

MONDAY-7:00 P.M.

JANUARY 28, 2008

CITY COUNCIL

The City Council of the City of Elizabeth City conducted its second regular meeting of the month on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor S. S. Atkinson presiding. Those members present were: J. M. Baker, L. A. Hummer, R. E. King, B. S. Meggs, E. K. Rivers, J. A. Stimatz and V. C. Watts. Staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Deputy City Clerk V. D. White, Inspections Director S. E. Ward, Fire Chief W. C. Pritchard, Police Chief C. E. Crudup, Parks and Recreation Director J. D. Overman, Public Utilities Director P. A. Fredette, Electrical Superintendent K. F. Clow, Human Resource Director K. W. Felton, Finance Director S. E. Blanchard and Planning Director J. C. Brooks.

Mayor Atkinson opened the meeting by welcoming those attending. He called upon Pastor Ernest Sutton 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 Atkinson called for action regarding the prepared agenda.

Mayor Pro Tem J. M. Baker asked to add, ***Discussion of the water agreement with Pasquotank County that was transferred from the Work Session Agenda this Regular Session.***

Councilman J. A. Stimatz asked to add, ***Discussion of the police department's communication capabilities.***

Hearing no other additions/deletions, Mayor Atkinson called for a motion of approval.

A motion was made by Councilwoman B. S. Meggs, seconded by Mayor Pro Tem J. M. Baker to approve the agenda as presented with the above noted changes. Those voting in favor of the motion were: Meggs, Baker, Hummer, King, Rivers, Stimatz and Watts. Against: None. Motion carried.

2} COMMENTS FROM THE PUBLIC:

Mayor Atkinson called upon the City Clerk for the number of individuals that signed up to speak under this section. Upon the reply of four with one individual giving her time to that of her husband, Ms. Pierce-Tamplen called the first speaker.

Bonnie Calliotte, 400 W. Main Street, Elizabeth City, NC, spoke regarding the current traffic situation in the Main Street Historic District and to bring to your attention that a traffic calming study should be performed in this area. She brought several traffic issues to Council's attention. She also asked Council to consider making Main Street a one-way street.

Rick Boyd, 313 West Main Street, Elizabeth City, NC, also spoke regarding the current traffic situation on Main Street. He presented several statistics from a survey that was done during a seven day period.

Richard Gilbert, 1623 Penny Drive, Elizabeth City, NC, spoke regarding IRS Form 990 for the Elizabeth City Opportunity Industrial Center. He questioned some of the figures on the form and in his opinion he feels that the OIC needs to be subject to an audit. He also feels the City has lost focus on what we wanted to do with the Resource Center. He presented some of his suggestions on how the City can regain the citizens' confidences.

3} REGULAR AGENDA:

- a} Authorization to execute "Declaration of Restrictive Covenants and Notice of Limitations of Use and Restrictions".

Mayor Atkinson called upon City Manager Olson for an update on this item.

City Manager Olson advised that in July 2007, the City acquired real property at 222 North Water Street from Carolina Construction Corporation. These restrictive covenants will basically govern the use of the property. The terms of the agreement between the City and CAMA require that the property be retained and used for public access purposes in perpetuity. The City Attorney has reviewed the declaration of restrictive covenants and has given his approval of the document.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman J. A. Stimatz, to authorize the execution of the "Declaration of Restrictive Covenants and Notice of Limitation of Use and Restrictions," by Mayor S. S. Atkinson. Those voting in favor of the motion were: Baker, Stimatz, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

b} Resolution authorizing financing with RBC Centura:

Mayor Atkinson called upon Finance Director S. E. Blanchard for comments.

Ms. Blanchard stated that the following proposals for the financing of vehicles have been received:

	<u>Fixed Rate</u>	<u>Fee</u>	<u>Total Payments Including Fees</u>
BB&T	2.86%	\$ 0	\$ 319,094.40
Gateway	5.00%	0	336,285.38
RBC Centura	2.80%	100	318,721.00
Wachovia	4.29%	0	330,543.00
Worthington Federal	4.52%	0	332,380.69

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman B. S. Meggs to adopt the following resolution authorizing the financing with RBC Centura. Those voting in favor of the motion were: Baker, Meggs, Hummer, King, Rivers, Stimatz and Watts. Against: None. Motion carried.

RESOLUTION #08-01-22

AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT IN THE AMOUNT OF \$297,000.00 WITH RBC CENTURA BANK TO FINANCE THE ACQUISITION OF CERTAIN EQUIPMENT FOR USE BY THE CITY OF ELIZABETH CITY, NORTH CAROLINA, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

BE IT RESOLVED, by the governing body for the City of Elizabeth City, North Carolina (the "Unit"):

Section 1. The governing body of the Unit does hereby find and determine:

- a) The City of Elizabeth City proposes the acquisition of certain equipment, which may include fixtures as more fully described in the hereinafter mentioned Contract (collectively, the "Equipment");
- b) After consideration, the governing body of the Unit has determined that the most advantageous manner of financing thereof is by an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended;

- c) Pursuant to Section 160A-20, the Unit is authorized to finance the acquisition of personal property, including fixtures, by installment contracts that create a security interest in the property financed to secure repayment of the financing; and
- d) RBC Centura Bank ("RBC Centura") has proposed that RBC Centura enter into an Installment Financing Contract with the Unit to finance the Equipment pursuant to which RBC Centura will lend the Unit the amount of \$297,000.00 (the "Contract") and a related Escrow Agreement between the Unit and RBC Centura (the "Escrow Agreement").

Section 2. The governing body hereby authorizes and directs the Finance Director, to execute, acknowledge and deliver the Contract and Escrow Agreement on behalf of the Unit in such form and substance as the person executing and delivering such instruments on behalf of the Unit shall find acceptable. The Clerk is hereby authorized to affix the official seal of the City of Elizabeth City to the Contract, and the Escrow Agreement and attest the same.

Section 3. The proper officers of the Unit are authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution, the Contract, the Deed of Trust and the Escrow Agreement.

Section 4. Notwithstanding any provision of the Contract or the Escrow Agreement, no deficiency judgment may be rendered against the Unit in any action for breach of a contractual obligation under the Contract or the Escrow Agreement and the taxing power of the Unit is not and may not be pledged directly or indirectly to secure any moneys due under the Contract, the security provided under the Contract being the sole security for RBC Centura in such instance.

Section 5. The Unit covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code") as required so that interest on the Unit's obligations under the Contract will not be included in the gross income of RBC Centura.

Section 6. The Unit hereby represents that it reasonably expects that it, all subordinate entities thereof and all entities issuing obligations on behalf of the Unit will issue in the aggregate less than \$10,000,000 of tax-exempt obligations, including the Contract (not counting private-activity bonds except for qualified

501(c)(3) bonds as defined in the Code) during calendar year 2008. In addition, the Unit hereby designates the Contract and its obligations under the Contract as a "qualified tax-exempt obligation" for the purpose of the Code.

Section 7. This Resolution shall take effect immediately upon its passage.

ADOPTED, this 28th day of February 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Taxicab lottery:

Mayor Atkinson called upon Police Chief C. E. Crudup for comments.

Chief Crudup stated that on November 5, 2007 a taxicab lottery was held and Ms. Raphael Lindsey was one of the applicant's names chosen to be awarded a taxicab franchise. Soon after Council's approval, Ms. Lindsey notified the police department that she no longer wished to become a taxicab owner and voluntarily relinquished her franchise. For this reason, another taxicab lottery was held on January 17, 2008. Ms. Timberly Stallings' name was chosen as the winner.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to award a taxicab franchise to Ms. Timberly Stallings. Those voting in favor of the motion were: Stimatz, King, Baker, Hummer, Meggs, Rivers and Watts. Against: None. Motion carried.

d} Wastewater Treatment Plant Obligated Capacity:

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

Mr. Fredette stated that in May of 2007, the NC Division of Water Quality notified WWTP owners that they would begin to track the total obligated flow to a WWTP

in 2008. To that end, DWQ has designed a "Flow Tracking/Acceptance for sewer extension application which must be submitted with each application for an extension or modification of a sewer collection system. To get the process started, DWQ had requested that each WWTP provide them with the current daily flow at the WWTP and the estimate of obligated flow that is not tributary to the WWTP.

The City is aware that the guidelines of DWQ historically have been that once the system reaches 80% of the permitted flow design work must be started on an expansion of the facility before any more flow can be obligated and at 90% permitted flow construction must be started on plant expansion.

The City's WWTP has a permitted capacity of 4.5 MGD and the potential of increasing the permitted capacity to 5.3 MGD by increasing blower capacity and minor modifications to the secondary clarifiers. The current tributary flow to the Elizabeth City WWTP is 2.4 MGD. The obligated non tributary flow to the facility today is 1.49 MGD for a total current and obligated flow of 3.9 MGD, which is 87% of the City's current permitted flow. He presented a power point presentation showing the estimate when the obligated flow will become tributary to the WWTP over the next ten years based on currently planned development.

e} Update/Discussions of Water Agreements with Pasquotank County.

Mayor Atkinson recognized City Manager Olson for comments.

Mr. Olson stated that over the last year, staff has been working with the staff of Pasquotank County and the County Water Committee on three separate agreements. These agreements are a Water Boundary Agreement, the Halstead Boulevard Extension Area Agreement and a R. O. Bulk Water Agreement.

On the Water Boundary Agreement we have tentatively reached an agreement, subject to City Council approval. He proceeded to show and discuss the City's territory on a map. If the City cannot directly service the area he showed, due to distribution network constraints, the County would be allowed to service those customers. The City would purchase the water, via a master meter from the County at either 90% of the County's prevailing base rate or 90% of the City's retail rate, whichever is less. All impact fees would be paid to the City. If the City elects to service customer/customers outside the indicated area, we would be required to purchase the water from the County via a master meter. The City would collect the County's meter fee, which is presently \$1800 per unit, at the time of final plat approval and reimburse the County that fee. At the time the building permit is issued, the City would collect an additional \$1200 (total fee is \$3000). \$700 would be sent to the County, while the City would keep \$500. All customers would be City customers and the City would be responsible for upkeep

of the lines within the development and for reading the meters. Staff is recommending approval of this agreement.

The second agreement is the Halstead Boulevard Extension Area Agreement, which he showed the area on the map. Within this area, all customers would be City customers and we would purchase water from the County's proposed R.O. plant. The City would be responsible for paying one-half of the costs associated with building a distribution line from the R.O. plant to the Halstead Boulevard/US 17 intersection. The estimated cost to the City would be \$1.75 million.

The City's earlier discussions concerning the repayment of the \$1.75 million centered on the sharing of impact fees within the Halstead area until the \$1.75 million debt is retired. After conferring with the City Council, we have negotiated with the County a flat annual payment plan. The City will pay the County \$1.75 million over a ten-year period at an interest rate not to exceed 5.25%. Due to recent cuts in the prime rate, the new interest rate will be approximately 4.50%. The annual payments to the County would be \$115,312.60 at the 5.25% rate. Payment would most likely start after the construction of the line. The City will be paying off the debt associated with the 1996 annexation in 2010. Annually, \$372,122.56 comes out of the Water and Sewer Fund for this purpose. The new debt will be absorbed with no anticipated increase in rates.

The final agreement is the bulk water agreement, which will cover the City's purchase price of water from the R. O. Plant. We have asked the County to fine-tune what makes up the basis for the R. O. rate (which expenses are included). We still have several small operational issues to be worked out between the City and County staff. The anticipated cost of the R. O. water is \$3.50 to \$4.00 per 1,000 gallons.

f} Police Departments' Communication Capabilities:

Mayor Atkinson called upon Councilman Stimatz for comments.

Mr. Stimatz stated that he has asked that a comprehensive plan to discuss this issue be placed on our January agenda. He knows that we have been busy with other items however; this is still a critical issue. He would like to know where we are at the present time on working on the comprehensive plan.

Mr. Olson replied that the Chief has provided you with some information that you will be receiving tomorrow that are part of your retreat package which goes into a little more depth concerning radio communications, the use of cell phones and everything else. That will be distributed tomorrow.

Mr. Stimatz asked if the issue of every officer having a cell phone been resolved. Every officer needs to carry a cell phone whether it is his personal cell phone or that of the City's. We are not meeting the guidelines that were set down by a previous council. You are not meeting the requirements of the citizens of this City. That is the one issue that he would like to have an answer on tonight. Is every officer carrying either a city cell phone or a personal cell phone?

Chief Crudup answered by saying yes they were. We have 31 officers that carry a city cell phone and the others carry their personal cell phones.

4} PUBLIC HEARING:

Mayor Atkinson stated that we would enter into a public hearing at this time for consideration of bilateral metering for renewable energy generation rider. He declared the meeting into public hearing. Since there was no one present that wished to speak for or against the item, Mayor Atkinson declared the public hearing closed.

City Manager Olson advised that a bilateral metering for renewable energy generation rider is available in conjunction with the City's residential service-RS1 electric rate tariff for residential customers owning and operating a solar photovoltaic system, without battery storage located and used at the customer's primary residence, where part or all of the electric requirements of the customer can be supplied from the customer's generating system.

Councilman Stimatz asked that on page 3, item #3 be changed to read "In the event City determines that it is necessary to install a dedicated transformer on other equipment to protect the safety and adequacy of electric service provided to other customers. Customer **may be required to pay** a monthly facilities charge of 2% of the installed cost of said additional facilities. The minimum monthly facilities charge shall not be less than \$25.00.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. A. Hummer to adopt the "Bilateral Metering for Renewable Energy Generation Rider" for residential service to become effective beginning with the March 1, 2008 utility billing; and to approve the change on Page 3, Item #3 as stated above. Those voting in favor of the motion were: Stimatz, Hummer, Baker, King, Meggs, Rivers and Watts. Against: None. Motion carried.

4} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:

Mayor Atkinson stated that he would call on the Manager and members of Council for any comments and inquires.

City Manager Olson said that he would like to remind members of Council that we do have the retreat this coming Friday and Saturday. You have received a memo concerning it. We will be handing out a background package concerning the major issues that the Department Heads have identified within their departments and they will be addressing those issues in the Friday evening part of the retreat. The facilitator has requested that members of Council take a DISC test. If you have a problem with your computer please come to City Hall.

Councilwoman Hummer said that she would like to say if staff does consider traffic calming study on Main Street that Colonial Avenue and Cedar Street will also be looked at because in that vary same block adjacent to Main Street on Colonial is the same type of congestion. People use Main, Church and Colonial when they are coming to work downtown and other places. There is also a day care located on Colonial and the school bus stops there. Also, we have problems with people parking right up to the curb at intersections. It is very dangerous to see around them. Maybe we should mark off so many feet before the corner. She thinks some streets have it and some don't.

Mayor Pro Tem Baker said that she just has one question for the City Manager regarding the taxi ordinance. Did we every complete that? It seems to her that we started reviewing that ordinance and tabled it somewhere in the middle. She doesn't think that we ever finalized that. Did we recently revise it?

Mr. Olson said that he thinks that it has been adopted by the City Council.

Mr. Morgan said that the only revision that he recalls is the revocation of franchises. He believes the ordinance was adopted when Chief Anderson was first here.

Councilwoman Watts said that she wanted to take this opportunity to say a few words. She actually wants to revisit the issue of her intervention last session on the 14th of this month. During the last Council meeting I misunderstood the rules for public comment. As a result I incorrectly interrupted a resident's comments regarding concerns that she had of our grant process. She had done this regarding the grant process as you well know. She still advocates civility in how we conduct ourselves and she now has a much better understanding of things allow and why our constitution so correctly protects the public's rights to speak openly and frankly. It is important. She would like to take this moment to apologize to my co council members, to the Mayor, to the Manager, to Ms. Gilbert and to her family. She is who I interrupted the last session that we had. She wants to apologize to the public at large because it also affected you. She

wants to let you know that she wants you to be encouraged to come before this Council and please come with a heart knowing that you will be accepted and not interrupted any more or at least not by her. None of us holding office should expect not to be questioned and to be held accountable for our actions. We are responsible to the people as we represent this government in Elizabeth City, North Carolina. She wants to thank the public and she wants to thank you Council Members, Mr. Mayor and Mr. Olson, for taking the time out to listen to her and she hopes that you will accept her apology.

Councilman Rivers asked the information that he asked for in the last public comments, are you going to get that out regarding Oak Grove. He would like to have the plans for that before the next work session. Also, on Brooks Avenue is it no parking on both sides? In the Oak Grove area what is the type of activity going on in terms of police presence? He understands that there is a possibility of some drug houses there.

Mayor Atkinson said that he only has a couple of things that he would like to bring up today. As you know, the Council and he have worked to put together a task force on crime which we have done. We have members on this organization from every ward and we have Council Members also on the Board. He thinks that the first meeting will be February 7th at 10:00 a.m. We are excited about it and we are going to move quickly. We are going to be swift in our decisions and we are going to present to Council what they think is a requirement to get their arms around crime and what we are going to do about fixing it. He is excited that some of the members are here tonight and he appreciates your coming out.

Number two, over the last several years he knows that the community as well as individuals here tonight and council members have had issues with the production of our TV. The audio has been pathetic at best. The visual part of it has been mediocre and he would like to tell each and every one of you that he has contacted a professional company that has set up many of the video and TV cameras in Currituck. We have sent them the specifications for our system and what the areas of interest are. They will be here week after next to do a complete overhaul or give us the idea of what needs to be done. Hopefully in the near future we will have a quality product.

5} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Atkinson adjourned the meeting.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Stephen S. Atkinson
Mayor