

The City Council of the City of Elizabeth City held its second regular meeting on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor R. A. McLean presiding. Council members attending were: J. M. Baker, M. E. Brooks, L. Hill-Lawrence, L. A. Hummer, R. E. King, B. S. Meggs, J. A. Stimatz and J. B. Walton. City staff attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Finance Director S. E. Blanchard, Public Utilities Director P. A. Fredette, Police Chief C. E. Crudup, Electric Director K. F. Clow, Fire Chief L. M. Mackey, Inspections Director S. E. Ward, Human Resource Director K. W. Felton and Parks and Recreation Director B. V. White.

Mayor McLean opened the meeting by welcoming those attending and the TV audience. He established a quorum was present and called upon Reverend Charles Foster for the invocation after which the Pledge of Allegiance to the Flag of the United States of America was given.

**1} AGENDA APPROVAL:**

Mayor McLean called for the council's pleasure regarding the prepared agenda.

Councilwoman J. M. Baker asked to remove ***Item 6-c-Mayor's List of Appointments from the Consent Agenda; and add, to the Consent Agenda, consideration of a fire vehicle replacement.***

Mayor Pro Tem L. A. Hummer asked ***to remove Item 6-a- Adoption of Resolution supporting the Northeast North Carolina Initiative from the Consent Agenda to the regular agenda; and remove Item 8-a-1 – Appointment to Personnel Appeals Committee from the Agenda.***

Mayor McLean asked to remove ***Item 6-d – Live Burn Training from the Consent Agenda and place on the Regular Agenda.***

***A motion was made by Councilwoman J. M. Baker, seconded by Councilman J. A. Stimatz to approve the prepared agenda to include the above noted items. Those voting in favor of the motion were: Baker, Stimatz, Brooks, Hill-Lawrence, Hummer, King, Meggs and Walton. Against: None. Motion carried.***

**2} COMMENTS FROM THE PUBLIC:**

City Clerk D. S. Pierce-Tamplen advised that no one had signed up to speak.

**3} CONSENT AGENDA:**

Mayor McLean asked the City Manager to read the Consent Agenda.

***A motion was made by Councilwoman J. M. Baker, seconded by Councilwoman B. S. Meggs to approve the following Consent Agenda. Those voting in favor of the motion were: Baker, Meggs, Brooks, Hill-Lawrence, Hummer, King, Stimatz and Walton. Against: None. Motion carried.***

Consent Agenda

- a} Approved the Mutual Aid Agreement between Pasquotank County/Perquimans County.
- b} Approved the purchase of a fire vehicle.

End of Consent Agenda

**4} REGULAR AGENDA:**

- a} Confirmation of Mayor's List of Appointments:

Councilman Stimatz stated he noted in the appointments that are projected that Councilwoman Lena Lawrence is being recommended for the Pasquotank County Airport Authority. It is his understanding that his current term does not expire until the 30<sup>th</sup> of June. While you can appoint her now, his understanding is she would not be seated until his term ends. The Chairman of the Airport Authority called him about this as he had not received any previous notice that this was going to happen and he wanted to clarify this situation so that the Council would know what the status was of that seat. The enabling legislation calls for a two year term and it runs from July 1 to June 30<sup>th</sup>. If you adopt this you have to understand that his term does not end until the 30<sup>th</sup> of June and Ms. Lawrence will not be seated until July 1<sup>st</sup>.

Councilwoman Hill-Lawrence said it is her understanding and her research done as well that the appointments of City Council are made in January following the elections. She has documentations that three previous mayors made the appointments in January and was approved. Why did that happen if it is now being changed? She doesn't think that we need to change it. We need to correct it if that is the wrong process and get the correct one but she doesn't

think you should do it at this appointment. Maybe the next two years. That is what she has and you can look at what she has.

Mr. Olson stated that two of the previous appointments, Mr. Stimatz was done in January because a former Council member was removed from the Airport Board because of a lack of attendance. The one before that was a council person who ran for Mayor and once he did not win the mayor's seat he resigned from the board.

Mayor McLean stated he contacted the council person that was taken off of the board by the former mayor and that was not anything that he was aware of the fact that he was taken off because of non attendance. He was taken off because Mayor Atkinson appointed a new person. He was supposed to be there for a two year period. He thinks that most of the appointments when he went back o review it, most of the appointments for the airport had been done in January as opposed to June.

Mr. Stimatz said the manager explained why as we had two mid-term removals. He is just relaying to you that the Chairman of the Airport Authority understands that his term by statute does not end until the end of June. Regardless of what other mayors have done that is his term and his intention is to keep him seated until Ms. Lawrence comes on in July.

Ms. Hill-Lawrence said since he isn't the person who makes the decision here she doesn't know how he can come to that conclusion that was what he specified as the correct process and procedure. This is what she has and she has the documentations and she thinks that this will stand up in any court of law.

Councilman Brooks stated he finds it amazing that the Chairman of the Airport Authority doesn't have anything to do with the Mayor's appointments as to who he wants to put on that committee. The problem that we are having is we are trying to change the rules in the middle of the game. We are the Council and we have the authority to change it when we would like. The standard procedure is they were appointed at the beginning of the year when the Mayor selects who he wishes to put on the committees. He is in agreement with Councilwoman Lawrence. Why all of a sudden now that there is a big change and everybody outside of the Council wants to get involved with the appointments. Something is wrong with this picture.

Mayor Pro Tem Hummer stated those were her concerns exactly as she doesn't understand how an employee of the Airport Authority who is funded through joint allocations from the city and the county can have anything to do with the Mayor's appointments and who is also an employee of DRS got involved. She just doesn't understand what is going on. She thinks the person that is in that

seat now has served two years. You can have that same argument as to why would you serve two and a half years.

Councilwoman Baker said her comment is and the reason she asked to have this removed from the Consent Agenda was the very similar thing. She was appointed to the Tourism Development Authority by Mayor Atkinson and her term doesn't end until June 30<sup>th</sup>, 2011. She just didn't want it to be shown on her of being reappointed. An authority is different than a committee or commission as it is by statute rather than by a mayor's appointment. When her term expires, the Mayor will recommend a replacement for her or extend her term. Being that an authority is different than a committee and she believes that Councilman Stimatz is an unexpired term so that is why his was appointed in January. It was an unexpired term.

Mayor McLean asked to say that the Authority does not make the appointments. The mayor makes the appointments and the mayor made the appointment consistent in the way that the appointments have always been make. He stands by the appointments he has made. It is about consistency and fairness. He doesn't really see the issue relatively to this kind of discussion.

Mr. Stimatz said what he is trying to convey to you is what he heard from the Chairman. He did not hear it from an employee of the Airport Authority. Chairman Joe Forbes is the chairman of the Airport Authority. He was not privy to this decision by the Mayor prior to Thursday. He came to him and indicated to him that their reading of the enabling legislation. He indicated that he is on the board and his term will end June 30<sup>th</sup> and he wanted to convey it to this Council. We all took an oath to uphold the laws of the State of North Carolina and he is just telling you that is what is in the law. You do what you want to do.

Mayor McLean said he wanted to go back and look at the data whereby Councilman Kirk Rivers was removed from the Airport Authority. He wants to see that information because he was also under statute. Why did we remove him from the Authority at that time? The reason why you removed him was because you could do it and it was done.

Councilwoman Hill-Lawrence said if she is appointed she will take her seat at the next meeting.

Mr. Brooks said there was no guarantee that Councilman Stimatz would be reelected. What would the statute say about that? You don't have to bow down to outsiders.

***A motion was made by Councilman J. B. Walton, seconded by Mayor Pro Tem L. A. Hummer to confirm the appointments to the***

**various boards, committees, commissions and authorities as presented. Those voting in favor of the motion were: Walton, Hummer, Brooks, Hill-Lawrence, King, Meggs, and Stimatz. Against: Baker. Motion carried**

b} Adoption of Resolution supporting the Northeast North Carolina Initiative:

Mayor McLean stated he asked for this to be removed from the Consent Agenda because he wanted to ask a question about matching. We know that we have several counties involved in this particular project. The total cost of the project is \$40 million with about \$8 million in matching. Has a formula been developed for how the matching is going to be allocated among the counties and various agencies involved?

Mr. Olson replied that there has been no discussion. We have had discussion about the matching but right now what they are proposing is \$610,000 will be for the engineering study that will allow them to apply for the stimulus grant. There has been no cost allocation method among the different twenty counties and/or cities or stake holders that may be utilizing what is called the middle mile.

Mr. McLean said then what we are saying if we approve this resolution would it commit the City to paying.

Mr. Olson replied that, no, it does not.

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

**RESOLUTION # 1011  
SUPPORT OF THE NORTHEAST NC INITIATIVE  
TO SECURE AMERICAN RECOVERY  
AND REINVESTMENT ACT FUNDING**

**WHEREAS**, the Northeast NC Initiative is a proposed non-profit public/private collaboration serving 20+/- northeast NC counties to develop and submit a federal Recovery Act Broadband Stimulus Proposal to deploy an affordable, reliable, high capacity fiber optic "Middle Mile" network ring connecting the region; and

**WHEREAS**, the development of a competitively priced, reliable, high-capacity regional Middle Mile network in northeastern NC is important because the region required infrastructure parity with other regions of the state and the country to attract competitive Last Mile Broadband Service Providers, investment, new businesses and jobs and to allow existing businesses to modernize and expand; and

**WHEREAS**, the cost for the development of such a network is estimated to be over \$40 million, an expense that is cost-prohibited for the counties, municipalities and anchor institutions located within the project area; and

**WHEREAS**, under the federal American Recovery and Reinvestment Act ("ARRA"), funding was authorized to the Department of Commerce National Telecommunications and Information Administration for the Broadband Technology Opportunities Program ("BTOP") and to the Department of Agriculture Rural Utilities Service for the Broadband Initiatives Program ("BIP");

**NOW, THEREFORE, BE IT RESOLVED**, that as an unserved/underserved entity within the project area, the City Council of the City of Elizabeth City supports the efforts of the Northeast NC Initiative to develop a proposal to secure grant funds through the federal ARRA for deployment of Middle Mile and Last Mil network infrastructure in northeastern North Carolina.

**ADOPTED**, this 25<sup>th</sup> day of January 2010.

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Roger A. McLean  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

c} Live Burn Training at 811 Herrington Road:

Fire Chief L. M. Mackey stated that this item relates to annual live burn training that we conduct. We have a burn season from October to March. We evaluate the site to see if it is worth us burning. We do asbestos remediation if that is warranted. This is the second of the three live burns that we are allocated by Council for the year. This structure has been authorized by the owners for us to

utilize as live burn training. Staff has been out, evaluated the site and determined that this structure is safe for a live burn.

***A motion was made by Councilman R. E. King, seconded by Councilwoman J. M. Baker to approve the request for a live burn at 811 Herrington Road. Those voting in favor of the motion were: King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.***

**5} PUBLIC HEARINGS:**

a} Revised Taxicab Ordinance:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated that staff was asked to revise the taxicab ordinance that was adopted on December 8, 2009 to reflect changes that were requested by Councilwoman Hill-Lawrence. Those changes included modifying the following sections: 86-22, 86-25, 86-30, 86-51, 86-70, 86-72 and 86-73. Staff has incorporated the changes requested into a new taxicab ordinance. The following are the proposed changes:

- The definition section (86-19) was modified to include three previously defined terms: Council, Immediate Family and Rate Card.
- Section 86-22 has been modified to reflect that the City Council issues licenses and not the City Manager.
- Section 86-25 was modified to reflect the wording that was in the old ordinance.
- Section 86-27 was reinstated from old ordinance.
- Section 86-30(a) (3) was changed to reflect the wording in the old ordinance.
- Section 86-30(c) was changed to place the burden of proof on the driver if he/she is operating under a grandfather provision.
- Section 86-30(d) requires that an appeal of a revocation be filed with the City Clerk and that the City Council will hear such an appeal and not the city manager.
- Section 86-38(a) clarifies wording concerning conviction of a felony or misdemeanor and like 86-30 requires that an appeal be heard by the City Council.

-Section 86-51 was modified to eliminate an approved color scheme.

-Section 86-51(b) requires that the name of the taxicab be affixed to the vehicle and that a lighted globe be placed on top of the vehicle.

-Section 86-70 which addresses carrying more than one fare-paying customer has been deleted.

86-72 which was the section on taxicab meters has been deleted.

-The City Council requested that 86-73(2) be deleted; however, the City Attorney advised staff that this section needs to stay in the ordinance. However, staff decreased the daily fee from \$50 to \$10.

-Since the taxicab meter section has been deleted, staff believes that the City Council needs to adopt the existing rate card schedule.

Mayor McLean declared the meeting into public hearing.

City Clerk D. S. Pierce-Tamplen called Bobby Riddick to the podium. Mr. Riddick expressed his opinion about the proposed taxicab meters.

Mr. Tony Sawyer expressed his concerns regarding the proposed amendments. Most of the changes are just common sense issues.

Mr. Anthony Griffin expressed his concerns regarding the proposed amendments.

Mr. Larry Moore expressed his concerns regarding the meters as well as the other proposed amendments.

Mr. William Gibbs addressed his concerns regarding the number of cabs in Elizabeth City. He feels that we don't need to increase the number.

Since no one else wished to speak for or against the proposed taxicab ordinance, Mayor McLean declared the public hearing closed.

***A motion was made by Councilman R. E. King, seconded by Councilman J. A. Stimatz to adopt the following Ordinance to include the amendments as stated tonight. Those voting in favor of the motion were: King, Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.***



**ORDINANCE # 1011  
AMENDMENTS TO ORDINANCE #1011  
TAXICABS**

**ARTICLE I. IN GENERAL**

**Secs. 86-1—86-18. Reserved.**

**ARTICLE II. TAXICABS\***

**Sec. 86-19. Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Business license* means a certificate of public convenience and necessity granted to the owner of a vehicle for hire business by the City.

*Council* means the city council.

*Driver* means any person who drives a taxicab.

*Drivers' permit card* means a card issued by the inspector to a taxicab driver for display within a taxicab indicating that driver has been approved to drive a taxicab.

*Inspector* means the inspector of taxicabs of the city.

*Owner* means any person who has control of the operation or maintenance and collection of the revenue of a vehicle for hire business and to whom a business license for the operation of a vehicle for hire business has been issued.

*Person* means any individual, partnership, association, corporation or other organization owning or operating or proposing to operate any taxicab within the city.

*Public place* means any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including, but not limited to, streets, sidewalks, highways, alleys, rights-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, ships, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks, similar areas that are open to the public, and other common areas open to or accessible to the public.

*Rate card* means the card provided by the owner of a taxicab which is approved by the Inspector and which describes the schedule of fares, approved by the city council, charged by the taxicabs.

*Taxicab* means any motor vehicle, seating nine or fewer passengers, operated upon any street or highway on call or demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger so being transported.

*Taxicab Permit or Vehicle for Hire Permit* means a privilege license issued and required for each vehicle operated under a business license.

(G.S. 20-87.1-b).

(Code 1993, § 19-1; Ord. No. 05085, § 19:1, 8-8-2005)

**State law references**—Power to tax and regulate, G.S.20-37; registration, G.S. 20-87; insurance, G.S. 160A-304

#### **Sec. 86- 20. Owners and drivers distinguished.**

(a) To own one or more taxicabs shall mean to engage in the vehicle for hire or taxicab business with such taxicabs in the city by causing taxicabs which are under a person's ownership or control to be propelled, either by himself or by someone under his direction or supervision, for the purpose of carrying passengers for hire. An owner is a person who owns one or more taxicabs.

(b) To drive a taxicab shall mean to be physically in control of a taxicab whether or not such taxicab is in motion, when such taxicab is being used for, or is available or ready to be used for the carrying of passengers for hire. A driver is one who drives a taxicab.

(Code 1976, § 19-2; Code 1993, § 19-2; Mo. of 2-1-1993; Ord. No. 05085, § 19:2, 8-8-2005)

#### **Sec. 86- 21. Office of inspector of taxicabs is created.**

(a) There is hereby created the office of inspector of taxicabs, who shall be appointed by and directly responsible to the chief of police.

(b) The inspector shall be responsible for the taking of applications from persons applying for ownership and/or to drive a taxicab, be responsible for the inspecting or causing to be inspected taxicabs and shall make all investigations relative to the licensing of drivers thereof.

(c) The inspector shall maintain necessary records related to the issuance of a business license to include: copies of articles of incorporation, partnership agreements, assumed name certificates or other documents indicating the legal status of the applicant.

(d) The police department shall at all times maintain a complete record of every taxicab owned and every permit to drive in the city pursuant to a license or permit duly issued. Such record shall consist of the application for a business license, a list of drivers permitted to drive each taxicab and complete information as to public liability insurance coverage associated with each taxicab.

(Code 1993, § 19-23; Mo. of 2-1-1993; Ord. No.05085, § 19:23, 8-8-2005)

(Code 1993, § 19-3; Mo. of 2-1-1993; Ord. No. 05085, § 19:3, 8-8-2005)

### **Sec. 86- 22. Issuance or denial of business license.**

The city council shall have power and it shall be its duty to order a certain license issued or to refuse to issue a certain license sought. The city council may attach to the exercise of the rights granted by such license such terms and conditions as in its judgment the public convenience and necessity may require.

(Code 1976, § 19-28; Code 1993, § 19-13; Mo. of 2-1-1993; Ord. No. 05085, § 19:13, 8-8-2005)

### **Sec. 86- 24. Duration; application for renewals.**

A business license issued under this article shall constitute a privilege from the city for the operation of a vehicle for hire business within the city subject to the provisions of this chapter for one year, unless a shorter period of time is specified in the license. Applications for renewal shall be filed annually.

(Code 1993, § 19-15; Mo. of 2-1-1993; Ord. No. 05085, § 19:15, 8-8-2005)

### **Sec. 86- 25. Transferability of taxicab certificate.**

The holder of a business license may be allowed to sell/transfer a business license to any other person as long as the sale/transfer is approved by the city council and the purchaser/receiver meets the qualifications of the taxicab ordinance.

(Code 1993, § 19-16; Code 1976, § 19-10; Mo. of 2-1-1993; Ord. No. 05085, § 19:16, 8-8-2005)

### **Sec. 86- 26. Substitution of vehicles.**

No vehicle may be substituted for any currently permitted vehicle which is out of service for any reason. If the owner wishes to place additional vehicles in service then those vehicles must be permitted separately.

**Sec. 86.27. Failure to begin operations within 60 days.**

If a business license is granted to an applicant and the applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 60 days after the date of such license, then the license shall become null and void.

**Sec. 86-29. Revocation of taxicab business license upon failure to pay license fee.**

Any operator who fails to pay the taxicab license fee required by this article by 5:00 p.m. August 31 of each year shall automatically cause his license to be terminated and automatically revoked.

(Code 1993, § 19-20; Mo. of 2-1-1993; Ord. No.05085, § 19:20, 8-8-2005)

**Sec. 86-30. Revocation of permit to drive, business license, or vehicle for hire permit.**

(a) The inspector may, at any time after approval, revoke any business license, driver permit or vehicle for hire permit issued by authority of this ordinance for any one of the following causes:

- (1) Failure to operate the taxicab specified in the license in such manner as to serve the public adequately, efficiently, and safely.
- (2) Failure to maintain motor equipment in good repair.
- (3) Failure to carry liability insurance in at least the amount required by law, G.S. 20-280(b).
- (4) Five violations of this ordinance or three convictions within a one-year period of time of any city, county or state traffic or safety ordinance or law. For the purpose of this subsection, a conviction is a violation. Violations resulting in not guilty verdicts are discounted.
- (5) Violation of state laws relating to alcoholic beverages, prostitution, conviction of a felony or misdemeanor carry a penalty of at least two

years in prison or any misdemeanor conviction involving drugs or drug paraphernalia.

(6) Failure to report accidents to inspector.

(7) Willful failure to comply with any provision of this article or other provisions of this Code or other city ordinances or state laws related to the operation of taxicabs.

(8) Violating ordinances, fixing fares or failure to post cab fares charged.

(9) Any driver convicted of any misdemeanor or felony, excluding infractions, while operating a taxicab for the City of Elizabeth City shall be permanently barred.

(10) Conviction of any crime relating to the use of a weapon of any type.

(11) Repeated and persistent acts impugning the driver's truthfulness or veracity, including but not limited to fraud or deception.

(12) Addiction to or habitual use of any alcoholic beverage or any controlled substance as defined under state law as defined by G.S. ch. 18 or any controlled substance as defined by G.S. ch. 90.

(b) No permit to drive shall be revoked until the driver has had at least five days notice by personal service or registered mail of the charges against him, and of the time and place of the hearing. If, after the hearing, it is found that the driver is guilty of one or more of the violations listed herein, the inspector shall have the power to revoke the license, or to condition a revocation upon compliance of its order within any time fixed by it.

(c) Permits to drive a taxicab issued prior to the date of revision of the ordinance from which this section is derived are not subject to revocation as a result of such revisions as they pertain to prior convictions of felony or misdemeanor offenses. Permits to drive a taxicab are grandfathered in and will remain valid under the revised ordinance. Grandfathered permits are subject to all other revisions. The driver loses "grandfather" status if permit to drive isn't used for sixty consecutive days, and the burden of proof rests with the driver.

(d) If a business license is revoked as provided for herein, the aggrieved business license holder may appeal that revocation by filing with the City Clerk written notice of appeal on the prescribed form. The appeal must be filed within 14 calendar days of revocation. Upon the City's receipt of an appeal filed in a timely manner and payment of an administrative appeal fee of \$50, a hearing

will be set before the city council. The city council may, following the hearing and receiving such evidence as it shall deem appropriate, either uphold the revocation or reinstate the permit (either unconditionally or with such conditions it deems appropriate). The revocation of a business license shall be stayed during the pending of the appeal and the City shall not take steps to enforce the revocation order during such time, unless additional grounds for revocation arise during the period of the appeal.

(Code 1993, § 19-21; Mo. of 2-1-1993; Ord. No.05085, § 19:21, 8-8-2005)

**Sec. 86-31. Waiting period after denial of application.**

Upon the inspector denying the application of any person to own a business license or permit to drive a taxicab or where any person has had his owner's permit or driver's permit revoked under the terms of this article, such person, in either case, shall not again receive consideration for the issuance of such license or permit until a period of 12 months has elapsed since the last action taken by the inspector in denial of such license or permit.

(Code 1976, § 19-22; Code 1993, § 19-22; Mo. of 2-1-1993; Ord. No. 05085, § 19:22, 8-8-2005)

**Sec. 86-33. Information to be filed by owner.**

(a) Every owner of a taxicab shall file with the inspector his business address, home address, business and home telephone numbers and a list showing the serial numbers and makes of all taxicabs owned and operated by them and the names of all drivers under their service supplying permit numbers and addresses of each driver and shall, within 48 hours after any change in connection therewith, report such.

(b) The owner of a taxicab shall hold a taxicab license and see that each license is placed in each taxicab respective to each taxicab that has been approved and have it placed plainly visible to those passengers sitting both on the front and rear seats thereof.

(c) The owner of a taxicab shall see that each driver under his service has a driver's permit. Failure to do so may result in revocation of business license.

(Code 1976, § 19-13; Code 1993, § 19-24; Mo. of 2-1-1993; Ord. No. 05085, § 19:24, 8-8-2005)

**Sec. 86-34. Driver's permit required.**

No person shall drive any taxicab upon the streets of the city until a driver's permit has been issued.

(Code 1993, § 19-26; Mo. of 2-1-1993; Ord. No.05085, § 19:26, 8-8-2005)

**Sec. 86-35. Application for the driver's permit; fingerprinting required for criminal records check.**

(a) Applications for a permit to drive required by this article may be obtained from the inspector of taxicabs. Each application for a permit for the driver shall contain:

- (1) Full name;
- (2) Age;
- (3) Date of birth;
- (4) Physical description;
- (5) Address;
- (6) Social security number;
- (7) Driver's license number and state of issuance;
- (8) Prospective employer;
- (9) Previous employer;
- (10) Sworn statement providing any previous arrests and/or convictions involving any state or federal charge;
- (11) Proof of citizenship or status as legally documented worker (i.e. Visa) and
- (12) Statement providing applicant's history of use of alcohol or drugs.

(b) The inspector shall check the driver's history of the applicant through the use of the computerized files of the department of motor vehicles and shall check the criminal history of the applicant through the use of the North Carolina State Bureau of Investigation/Department of Criminal Information – Identification Section's Computerized Criminal History (CCH).

(c) The applicant is required to provide his/her fingerprints which will be submitted to state and national criminal history checks of his/her criminal record. The City shall forward the applicant's fingerprints to the State Bureau of Investigation (SBI) for a search of the state's criminal history record file and the SBI shall forward a set of the fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history check in accordance with G.S. 160A-304. This information shall be kept privileged and private and shall not be a public record under G.S. Ch. 132. The receipt by the taxicab inspector of the criminal history record check shall be used solely to determine eligibility for a permit.

Editor's note—This section added to meet DCI Requirements for CCH.

(Code 1993, § 19-27; Ord. No. 021103, 11-4-2002; Ord. No. 05085, § 19:27, 8-8-2005)

**Sec. 86-36. Condition governing issuance of driver's permit.**

(a) No taxicab driver's permit shall be issued unless the applicant has been issued a valid state driver's license, and shall not be subject to any physical defects which might render him unfit for the safe operation of a taxicab.

(b) No permit shall be issued to a person who has been convicted within five years of any offense involving intoxicating liquors or other mind-altering substances unless the issuance thereof would be in the interest of the public welfare.

(Code 1976, § 19-16; Code 1993, § 19-28; Mo. of 2-1-1993; Ord. No. 05085, § 19:28, 8-8-2005)

**Sec. 86-37. Fee; term; renewal.**

(a) Upon issuance of a taxicab driver's permit, subject to the provisions of this article, the person to whom such permit is issued shall pay the fee required by the City; as such fees may change from time to time. Such permit shall be renewed annually. Upon application for renewal, the applicant shall be subject to the same investigation as required for initial issuance and shall pay such renewal fee as may be required by the city privilege license fees.

(b) Upon filing of an application for a permit, the applicant shall avail himself to the chief of police or his designee for the taking of fingerprints.

(c) The applicant is responsible for providing a certified check, to the City, made payable to the North Carolina Department of Justice in an amount equal to the



fees charged by the State Bureau of Investigation (SBI) and Federal Bureau of Investigation (FBI) for fingerprint investigations. These fees are non-refundable.

(Ord. No. 05085, § 19:29, 8-8-2005)

**Sec. 86-38. Issuance or denial by inspector and term.**

(a) The taxicab inspector shall be given the authority to issue a permit to the applicant wishing to obtain a permit. If, upon checking the criminal and driving history of the applicant, the inspector finds that the applicant for a permit has not been convicted of a felony within the last (5) years and has never been convicted of felony crimes involving moral turpitude, is of good moral character, good physical condition, of sound mind, without infirmities which might render him unfit for the safe operation of a taxicab, that the applicant is not a habitual user of intoxicating liquors or narcotic drugs, and has not been a habitual violator of the traffic laws, the inspector shall issue to the applicant a permit to drive a taxicab within the city. Persons failing to meet the conditions of Sec. 86-38(a) may still be issued a permit upon recommendation of the taxicab inspector and approval of the chief of police after a liability risk review by the city attorney. Failure to meet the conditions of (a) are grounds to deny a permit. Any person denied the permit has the right to appeal to the city council through the use of the form provided by the police department.

(b) In the event the information contained in a Computerized Criminal History (CCH) is used to disqualify an applicant from obtaining a permit, the inspector shall provide the applicant with the opportunity to challenge the accuracy of the information contained in the record. The applicant shall be given 60 days to correct, complete or decline to complete the information. Applicants wishing to correct, complete or otherwise challenge a record must avail themselves of the procedure set forth in Rule. 0404, Para (c) of the North Carolina Administrative Code .0400—Justice Division of Criminal Information. In the event a successful challenge or correction is made by the applicant, the inspector shall verify that change or correction by re-submitting the applicants fingerprints cards for verification.

(c) Driver's permits shall be issued annually under the terms of this article, and shall run for a period of one year with the renewal date being September 1 and the expiration date being August 31. Any permits issued during the year shall have an identical date of expiration.

(d) The inspector shall have the right to refuse any permit to any applicant for any of the grounds enumerated under section 86-30.

(e) Permits to drive a taxicab issued prior to the date of the revision of the ordinance from which this section is derived are not subject to revocation as the result of a conviction of a felony or misdemeanor offense occurring prior to the revision of the ordinance from which this section is derived. This section is added to grandfather in existing permits. The driver loses "grandfather" status if permit to drive isn't used for sixty consecutive days and the burden of proof rests upon the driver

(Code 1993, § 19-30; Ord. No. 05085, § 19:30, 8-8-2005)

**Sec. 86-39. Information to appear on issued permit.**

Upon approval by the taxicab inspector there shall be issued on a form prepared by the inspector and chief of police, a taxicab driver's permit which shall contain a photograph of the driver, his right thumbprint, permit number, date issued, expiration date, name, age, weight, height, race, color of hair and eyes, employer and signature of the driver. Said driver's permit shall be signed by the chief of police or the inspector of taxicabs.

(Code 1976, § 19-20; Code 1993, § 19-31; Mo. of 2-1-1993; Ord. No. 05085, § 19:31, 8-8-2005)

**Sec. 86-40. Display of permit while driving taxicab.**

Each taxicab driver's permit shall be displayed by the driver at all times while driving the taxicab. Such permit shall be displayed in a place plainly visible to those passengers sitting both on the front and rear seats thereof and no driver shall drive a taxicab without such a permit and without same being plainly visible to the passengers.

(Code 1976, § 19-20; Code 1993, § 19-32; Mo of 2-1-1993; Ord. No. 05085, § 19:32, 8-8-2005)

**Sec. 86-42. Solicitation of passengers.**

(a) No driver shall solicit passengers for a taxicab when sitting in the driver's compartment of such taxicab or while standing immediately adjacent to the curbside thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to their vehicle at all times when such vehicle is upon the public street, except upon a request to assist in handling of baggage of a passenger or prospective passenger.

(b) No driver shall solicit patronage in a loud tone of voice or by sign or in a manner that may annoy any reasonable person, obstruct the movement of any person or vehicle, or follow any person for the purpose of soliciting patronage.

(c) No driver shall solicit passengers at the terminal of any other common carrier.

(Ord. No. 05085, § 19:34, 8-8-2005)

**Sec. 86-43. Restriction in number of passengers.**

No driver shall permit more persons to be carried in a taxicab than the seating capacity of the taxicab, as determined by the manufacturer of that type of vehicle, including the driver.

(Ord. No. 05085, § 19:35, 8-8-2005)

**Sec. 86-44. Accepting additional passengers.**

No driver shall permit any other person to occupy or ride in their taxicab, unless the person first employing the taxicab shall consent to the acceptance of additional passengers.

(Ord. No. 05085, § 19:36, 8-8-2005)

**Sec. 86-45. Deception of passengers.**

No driver shall deceive or attempt to deceive any passenger who may ride in the taxicab, or who may desire to ride in such taxicab as to the destination or the rate of fare to be charged, or shall convey any passenger, or cause any passenger to be conveyed to a place other than that directed by the passenger, by the most direct route, unless so requested by the passenger.

(Ord. No. 05085, § 19:37, 8-8-2005)

**Sec. 86-46. Lost articles.**

The driver of a taxicab shall make every effort possible to return any lost article that may be found in the taxicab to the rightful owner as soon as possible after the discovery of such article. If the owner cannot be located the lost article shall be turned over to the city police department as soon as possible.

(Ord. No. 05085, § 19:38, 8-8-2005)

**Sec. 86-47. Unauthorized passengers.**

No taxicab shall be used other than as a vehicle for hire unless the driver is off duty. No individual except the owner or driver shall be allowed to ride in the taxicab which is in service unless such individual is a fare paying passenger.

(Ord. No. 05085, § 19:39, 8-8-2005)

**Sec. 86-48. Compliance with passenger's request.**

(a) Each driver shall comply with all reasonable and lawful requests of the passenger as to the speed of travel and the route to be taken.

(b) The driver shall upon request of any passenger, give such passenger the correct name and address of such driver and such other information as will identify the vehicle, driver and owner thereof.

(c) Persons with handicaps who ask a driver for assistance with a handicap device (i.e. wheelchair and the like) shall not be charged any additional fee for such assistance.(Ord. No. 05085, § 19:40, 8-8-2005)

**Sec. 86-49. Prior notice and payment of fare.**

The driver shall inform the passenger of the lawful fare prior to transporting the passenger and if the driver so desires, the driver may demand the fare to be paid prior to transporting any persons or property.

(Ord. No. 05085, § 19:41, 8-8-2005)

**Sec. 86-50. Conduct of driver and driver's appearance.**

The driver of a taxicab shall at all times be courteous and polite. The driver shall refrain from any profanity, vulgar language or gestures and any other speech or comments that may be considered offensive to any reasonable person. This shall include any offensive comments in regards to race, religion, gender, ethnic origin or sexual orientation.

While operating a taxicab for hire on the streets of the City, a taxicab driver shall be properly attired in accordance with the following standards:

(a) A driver's clothing and shoes shall be neat and in good repair, free of holes, tears, stains, or soil.

(1) Undershirts, bare midriff or backless attire, shorts, cut-off jeans, and miniskirts are prohibited while the taxicab is for hire; provided, however,

shorts may be worn if the length is not more than two inches above the knee.

(2) Proper hygiene required.

(Ord. No. 05085, § 19:42, 8-8-2005)

Editor's note—This section is new—added by ECPD.

**Sec. 86-51. Name of owner to be permanently affixed on taxicab**

(a) The owner of said company shall cause to be permanently affixed to the taxicab; the owner's name, taxicab company, taxicab number (cab number issued by the inspector) and telephone number with permanent paint or other permanent lettering (professionally affixed) on both sides and on the rear of each cab. All lettering/numbers on the sides of cab must be a minimum of three (3) inches high. Lettering/numbers on the rear of cab must be a minimum of one (1) inch high and must be of contrasting color.

(b) In addition to permanently affixing the company name, a lighted globe shall be placed on top of the taxicab with identifying company and telephone number and must be illuminated whenever the taxicab is engaged

(Code 1976, § 19-23; Code 1993, § 19-33; Ord. No.05085, § 19:43, 8-8-2005)

**Sec. 86-52. Information to be displayed for passengers.**

There shall be posted on the back of the front seat of each taxicab in a conspicuous place, plainly visible to the passengers, a card showing the license number of the taxicab, the owner, and the rates permitted to be charged.

(Code 1976, § 19-24; Code 1993, § 19-34; Mo. Of 2-1-1993; Ord. No. 05085, § 19:44, 8-8-2005)

**Sec. 86-53. Inspections of taxicabs.**

The inspector of taxicabs from time to time as deemed necessary shall cause an inspection to be made of all taxicabs licensed hereunder, to ascertain whether the terms of this article have been complied with and to further ascertain whether the physical condition of said taxicab is such as to be conducive to the public's safety.

All taxicabs will be subjected to on the spot inspections. These inspections will include but are not limited to checking the driver and vehicle for proper paperwork, inspection of the cleanliness of the taxicab, inspecting the operating

condition of the taxicab and periodic searches for drugs or investigation of any suspected violation or criminal activity occurring within or about the taxicab.

Taxicabs are subject to periodic equipment inspections by the taxicab inspector during the year to insure compliance with this section.

(Code 1976, § 19-25; Code 1993, § 19-35; Mo. Of 2-1-1991; Ord. No. 05085, § 19:45, 8-8-2005)

**Sec. 86-54. Vehicle equipment.**

In addition to all other applicable regulations, all taxicabs operated in the city shall be equipped and maintained in a satisfactory condition so as to comply with the general statutes of the state, and the provisions of this Code and among other requirements shall:

- (1) Have a body of a sedan or enclosed type and shall not exceed the capacity for a taxicab as prescribed by G.S. 20-87.
- (2) Have four doors, two leading into the passenger's compartment and two leading into the driver's compartment, so constructed that they may be opened from the inside and outside.
- (3) Have all openings, doors and windows in proper working condition.
- (4) Be equipped with a heater in order to adequately heat the interior of the taxicab in cold weather.
- (5) Have all windshields, side and rear glasses clear and free from all cracks and clear of dirt or obstruction to clear view.
- (6) Have front and rear bumpers of original manufacturer's design and attachments which shall be in place and in proper repair.
- (7) Have headlights, brake lights, taillights and turn signals in good working condition and as installed by the original manufacturer.
- (8) Be equipped with two-way radio or cellular phone in order that the taxicab can have direct communication with the dispatch center.
- (9) Be equipped with any other item which the city may require for the convenience and safety of the passengers. Produce at the time of inspection and a current state safety inspection certificate as required by G.S. 20-183.3.

(10) Must produce license, registration, and proof of insurance.

(Ord. No. 05085, § 19:46, 8-8-2005)

**Sec. 86-55. Condition of taxicab.**

Every vehicle operating under this Code shall be kept in a clean and orderly condition as required by the Code. The owner and driver shall keep the body of the taxicab, interior and exterior, safe, clean, and orderly and its general appearance shall be kept as close as possible to the manufacturer's original appearance with respect to construction and finish of the car, normal wear and tear expected, unless an approved color scheme is adopted, and all doors, fenders, etc. shall be of the same color.

(Ord. No. 05085, § 19:47, 8-8-2005)

**Sec. 86-56. Maintenance of taxicab.**

At any point that a cab is involved in a accident or has visible sheet metal or body damage in excess of three hundred dollars (\$300.00), or is unsafe for operation as determined by the Inspector, it shall be removed from service and repaired prior to going back into service. An owner has 60 days to get the taxicab repaired and back operable or he/she must show just cause why there will be additional delay. Any damage under three hundred dollars (\$300.00) must be repaired within 60 days or the Inspector may remove that vehicle from service.

(Ord. No. 05085, § 19:48, 8-8-2005)

**Sec. 86-57. Inspection receipt.**

(a) Upon completion of a taxicab inspection, the taxicab inspector shall provide the driver and/or owner with an inspection receipt which must be kept in the taxicab at all times. The inspection receipt must state:

- (1) The make, model, year and vehicle identification number (VIN) of the taxicab.
- (2) The date of inspection.
- (3) The name of the taxicab inspector.

(4) A list of the components of the inspection performed and whether or not they passed or failed.

(5) Serial number of the inspection sticker.

(b) If any component does not pass inspection, that component must be repaired prior to the certificate of inspection being issued. The taxicab inspection receipt must be made available to any city police officer upon request.

(Ord. No. 05085, § 19:49, 8-8-2005)

**Sec. 86-58. Issuance/display of taxicab sticker.**

Upon a successful inspection each owner shall be issued a taxicab sticker. The sticker shall be of a design approved by the inspector of taxicabs. The sticker shall be affixed on the inside of the rear window of the taxicab in the bottom left hand corner. Each sticker must indicate when it expires, be of a unique color to correspond with the year of issuance, and must be printed with a unique serial number that must match information printed on the inspection receipt.

(Ord. No. 05085, § 19:50, 8-8-2005)

**Sec. 86-59. Rate of fares.**

(a) The city council shall from time to time adopt a schedule of rates to be charged by taxicabs for hauling passengers. The schedule of rates so fixed shall remain in effect until changed by the city council. The schedule of rates shall be at all times prominently posted and displayed in such taxicab so as to be visible to the passengers therein, and a copy shall be filed in the office of the chief of police or inspector of taxicabs.

(b) No person shall charge or attempt to charge any passenger a greater fare than that to which the taxicab is entitled under the provisions of this article.

(Code 1976, § 19-26; Code 1993, § 19-36; Mo. Of 2-1-1993; Ord. No. 05085, § 19:51, 8-8-2005)

**Sec. 86-60. Purchase of registration plate; inspector furnish DMV Form MVR-314.**

The taxicab inspector shall complete and furnish to each owner the DMV Form MVR-314 to allow them to purchase a taxicab registration plate.



(Code 1993, § 19-37; Mo. of 2-1-1993; Ord. No. 05085, § 19:52, 8-8-2005)

**Sec. 86-62. Temporary permit.**

A temporary taxicab driver's permit may be granted by the inspector of taxicabs, after prior approval of the chief of police, if in his opinion the issuance of such temporary permit is in the public interest, such permit to be valid only 30 days.

(Code 1976, § 19-18; Code 1993, § 19-40)

**Sec. 86-64. Use of tobacco products and other substances.**

No driver, owner or passenger will be allowed to use tobacco products, alcoholic beverages, illegal drugs, or other impairing substances while in a taxicab.

**Sec. 86-66. Authority for removal of taxicabs from streets.**

The chief of police or his designee shall have the authority to remove from service on the streets of the City any vehicle used as a taxicab until all deficiencies have been corrected. An order of the Taxicab Inspector to remove a vehicle from the City streets may be appealed to the chief of police, and if so desired, the city council. Until the appeal has been heard and the city council has ruled otherwise, the taxicab ordered to be removed from service shall not be used for operations. Any appeal must be heard within 30 days.

**Sec. 86-67. Reporting accidents.**

The owner of a license shall report all accidents involving taxicabs to the inspector or the chief of police within seventy two (72) hours of the accident. The inspector will inspect the taxicab and will provide written instruction to the owner, stating if the taxicab can or cannot be operated until such damage is repaired.

**Sec. 86-68. Sleeping, lounging or lying in taxicabs prohibited.**

While any taxicab is parked in a public place the driver will remain awake and alert at all times. Sleeping, lounging in a reclining posture, or lying in a taxicab is prohibited in a public place.

**Sec. 86-69. Travel to Passenger Location.**

No charge shall be made for time and/or mileage for traveling to the location of a prospective passenger.

**Sec. 86-71. Advertisement billboards.**

Advertisement Billboards will be placed on the rooftop of taxicab only. Rooftop billboards shall be no greater than; Dimensions: overall length 50 inches, width 44 inches and height 18 inches.

**Sec. 86-73 Penalties for violation of ordinance.**

Any one or all of the following procedures, among others, may be used by the City to enforce the provisions of this ordinance:

(1) Injunction – Any violation of this ordinance or any condition, order, or requirement adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by appropriate proceeding pursuant to state law.

(2) Civil Penalties – Any person who violates any provisions of this ordinance shall be subject to assessment of civil penalties in the amount of \$10.00 per day, with each day that such violation continues to be considered a separate violation subjecting the violator to a separate, additional civil penalty. If the civil penalty imposed is not paid within 30 days of its being imposed, the violator may be subject to criminal prosecution under N.C.G.S. Sec. 14-4.

**ADOPTED**, this 25<sup>th</sup> day of January 2010.

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Roger A. McLean  
Mayor

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Dianne S. Piece-Tamplen, MMC  
City Clerk

2} Proposed electric rate decrease of 1.6%:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated that during the City Council meeting held on December 14<sup>th</sup>, staff was instructed to bring back options that would allow the Council to decrease the electric bills within the City. This can be accomplished in two different ways: a reduction in expenditures in either or both Electric Fund and the General Fund; or an increase in revenue in either of these funds. The revenues projections for the General Fund and the Electric Fund are flat. The General Fund is showing a decline in sales tax and building related revenues. To decrease the electric rate 1%, a reduction of expenditures equal \$380,000 will be needed. Staff is proposing cuts in the following manner: \$295,186 in cuts from the Electric Fund, \$130,500 in cuts from the General Fund and decreasing the fund balance in the General Fund by \$200,000. The total Electric Fund and General Fund decrease is \$625,684 which would allow a 1.65% reduction in the electric rate.

Councilman Stimatz asked a question regarding the distribution of the rates. Is he to understand that all of our customers will get this reduction? Can we differentiate between residential and non residential?

Mr. Olson replied that is correct. A lot of it deals directly with our publish rate that we have. We have been advised that we cannot differentiate between the classes of customers.

Mayor McLean declared the meeting into public hearing. Since there was no one present who wished to speak for or against the proposed decrease of 1.65% in electric rates, Mayor McLean declared the public hearing closed.

***A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to adopt the following ordinance decreasing the electric rates by 1.65%. Those voting in favor of the motion were: King, Hummer, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.***

**ORDINANCE #1012  
DECREASING THE CITY OF ELIZABETH CITY ELECTRIC RATE  
BY 1.65%**

**WHEREAS**, the City of Elizabeth City Council believes that the electric rate payers of Elizabeth City need relief from high utility bills; and

**WHEREAS**, the City Council has identified \$625,000 in budget cuts to the City's General Fund and Electric Fund; and

**WHEREAS**, the City Council wishes to utilize the \$625,000 in budget cuts to decrease citizens' electric rates;

**NOW, THEREFORE, BE IT ORDAINED**, that the City of Elizabeth City Council hereby adopts a 1.65% energy and basic charge decrease in electric rates; and

**BE IT FURTHER ORDAINED**, that the 1.65% electric rate decrease shall become effective with the February 2010 utility billings.

**ADOPTED**, this 25<sup>th</sup> day of January 2010.

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Roger A. McLean  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

***A motion was made by Councilwoman J. M. Baker, seconded by Mayor Pro Tem L. A. Hummer to adopt the following Budget Amendment that reflects the budget cuts. Those voting in favor of the motion were: Baker, Hummer, Brooks, Hill-Lawrence, R. E. King, B. S. Meggs, J. A. Stimatz and J. B. Walton. Against: None. Motion carried.***

**BUDGET AMENDMENTS  
NUMBER 2010-03  
JANUARY 25, 2010**

**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, 2010:

Section I.	Increase	Decrease
(304430.1600)-IT Maintenance & Repair-Equipment	\$	\$ 1,000
(304430.7300)-IT Improvements-Main Frame		2,500
(304500.4500)-Purchasing Contracted Services		1,500
(306600.6000)-Non-Departmental Contingency		20,184
(307200.7400)-Customer Service Capital Outlay-Equip		50,000

(308300.0400)-Electric Professional Services	25,000
(308300.1620)-Electric Maintenance & Repair-Buildings	65,000
(308300.4500)-Electric Contracted Services	10,000
(308300-7300)-Electric Line Improvements	70,000
(308400.1501)-Energy Manage Maint & Repair-Buildings	1,500
(308400.1600)-Energy Manage Maint & Repair-Equipment	2,500
(308400.4550)-Energy Manage Weatherization Program	25,000
(308400.5220)-Energy Management Rider #1	5,000
(308400.7307)-Energy Management Well Generators	16,000
(303710-0000)-Electric Energy Sales	425,684
(306600.9120)-Non-Departmental Transfer to GF	130,500
(104200-0200)-Admin Salaries & Wages-Regular	15,000
(104700.0401)-Legal Misc Legal Work	3,000
(104900.1100)-Planning Telephone	1,000
(104900.1101)-Planning Postage	750
(104900.1400)-Planning Travel & Education	1,500
(104900.1410)-Planning Travel-Planning Commission	1,500
(104900.3300)-Planning Departmental Supplies	1,000
(105000.3300)-Public Buildings Departmental Supplies	1,000
(105000.5430)-Public Buildings Insurances-Claims Paid	1,000
(105100.3300)-Police Departmental Supplies	3,500
(105100-3600)-Police Uniforms	8,000
(105300.1400)-Fire Travel & Education	4,000
(105300.3300)-Fire Departmental Supplies	3,000
(105300.3600)-Fire Uniforms	5,000
(105450-2600)-Public Works Admin Legal Advertising	500
(105450.3200)-Public Works Admin Office Supplies	1,000
(105450.4500)-Public Works Admin Contracted Services	1,000
(105600.1400)-Public Works Street Travel & Education	1,000
(105600.1500)-Public Works Street Maint & Repair-Bldg	2,500
(105600.3100)-Public Works Street Auto Supplies	1,500
(105600.3300)-Public Works Street Departmental Supplies	2,000
(105600.4500)-Public Works Street Contracted Services	54,000
(105800.1600)-Public Works Sanitation Main & Repair-Equip	3,000
(105800.2101)-Public Works Sanitation Equipment Rental	750
(105800.2600)-Public Works Sanitation Advertising	500
(106200.1400)- Parks & Recreation Travel & Education	500
(106200.1510)-Parks & Recreation Maint & Repair-Grounds	2,000
(106200.1600)-Parks & Recreation Maint & Repair-Equip	2,000
(106200.2300)-Parks & Recreation Organized Programs	3,000
(106200.3200)-Parks & Recreation Office Supplies	1,000
(106800.3200)-Human Resources Office Supplies	500
(106800.4500)-Human Resources Contracted Services	3,000
(103970.3000)-General Fund Transfer from Electric	330,500

(103990.0000)-General Fund Balance Appropriated      200,000  
(To record reductions for electric rate decrease)

**ADOPTED**, this 15<sup>th</sup> day of January 2010.

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Roger A. McLean  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

3} Text Amendment TA-05-09:

Mayor McLean called upon Planning Director J. C. Brooks for comments.

Ms. Brooks stated TA-05-09 is a text amendment to Section 12-10 of the Unified Development Ordinance relating to entry marker regulation on the Halstead Boulevard Overlay Corridor. This Code Amendment was initiated by TWG1 North, LLC & Liberty Warehouse LLC who are the owners of Tanglewood Plaza. This is a ten lot subdivision east of Tanglewood Parkway and fronting on Halstead Boulevard. In 2006 the Halstead Corridor Overlay District was established to create an integrated and visually appealing image corridor into the City. The overlay district was established to create design standards for building, landscaping and buffering requirements, restrictive sign standards, lighting and utility standards. In 2008, City Council adopted an amendment which created entry marker signs along the corridor. The intent of these markers were to identify subdivisions over 10 acres in size and to allow only 3 major tenant logos on them. The maximum size of the entry marker is 10 feet in height with the message area not to exceed 100 square feet. In addition to an entry marker sign the ordinance allows commercial subdivision to have a free standing monument style sign at the entranceway to the shopping center with a maximum height of 8 feet and maximum length of 12 feet with a message area not to exceed 50 square feet. There are no limits to the number of tenant identifications on these markers. The applicant is requesting to amend the entry marker sign of limit of 3-logos to allow up to 10-logos. The height of 12 feet and message area of 100 square feet remain the same. The Planning Commission met twice with the applicant on this proposal. While there was much discussion

concerning this amendment Planning Commission voted 3 to 1 to approve the amendment to allow up to 10-logos symbols on the entry marker sign.

Mayor McLean declared the meeting into public hearing.

Mr. Tom Nash spoke on behalf of TGW1 North and Warehouse Properties. The owners of a 72 acres parcel which is just to the east of WalMart. It fronts on Halstead Boulevard and Parkway North. They have received preliminary plat approval for a 10-lot subdivision at the front and then they have some 50 acres in the rear that will be a separate subdivision. One of the things that has come up of course is the visibility of the area in the back and also the number of lots in the front which is ten. The proposal in front of you for this text amendment is to allow entry markers for subdivisions and to allow 10-logos verses the 3 logos. Retailers demand maximum signage. There is no question about it and these days this is a tough market out there. The developer has received preliminary plat approval. They are ready to develop; however, they are already experiencing questions about signage. It is important enough for the lots on the front but in the rear where you will not be able to see some of what we hope will be big box retailers. It becomes increasingly important to have visibility on Halstead Boulevard. We are not proposing that we increase the size of the sign. The area in which the logos will be place will be the same. It is important again in this economic environment that they have all the help that they can get. The Planning Commission approved our request.

Since no one else wished to speak for or against the proposed Text Amendment, Mayor McLean declared the public hearing closed.

***A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. E. King to approve Text Amendment TA-05-09 as presented tonight. Those voting in favor of the motion were: Baker, King, Brooks, Hummer, Hill-Lawrence, B. S. Meggs, J. A. Stimatz and J. B. Walton. Against: None. Motion carried.***

**6) REGULAR AGENDA:**

a} Award of Bid – Oak Grove Drainage Project:

City Manager Olson stated this particular item has been on the drawing board for a number of years. We opened bids last week. We received three bids and the low bid was from Parks Land Development for the construction of the Oak Grove Drainage Project in the amount of \$366,740 and adopt the following budget amendment.

Councilman Walton stated that Ms. Hill-Lawrence and he met with the residents of Oak Grove and we talked over the project. We showed them what we were going to try and do. We also at that same meeting met with the Spaulding Park Community and they said they thought that we were all tied in there together. We told them that all other wards have some things that we are trying to prioritize also. If we complete this project at Oak Grove how much would it cost to do something for Peartree Road?

Mr. Fredette said that we discussed this at the meeting and the residents from Spaulding Park were there. The question in terms of defining the project that exists was at best vague. He understands that there are problems in the area. After meeting, the Manager and he road through the area and looked at potential problem areas. He hasn't put the pen to the paper yet on what we will be doing in the Spaulding Park area.

Mr. Walton asked if he could give him a cost estimated at the next meeting.

**A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to award the bid to Parks Land Development for the construction of the Oak Grove Drainage Project in the amount of \$366,740; and, adopt the following budget amendment. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, King, Meggs and Walton. Against: None. Motion carried.**

**BUDGET AMENDMENT  
NUMBER 2010-04  
JANUARY 25, 2010**

**BE IT ORDAINED**, by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance and capital project ordinance for the fiscal year ending June 30, 2010.

**SECTION I.** That the Stormwater Retained Earnings Appropriated (3433990.0000) and the Transfer to Oak Grove Capital Project (38500.9102) be increased by \$121,740. That the transfer from Stormwater Fund (583970.0000) and the Oak Grove Construction (582009.7300) be increased by \$121,740.

(Balance of funds needed for City's portion of Oak Grove Project –Total of \$246,740).

**ADOPTED**, this 25<sup>th</sup> day of January 2010.



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Roger A. McLean  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

**7} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:**

City Manager Olson asked to clarify an issue concerning the public hearing that we had on the rate decrease. He misspoke when he said that you can not definerate between customers in rate categories. You can because we have a residential rate and we have a commercial rate. As long as we treat everyone within the respective tariffs the same there is not a problem. He thinks he may have confused some members of the City Council.

Councilwoman Hill-Lawrence stated she would like to say thank you to one of our employees here in the Customer Service Department. One of her members in the Fourth Ward that has recently moved here from New York City and he went into the office to pay his light bill and he overpaid it by \$100. Cathy Harris took the money and got in touch with him and the City reimbursed him.

Councilman King stated he had no further comments.

Councilwoman Baker stated that she attended the Hope Group Dinner on Saturday night and it was a really nice event. They are doing a lot with racial relations in this area. It was a really nice event.

Councilman Walton stated he had no further comments.

Mayor Pro Tem Hummer stated she would like to say the Hope Group Banquet was really a very nice event. Also, yesterday, Councilwoman Lena Lawrence's church celebrated their 90<sup>th</sup> anniversary. It was an outstanding event and this young man who is in the 4<sup>th</sup> grade was the Master of Ceremonies and he is already an accomplished public speaker. She would also like to mention that on Thursday there will be a Pennsylvania Avenue Crime Watch Meeting and that is at Blackwell Church at 7:00 p.m.

Councilwoman Meggs stated she had no further comments.

Councilman Stimatz stated he had no further comments.

Councilman Brooks stated that he had no further comments.

Mayor McLean stated he wanted to thank the Council for working so hard. This is a hard working Council. He also thanked the Manager and staff for all the hard work that they are doing. He is happy to see that we voted for the electric rate decrease. He knows that a lot of times we don't hear people talk about their high light bill. He had a person that came into his office that actually showed me a bill for \$890. There are issues with that. Those are the type of things that we are going to have to address as a City. We still have to run the City very efficiently and at the same time we have got to give our citizens some relief. This is what you have done tonight. In addition to that he lives a mile and a half from his home and he had to detour three times to get to work this morning. We are going to have to do something about that problem also. The youth programs we are now beginning to work on.

**8} CLOSED SESSION:**

Mayor McLean entertained a motion to retire into Closed Session for discussion of personnel matters as per NCGS – for discussion of Personnel Matters as per NCGS 143-318.11 (a) (6).

***A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman R. E. King to retire into Closed Session discussion of personnel matters as per NCGS 143-318.11(a) (6). Those voting in favor of the motion were: Hummer, King, Baker, Brooks, Hill-Lawrence, B. S. Meggs, J. A. Stimatz and J. B. Walton. Against: None. Motion carried.***

***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman B. S. Meggs to return to regular session of Council. Those voting in favor of the motion were: Stimatz, Meggs, Baker, Brooks, Hill-Lawrence, Hummer, King and J. B. Walton. Against: None. Motion carried.***

Mayor McLean declared the meeting back into full session.

**9} ADJOURNMENT:**

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

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

Mayor McLean adjourned the meeting at 9:40 p.m.

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

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Roger A. McLean  
Mayor