearing regarding Rezoning Case No. RZ-13-05 on December 6, 2005; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Elizabeth City that this request be approved.

ADOPTED, this 23rd day of January 2006.

_____
Charles L. Foster
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Rezoning Case RZ-14-05- 56 acres on the south side of Savin Road and east of Briarwood Subdivision:

Mayor Foster declared the meeting into Public Hearing for consideration of RZ-14-05 He called upon Deputy Clerk White for any speakers who had signed to speak for or against the proposed rezoning.

Ms. White replied that no one had signed up to speak.

Planning Director J. C. Brooks stated that Jack A. Cooper is seeking to rezone 56 acres of property on the south side of Savin Road, east of the Briarwood and Summerfield Subdivisions and west of Body Road from Residential R-15 to Residential R-10. The applicant proposes to develop this site for single family residential use. The applicant is asking for an R-10 zoning. Under this zoning district approximately 224 new residential units could be constructed on the 56 acre tract. The Planning Commission and the Planning Staff is recommending approval of this application.

Eddie Hyman spoke in favor of this request. Since no one else wished to speak for or against the proposed rezoning, Mayor Foster declared the public hearing closed.

A motion was made by Councilwoman J.M. Baker, seconded by Councilman E. K. Rivers to adopt the following ordinance rezoning 56 acres on the south side of Savin Road from Residential R-15 to Residential R-10. Those voting in favor of the motion were: Baker, Rivers, Brooks, Hummer, Meggs, Stimatz and Walton. Against: Stallings. Motion carried.

ORDINANCE #1062
REZONING REQUEST 14-05
JACK A. COOPER
56 ACRES – SAVIN ROAD
JANUARY 23, 2006

WHEREAS, the City Council considered a request by Jack A. Cooper to rezone 56 acres of property on the south side of Savin Road, east of Briarwood and Summerfield Subdivisions and west of Body Road from Residential R-15 to Residential R-10. The property is further identified as Parcel #891303110942; and

WHEREAS, North Carolina General Statute § 160A-364 requires a public hearing be held in order to consider the request; and

WHEREAS, the Planning Commission and held a public hearing regarding Rezoning Case No. RZ-14-05 on December 6, 2005; and

WHEREAS, there were no comments made by the public at the public hearing in opposition or agreement of the rezoning request; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Elizabeth City that this request be approved.

ADOPTED, this the 23rd day of January 2006.

Charles L. Foster
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Petition for Voluntary Annexation submitted by Perkins Lane, LLC for 21.63± acres adjacent to Perkins Lane:

Mayor Foster declared the meeting into Public Hearing for consideration of the Petition for voluntary annexation submitted by Perkins Lane, LLC for 21.63± acres adjacent to Perkins Lane. He asked Deputy Clerk White if anyone had signed up to speak regarding this petition.

Deputy Clerk White advised that no one had signed up to speak.

Mayor Foster called upon City Manager Olson for comments.

Mr. Olson advised that the proper procedures had been followed for the annexation of this property. The parcel owned by Perkins Lane, LLC contains 21.63± acres that is non-contiguous to the existing City Limits and is located adjacent to Perkins Lane.

Since no one else wished to speak for or against the proposed annexation, Mayor Foster declared the Public Hearing closed.

A motion was made by Councilman E. K. Rivers, seconded by Councilman D. K. Stallings to adopt the following ordinance annexing the 21.63± acre parcel owned by Perkins Lane, LLC into the Corporate Limits of the City of Elizabeth City, with an effective date of annexation being February 1, 2006. Those voting in favor of the motion were: Rivers, Stallings, Baker, Brooks, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

ORDINANCE #1063
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
PERKINS LANE LLC
21.63± PERKINS LANE

WHEREAS, the City Council has been petitioned under G. S. 160A-58.1 to annex the area described herein; and

WHEREAS, the City Council has by resolution directed the City Clerk to cause to be investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:30 p.m. on the 23rd day of January 2006, 2006 after due notice by publication on the 13th and 15th days of January 2006; and

WHEREAS, the City Council find that the area described therein meets the standards of G. S. 160A-58.1 (b), to wit:

a} The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the City of Elizabeth City;

b} No point on the proposed satellite corporate limits is closer to another municipality than to the City of Elizabeth City;

c} The area described is so situated that the City of Elizabeth City will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;

d} No subdivision, as defined in G. S. 160A-376 will be fragmented by this proposed annexation;

e} The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the area within the primary corporate limits of the City.

WHEREAS, the City Council further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the City Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

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

SECTION 1. By virtue of the authority granted by G. S. 160A-58.2, the following described non-contiguous territory, is hereby annexed and made part of the City of Elizabeth City as of the February 1st 2006:

BEING a track of land on the south side of Perkins Lane (NC SR 1133) approximately 170 feet plus or minus east of the intersection Fort Bragg Drive with Perkins Lane in Nixonton Township, Pasquotank County, North Carolina being more particularly described as follows: Commencing at a P.K. nail at the centerline intersection of Perkins Lane (NC SR 1133) and Peartree Road (NC SR 1101); thence S 81º 33' 39" E – 1288.38 feet with and along the centerline of Perkins Lane to a found P.K. nail at the centerline intersection of Perkins Lane and Fort Bragg Drive; thence S 79º 38' 01" E – 170.83 feet with and along the centerline of Perkins Lane to a new P. K. nail set, the true point of beginning; thence from the true point of beginning S 79º 29' 05" E – 1,035.81 feet with and along the centerline of Perkins Lane to a new P. K. nail set in the centerline of Perkins Lane; thence leaving the centerline S 18º 47' 09" W – 29.56 feet to a found pinched pipe: thence S 18º 47' 09" W – 0.76 feet to a new iron rebar set in the southern right of way line of Perkins Lane; thence S 18º 47' 09" W – 263.07 feet with and along the center of a ditch to a point, thence S 19º 22' 15" W – 109.55 feet with and along the center of a ditch to a point; thence S 18º 47' 28" W – 192.27 feet with and along the center of a ditch to a point; thence S 18º 54' 14" W – 294.27 feet with and along the center of a ditch to a point; thence S 19º 18' 09" W – 317.84 feet with and along the center of a ditch to a new iron rebar set in line with a found woven wire fence; thence N 55º 55' 21" W – 182.06 feet with and along the woven wire fence to a point; thence N 53º 44' 15" W – 83.67 feet with and along the woven wire fence to a point; thence N 54º 27' 50" W – 145.20 feet with and along the woven wire fence to a point; thence N 54º 39' 45" W – 152.70 feet with and along the woven wire fence to a point; thence 55º 00' 18" W – 160.94 feet with and along the woven wire fence to a point; thence N 55º 51' 47" W – 110.77 feet with and along the woven wire fence to a point; thence N 53º 21' 03" W – 100.26 feet with and along the woven wire fence to a point; thence N 58º 03' 52" W – 31.79 feet with and along the woven wire fence to a new iron rebar set in the woven wire fence and the center of a ditch; thence N 12º 08' 01" E – 762.89 feet with and along the center of a ditch to a new iron rebar set in the southern right of way line of Perkins Lane; thence continuing N 12º 08' 01" E – 30.01 feet to the true point of beginning containing 942,037 square feet (21.63 acres) plus or minus, excluding road right of way.

SECTION 2. Upon and after the 1st day of February, 2006, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Elizabeth City and shall be entitled to the same privileges and benefits as other parts of the City of Elizabeth City. Said territory shall be subject to municipal taxes according to G. S. 160A-58.10.

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 23rd day of January 2006.

_____
Charles L. Foster
Mayor

_____
Dianne S. Pierce-Tamplen
City Clerk

d} Petition for Voluntary Annexation of 21.366± acre parcel owned by Down East Developers of NC, LLC:

Mayor Foster declared the meeting into Public Hearing for consideration of a petition for Voluntary Annexation submitted by Down East Developers of NC, LLC. He called upon City Manager Olson for comments.

City Manager Olson stated a petition for Voluntary Annexation was received from the Down East Developers of NC, LLC for the annexation of 21.366± acres that is non-contiguous to the existing City Limits. The parcel is located adjacent to Perkins Lane. The proper annexation procedures were adhered too.

Mayor Foster asked Deputy Clerk V. White if anyone had signed up to speak.

Deputy Clerk White replied that no one had signed up to speak.

Since no one had signed up to speak for or against the proposed annexation, Mayor Foster declared the Public Hearing closed.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman D. K. Stallings to adopt the following Ordinance incorporating the 21.366± acre parcel owned by Down East Developers of NC, LLC into the Corporate Limits of the City of Elizabeth City with an effective date of February 1, 2006. Those voting in favor of the motion were: Baker, Stallings, Brooks, Hummer, Meggs, Rivers, Stimatz and Walton. Against: None. Motion carried.

ORDINANCE #1064
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
DOWN EAST DEVELOPERS OF NC, LLC
21.366± ACRES - PERKINS LANE

WHEREAS, the City Council has been petitioned under G. S. 160A-58.1 to annex the area described herein; and

WHEREAS, the City Council has by resolution directed the City Clerk to cause to be investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:30 p.m. on the 23rd day of January 2006 after due notice by publication on the 13th and 15th days of January 2006; and

WHEREAS, the City Council find that the area described therein meets the standards of G. S. 160A-58.1 (b), to wit:

a} The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the City of Elizabeth City;

b} No point on the proposed satellite corporate limits is closer to another municipality than to the City of Elizabeth City;

c} The area described is so situated that the City of Elizabeth City will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;

d} No subdivision, as defined in G. S. 160A-376 will be fragmented by this proposed annexation;

e} The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the area within the primary corporate limits of the City.

WHEREAS, the City Council further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the City Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

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

SECTION 1. By virtue of the authority granted by G. S. 160A-58.2, the following described non-contiguous territory, is hereby annexed and made part of the City of Elizabeth City as of the 1st day of February 2006:

COMMENCING at a found P.K. Nail at the centerline intersection of Perkins Lane (NC SR 1133) and Peartree Road (NC SR 1101); thence S 81º 33' 39" E – 1,288.38 feet with and along the centerline of Perkins Lane to a found P.K. Nail in the centerline of Fort Bragg Drive; thence S 79º 38' 01" E – 170.83 feet with and along the centerline of Perkins Lane to a found P.K. nail in the centerline of Perkins Lane; thence S 79º 29' 05" – 1,035.81 feet with and along the centerline of Perkins Lane to a found P.K. nail; thence S 79º 07' 10" E –166.52 feet with and along the centerline of Perkins Lane to a new set P.K. nail in the centerline of Perkins Lane, the true point of beginning. Thence from the true point of beginning S 79º 07' 10" E – 32.82 feet with and along the centerline of Perkins Lane to a new P.K. nail set; thence S 78º 32' 29" E – 338.97 feet with and along the centerline of Perkins Lane to a new P.K. nail set in the centerline; thence S 78º 18' 59" E – 102.91 feet with and along the centerline of Perkins Lane to a new set P.K. nail in the centerline; thence leaving the centerline S 25º 30' 35" W – 29.30 feet to a found iron rebar; thence continuing S 25º 30' 35" W – 1.59 feet to a point in the southern right of way line of Perkins Lane; thence continuing S 25º 30' 35" W – 212.99 feet with and along the western top of bank of an existing ditch and with and along the western line of the Steve Twine property as described in Deed Book 828, Page 800 of the Pasquotank County Registry to a found iron rebar; thence S 77º 55' 38" E – 208.71 feet with and along the southern top of bank of an existing ditch and with and along the southern line of the above reference Steve Twine property to a found iron rebar; thence S 25º 29' 31" W – 1,256.11 feet with and along the western top of bank of an existing ditch and with and along the western line of the J. E. Owens Heirs property, Parcel "B", as shown on a plat titled :Survey of J. E. Owens Heirs", prepared by Edward T. Hyman, Jr. PLS-2690, dated July 20, 1999 and recorded at Map Book 25, page 39 of the Pasquotank County Registry, to a found 2" iron pipe in an old woven wire fence; thence N 54º 54' 23" W – 181.40 feet with and along an old woven wire fence to a point; thence N 53º 22' 46" W – 110.38 feet with and along an old woven wire fence to a point; thence N 57º 29' 16" W – 120.51 feet with and along an old woven wire fence to a point; thence N 58º 51' 20" W – 123.07 feet with and along an old woven wire fence to a point; thence N 58º 34' 21" W – 159.83 feet with and along an old woven wire fence to an existing found iron rebar in an old woven wire fence; thence leaving the fence N 19º 18' 09" E – 317.84 feet with and along the centerline of an existing ditch to a point; thence N 18º 54' 14" E – 294.27 feet with and along the centerline of an existing ditch to a point; thence N 18º 47' 28" E – 192.27 feet with and along the centerline of an existing ditch to a point; thence N 19º 22' 15" E – 109.55 feet with and along the centerline of an

existing ditch to a point; thence N 18º 47' 09" E – 19.17 feet with and along the center of an existing ditch to a new set iron rebar; thence S 78° 51' 08" E – 133.15 feet with and along the centerline of an existing ditch to a new set iron rebar; thence N 25º 30' 52" E – 250.00 feet with and along the centerline of an existing ditch to a new set iron rebar in the centerline of the ditch; thence continuing N 25º 39' 52" E – 0.35 feet to a point in the southern right of way line of Perkins Lane; thence continuing N 25º 30' 52" E – 31.01 feet to a new set P. K. Nail in the centerline of Perkins Lane, the true point and place of beginning; containing 930.715 square feet or 21.366 acres plus or minus including the road right of way and 916,474 square feet or 21.039 acres excluding the road right of way. Reference is hereby made to a map entitled "Boundary Survey for Down East Developers", prepared by Hyman & Robey, PC, dated 11-10-05, for a more complete and accurate description.

SECTION 2. Upon and after the 1st day of February 2006, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Elizabeth City and shall be entitled to the same privileges and benefits as other parts of the City of Elizabeth City. Said territory shall be subject to municipal taxes according to G. S. 160A-58.10.

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 23rd day of January 2006.

_____
Charles L. Foster
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

e} Petition for Voluntary Annexation for 56.08± acres adjacent to Savin Road:

Mayor Foster declared the meeting into Public Hearing for consideration of a Petition for Voluntary Annexation received from Jack A. Cooper for 56.08± acres adjacent to Savin Road. He called upon City Manager Olson for comments.

Mr. Olson advised that the proper annexation procedures had been followed in this annexation request. The petition was received from Jack A. Cooper for a parcel containing 56.08± acres that is contiguous to the existing City Limits and is located adjacent to Savin Road.

Mayor Foster asked Deputy Clerk White if anyone had signed up to speak.

Ms. White replied that no one had signed up to speak.

Since no one had signed up to speak for or against the proposed annexation, Mayor Foster declared the public hearing closed.

A motion was made by Councilman E. K. Rivers, seconded by Councilman D. K. Stallings to adopt the following ordinance incorporating the 56.08± acre parcel owned by Jack A. Cooper and adjacent to Savin Road into the Corporate Limits of the City of Elizabeth City with an effective date of February 1, 2006. Those voting in favor of the motion were: Rivers, Stallings, Baker, Brooks, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

ORDINANCE #1065
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
JACK A. COOPER PROPERTY
56.08± ACRES ADJACENT TO SAVIN ROAD

WHEREAS, the City Council has been petitioned under G. S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the City Council has by resolution directed the City Clerk to cause to be investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:30 p.m. on the 23rd day of January 2006 after due notice by publication on the 13th and 15th days of January 2006; 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, as amended, the following described territory, is hereby annexed and made part of the City of Elizabeth City as of the February 1, 2006:

> **BEGINNING** at N.C.G.S.M. "Corinth" (NAD 83); thence S 56º 14' 24" E 4294.37 feet to a set iron pin at the easternmost end of the right of way of Savin Road (SR 1147) the true point of beginning, thence S 67º 36'15" E 492.78 feet to an iron rod. Thence S 58º 05' 26" E 100.76 feet to a point at the centerline of an existing ditch at the corner of the James C. Tatum Property; thence along and with the centerline of an existing ditch being the property line of the James C. Tatum property S 23º 02'14" W 160.06 feet to a point; thence S 18º 03' 24" W 108.94 feet to a point; thence S 28º 39' 56" W 79.26 feet to a point; thence S 11º 31' 11" W 55.02 feet to a point; thence S 02º 50' 17" E 32.93 feet to a point; thence S 00º 47' 01" E 47.80 feet to a point; thence S 21º 19' 23" W 38.98 feet to a point; thence S 31º 29' 09" W 231.25 feet to a point; thence S 33º 28' 59" W 185.72 feet to a point; thence S 35º 41' 36" W 421.73 feet to a point thence S 25º 10' 19 W 311.94 feet to a point; thence S 26º 15' 41" W 535.12 feet to a point; thence N 63º 51' 10" W 833.24 feet to an iron rod at a point on the property line of the Summerfield Phase II Subdivision; thence along the Summerfield Phase II Subdivision property line N 04º 41'29"E 330.78 feet to an iron rod; thence N 09º 42' 19" E 43.91 feet to an iron rod at the corner of the Briarwood Section "B" Subdivision; thence along the Briarwood Section "B" Subdivision property line N 05º 26' 28" E 598.37 feet to a pinched pipe; thence along the property lines of the Briarwood Section "B" and Briarwood Section "A" Subdivisions N 18º 57' 49" E 940.75 feet to an iron pin at the corner of the Samuel J. West property; thence along the Samuel J. West property line with the centerline of an existing ditch S 70º 52' 44" E 220.05 feet to an iron pin at the corner of the Jack A. Cooper property; thence along the Jack A. Cooper property line with the centerline of an existing ditch S 67º 30' 00" E 101.49 feet to a set iron pin at the corner of the Terry Cooper property; thence along the Terry Cooper property line with the centerline of an existing ditch S 70º 02' 44" E 100.00 feet to a set iron pin; thence along the eastern property line of the Terry Cooper property N 19º 25' 51" E 227.12 feet to a set iron pin; thence along and with the southernmost right of way of Savin Road (SR 1147) S 67º 36' 15" E 349.70 feet to a set iron pin; thence along and with the easternmost end of the right of way of Savin Road (SR 1147) N 22º 23' 45" E 30.00 feet to the **POINT OF BEGINNING.** The parcel contains 56.08± acres.

SECTION 2. Upon and after the 1st day of February 2006, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Elizabeth City and shall be entitled to the same privileges and benefits as other parts of the City of Elizabeth City. Said territory shall be subject to municipal taxes according to G. S. 160A-58.10.

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 23rd day of January 2006.

_____
Charles L. Foster
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

f} Wholesale electric rate increase:

Mayor Foster declared the meeting into Public Hearing to receive comments from the public regarding a proposed increase in electric rates. He called upon City Manager Olson for comments.

Mr. Olson stated that during the last Council meeting, staff presented three options for the Council to consider helping absorb part of the 10% increase the City has received in its wholesale cost of electricity received from ElectriCities. Council requested that we hold a public hearing to received public input as well as look at one more option that was presented to us. He then went through a power point presentation showing the four scenarios. The 10% proposed increase by ElectriCities equates to $2,241,759 annually. Staff feels comfortable absorbing approximately $1,100,000 annually. He went over a fact sheet showing all the wholesale electric rate increases that the City has received since 1990. The total increase is 47.7% but we only passed along $31.2%. Since 2001, the City has experienced 28.74% in increased wholesale power costs, while we are proposing passing 19% along to our customers. This means, since 2001 we have absorbed approximately 10% in rate increases. He discussed the impact each scenario would have on the Electric Fund. The four scenarios' are as follows:

1} Scenario I -To impose a 6% increase effective April 1, 2006

This scenario would allow our customers a reprieve from the rate increase until after the winter heating season is over. Delaying the increase to April will cost $1,018,299 in

fiscal year 2005-2006 and an additional $538,000 in fiscal year 2006-2007. At the end of fiscal year 2007 the City's cash balance is anticipated to be $8,043,701.

2} Scenario II - To impose a 7% rate increase which would be effective June 2006.

This scenario would also allow our customers a reprieve during their high winter heating bills. The delay would mean that the City would absorb $1,109,120 in fiscal year 2005-2006 and an additional $269,000 in fiscal year 2006-2007. Our electric cash balance at the end of fiscal year 2007 would be $8,221,880.

3} Scenario III - To "stair-step" the rate increase

This scenario would "stair-step" the increase with a 3% increase effective March 2006 and an additional 3% effective July 2006. The 3% in March would equate to $3.24 per month for an average-size home. Under this scenario, the City would absorb $1,150,557 in fiscal year 2005-2006 and $538,000 in fiscal year 2006-2007. The City's cash balance at the end of fiscal year 2007 would be $7,911,443. This would be $88,557 below our target fund balance. If we have an increase in load growth which staff anticipates, we should be close to our $8,000,000 fund balance.

4} Scenario IV –

With a cash balance after contingent liabilities of $9,600,000 and the proposed wholesale rate increase of $2,241,759 at the end of calendar year 2006, the City's cash balance would be $7,358,241 or $641,759 below staff recommended cash balance. To absorb the wholesale rate increase and bring the cash balance on the electrical utility up to $8,000,000 by the end of calendar year 2007 will necessitate a 10.2% increase effective January 1, 2007. This option only delays the inevitable by one year and forces the City Council to debate this issue once again in the future.

Mayor Foster asked Deputy Clerk White if anyone had signed up to speak during the public hearing.

Ms. White replied that we had one person to sign up. She proceeded to call Ramona Gilbert to the podium.

Ms. Gilbert spoke pertaining to several scenarios that she feels would assist the city's customers in easing the burden of paying their bills every month.

Ms. White advised Mayor Foster that no one else had signed up to speak.

Since on one else wished to speak for or against the proposed rezoning, Mayor Foster declared the public hearing closed.

Following further discussion by members of City Council,

A motion was made by Councilwoman J. M. Baker, seconded by Councilwoman B. S. Meggs to prepare an ordinance based on Scenario III and bring the ordinance back for a public hearing on February 13, 2006.

Councilman J. A. Stimatz expressed his support of the motion by Councilwoman Baker and noted that Councilman Rivers' suggestion to hold off on any increase was not unacceptable, if we all acknowledged that we would probably revisit this issue sooner or later. He indicated that he was certain that the City Manager would come to us immediately if our cash balance situation became critical. We should be ready for this eventuality.

Mayor Foster called for a vote on the motion.

Those voting in favor of the motion were: Baker and Meggs. Against: Brooks, Hummer, Rivers, Stallings, Stimatz and Walton. Motion was denied.

Mayor Foster advised that this item would be included in the 2006-2007 Operating Budget during the budget work sessions for consideration at that time.

7} <u>REGULAR AGENDA:</u>

a} <u>Budget Calendar:</u>

Mayor Foster called upon City Manager Olson for comments regarding the proposed budget calendar for fiscal year 2006-2007.

Mr. Olson stated that due to the constraints, the City Council was unable to discuss the goals for the upcoming year at the retreat. Therefore, the budget calendar has been modified to reflect a combined goal setting session with the pre-budget work session. There have been four sessions scheduled beginning March 20th. A fifth work session has been placed on the calendar if needed. The public hearing is scheduled for May 22, 2006 with formal adoption on June 26, 2006.

Following discussion it was decided to have a goal setting and pre-budget session with the Mayor, City Council and staff on Saturday, February 11, 2006 with a time frame of 9:00 a.m. to 3:00 p.m.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman M. E. Brooks to adopt the following Budget Calendar as presented. Those voting in favor of the motion were: Stimatz, Brooks, Baker, Hummer, Meggs, Rivers, and Walton. Against: Stallings. Motion carried.

BUDGET CALENDAR
FY 2006/2007

GOAL SETTING AND PRE-BUDGET WORK SESSION – 9:00 a.m. – 3:30 p.m.

February 11, 2006

BUDGET WORK SESSIONS – 5:30 p.m. - 7:30 p.m.

March 20, 2006

April 3, 2006

April 17, 2006

May 1, 2006

May 15, 2006 (if needed)

PUBLIC HEARING

May 22, 2006
Regular Council Meeting – 7:00 p.m.

BUDGET ADOPTION

June 26, 2006
Regular Council Meeting – 7:00 p.m.

b} Upset Bid for 524 South Road Street:

Mayor Foster called upon City Manager R. C. Olson for comments.

Mr. Olson stated that the January 9, 2006 City Council meeting staff requested that you approve the advertisement of the sell of 524 S. Road Street to Northeastern Community Development Corporation. On January 23, 2006 the City received one counter bid offer of $27,500 from Elizabeth City OIC with a check deposit of $1,425. ECOIC would like to purchase the land to operate a center. Staff is recommending that the City Council reject this offer. He called upon Community Development Officer S. W. Anderson for comments.

Ms. Anderson said that this is a request to sell 524 South Road Street to Northeastern CDC for $25,000 over a five year period. NCDC will pay $5,000 down at closing and make annual payments of $5,000 due January 1 each year ending January 1, 2010. The property must carry a deed restriction that NCDC must agree and certify that:

1} The purchase agreement executed between the City and NCDC will state that it is in compliance with the Housing and Community Development Act of 1974 as amended and that the project will benefit at least 51% low to moderate-income persons.

2} Further it will state that if the project does not comply with the approved purposes under the Housing and Community Development Act, all funds used in the development of this project must be reimbursed and returned to the State of North Carolina's Department of Commerce's Division of Community Assistance, and

3} Northeastern CDC will operate a job training program at the facility for a minimum of five years from the date the Certificate of Occupancy is issued.

The Department of Community Assistance has approved the sale of this parcel provided that the deed restrictions are carried out by the recipient. Today, we did receive an upset bid from Elizabeth City OIC with a check deposit of $1,425.00. Staff recommends that the City Council reject this offer and approve the Mayor to execute a purchase agreement with Northeastern CDC under the original terms of the $25,000 over a five year period for the following reasons:.

1} NCDC is the City approved sub-recipient organization to build a 5000 square foot community resource center.

2} City Council approved NCDC October 24, 2005 with the understanding that 524 South Road Street would be the designated site of the community resource center.

3} DCA has approved NCDC to build the community resource center at this site based on the City's request.

4} NCDC has provided a pro-forma, proof of a financial commitment, project schedule and memorandums of understanding from community partners as requested by DCA for review and approval.

5} DCA granted the City's request for an extension based on the City's approval of NCDC as a sub-recipient and proof of capacity to carry out the project.

6} Time is of the essence. Year Three Funds must be spent by July 31, 2006.

Councilman J. B. Walton asked Ms. Anderson that the upset bid process is what we just went through so why would she not accept it.

Ms. Anderson said that her recommendation is to reject the bid as per NCGS 160A-269. We were required to go through that process and that is why we went through the process but at this time she is asking Council to reject the bid from OIC.

City Manager Olson asked to explain. What City staff is looking at is the upset bid would generate $2,500 additional dollars. However, we stand to lose $212,500 of Year Three Funding if we cannot reach specific deadlines that DCA has placed on us. By taking the upset bid we would delay the process longer and basically would have to start another 10-day cycle for someone else to bring in an upset bid to upset OIC. Time is of the essence as we have to spend Year Three funding by July 31, 2006. We are on a very short time line and any deviation from that time line puts Year Three funding in jeopardy and in turn puts Year Four-Five funds in jeopardy because of stipulations that are placed on the grant itself. We have a contract right now with NCDC and we have to abide by that contract.

Councilman Walton said that the original writer of the grant say that many of the things that you are asking for now was not in the original document. The community that was involved is not clear on what we are trying to do. Whatever, we do because of money; we shouldn't force it on the community. Ms Garcia told me that they had two offices. One in Camden and one in Elizabeth City. He went over there the next day and he couldn't find the building. Then he was told it was the gray building across the street from Cornerstone because when he went out looking for the gray building all he saw was a sign that had Spanish written on it. He cannot read Spanish. It may have said the same thing but if you want to put something in his community you should at least put up a sign that he can read. That told him a lot.

Councilman Rivers said that he feels that we should stop dictating to the community. The community wants us to stop telling them what they want. They are interested in the training center in that community. They feel that they are not part of the grant. He realizes that time is of the essence and we don't want to jeopardize the monies that are left, but if this was just doing the upset bid just because we had to and then we don't honor it, he has a problem.

Councilman Stimatz said that it is very clear to him that the grant was very poorly done. There were deliverables that were not very realistic. The original grantees did not perform and had serious tax problems. He has asked from all our grantees that we have dealt with over the last few years an audit and to date he has not received any. What he understood the community meeting was about is that people came back and said that when we were going to build a 20,000 foot center we wanted all this stuff in there and why can't we have it. The answer is that someone didn't perform and it fell through the cracks trying to make this work. Because of all those failures, whether it was the City's

or the grantee's fault it really doesn't matter but we can only build a 5,000 foot building. There are ways to address the issues that those people brought up but to upset this whole thing and to say that we are going to follow a process because we had too, but the process is and I asked the attorney if we were bound by it and he said no. We are here to make fiscally and community responsible decisions. If we keep dragging this on the very people you say that need these services and want these services and have been denied these services could very well lose them in Toto just because we are trying to get OIC back into the game. He is having a hard time as a business person in caring about these people. He is appalled that it has taken this long to get here. It is one of the reasons why he has taken it upon himself to look very carefully at the processes that this Council has to follow and it is why he brought up the issues about the procurement tonight and the other things tonight because what he has seen here is that people do not follow the rules. Then we get into trouble, whether it is hiring people, firing people, we get sued as a city, we can't find our grantees very well and he is not going to put up with it. So, what he is trying to do is to make a business decision that is the best one for all those people in the Hugh Cale area and that is to get this thing moving. NCDC is fine. If OIC wants to work with them then let them approach them and sign on as a sub-recipient with them to do this but to throw this whole thing back into the hopper and potentially lose it, I tell you if he was DCA sitting up there in Raleigh he would be saying that these people don't know what they are doing so forget it. They are not worth it and that is not smart.

Councilwoman Hummer said that she attended the community meeting also. She tried to listen to everybody that was in attendance. She got up and spoke on behalf of Ms. Simpson's group and the fact that she helps children out of the court system and many other things. She also spoke on Reverend Robinson's homeless shelter. She knows that there is a need for this type of shelter. About the upset bid, she doesn't believe it is normal to be asked to consider an upset bid in a contract. She feels that she is the steward of the City's money and she certainly does not want to be sued and she would like to ask what the ramifications are since we are already under a contract with Northeastern CDC.

City Attorney W. H. Morgan said that on the sale of the property no contract has been signed to date. He only prepared that today. He would have to take a look at the sub-recipient agreement to see what consequences would apply if we terminated that contract. Obviously, one would not want to breach a contract without careful consideration. The Sub-recipient agreement with NCDC is subject to our being able to terminate that with notice to us.

Councilman M. E. Brooks said that his concern is and will always be the children and the need for the training center. We don't want to go back on any contract. OIC has even with their financial woes worked very hard in the community. Then it goes back to what Councilman Stimatz talked about and the business decisions. One thing that he does know is that when you talk about the 20,000 square foot building that was in the original grant; in 2003 they did put in a request to downsize it to 5,000 square feet. The thing is that we need to stop all the going around in circles. Time is of the essence. The only casualties of this are those that need the training. Yes, we need a homeless shelter. Yes,

we need a training center. Yes, we can't put the defeat out there. It becomes a hard decision because we don't want to violate any contract, but there a whole lot of things involved here. It does not suppose to be this difficult. He finds it amazing as he listens to everyone's point of view because everyone has a point that they are trying to present. The bottom line is we need a training center built. The time is right now. We are losing money. If we keep going like we have there will not be any money to put anything up. He hopes that we can come up with some conclusion.

Councilwoman Baker said that she thinks being stewards of the city's funds that we need to use good judgment. We need to approve the sale of this property. Years ago OIC had a chance and one reason or another, things did not work out. We don't need to revisit this or that for whatever reason. We had to advertise for an upset bid but the law says that we do not have to accept it. Bring on additional players but let's not hurt the Hugh Cale Community. We have already cut their training center enormously.

Councilman Walton said that it goes back to the egg before the chicken or the cart before the horse. He asked the question a long time ago of how can you write a grant proposal and you do not have the land for it. Now, we have made a way for it to happen. We did that and that is the process. We can make anything happen that we want too.

> ***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to reject the upset bid received from Elizabeth City OIC and award the sale of the property to Northeaster CDC in the amount of $25,000. Those voting in favor of the motion were: Baker, Brooks, Hummer, Meggs and Stimatz. Against: Rivers, Stallings and Walton. Motion carried.***

c} Posting of signs:

Mayor Foster recognized Councilman Stimatz, the counselor that asked that this item be added to the agenda.

Councilman Stimatz stated that he would like to table this item.

> ***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to table the discussion of placement of signs and have this item place on the next meeting's agenda. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Hummer, Meggs, Rivers, Stallings and Walton. Against: None. Motion carried***.

8} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:

Mayor Foster called upon the City Manager for comments.

City Manager Olson stated that he just wanted to remind everyone of the scheduled Joint City and County Meeting that will be held on Monday, January 30, 2006 at 6:00 p.m. at the Albemarle Hospital.

Mayor Foster called upon Councilman J. A. Stimatz for comments.

Mr. Stimatz stated that it is good to be here and representing the people of the City. He would like to say that he enjoyed the retreat. He got a lot out of it. It was very positive and he thinks that the people that were there got a lot out of it and he looks forward to spring boarding off of that. He thanks Councilman Rivers for suggesting that we have another one in six months. He would like to keep up that whole positive coming together, let's work together attitude.

Mayor Foster called upon Councilman J. B. Walton for comments.

Mr. Walton asked the City Manager if he had put some figures together about paving the unpaved roads in Elizabeth City. One of his constituents asked him about it. A road was paved near her and they jumped over her and paved the one on the other side. It was Hill Avenue.

Mr. Olson replied that to date he does not have that information.

Mayor Foster called upon Councilwoman B. S. Meggs for comments.

Ms. Meggs stated that she attended the first meeting of Elizabeth City Downtown and she has never seen so many people so energetic. She hopes that they can get everything done that they are proposing to do.

Mayor Foster called upon Councilman D. K. Stallings for comments.

Mr. Stallings asked to apologize for not making the retreat. His heart and mind were there but he had some prior obligations. He has a couple of items. He asked the City Attorney if Mr. Mead's annexation would be on the next agenda to be voted on. He asked the City Manager for an update on the Boy's Club and Mrs. White's situation.

Mayor Foster called upon Mayor Pro Tem L. A. Hummer.

Mayor Pro Tem Hummer stated that she too thought that we had a very good retreat. She further stated that she had a lady to call her expressing her concern about the need for a Beautification Committee. She asked the Mayor if he would consider putting together a committee that would work toward making our city more presentable.

Mayor Foster called upon Councilman M. E. Brooks for comments.

Mr. Brooks stated he had several things. One of them is that he lives on Carver Street and as you go around the curve it looks like it was a battle that took place in the Middle East. He wants to know when we can put it on the agenda to see if we can get that taken care of soon. We have to start somewhere. Last Wednesday the 18th of January, he went to the Street Superintendent to ask about putting up "No Parking" signs on Paxton Street. This is a high traffic area where people from other counties, cities, states come there to park and participate in illegal activities. The Superintendent told me that he had to talk with his boss, who said that he had to talk with the City Manager who then said that he had to take it before Council. He finds this amazing just to put up a parking sign. He went back through the code and ordinances to see if there was a reason why he has to jump through so many loops just to get a no parking sign in an area where there is high traffic in drugs. He does not see why, as a council person, why he has to go through so much just to get someone to address the code or an ordinance that is already on the books. In that area they are in violation of City Code 11-91, 11-91, 11-101 and section 12-9. He just does not understand why something of this nature has to go before City Council when it can be approved by the city manager. All this is unnecessary.

Mayor Foster called upon Councilwoman J. M. Baker for comments.

Ms. Baker said that she just wanted to give Rich a couple things to add to his "to do" list so he won't forget. We still have not addressed the issue of the placement of election signs. Also, if you look at forming a beautification committee, don't forget the clubs that are already out there working with this.

Mayor Foster called upon Councilman E. K. Rivers for comments.

Mr. Rivers said that he would like to echo the update on the Boys and Girls Club. We really need to have a contingency plan in place in order to assist this very important club. We need to do all we can to keep this club open. He asked that this item be placed on the agenda for the joint meeting. He has met with the Airport manager and he has encouraged members of Council to come out and tour the facilities and see some of the plans that are anticipated through growth. They are doing an outstanding job and he looks forward to their first meeting. He thanked the Mayor for having the vision to hold a retreat for council. He looks forward to the goal setting session.

Mayor Foster said that he would like to thank all of council for the work and corporation that is being demonstrated in order to work together. He also wants to thank city personnel for their outstanding work.

9} **<u>CLOSED SESSION:</u>**

A motion was made by Councilman J. A. Stimatz, seconded by Councilman D. K. Stallings to retire into Closed Session for consultation with the City Attorney as per NCGS 143-318.11(a) (3) and consideration of Closed Session Minutes as per NCGS 143-310.11 (e). Those voting in favor of the motion were: Stimatz,

Stallings, Baker, Brooks, Hummer, Meggs, Rivers and Walton. Against: None. Motion carried.

Upon the end of Closed Session:

A motion was made by Councilman E. K. Rivers, seconded by Councilman D. K. Stallings to return to regular session of City Council. Those voting in favor of the motion were: Rivers, Stallings, Baker, Brooks, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

10} CLOSED SESSION ITEMS:

Mayor Foster called for action regarding the Closed Session Minutes of January 9, 2006.

A motion was made by Councilman D. K. Stallings, seconded by Councilman E. K. Rivers to approve the Closed Session Minutes of January 9, 2006 as written. Those voting in favor of the motion were: Stallings, Rivers, Baker, Brooks, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

11} ADJOURNMENT:

A motion was made by Councilman E. K. Rivers, seconded by Councilman D. K. Stallings to adjourn the meeting. Those voting in favor of the motion were: Rivers, Stallings, Baker, Brooks, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

Mayor Foster adjourned the meeting at 11:00 p.m.

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Dianne S. Pierce-Tamplen, MMC
City Clerk

_____
Charles L. Foster
Mayor