

MONDAY-7:00 P.M.

FEBRUARY 23, 2009

CITY COUNCIL

The City Council of the City of Elizabeth City held its second 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 and members J. M. Baker, D. B. Evans, L. A. Hummer, R. E. King, B. S. Meggs, E. K. Rivers, J. A. Stimatz and V. C. Watts attending. Staff members attending were: City Manager, R. C. Olson, City Clerk D. S. Pierce, City Attorney W. H. Morgan, City Manager Intern R. A. Lyons, Deputy City Clerk V. D. White, Police Chief C. E. Crudup, Planning Director J. C. Brooks, Inspections Director S. E. Ward, Fire Chief L. M. Mackey, Finance Director S. E. Blanchard and Public Utilities Director P. A. Fredette.

Mayor Atkinson opened the meeting and welcomed those attending. He called upon Councilwoman B. S. Meggs for the invocation after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} APPROVAL OF THE AGENDA:

Mayor Atkinson called for action regarding the prepared agenda.

Mayor Pro Tem J. M. Baker asked to add, ***Taxicab Ordinance as an item on the Regular Agenda.***

Councilwoman B. S. Meggs asked to add, ***Repair of the Gazebo at Waterfront Park as an item on the Regular Agenda.***

Councilman E. K. Rivers asked to remove ***Item 7-g – Authorization to enter into an agreement with URS Corp for a feasibility study for a roundabout; and Item 7-h – Execution of agreement for weatherization assistance program contractor services from the Consent Agenda and place them on the Regular Agenda for discussion.***

Councilwoman L. A. Hummer asked to remove ***Item 7-a - Authorization to execute agreement for project administration service with Pro, Inc. from the Consent Agenda and place it on the Regular Agenda for discussion.***

Councilman J. A. Stimatz asked to remove ***Item 7-d – Authorization to execute lease with Rhonda's All Occasions for concession services from the Consent Agenda and place it on the Regular Agenda for discussion.***

A motion was made by Mayor Pro Tem 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, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

2} COMMENTS FROM THE PUBLIC:

The following individuals spoke during this section of the Agenda.

Jennifer Palestrant, 502 E. Ehringhaus Street, spoke regarding the proposed sign ordinance change. She feels that she has not had a chance to review the proposed amendment to the sign ordinance as the Chamber just received it about 5:30 this evening. She pointed out sections that did jump out at her. She feels it would be premature to vote on this item tonight.

Cindy Williams, 1012 West Main Street, Elizabeth City spoke regarding the proposed sign ordinance change. She really hasn't had a chance to review the whole thing. She also pointed out sections that jumped out at her

Patrick Detwiler, 105 Old Oak Drive, Elizabeth City spoke regarding the window signage. The Historic Preservation Commission does support the changes being made. We are working toward simplifying the process for window signage in the Historic District so that people won't necessary have to come for a Certificate of Appropriateness as that will be done in the office.

Ms. Rosa Williams, 208 Meekins Street, Elizabeth City spoke regarding the continued noise coming from the Trios Nightclub. She is not so sure that her community has been heard about this noise problem. This noise is a continuous constant noise and the later it gets the more noise is heard. She hopes that if you can't do anything else you can soften the tone of that noise. She will appreciate anything you can do to help her community.

Martha Quidley, 210 Meekins Street, Elizabeth City spoke regarding the nose coming from the Trios Nightclub. She was disappointed with some of the things that she heard in the previous meeting while some of the other things she wasn't. To live with this constant boom, boom noise all the time you can't image what it is like to be woke up. As far as the cars you can certainly tell the difference between a car and a boom, boom continually. We need your help.

LeighJean Gilbride, 1306 W. Church Street spoke regarding the noise coming from the Trios Nightclub. She came mainly tonight to listen to what you had to say as far as a plan for the excessive bass noise which has reached the nuisance level. She is here to share her frustrations and her level of exhaustion about the Trios

noise. She is asking her City government to help them come to some resolution. This has gone on way to long.

3} APPROVAL OF MINUTES:

Mayor Atkinson called for action regarding the minutes of the January 26, 2009 Work Session and the February 9, 2009 Regular Session minutes.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to approve the minutes of the January 26, 2009 Work Session and the February 9, 2009 Regular Session minutes. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

4} CONSENT AGENDA:

Mayor Atkinson called upon City Manager Olson to read the items on the Consent Agenda. Following the reading, Mayor Atkinson called for a motion of approval.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman J. A. Stimatz to approve the following Consent Agenda. Those voting in favor of the motion were: Baker, Stimatz, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

Consent Agenda:

- a} Authorized the Deed for the conveyance of .487 acre to the Airport Authority.
- b} Approved the allocation of funds to the Pasquotank County Department of Social Services Crisis Intervention Fund be redirected to the Salvation Army for administration to City customers.
- c} Approved the following Budget Amendment.

**BUDGET AMENDMENT
NUMBER 2009-2
FEBRUARY 23, 2009**

BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2009:

SECTION I.

<u>Department</u>	<u>Appropriation</u>	<u>Revised Appropriation</u>	<u>Adjustment</u>	<u>Total Budget</u>	<u>% Reduction</u>
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Legislature

Departmental Supplies	\$11,000	\$8,000	\$3,000		
Total			\$3,000	\$133,410	2.25%

Administration:

Office Supplies	\$ 1,500	\$1,300	\$200		
Advertising	\$ 2,000	\$1,700	\$500		
Personal Computer	\$ 700	\$ 600	\$100		
Postage	\$ 1,350	\$1,050	\$300		
Dues & Subscriptions	\$ 2,500	\$2,400	\$100		
Total				\$367,640	.33%

Accounting

Salaries & Wages	\$5,000	\$ -0-	\$5,000		
M & R Equipment	\$1,800	\$550	\$1,250		
PC Expense	\$1,600	\$-0-	\$1,600		
Capital Outlay	\$2,700	\$-0-	\$2,700		
Total				\$351,440	3.00%

Planning

Salaries, Wages & Overtime	\$3,500	\$1,000	\$2,500		
Printing	\$2,750	\$1,750	\$2,000		
Maintenance of Vehicles	\$1,500	\$ 900	\$ 600		
Office Supplies	\$4,000	\$2,000	\$2,000		
Departmental Supplies	\$4,000	\$2,500	\$1,500		
Capital Outlay	\$9,000	\$3,000	\$6,000		
Total			\$13,600	\$453,658	3.00%

City Hall & Annex

Roof Repair	\$32,000	\$21,000	\$11,000		
Total			\$11,000	\$285,658	3.86%

Police

<u>Department</u>	<u>Appropriation</u>	<u>Revised Appropriation</u>	<u>Adjustment</u>	<u>Total Budget</u>	<u>% Reduction</u>
Vacant Positions	\$46,556	\$-0-	\$46,556		
Retirements, Military	\$62,000	\$-0-	\$62,000		
Travel & Training	\$40,000	\$35,000	\$ 5,000		
Uniforms	\$45,000	\$40,000	\$ 5,000		
M & R Buildings	\$13,000	\$ 6,000	\$ 7,000		
Promotions Savings (OSSSI)	\$253,700	\$217,663	\$36,037		
Total			\$161,593	\$5,381,302	3.0%

Fire

Fire Chief Salary	\$35,699	\$-0-	\$35,699		
Cell Phones Turned In	\$ 4,448	\$0-	\$4,448		
Savings on New Fire Trk	\$700,000	\$684,211	\$15,789		
Savings on Exhaust Systems	\$86,000	\$84,188	\$1,812		
Employee In Iraq	\$ 4,500	\$-0-	\$4,500		
Captain's Vacancy	\$14,800	\$-0-	\$14,800		
Departmental Supplies	\$40,000	\$35,000	\$5,000		
Uniforms	\$32,200	\$27,000	\$5,200		
Reduced Capital for Paging System	\$132,000	\$120,471	\$11,523		
Total			\$98,771	\$3,324,564	2.97%

Fire Inspections

Fire Inspector Vacancy	\$ 554	\$-0-	\$554		
Overtime	\$8,000	\$5,300	\$2,700		
Telephone	\$3,000	\$2,000	\$2,000		
Printing	\$1,500	\$500	\$1,000		
Travel	\$7,000	\$6,000	\$1,000		
M & R Equipment	\$1,500	\$ 500	\$1,000		
Maintenance of Vehicles	\$2,000	\$1,000	\$1,000		
Equipment Rental	\$ 600	\$ -0-	\$ 600		
Advertising	\$ 500	\$-0-	\$ 500		
Fire Prevention Supplies	\$6,000	\$5,000	\$1,000		

<u>Department</u>	<u>Appropriation</u>	<u>Revised Appropriation</u>	<u>Adjustment</u>	<u>Total Budget</u>	<u>% Reduction</u>
Total			\$10,354	\$339,750	3.05%

Inspections

Capital Outlay	\$22,000	\$-0-	\$22,000		
Debt Service	\$ 4,804	\$-0-	\$ 4,804		
Total			\$26,804	\$412,599	6.50%

Public Works

Salaries \$ Wages	\$43,246	\$55,846	\$12,000		
Travel & Education	\$ 2,500	\$1,300	\$1,200		
Dept Supplies & Exp	\$2,250	\$1,750	\$ 500		
Contracted Services	\$1,250	\$250	\$1,000		
Dues & Subscriptions	\$1,500	\$500	\$1,000		
Total			\$8,900	\$74,831	11.89%

Street

Overtime	\$17,000	\$16,000	\$1,000		
Telephone	\$5,100	\$ 4,100	\$1,000		
Printing	\$1,500	\$ 500	\$1,000		
Travel & Education	\$7,500	\$5,500	\$2,000		
M & R Buildings	\$20,000	\$18,500	\$3,000		
Dept Supplies	\$20,000	\$18,000	\$2,000		
Street Signs	\$14,892	\$12,892	\$2,000		
Contracted Services	\$62,690	\$32,690	\$30,000		
Total			\$46,000	\$1,368,897	3.36%

Sanitation

M & R Equipment	\$ 50,000	\$35,000	\$15,000		
M & R Vehicles	\$100,000	\$75,000	\$25,000		
Equip Rental	\$ 2,000	\$ 1,000	\$1,000		
Dept Supplies & Exp	\$12,000	\$8,500	\$3,500		
Mosquito Control	\$10,000	\$6,000	\$4,000		
Total			\$48,500	\$1,415,318	3.43%

Parks & Recreation

<u>Department</u>	<u>Revised</u> <u>Appropriation</u>	<u>Appropriation</u>	<u>Total</u> <u>Adjustment</u>	<u>%</u> <u>Budget</u>	<u>Reduction</u>
Instructor Salaries	\$6,000	\$2,000	\$4,000		
Printing	\$ 500	\$200	\$300		
Building Maintenance	\$16,500	\$15,500	\$1,000		
Grounds Maintenance	\$30,000	\$28,000	\$2,000		
Tree Planting	\$1,500	\$300	\$1,200		
Maint & Repair Equip	\$13,000	\$10,000	\$3,000		
Maint Vehicles	\$6,500	\$5,500	\$1,000		
Organized Programs	\$27,000	\$25,000	\$2,000		
Items for Resale	\$1,000	\$500	\$500		
Special Events	\$4,000	\$1,500	\$2,500		
Departmental Supplies	\$19,500	\$17,500	\$2,000		
Workers Comp/Ins & Bond	\$25,456	\$15,556	\$9,900		
Capital Improvements	\$311,102	\$307,602	\$3,500		
Capital	\$64,000	\$54,988	\$9,012		
Total			\$41,912	\$1,471,206	2.85%

Senior Center

Utilities	\$7,000	\$5,807	\$1,193		
Workers Comp	\$1,283	\$783	\$500		
Capital	\$4,300	\$2,050	\$2,250		
Total			\$3,943	\$235,738	2.90%

Cemetery

Grounds Maintenance	\$5,000	\$3,583	\$1,417		
Total			\$1,417	\$47,249	3.00%

Human Resources

Travel & Education	\$2,000	\$1,439	\$561		
Total			\$561	\$215,439	.26%

Total General Fund (Fund Balance Appr.) \$460,951

IT-Electric

Salaries & Wages	\$34,844	\$34,694	\$150		
Contracted Services	\$27,862	\$25,062	\$2,800		

<u>Department</u>	<u>Appropriation</u>	<u>Revised Appropriation</u>	<u>Adjustment</u>	<u>Total Budget</u>	<u>% Reduction</u>
Total			\$2,950	\$97,293	3.03%

Purchasing/Warehouse

M & R Buildings	\$8,000	\$4,000	\$4,000		
M & R Vehicles	\$2,500	\$2,000	\$500		
Advertising	\$1,200	\$800	\$400		
Departmental Supplies	\$4,500	\$3,500	\$1,000		
Total			\$5,900	\$195,451	3.02%

Customer Service – Electric

Capital Outlay	\$74,917	\$57,117	\$17,800		
Total			\$17,800	\$590,396	3.01%

Electric

Capital Outlay Equip	\$124,400	\$31,400	\$93,000		
Total			\$93,000	\$3,112,365	2.99%

Energy Management

Main & Repair					
Generators	\$140,000	\$123,500	\$16,500		
Weatherization	\$90,000	\$73,500	\$16,500		
Total			\$33,000	\$1,069,875	3.08%

Total Electric Fund (Fund Balance Appr.) \$152,650

IT-Water/Sewer

Salaries & Wages	\$34,844	\$34,694	\$150		
Contracted Services	\$26,213	\$23,213	\$3,000		
Capital Outlay	\$16,417	\$7,817	\$8,600		
Total			\$11,750	\$101,030	11.63%

Customer Services – Water/Sewer

Printing	\$12,610	\$8,110	\$4,500		
M & R Equipment	\$11,715	\$7,715	\$4,000		

<u>Department</u>	<u>Appropriation</u>	<u>Revised Appropriation</u>	<u>Adjustment</u>	<u>Total Budget</u>	<u>% Reduction</u>
M & R Vehicle	\$4,400	\$2,900	\$1,500		
Postage	\$42,425	\$39,425	\$3,000		
Contracted Services	\$23,368	\$19,768	\$3,600		
Total			\$16,600	\$459,984	3.61%

Water Treatment

Salaries & Wages	\$370,058	\$325,058	\$45,000		
Overtime	\$18,000	\$36,000	\$18,000		
Professional Services	\$20,000	\$10,000	\$10,000		
Travel & Education	\$5,500	\$2,000	\$3,500		
M & R Equipment	\$61,000	\$52,500	\$8,500		
M & R Vehicles	\$ 5,500	\$4,100	\$1,500		
Chemicals & Lab Sup	\$224,050	\$274,050	\$50,000		
Contracted Services	\$250,000	\$212,500	\$37,500		
Cap Outlay-Equip	\$73,082	\$71,082	\$2,000		
Total			\$40,000	\$1,304,532	3.07%

Waste Water Treatment

Salaries & Wages	\$279,053	\$284,053	\$5,000		
Overtime	\$30,000	\$31,000	\$1,000		
Postage	\$6,000	\$5,000	\$1,000		
Travel & Education	\$10,000	\$6,000	\$4,000		
M & R Vehicles	\$6,000	\$4,300	\$1,700		
Auto Supplies	\$17,000	\$16,000	\$1,000		
Chemical Lab & Sup	\$80,000	\$75,000	\$5,000		
Contracted Services	\$275,000	\$240,500	\$34,500		
Dues & Subscriptions	\$9,000	\$8,000	\$1,000		
Total			\$42,200	\$1,329,944	3.17%

W & S Utilities

Salaries & Wages	\$528,013	\$508,013	\$20,000		
Professional Services	\$150,000	\$110,000	\$40,000		
M & R Lines	\$95,000	\$70,000	\$25,000		
M & R Sewer	\$30,000	\$25,000	\$5,000		
M & R Water Meters	\$140,667	\$120,667	\$20,000		
Contracted Services	\$245,900	\$230,900	\$15,000		
Pump Station Imp.	\$195,000	\$280,000	\$15,000		

<u>Department</u>	<u>Appropriation</u>	<u>Revised Appropriation</u>	<u>Adjustment</u>	<u>Total Budget</u>	<u>% Reduction</u>
Total			\$140,000	\$1,847,762	7.58%
Total Water/Sewer Fund (Fund Balance Appr.)			\$250,550		
TOTAL			\$864,151		

ADOPTED, this 23rd day of February 2007.

Stephen S. Atkinson

Dianne S. Pierce-Tamplen, MMC
City Clerk

d} Authorize the execution to enter into an agreement with Hobbs, UpChurch & Associations for drainage system design in Oak Grove Subdivision.

End of Consent Agenda.

5} PUBLIC HEARING:

a} Application TA-07-08 to amend the screening of Dumpster Section of Article XI Development Standards of the Unified Development Ordinance.
Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks advised as you recall at your January 26th Work Session she discussed the proposed changes to the dumpster enclosure regulations. In 2003, Council adopted the amendment which requires dumpsters to be enclosed, however, with recent legislation and standards for commercial recyclables and the FOG Program we have seen more unscreened dumpsters and receiving more complaints about the unsightliness dumpsters. Currently there are no standards for complete enclosures or materials. We are seeing chain linked fences with slat materials which are not holding up. The proposed amendment addresses compactors, recyclable collection dumpsters and grease traps containers. It also sets standards for enclosures to be gated and to be constructed of wood, brick

materials or materials that compliment their principle structures. It sets standards for unscreened dumpsters to be in compliance within 180 days and those dumpsters screening that are non-conforming to be in compliance within five years. The Planning Commission recommends approval of the proposed code amendment.

Mr. Stimatz said that he is really disturbed by what he has before him for a number of reasons. When this came up a few weeks ago we didn't go through a long detailed breakdown. He sent two and a half pages of notes with specific items that he thought needed to be addressed. None of which have been addressed. This did not come to us from the Planning Commission originally. It appears that in the interim, the last two weeks, the Planning Commission has voted on this, the staff's draft. This goes back to what happened to the sign issue earlier. It is a process procedure issue. What are we supposed to be voting on? He asked to read something because he is curious about why Council can't change what it wants to about an ordinance. This is a response from David Lawrence and the question is "if the Planning Commission considers a text amendment and recommends to City Council a public hearing should be held, are we required to hold that public hearing on that particular version even if Council feels that more work should be done on the amendment before it is sent to public hearing." We were told that we had too. However, David Lawrence, the guy we all go too, who is the go to guy on issues such as this, says, "General Statute 160A-364 requires that we hold a public hearing before we adopt, amend or repeal any part of the zoning ordinance. If the Council is not yet ready to act on the proposal and wants it changed before it does act, it can wait and hold the hearing when it wants too after the preferred version is prepared. It doesn't have to hold the public hearing on the current version. This is directly at odds with what Council was sold on the signage issue. You heard it tonight from people who walked up here. He is really confused as to what the process for changing ordinances is. He has numerous corrections that he would like to see incorporated into the amendment.

Mayor Atkinson declared the meeting into public hearing for consideration of Amendment TA-07-08.

Jennifer Palestrant, 502 East Ehringhaus Street and President of the Chamber of Commerce was called to the podium. She advised that the Chamber agrees with Planning and with the City that businesses should keep their property neat, clean and free of any trash or debris. When she looked at this she understands where Planning is coming from however, when we start looking at these enclosures she started asking questions on how much these enclosures costs. These things are expensive. What the Chamber Board would like to recommend and they are willing to help with this process is that for 6-12 months lets truly enforce what we have. The Chamber will help. We will put stuff in the newsletter and we will get out there and talk to people. Let's put an effort to see where we are and then

readdress the issue. She knows that economics is getting beaten like a dead horse. We need to take the economics into this and the Chamber Board would like to recommend 6-12 months of good solid enforcement, let's see where we are and then revisit it again.

There being no one else who wished to speak for or against the proposed amendment, Mayor Atkinson declared the public hearing closed.

Mayor Atkinson asked Ms. Brooks what were the current penalties for violation of the current ordinance.

Ms. Brooks replied that it is classified as a misdemeanor if we site them. We go out, they get a courtesy letter saying they are in violation, we go out and work with them and if they absolutely refuse it is classified as a misdemeanor under State Code and we can only charge them \$50.00. We have not been charging them the \$50.00. What we would like and we want is for the people to come into compliance. That is what we have always worked toward.

Mr. Olson said Councilman Stimatz we all respect David Lawrence and he will be retiring next month but Mr. Lawrence is not familiar with Section 8-4 (a) of our UDO which supersedes what he probably told you. He was not aware of that particular section. That particular section reads, "Upon receipt of a recommendation from the Planning Commission, the City Council shall set a date for a public hearing on the proposed amendment. The public notice required for the public hearing shall be in accordance with Section 8-5. Once you have the public hearing the Council can do whatever it wants too. Our ordinance is more restrictive than State Statute. The City Attorney will advise you of that. The issue with the dumpster ordinance is that we know right now there are issues that make our existing ordinance obsolete. By having these people put in dumpster units that are basically going to be non-conforming concerns us. If he was a merchant he would be upset if he spent \$2,000 putting in an enclosure on a dumpster and find out six months later that he had to increase the size of it. That's what prompting this amendment. City staff has no problem enforcing the existing city code and making these people come into compliance. If they do come into compliance what they are putting up is basically not going to be in compliance with what State Statute tells them they have to do.

Mr. Stimatz said he thinks the interpretation of the word proposed should be left to City Council. That is for us to do. We had started down a path where we were including people, we were having work sessions, Council was being able to have input before we went to the final version. All of a sudden on the sign issue we didn't do that. We decided to interpret it differently than we had before. He knows that we have made changes before the ordinance came to public hearing. In fact, it is interesting because when you look at the sign ordinance when it

comes up later it has been changed from the version that the Planning Commission approved. That is not allowed according to Mr. Olson but staff did it? The other problem he has with this ordinance as it is written it doesn't serve the purpose you say you want to serve. You don't even get at bundles of cardboard sitting out. It does not specifically address those. If they are not in a recycle dumpster then they don't have to be screened because only a recycle dumpster has to be screened. It is a question of language and definition. He doesn't know how many times he has sat in this room going over an ordinance saying your definitions are messed up and since your definitions are messed up your ordinance is going to be messed up. He didn't write three pages out of thin air. He started with what is the problem being addressed. It sounds like it is enforcement. On the 26th of January; he asked these questions in an email to Ms. Brooks, Mr. Olson, Chief Crudup, Mr. Fredette, Lieutenant Young, and a whole host of other people including members of staff. You reference new State Legislation but it is not with the background material. In regards to cardboard recycling you don't even tell us what the State standard is so we will know if the ordinance is meeting it. What is the big aesthetics problem? While you site the Planning Commission opinion as to aesthetics intent of the drafters of the 2003 version you offer no information from that 2003 Planning Commission meeting to support the allegation that they even considered aesthetics. Show him the minutes that say they did consider it. You don't provide any documentation. Please provide a list of all the complaints and all the citations that have been served since January 2008 regarding this issue. He has been told that there were 70 citations since December of this past year but what have we been doing to enforce it since even January 2008 much less 2003. It sounds like the problem is we are not enforcing our ordinances. How has the use of outside grease trap containers led to a proliferation of unclosed trash, waste and unsightly containers? What is interesting is that he, Ms. Meggs and Ms. Baker went and looked at the situation behind Cypress Creek. It is very interesting because there are some barrels that contain waste grease. Those are not grease trap containers but grease containers. We don't even address that issue in the proposed ordinance. What is considered unsightly, trash containers or the FOG containers? What are the aesthetics standards for FOG containers within that ordinance? He doesn't even know what we say when we talk about the disposal of the FOG from the waste trap containers which are in someplace else. What is the impact on businesses? Have you vetted this with the Chamber or businesses community and other stake holders? No, we haven't, we haven't invited them in to sit down and talked about the impacts and what they are going to be. We heard tonight, for us to enforce what we have and leave them alone for a while until we can figure out what we need to be doing. It appears that we are attempting to correct a material maintenance issue, the chain link fence/wear out issue, by changing the standards. The compactor that sits over on Poindexter which is the City's compactor has a chain link with slats fence. He has to guess if we have to replace that and by the way if we change the ordinance then we should set the example

for compliance by complying immediately. That container is not currently in compliance. It hasn't been in compliance for two years and it belongs to the City because the current ordinance says it must be screened from the public right of way. We haven't even screened our own container. Do we have any benchmarks against any other cities? One way to determine if we are really good is to benchmark and with the Tree Ordinance we did that. Staff should be finding out what other cities ordinance say. While not mentioned in this ordinance what design standards must the enclosure meet to allow city trash pickup. He found out that is not the issue. What he found out was it is someone else's issue. Let's talk about some of the impacts. You are proposing that every screened enclosure have to be screened on three sides and have a gate on the fourth side. He has gone through this thing on many levels and he doesn't see a lot of give or a lot of sense that there is a customer other than staff. He recommends that we take no action on this proposed amendment.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman E. K. Rivers to take no action on this proposed amendment for six months; at the end of six months as long as we know what the existing, not grandfathered, enclosures are, the number of violations, what we are doing to get those in shape and where we are sitting after six months then we will hold a work shop to work on a better ordinance if it is even needed.

Councilman Rivers said he would like to ask for a friendly amendment to the motion. He would ask instead of the six months time table on it and then the education because the only thing he is in favor would just be the door. Right now he is saying just table it for one year.

Councilman Stimatz said he would accept the friendly amendment:

Table it for one year.

Mayor Pro Tem Baker said that our original ordinance was established five years ago and that point gave companies and businesses six months to comply with the screening regulations. She submits that five years later we still got companies and businesses that haven't even put up an enclosure. She doesn't know if it makes a difference of the six months or a year. That is just a number and we gave them six months five years ago and we are still looking at businesses that haven't done it. She is concerned with the new State Regulation and the people that do want to comply and new companies are coming to town and she would think that it would behoove our Planning Department to suggest or give the copies of the new State laws requirement so if they are going to do it at least they won't have to redo it once we decide what the heck we are doing with this thing.

Mr. Rivers said what is confusing is that is we put rules on the books and don't enforce the rules. If we have already had three sides it doesn't need to come to us where we end up taking it to 25-30 pages and spend hours to enforce it. If it is already three sides that should be enforced. He doesn't think that he had ever heard to put a moratorium on trash dumpsters. We already have something in place. He thinks a lot of time when someone complains about an unsightly dumpster we have rules already in place to at least help that problem but we want to go to the extreme and kill everybody. That is what happened to the sign ordinance. We started off with sandwich boards and we went to the extreme. We need to stop taking everything to the extreme. Let's enforce what we already have on the books. What about Mr. Taylor's enclosure at the new McDonalds. According to our current ordinance he is not in compliance.

Mr. Olson said that staff disagrees with Mr. Stimatz's characteristics on that. That is in compliance with the overlay zoned district and everything else in staff's opinion. We authorized that dumpster and that would be our fault not Mr. Taylor's fault if there is a problem with that at a later date. He doesn't see a problem with the McDonald's enclosure. He does not know what Mr. Stimatz is referring on that. We approved that and it has a gate on it as well as being well constructed. It is a very nice enclosure.

Mr. Stimatz replied that there are two things wrong with it. One go look up the definition of opaque. If you mean opaque then you had better enforce opaque. The fact that we didn't is our fault and you are right. No blame. Mr. Taylor gets a ride because we messed up. That is the rule of government that he grew up with. Secondly, it says screened and if you can see the top of the container then it is not screened. There are a lot of those around town. The top of the compactor can be seen on top of the screen and therefore that means it is not screened completely. He didn't write these rules. No offense and he hates to play this card but he spent four years writing federal regulations and he knows what a regulation says or doesn't say. He is not some kid that fell off the turnip truck. He understands what rules mean and they have definitions and they are well laid out and when you choose not to use them you do so at your own peril. He would offer to anyone out there if you choose to challenge any of the city's ordinances because they are poorly worded in construction he would be willing to be a pro bono expert witness on your behalf. It is an absolute mess. When we try to fix it everybody just wants to run it through and ignore it.

Councilman Rivers asked to drop his friendly amendment of one year.

Councilman King stated that he would add the friendly amendment of one year. Those voting in favor of the motion were: Stimatz, King, Baker, Evans, Hummer, Meggs and Watts. Against: Rivers. Motion carried.

b} Ordinance lowering speed limit on Road Street:

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson said that as Council is aware we have been trying to get NCDOT to approve a traffic study that would allow us to lower the speed limit on Road Street. Through an appeal process city staff was able to get that done. DOT requests that an ordinance be adopted by City Council that would allow them the authorization to lower the speed limit on US 17 Business (Road Street) from US 17 Business/SR 1269 (Ehringhaus Street) northward to US 17 (Hughes Boulevard).

Mayor Atkinson declared the meeting into public hearing. Since no one was present that wished to speak for or against the proposed reduction in speed limit, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman J. A. Stimatz to adopt the following ordinance lowering the speed limit on US 17 Business (Road Street) from US 17 Business/SR 1269 (Ehringhaus Street) northward to US 17 (Hughes Boulevard). Those voting in favor of the motion were: Baker, Stimatz, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

**ORDINANCE #0922
REQUEST FOR 25 MPH SPEED LIMIT
US 17 BUSINESS (ROAD STREET)
FROM
US 17 BUSINESS/ SR1268 (EHRINGHAUS STREET)
NORTHWARD TO US 17 (HUGHES BOULEVARD)**

WHEREAS, The City of Elizabeth City has requested that the speed limit on US 17 Business (Road Street) from US 17 Business/SR 1268 (Ehringhaus Street) northward to US 17 (Hughes Boulevard) be reduced from thirty-five (35 mph) miles per hour to twenty-five (25 mph) miles per hour for safety reasons; and

WHEREAS, the North Carolina Department of Transportation has performed engineering and traffic investigations pursuant to authority granted by GS 20-141(f) and have determined that in the interest of public safety the speed limit on US 17 Business (Road Street) between US 17 Business/SR 1268 (Ehringhaus Street and US 17 (Hughes Boulevard) should be decreased from 35 mph to 25 mph; and

WHEREAS, on Monday, February 23, 2009, the City Council of the City of Elizabeth City held a public hearing on this request;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Elizabeth City, North Carolina that in the interest of the public's safety, that the North Carolina Department of Transportation reduce the speed limit on US 17 Business (Road Street) from US Business/SR 1268 (Ehringhaus Street) northward to US 17 (Hughes Boulevard) from thirty-five (35 mph) miles per hour to twenty-five (25 mph) miles per hour.

ADOPTED, this 23rd day of February 2009.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Voluntary Annexation – Charles Hardy 1.85 acres –Lot 3-B Spruill Industrial Park:

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson advised that this is a voluntary annexation of Lot 3-B of the Spruill's Industrial Park located at the intersection of Weeksville Road, River Road and Pitts Chapel Road. It is located on the southeast corner. City Council approximately three years ago approved the subdivision plan for this property which includes three lots. The lot that is being proposed for annexation is the middle lot. It is presently owned by Charles Hardy and is the future location of a Dollar General Store. It consists of 1.85 acres. The area because of its location will not be on City sewer.

Mayor Atkinson declared the meeting into hearing. Since no one was present who wished to speak for or against the proposed voluntary annexation, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman V. C. Watts to adopt the following Ordinance incorporating the 1.85 acre parcel owned by Charles Hardy and is located adjacent to Weeksville Road into the Corporate Limits of

the City of Elizabeth City with an effective date of March 1, 2009. Those voting in favor of the motion were: Baker, Watts, Evans, Hummer, King, Meggs, Rivers and Stimatz. Against: None. Motion carried.

**ORDINANCE #0923
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
CHARLES HARDY
1.85 ACRES
LOT 3B-SPRUILL INDUSTRIAL PARK**

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

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

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:30 p.m. on the 23rd day of February, 2009 after due notice by publication on February 13 & 15th, 2009; and

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

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

SECTION 1. By virtue of the authority granted by G. S. 160A-31, the following described territory, is hereby annexed and made part of the City of Elizabeth City as of the September 1, 2008.

Property is Lot 3B as shown on Map Book 45; Page 47 entitled "Minor Subdivision for Spruill Industrial Park, formerly being Parcel 3, Spruill Industrial Park" recorded in the Register of Deeds office in Pasquotank Council, North Carolina. Property is further described as beginning at a point marked by an iron rebar along the right-of-way of Weeksville Road, said point being the northeast corner of Lot 3A, M.B. 45, Page 47. Thence from said Point of Beginning and along the right-of-way of Weeksville Road, S 67°02'15" E a distance of 227.19 feet to an iron rebar, also being the northwest corner of Lot 3, M.B. 45, Page 47. Thence along the shared line with Lot 3C, S 22°57'45" E a distance of 353.99 to an iron rebar in the center of a ditch, said point also being the southwest corner of Lot 3C. Thence along the center of the ditch, N 67°48'23" E a distance of

227.21 feet to an iron rebar in the center of a ditch, said point also being the southeast corner of Lot 3A. Thence along the shared line with Lot 3A 22°57'45" E a distance of 357.04 feet to the point and place of beginning. Property contains 1.85 acres.

SECTION 2. Upon and after the 1st day of March 1, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Elizabeth City and shall be entitled to the same privileges and benefits as other parts of the City of Elizabeth City. Said territory shall be subject to municipal taxes according to G. S. 160A-58.10.

SECTION 3. The Mayor of the City of Elizabeth City shall cause to be recorded in the office of the Register of Deeds of Pasquotank County, and in the office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections as required by G. S. 163-288.1.

ADOPTED, this 23rd day of February 2009.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

6} REGULAR AGENDA:

1} USR to do feasibility study of roundabout at intersection of Water Street and Southern Avenue:

Mayor Atkinson called up Councilman Rivers for comments.

Mr. Rivers said that he brought this issue up as he has some concerns regarding the amount of funds this is going to cost. He wants to make it clear that he has no problem with the roundabout but \$12,000 is a lot of money to spend at this time when Roanoke Avenue is in such bad shape. He realizes that is a State owned street but he also knows how we diverted funds from Roanoke Avenue to Southern Avenue in order to pay for some of the improvements that were made to

that street. The \$12,000 is only for the study. He thinks that we need to fix Roanoke Avenue and then when the State reimburses us we can then do the feasibility study for the roundabout.

Mr. Olson stated NCDOT feels there is not enough warrant for the light at that intersection. From City Staff's perspective whenever we have high water that intersection is always under water. Putting a roundabout in it will raise the elevation of the entire intersection that will allow that particular section of road to be passable through most minor and major storm events. Considering Roanoke Avenue, we did have discussions last month with Jerry Jennings, the Division Engineer for NCDOT about entering into a reimbursable agreement to do Roanoke Avenue where the City will put the money up front like we did with Southern Avenue. He assured us that they will start construction on that project in May. They will not overlay that street until after July 1st because they have no funds available. He did not believe because of the short time line by the time we got a reimbursable agreement approved through the City Council and the State that we would already be past the May deadline date. They are very familiar with the issues that we have with Roanoke Avenue.

Councilman King said that he agrees with Councilman Rivers that we need to do something with Roanoke Avenue first. When you ride down this street is simply awful. We need to take that \$12,000 and put it somewhere on Roanoke Avenue until the State can start working on it. He has been hearing that DOT is going to fix this road since 2003 and it hasn't been fixed yet.

Councilwoman Hummer said the estimated project cost is \$600,000 for the roundabout. It says if the City were to go forward with the roundabout half of the cost could come from the Powell Bill monies but the balance would have to come from the Street Department budget. We just cut every budget in the City. How much has the Street Department budget been cut?

Mr. Olson replied the Street Department budget was cut 3%. The total dollar amount would be \$46,000.

Ms. Hummer said that we are in a budget crunch and this preliminary cut of last year's budget is going to fall over in coming year. Things are just not looking good but yet here is another study. We have a study for facilities and that is about \$60,000 and when that comes back we do not have the money to build any facilities so that study will go on the shelf.

Councilman Evans said that he likes the idea about the roundabout however, as far as doing something with Roanoke Avenue now if we did take the money and do something with Roanoke Avenue and then be reimbursed by the State, what you are saying is DOT wants to do that in July.

Mr. Olson replied that DOT will start working on the road in May but you won't see any noticeable improvements until some time in July is what they told him.

Mr. Evans said if we were to do what Rivers and King are recommending or suggested how soon could that be started? He understood that we are looking at the 90-days any way so it is really not much of a difference.

Mr. Olson said that is correct and that is why Jerry Jennings said that it would not be in our best interest to do the reimbursable issue.

Mr. Stimatz said he thinks it is one of those things that we need to help our City grow. The Allison Platt plan, the City Council bought off on that many years ago. It has a certain concept and idea and the idea was to tap the waterfront. We have a major flooding issue there that we would like to correct. A roundabout helps traffic flow and reduces the need to have a light there. The other thing was that we could make that Coast Guard Circle. If we want to be a Coast Guard City and show our appreciation we could take that roundabout and designate it as Coast Guard Circle and put in an appropriate display. It also becomes an entryway into the City from that side. Despite what some council people say, we are not committing to spending \$300,000. What we are asking you to do is see if the feasibility is there to correct a serious flooding problem. That is really the first issue. When Mr. Fredette brought it to us it was to say, we can correct a big flooding problem here. He thinks from all those angles it is not a bad investment for the future. He has heard this "red herring" brought up ever since he has lived here. Let's fix Roanoke Avenue. What are we doing about Roanoke Avenue? What are we doing about Southern Avenue? We can't do anything as it is a State Street. We are not allowed to spend our money on it without an agreement of some kind. You keep trying to say we are neglecting it. If you want to take a lot of money out of the General Fund Balance to fix Roanoke Avenue and get an agreement with the State, we can do that. That is a whole separate issue. Don't try to connect them because he doesn't think they are connected. This is a whole other issue here. You can't close up in a shell and do nothing. We have to look at the image and the safety aspect of the City as well. He thinks \$12,000 is not an inordinate amount of money. We have a pretty significant fund balance. We have \$20,000 earmarked for Oak Grove. We gave Mr. King \$9,500 to build a fence. The roundabout is not even in his ward but he thinks that it is a good thing for the City. He thinks \$12,000 for a feasibility study is worth it. We are not committing anything beyond figuring out if it is feasible, can we do it, what is involved and what are the costs. After that we have to figure where we are going to get the money from.

Mr. Rivers said this is not a question of one versus another. When we talk about flooding, Roanoke Avenue floods so let's do a feasibility study on that street. He

is not trying to pare the two against each other. What he is saying is that we need to make sure that we have priorities, one, two and three. If there is a cost overrun then the first thing that will come back to the City is that we are short \$50,000 where are we going to get the funds from? It happened on the Southern Avenue project. To do a feasibility study and then we are talking about \$600,000. The residents and the two council members that have been talking about Roanoke Avenue quite often and we have always told them we lack the money. Sometimes if you concentrate on that one issue Roanoke Avenue will all of a sudden be pushed up because everyone knows that once we get Roanoke Avenue then we can do the feasibility study. That is all he is saying. We need to make sure that we don't divert any funds and then all of a sudden there are no funds to improve Roanoke Avenue. That is what he is asking Council to consider. Do Roanoke Avenue and then once we are through then we can do the feasibility study.

Mayor Pro Tem Baker said that she sells real estate in this town and she goes down Roanoke Avenue a lot and it is a mess but you can't substitute one problem with another problem. \$12,000 isn't going to do anything or not much for Roanoke Avenue. We can't spend it without an agreement with the State anyhow. She drives everyday across that Southern Avenue intersection and it floods a lot. While we are doing the bridge there she thinks it is important that we do the whole thing. \$12,000 isn't going to do jack for Roanoke Avenue at this point in time. We have the State saying they are going to start on it in May anyway.

Ms. Hummer asked if we are not allowed to spend any money on Roanoke Avenue why have we been putting money aside for a number of years in a Roanoke Avenue Fund and we were able to take that out and take care of Southern Avenue. She doesn't expect an answer.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to enter into an agreement with URS Corporation for an amount not to exceed \$12,000 to study the feasibility and prepare concept drawings for a roundabout at the intersection of Water Street and Southern Avenue. Those voting in favor of the motion were: Stimatz, Baker, Evans, Meggs and Watts. Against: Hummer, Rivers and King. Motion carried.

b} Execution of Agreement for Weatherization Assistance Program Contractor Services:

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

Mr. Rivers said that he had a concern regarding the \$45.00 per hour contract price. Is that for them doing the work to weatherize the house? Will they be the

ones doing the actual work on the house? Did we bid this out or look at anyone local?

Mr. Olson replied that they would be the one drawing up the scope of work plans. Then there would be a third party actually doing the physical labor. There are a number of reasons that we went with Martin County. We had been using since we started our weatherization program, EIC to do the work. Staff had some quality concerns with the work EIC and some of their staffing issues. The Martin County Community Action Group is a certified State group that does this work. They are doing work for the City of Tarboro besides Martin County. They are one of the few agencies that we are aware of that does the weatherization work in this part of the State. We didn't actually go out and solicit bids for this particular service. We chose them because they were already State certified.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to authorize the City Manager to execute the agreement for contractor services for the weatherization assistance with Martin County Community Action, Inc. Those voting in favor of the motion were: Stimatz, King, Baker, Evans, Hummer, Meggs, Rivers and Watts. Against: None. Motion carried.

c} Authorization to execute agreement for Project Administration Service with Pro, Inc:

Mayor Atkinson called upon Councilwoman Hummer for comments.

Ms. Hummer said that she would like to have some clarification on this. It is consideration to execute Grant Preparation/Administrative Services contract on the Airport Project. It says the funding for this agreement for administrative services will come out of the grants received however we are showing on your spreadsheet grant planning and administration the City being responsible for \$35,000.

Mr. Olson said this is where it gets a little confusing. Pro Inc. is doing administration of all the different funding agencies we have here. The \$35,000 that is presently our share of the CDBG IDF grants that they are administering. We are required to have a local match. The \$25,000 which is in this agreement and the other \$35,000 is in a separate agreement the Council authorized several months ago, this \$25,000 is part of the Rural Center Budget. That is why you see it underneath that. There are no local funds in paying this \$25,000. It is all grant funds.

Ms. Hummer asked how about the \$35,000?

Mr. Olson replied the \$35,000 in the CDBG we had to put up a match for the Pro Inc. services.

Ms. Hummer asked if the \$35,000 came out of City funds.

Mr. Olson replied that is correct. It is part of the \$200,000 that Council earmarked a couple of years ago.

Ms. Hummer said her question has been all along since the Airport Project is a joint project because the Airport is in Pasquotank County, she realizes while the City is the fiscal agent for money coming in from grants and going back out to pay for construction, land, etc. she does not understand why the County doesn't share half of this cost. That is her question.

Mr. Olson said he really can't answer that. The County has been equal partners with us in this particular grant. Right now both the City and County share the environmental assessment costs which are \$355,000. We share that equally. Both units of government were authorized to go to \$200,000 on this. Council is well aware that we did have to issue some bridge debt, the \$1.5 million, because of our slow repayment or the repayment plan presented by NCDOT Department of Aviation. We did have that but of course all those funds are going to come out of the lease revenue of the property to DRS.

Ms Hummer asked if we would be reimbursed for that \$35,000.

Mr. Olson replied yes. We will take that out of the lease payment which we haven't received any yet but we do have roughly \$218,000 pending right now. If Council remembers we are not paying any other entity until we insure that all debt incurred associated with the project are paid for out of the grant funds. We will continue to collect any revenue generated from the project for any cost that we may have until such time we are made whole and then the property will be deeded over to the Airport Authority.

Mr. Stimatz said that he has some specific contractual concerns. In the last whereas paragraph we talk about completion of Rural Center Economic Infrastructure project and he thinks that we should go ahead and say to construct the Aviation Research and Development Commerce Park. The Rural Center Economic Infrastructure project is undefined otherwise. It could be applied to anything and could go on forever.

Under scope of services, you use the term in the first sentence Project Reporting and you say, "and others"? That is kind of broad and again he refers to the Attorney on this one.

Mr. Morgan said that he thinks that would certainly clarify it.

Mr. Stimatz asked is that where we want to say "or others associated with the Project"? Say, "and others related to the project". In the second paragraph Project Requisitions, last line. "Company will coordinate the expenditures all sources." There is a word missing and he doesn't know what that word would be. He thinks it is probably "of". There is no period of services defined specifically. It is not clear how long the period is for this project.

Mr. Olson said that if you look at 7-Project Closeout. Once the grant has been closed out, the company will prepare the necessary required closeout documentation as well as file final reports. It may be one year, two years or more. With the Golden Leaf Grant it is five years. We have to do a quarterly report as well as an annual report for Golden Leaf.

Mr. Stimatz said now he gets down to professional fees. When he first read this paragraph he was very alarmed because it reads, "the company fee to provide the above outlined scope of services is \$25,000". This fee will be invoiced monthly. That said to him that we owed them \$25,000 per month until closeout. That is how it can be read. If it can be read that way you want to make sure it can't be read that way. The other question is if this is going to go on for three years over what period are we going to pay out the \$25,000. He wasn't sure if the payout schedule based on performance, are we going to pay it all out the first twelve months and then a year and half from now if they don't want to do the work they are going to say, sorry we ran of money. Do you see the problem that it raises?

Mr. Olson said that he doesn't. He reads it you know because he has been working with the document, he reads it as the company fee is to provide the above outlines scope of services, \$25,000. This fee referring to the \$25,000 will be invoiced monthly.

Mr. Stimatz asked at what rate of so much a month. It could be read the other way.

Mr. Olson said he could put in the wording of the rate per month.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to amend the contract as stated for approval by the City Attorney and execute the Grant Preparation/Administration Service Contract with Pro, Inc., by signature authorization by the Mayor on behalf of Council. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

d} Authorization to execute lease with Rhonda's All Occasion:

Councilman Stimatz said he talked with the Attorney about this. We did not advertise this for bid because we said it is a service. This is clearly not a service. They are not providing a service to the City. What we are doing is renting them a space. It is interesting to him because three years ago this came up and Councilman Walton was very clear about how we are letting everybody have a chance to compete for this. It turned out none of the non-profits wanted it and a for profit came in. What he would suggest is that we go ahead with this but he would put it under the category of upset bid. They in essence made a proposal to us at a price to rent this space. If someone wants to come in and over bid them that is ok. He doesn't find and neither did the Attorney find this as a service contract and therefore not exempt from procurement rules.

Mr. Rivers asked it wouldn't be a service to provide to the citizens. The City owns it. They are operating it for the City. We own the concession stand and they are providing the service because we don't want to provide that service. We don't want our Parks and Rec employees out there selling, so they are providing a service for the City. It is the same way that we just approved the Martin County Community Action. If that be the case we need to do the same thing for them.

Mr. Morgan said it is certainly true by the time you paid the advertising costs there will be very little profit if any. He thinks a service contract is, for instance the Council's control with him, where you pay for a professional service at a certain rate or with Hobbs UpChurch that kind of contract. This is more with a lease and interest in land and he thinks it would be subject to the upset bid process. That is his opinion.

Mr. Olson said legally a lease for less than ten years is not subject to the upset bid process.

Mr. Morgan said that is true. With what has been presented to him tonight he believes based on what Mr. Olson has just said that with that ten year provision under State Statute this would be exempt since it is just for a one year period.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C Watts to authorization execution on the proposed lease with Rhonda's All Occasions presented to Parks and Rec Department in accordance with the appropriate Statute. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

d} Renewable Energy Development and Service:

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson stated Senate Bill 3, which was adopted in 2007, requires all cities that supply electric service at retail to comply with the Renewable Energy and Energy Efficiency Portfolio Standards (REPS). This law is complex and compliance is under the jurisdiction of the NC Utilities Commission. The City must annually submit a compliance plan to the NCUC by September 1. The plan is required to be updated each year, together with a report on the past year's activities. The city must be in compliance by 2012. We have to have 3% of our total energy portfolio in renewables by 2012, 6% by 2015, 10% by 2018 and 12.5% by 2021. Compliance can be done by generating, buying, selling or spending money to achieve this. We can do it by reduce energy consumption as the City Council is well aware of we have a very successful load management and we save roughly 100,000 kw a year through that load management program. Buy all or part of our energy requirement through a wholesale contract with a supplier that complies with Senate Bill 3. Meet the cost cap incurring increment costs for some or all of the above services. We believe after our discussion with the Eastern Agency that most if not all the cities in North Carolina that are part of the Eastern Agency will fall under the cost cap modifications formula. Under that formula there is a limit that the Legislature decided to spend. You should not have to spend more than \$10 a customer annually to comply with the REPS amendment. We already have our load management program, our energy audits, installation of the switches, our SEPA power that we get from the Southeast Power Administration, all those costs combined would equal what the cost cap modifier will be. It is hoped with our existing programs that there will be no need to raise the rates.

Following additional questions and concerns,

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to authorize Mayor Atkinson to execute the Renewable Energy Development and Service Agreement. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

e} Amend UDO to update definitions and regulations of signage in the City:

Mayor Atkinson called upon Angela Cole for comments.

Ms. Cole stated that as the Manager stated this is a scaled back version of TA-01-08 as per your last meeting. Staff is bringing back to you the language that was drafted almost a year ago dealing with window signage as well as sandwich board signs. The Planning Commission recommends approval as well as the Historic

Preservation Commission. She believes there were questions from the public with regards to notification. Staff follows all policies and procedures by General Statute and our own ordinance when it comes to notification. We also held several work sessions voluntarily with Planning Commission, staff and the community. She believes there was concern about this particular version being received by the community only this afternoon. Council members please remember that this text that you are looking at is already a year old. It did not change from two weeks ago, from four weeks and it didn't change from a year ago. As far as the sandwich board signs and the window signage this is exactly what your Planning Commission has recommended to you for approval at the time that we held the last Planning Commission meeting. Please look at J-4, lettering on the sign shall be small enough not to be legible from automobile traffic on the street. Planning Commission did recommend that this particular bullet be pulled out, however, to make sure we presented to you a full package Staff left that particular bullet in there with recommendation to you so that you can consider it. As far as the size of the sandwich board signs she does not believe the Planning Commission having any particular upset as to the height or total area of the sandwich board signs. Only that they are generally uniform and that there is some regulation as to how tall they will be. Too tall, staff is of the opinion they would obstruct visibility especially if placed in the right of way or too close to the roadway. As far as city-wide regulation the Planning and Historic Preservation only wanted to deal with the Central Business District. We were not looking to tackle city-wide regulations of sandwich board signs. That is all that we were asked to look at. Transferability, usually when you get a new proprietor in a building there is a change in name and some change in use, working from that general background signs are not transferable anyway. However, if someone wanted to use the same frame she would hope that this staff and future staff finds the ability in the language as it is written to find room to do that. We did not go out and measure any existing signs.

Mr. Rivers said that his motion last meeting was to deal with only the sandwich signs and the window signage. Anything doing with billboards will be at another time.

Ms. Hummer said on the sandwich board signs the sign company owner has suggested that 24" limits could be expanded to 26"-27" that would be in line of what they do now so that they don't have to change that. There is one business in particular that has two sandwich board signs and they have two businesses that connect to each other and do they have to pay for two permits.

Ms. Cole said that we are regulating per business establishment. So if there are two separate businesses then one business would apply then the other one.

Mr. Stimatz said as written he would reject this document. We still have some questions about definitions. We don't discuss an off premise sign which is the current accepted sign definition. We can interpret the electronic control message sign to be considered animated signs. We don't define awning sign versus a canopy sign. We didn't make the changes concerning plasma and LCD. More importantly he thought the board time on flashing signs was going to be four seconds but we are not addressing that and it is still two seconds. There are a number of other definitions that are not included that should be included. When we get to the sidewalks signs we don't have a definition for it. We can do it later on. He would like to go back to something that was brought up by the people that spoke. Staff says this but we don't fix it. We have intermingled definitions with policy in the definition section. This makes it difficult to determine what you are really talking about. The two that leap to mind are the special event signs and temporary signs. He has issues. Even if you don't want to deal with them let's talk about the things that we are talking about here. Sidewalk signs, why are we only focusing on the use of sidewalk signs in the commercial downtown district or places with pedestrian oriented commercial businesses. He doesn't understand that. What defines pedestrian oriented. If he is Frank's Hotdog and he wants to put a sandwich board sign on my sidewalk in front of his building according to this he can't do that. He is only allowed to do that in the Central Business District. We are restricting businesses abilities of advertising themselves. In addition, we say that you can only have a sandwich sign if you are first floor occupants. There are a number of businesses that are on second floors, especially downtown. We have high vacancy rate downtown, we have issues getting people down there and if we want to keep the downtown viable we have to make it attractive. What we are saying is well you can rent space upstairs someplace. The Virginia Arcade is an example. They would be allowed to have a sandwich sign downstairs. However, both Rachel's and the Monogram place next to it which both have window frontage signage at the sidewalk could have a sandwich board. It doesn't make sense. We are penalizing people. Another thing that is wrong with this is you make changes to the amount of signage you are allowed and again it does not allow for upstairs, second floor, third floor businesses. That is an area that we don't even look at. You are putting anyone that owns an upstairs business to a disadvantage of renting it. Those are areas where we are not being business friendly. We are not addressing the issues that were brought up before us. He has trouble with it as written. We get into this thing of telling people how the sandwich sign has to be constructed. What do we care? Not only that we do not allow another kind of sidewalk sign and sidewalk signs are not always sandwich signs. Some sidewalk signs are two panel signs with large bases that you can put out. We are not allowing them but we are going to allow sandwich boards. If you want to restrict sandwich boards to the downtown area with only sandwich boards in the Downtown Historic area, he can see that as you are going for a certain look. There are problems with this in terms of not being as business friendly as it could be and in some cases being business unfriendly. He has had trouble with this

thing all along of where we are going and why we are going there and what are we accomplishing. The last time this came up Ms. Baker made the motion to have a work shop to iron out some of these issues so we would have something that was doable. We haven't corrected the definitions that he was having issues with and we haven't clarified the terms and conditions. He can't vote for this the way that it is.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to reject TA-01-08 as presented.

Mayor Pro Tem Baker said that she has a comment. It is unclear to her if we are just talking about sandwich and window signs or are we talking about all the definitions which is referred to in our reference on the memo. In the body of the memo it says amending the definitions section without affecting the entire sign section is unfeasible considering their inter working relationship. She is not really sure what we are supposed to be or if we are supposed to be looking at both of them tonight or just the one. She still maintains if we don't have another public meeting or a major public meeting then the businesses are not heard. They have already been meeting on this a couple of times and they have issues and we don't have all the answers. They have lots of things in the works and then we went and ditched it all last meeting in favor of just coming up with a couple of issues. She is not real sure the couple that we are dealing with tonight. She absolutely agrees that should defer action on this until later.

Ms. Watts said she was thinking that we were only doing three things. She believes the last time we came together we were not looking at the bill boards but we were actually looking at the portable signs.

Ms. Cole replied staff walked away with the understanding that we were to bring back to you sandwich board signs and window signs which were the two original issues that initiated TA-01-08.

Mr. Stimatz said the he would like to quote from the minutes approved by the Council tonight. "A motion was made by Councilman E. K. Rivers, seconded by Councilwoman V. C. Watts to bring back the discussion on sandwich boards, window signage, changeable copy and any definitions clarification." He doesn't know how much clearer to staff that we can be than to pass a motion and everybody voted for it except Mr. Baker and Mr. Evans. So, this isn't even what we asked for.

Mr. Rivers said if we don't do that then sandwich board signs will not be allowed downtown. He understands that two of the four things that he asked for did not come back but after that meeting staff is just trying to accommodate. He has no problem with what Councilman Stimatz is talking about. He is just trying to move

forward so we can get sandwich boards and window signs and if staff has to come back a month with the definitions so we don't have to bring back sandwich board signs then we need to do that. We need to make sure that we are not penalizing the businesses that are downtown that have already purchased sandwich board signs. Sandwich board signs are the only thing that we definitely need a vote on. Everything else can be dropped. We need to move forward so that we can clear this item up. The rest can come back at the next meeting. If you go along with Mr. Stimatz motions then sandwich board will be obsolete and because we have difference of opinions he would like to take everything as an individual item.

Mr. Stimatz said again at our last meeting, Mr. Rivers made a motion, seconded by Mr. King to place a stay on the enforcement on sandwich boards. We have already stated there is no enforcement on them so nothing will happen if we reject this. You have already taken care of it.

Ms. Hummer said that it is funny staff came away with the same understanding she came away with and Mr. King says he came away with that it would be sandwich boards and window signs. There are those on Council who still want to sneak the billboards back in and she thinks that is so unfair because she thought that we took care of that at the last meeting and we would just discuss these tonight.

Mayor Atkinson said it was his understanding also that window signs and sandwich boards were the real focus. It is true as Mayor Pro Tem pointed out to update the definitions that go beyond sandwich boards and window coverage if that is the case that is beyond sandwich boards and window signs.

Ms. Cole said the only definition change would be window and sandwich board signs. No other definition. Staff response at your last meeting was to affect change on the definition in essence change the entire sign section.

Mr. Rivers said he did put a stay on the enforcement of the sandwich boards, if his motion passes then we will be with what we have in the ordinance and sandwich stay would still be on.

Mayor Atkinson called for action on the motion to reject what staff has provided.

All those in favor of the motion were: Stimatz, Baker, Evans, Hummer, Meggs, Rivers and Watts. Against: Rivers. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to stay enforcement action against sandwich board signs anywhere in the City until such time as we

can get back in these chambers a sandwich board ordinance change that is acceptable to all parties concerned.

Mr. Rivers asked for a friendly amendment. With what was presented in terms of sandwich boards, central business district, construction, permitting, placing, liability and application and renewal. Can we add that in also?

Mr. Stimatz said when he sees it he will believe it.

Mr. Rivers said why he is asking is that way we wouldn't have to deal with this issue again. The reason he is asking for a friendly amendment is what was given by the Planning Board to just go ahead and have that part implemented. We have already had the public hearing, it has already gone to Planning Commission and that way we can pass that section. It sounds like this could be an indefinite stay. We ask for one thing and staff will bring one thing and then we send them on a hundred and then when it comes back we just want simplicity. If we give sandwich boards the vote tonight it doesn't have to come back. We only asked for window signs and sandwich boards. That is why he is only asking for a friendly amendment.

Mr. Morgan said since there has not been a vote on Mr. Stimatz motion he would like to say that motion be amended in two regards. He believes you said until we get something back that is acceptable to all parties concerned. He is concerned about the wording. He would say something that Council has acted upon and is acceptable to Council. Then the second thing he believes that you should limit this in time to twelve months or six months. He doesn't believe that it should be left open ended. That is his opinion.

Mr. Stimatz said then he would restate his motion:

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to stay enforcement action for a maximum period of twelve months against sandwich board signs anywhere in the City until such time as we can get back in these chambers a sandwich board ordinance that is acceptable to Council.

Mr. Rivers said you are saying until staff brings us back something. Staff has brought us back something. We can either accept it or deny it. We right now have rejected it. Now we can do something on sandwich board signs. We can amend TA-01-08 by adding sandwich boards and what staff has given us. Why are we saying that we want staff to come back?

Mr. Stimatz said point of clarification. We have already rejected the TA-01-08 as presented. If you want to bring back a change to the ordinance then we have to start the process all over. That one is over and done. We cannot bring it back at this point. We have to bring back new language and have a new ordinance. He will not accept the friendly amendment.

All those in favor of the motion were: Stimatz, Baker and Evans. Against: Hummer, King, Meggs, Rivers and Watts. Motion was denied.

Mr. Rivers said point of order. He was on the winning side of the motion to reject TA-01-08. Due to a lack of understanding of the motion he would asked that it be brought back to the floor for debate.

A motion was made by Councilman E. K. Rivers, seconded by Councilman R. E. King to amend the TA-01-08 to include Section defined Sandwich Boards and it be allowed in the Central Business District, the permitting, placing and liability, the application fee and renewal, the construction, the total number but striking out ground floors that was given to us by staff.

Mr. Rivers explained everything else we are back to what we have in the UDO and now we just have a new section that says, "sandwich boards". That is all for simplicity just bring forth.

Mr. Olson said what he would recommend your motion to be is that you instruct staff to come back with an amendment to TA-01-08 to include those items that you just mentioned. We want to just get it right.

Mr. Rivers said that is what he thought he asked for last time and he just did not want to keep asking staff to come back and forth and we just tear them up.

Mr. Olson said that he wants us to draft an ordinance that you can have in front of you and you can say this is what we want and this is what we agreed too. It may be a four - four vote, with the Mayor breaking the tie but at least we would have something in writing.

Mr. Rivers said that he didn't have a problem with that. He just wants to have a simple amendment on sandwich boards.

Ms. Cole said that she is clear because she knows exactly the point that he is making. The only thing she would like clarity on in your motion Councilman is that number J-4 be stricken.

Mr. Stimatz said he would offer to Council that is exactly what his motion was. It was to stay execution on the sign boards until such time as they bring back an ordinance relating to sign boards that would be acceptable. That was his motion. His question is he is not sure what he is voting on right now because he has some other questions related to the sandwich boards that he would like to have clarified before it comes back here. If this is his time to get them in then he is going to get them in. In particular, he does not think that we should limit them only to ground floor retail stores or shops.

Mr. Rivers said that is not in there.

Mr. Stimatz said he doesn't care if it is or not. That is what he wants in there. That is what he hears his constituents in the businesses telling him.

Mr. Rivers said that is not included in his motion.

Mr. Stimatz said your motion is subject to debate and discussion.

Mr. Rivers said you can vote his motion down and then you can add whatever you want to add.

Mr. Stimatz said if he remembers correctly we have done a number of ordinance changes in here. When we have done them or whenever Council has suggested a change without being specific that is considered direction to staff. Mr. Rivers you have offered no specific language, you have only offered general direction and since you have offered only general direction then he feels not only by precedent but by right he can say he has some other issues that he thinks staff has to consider in coming back with that particular ordinance change. If you want to get specific then you need to say specifically what changes you want and not be generic. If you can be generic then anybody can. He thinks that is only fair to this body. That is how we have acted in the past. He would ask that consideration from his colleagues. The point he is making is that he made several comments during the discussion as well, why are we only accepting Mr. Rivers and staff is only agreeing with Mr. Rivers he does not know. They are saying that they only understand Mr. Rivers. His point is he has other issues which he has emailed them frequently on. He would like to state them for the body because it appears when he sends them an email they don't get incorporated and the issue is we need to make it very clear where sandwich boards are or aren't allowed and we need to differentiate between other kinds of sidewalk signs. If you only want sandwich boards downtown then say that but sidewalk signs are other signs besides sandwich boards. He sees no reason to put any business that is not in the downtown business district at a disadvantage by not allowing them to have them. The other thing is he does not think it is right to disadvantage any business on the second floor or third floor of any establishment to not have sandwich boards on

the ground floor. That is what this ordinance as currently written does. It is anti-business as written. He wants to clarify that and correct it. In his mind that is the thing to do. You talked about the construction issue and he doesn't think we need to tell them how it ought to be constructed. Those are really his only two points.

Ms. Hummer asked didn't Mr. Rivers' motion allow ground floor and upstairs signs?

Ms. Watts said the other thing she wanted to agree with Mr. Stimatz in this way she has received a letter from the Pineapple Café. We were talking about the Weeksville Road and how they are set back off the road and it is kind of nice having that little sandwich board out there so that you can see the sales that they have going on. It is a consideration to have that brought back to us with some of those extra things in that ordinance.

Mr. Rivers said he would add Central Business on the motion that he is presenting.

Ms. Cole said that in the staff's evaluation what we are talking about as far as the sandwich board and pedestrian oriented areas. Please keep that in mind. She wants to make sure when she comes back to you with text that you are envisioning sandwich board signs along the sidewalk areas and not along your highways. If you are adding General Business and Highway Business in terms of where they would be allowed and where we would regulate because right now we don't regulate at the Pineapple Café because they are not on public sidewalks. This is strictly to deal with the public right of way.

Ms. Watts said that is exactly what Mr. Stimatz is saying then. We need to definitely clarify what we are talking about when we say sandwich signs. It should not be just limited to or if it is it should say that. Then if you are going to do that then you need to have a specific section for highway sandwich signs. In regard to that she thinks it is very important that we do have a chance or that the sign people have a chance to set down and talk about this. One of the problems that we are having is the community and those people that are affected are really not getting together or not given the opportunity to get together to talk about this. She does not think that we as a Council are able to come up with these things because some of us don't have businesses and we can only make decisions based on hearsay or what we see. We are very limited if we are not a part of a business. She thinks that we might want to consider Mr. Rivers motion but at the same time we need to play into Mr. Stimatz concern and also the Chamber of Commerce concern as well as each entity that has an established business in making signs. All of these considerations and it is not going to be easy to come up with answers. As you can see we can't decide on two things. She says lets hand it over to the Chamber of Commerce. She is in the business of being in business and she thinks that she can organize this thing and get it straight and

work with the Planning Commission. Then we will have something to really look at. That is her opinion and she hopes that we can work together.

Ms. Cole said respectfully the community was a part of our drafting of the first part of this, specifically the sandwich boards and the window signage a year ago. She believes the City Manager set in on the initial meeting where she was directed to go back to the community and get their input and weigh in. Although Ms. Palestrant was not at that particular meeting city staff was asked to specifically draft an ordinance dealing with sandwich board signs and window signage that put the Central Business District at an advantage because of the number of vacancies in business fronts that are in the condition that they are in. She has notes from that meeting.

Ms. Watts said that she is not going to contradict you or argue with you but however she wasn't at that meeting that means somebody else probably wasn't at that meeting. Until everybody is together and you guys come to us with the majority of the businesses who are involved and concerned with this then who are we to change the ordinance because we are here for them. She wants to be well informed when she makes a motion or when she makes a vote that is conducive and that is for the public's voice not just hers.

Mayor Atkinson said that Mr. Detwiler who was here earlier is the present chairman of the Historic Preservation Commission. It is his understanding that he along with the Planning Commission approved of what we are talking about with the signage of the sandwich board and the window coverage.

Ms. Cole replied that yes and this was after several work sessions with the community, open invitation to everyone. Not just the Central Business District.

Mr. Rivers said that he wants to make sure that she understands what he is seeking from his motion. He would like to have staff come back to the next meeting with the items that he listed.

Mr. Morgan said not to further confuse things but the Manager and I spoke a few moments ago and our concern is that we have a document that is gone before the Planning Commission that Council has conducted a public hearing on. We cannot make material changes to that document or any proposed ordinance that might result from that document without going back through those steps again. We need to be very careful in his opinion not to pick and choose and start supplementing, modifying text that is in this document for any future vote tonight or two weeks from tonight.

Mr. Stimatz said that he would like to comment on that. That is interesting that issue came up right now because we made a major significant change to the Tea

House Ordinance in this room and nobody said we needed to go back to the Planning Commission. That was a major change in scope that went from the entire local historic district down to the designated historic district. To pull that chestnut out of the fire tonight it is the third example that he has on his list tonight to talk about where the rules suddenly change when staff decides they do not like the way that it is going. It is not a question, it is a statement. He is tired of getting handed this stuff and then have the rules change. Oh, it is a service contract, oh it is not, it should be released, oh well we can't, well it is ten years, he is constantly getting that. The rules keep changing when staff somewhere doesn't like the direction that it is going. He is really upset about that. The other thing is he finds this very interesting. This is the first time that he has heard that you wanted to give the Central Business District an advantage. Let me tell you something. If it had been and I don't see it in his notes, it wasn't a major premise of this and if that were true then he would expect Wayne Harris to be standing up there saying gentlemen and ladies you need to support this because it is the best thing you can do for the downtown. He has to tell you that when you said that he wants you know, that is a darn good idea. He doesn't have a problem with that now. He has fewer problems with it, only sandwich signs downtown and sandwich boards no where else. But it goes back to the question of can they be allowed to have two panel sidewalk signs. That is the first time in ten months that he has heard this, that we wanted to give the Downtown Business District a competitive advantage. Nobody has explained that in these terms. He will also correct Ms. Watts. He is not in favor of sandwich signs or two sided signs or any panel signs in the right of ways. He agrees with the language that is in here. He is focused on sidewalks. His problem is; are you talking about pedestrians or any commercial area. That is an ill defined terms. Is Frank's Hotdog a pedestrian oriented commercial center? He says it is. If he wants to put a sign on the sidewalk he ought to be able too. However, given that we want to give a competitive advantage to the Central Business District he might be tempted to say no sidewalks anywhere but Central Business District because now you are giving an economical incentive. He doesn't get all the information. He doesn't get the minutes for all the things. He sends e-mails and asks a lot of questions looking for background reference material but he is never provided it. He has asked the question of how many non-conforming signs are in this city and he has been asking that question for eighteen months and he still doesn't have an answer. How do you expect us to deliberate? We need full information and full disclosure and the rules can't keep changing because someone thinks we should go in this or that direction. He has said this before; he does not mind being managed as a council person. He resents being driven and he will not be stampeded. That is why he asks the questions that he does. That is why he takes the grief from people in this room about asking too many questions. He gets great praise from people out there to keep asking questions. His answer to those people who don't want him to ask questions is Chowan County and the American Mental Health.

They didn't ask questions and look where they are. He is going to keep asking questions and he is going to keep pushing.

Mayor Atkinson asked if Mr. Stimatz would direct those questions to Mr. Olson and not to staff.

Mr. Stimatz said he has been told before not to address things to anyone so he uses the term staff in a generic sense. That includes everybody from the City Manager down to the person who does the least job in this city or the best job. He uses the term staff that way and he will not be placed on a report for using a term like he was told.

Mayor Atkinson replied that you would not be placed on any report.

Mr. Olson asked to address what Mr. Stimatz is saying there. Let him just refresh what has happened here. This City Council has taken action tonight to kill TA-01-08. That issue is dead. You had Councilman Rivers bring that up for reconsideration. We are still on TA-01-08 because there is an amendment on the floor. TA-01-08 based on a previous motion is dead before this Council. Councilman Rivers brought it back up because he was on the prevailing side so we are still discussing TA-01-08. That zoning text amendment is dead in front of this body. That is what they City Attorney was saying.

Mr. Rivers said it is back on the table with everything that was presented and staff will be back at our next meeting only with sandwich boards. Only that section will be part of TA-01-08. He doesn't want to change the wording on that because that wording has already been through the Planning Commission. When he listed those bullet points he did not put ground floor shops in there.

Mayor Pro Tem Baker said if we are giving preferential treatment or competitive advantage or whatever we want to call it to the Central Business District what happened to the 14th Amendment we talked about a half an hour ago and equal treatment under the law and why are we having sidewalk signs or sandwich signs allowed on some sidewalks yet this doesn't address sidewalks along Hughes Boulevard and Halstead Boulevard? It makes no sense at all. There are just too many issues. She doesn't have a problem with the amendment as it was by Mr. Stimatz in the first place. He is asking for the same thing that Mr. Rivers is asking for in a separate motion. Staff to bring us back something that council can live with.

Those voting in favor of the motion were: Rivers, King, Hummer and Meggs. Against: Baker, Evans, Stimatz and Watts. Mayor Atkinson voted in the affirmative thereby carrying the motion.

c} Taxicab Ordinance:

Mayor Atkinson called upon Chief Crudup for comments.

Chief Crudup stated Council has asked that there be a discussion regarding their concerns about the appearance of our 40 taxicab franchises throughout the City. There is also concern regarding the 40 franchises that we have in the City if they are adequate for our City. Staff has some recommendations.

Sergeant Pureza who is the current taxicab inspector addressed City Council regarding some proposed changes to the taxicab ordinance. Staff has looked over the current ordinance and actually what they have brought before you tonight is four items. They are as follows:

- 1} Subject to approval of the Chief of Police, or his designee, each franchise shall adopt a color scheme for painting the franchisee's taxicabs, distinct from that of any other operator and may adopt an identifying design, monogram, or any other insignia.
- 2} A two year period for franchise owners to comply with and make the transition to this amendment, so as not to place an undue financial burden upon the franchise operators.
- 3} There be discussion involving taximeters being installed in the taxicab fleet and;
- 4} Some penalties for not adhering to the current ordinance that we have. The reason is basically it would put some teeth in our ordinance as far as if any franchise or driver does not follow this ordinance that we actually have some force of action to take against them to make them comply

Staff is not taking a position on this matter at this time, until such time that a more thorough study has been completed.

Mr. Stimatz said you have highlighted some of his concerns and issues but he has some very specific things relating to that and he will go ahead and do them because he is not sure he will get another chance. You used the term taxicab stand in Section 86-54-8 and you refer to "have" a radio to communicate with the taxicab stand for immediate "dispatch". He would think the more appropriate term would be to communicate with a dispatcher and drop the term taxicab stand. The term license as written is confusing. You have already addressed that and that is good. He took the terms "owner and person" and combined them in one and called it a "franchise". Franchise means any individual, partnership, association, corporation or other organization that has or proposes to have

ownership or control of the operating, maintenance and collection of the revenue of one or more taxicabs and to who a franchise license for the operation of a taxicab(s) has been issued". He would change the term "business license" to "franchise license". His other thought is to add, "franchise license/ownership transfer fee". It would be a one time fee upon franchise start up or transfer of ownership - \$100. No exceptions for charging fee. A taxicab privilege license fee is the annual administrative fee charged per authorized and inspected taxicab - \$35. This fee we already charge. His personal thought is and he has talked to a number of other people about this, why we even bother to worry about how many franchises of cabs there are. Let the market figure that out. We need to get out of the business and don't worry about it. We talked about meters before. Mr. Olson suggested that we go ahead and buy them and add a \$.50 fee to every fare until we get paid back and then we don't have to worry. These will be a great benefit to riders and especially to government agencies (DDS, Employment Services) that pay for each cab fare for various groups – amount is exact and a receipt is available. We don't define the size and shape of the required roof lighted globe. We just say that you have to have one. It also doesn't say when it has to be lighted. The other thing that really got him was this color scheme thing. Way too much work. He thinks that we should keep it simple and say all cabs in your franchise have to be the same color. No two franchises can have the same color cabs. Those are his basic comments.

Ms. Hummer said that she thinks that all these ideas are something that Council can take into consideration over a period of time but we are in the middle of a crushing economy and to ask taxicab owners to paint their cars, their whole fleet of cars is unrealistic. How much does it cost to paint a car? We are changing ordinances and we are costing people money and everybody is hurting and she just doesn't think it is the right time to ask for the painting of the cars. She agrees there might need to be meters in the cars but she thinks this is a little too much right now considering the economy.

Mr. King said it would be nice to see all the cabs in the City the same color, but he has to agree with Ms. Hummer right now there is a financial crunch on everybody and he would recommend it we are going to do that we need to phase them in.

There was no action on this item at this time.

d} Gazebo at Waterfront Park:

Mayor Atkinson called upon Ms. Meggs for comments.

Ms. Meggs said that if you haven't heard it is in terrible condition. The Downtown Association has been working to try to raise the money. They have estimated it will cost approximately \$15,000. It is completely rotted and it is just a lot of work.

This is a City owned property and the City owns the gazebo. She is asking that if the City will put this in the budget so that we will have the money to get it fixed properly.

7} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:

Mayor Atkinson called for any final comments.

Mr. Olson replied that had no further comments.

Councilman Evans said that he wants to make sure that we contact the Waste people tomorrow so that we can go ahead and let them know to not empty the dumpsters or ask if we can have the dumpster being moved.

Councilwoman Watts just wanted to say that she really appreciates everything that staff did on the sign ordinance and also everything that they do for us. They certainly do work hard and she really appreciates your hard work.

Councilman King said he is concerned on the issue of street sweepers. The City looks like Bayreuth. Our streets are dirty. They need to be swept. If there are two sweepers he doesn't see them. He rode through Debry and you have trash everywhere. Laura Park is the same. The streets need to be taken care of.

Councilman Stimatz said that he has a question for the Chief a few weeks ago and he hopes he can get an update on it at our next meeting and that is how are we doing with curfew enforcements since we changed the ordinance. The only other comment he would like to make is Officer Pureza brought something up and he thinks it is something that we as Council should think about and he thinks NCLM should take a look at. If you look in the state statutes concerning fee for licensees many of those fees were set back in the forties. Some of them are ridiculous. He feels that we need to look at all the licenses and see if they need to be realigned with reality. The world has changed in six years.

8} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Atkinson adjourned the meeting at 10:35 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Stephen S. Atkinson
Mayor