

MONDAY-7:00 P.M.

MARCH 9, 2009

CITY COUNCIL

The City Council of the City of Elizabeth City held its first 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. Council members attending were: 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. City staff attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, City Manager Intern R. A. Lyons, Deputy City Clerk V. D. White, Planning Director J. C. Brooks, Inspection Director S. E. Ward, Electric Director K. F. Clow, Human Resource Director K. W. Felton, Finance Director S. E. Blanchard and Public Utilities Director P. A. Fredette.

Mayor Atkinson opened the meeting by welcoming those attending. He called upon Councilwoman L. A. Hummer 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.

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

2} COMMENTS FROM THE PUBLIC:

Mayor asked City Clerk Pierce-Tamplen to call those signed up to speak.

Roger McLean, 121 Chancey Drive, Elizabeth City spoke regarding issues affecting Elizabeth City. In his opinion Mary Godfrey's \$790 utility bill is unjust. It is a sad day when the utility bill is higher than your rent payment. The City spent over \$50,000 evicting a non-profit that helped children. When he came to Elizabeth City in 1974 this City was very friendly, now instead of Harbor of Hospitality it is known as the Harbor of Hostility. Now we even have one council member referring to a non-profit that helps children as bums. Something has to be done and he would like to announce that he is going to run for the mayoral position in the next election.

Cindy Williams, 1012 W. Main Street, Elizabeth City spoke regarding the sandwich board signs. In the proposed amendment to the UDO regarding signage there are a couple of things that she is not satisfied with. The size she would like to see increased. The transferability of the signs to whoever is in the building is another issue she would like to see. Finally, she has big concerns on the lettering on the signs. It needs to be large enough you can read it in a passing vehicle.

Jennifer Palestrant, 502 E. Ehringhaus Street, Elizabeth City spoke regarding the proposed amendment to the UDO in regards to signage. She has a couple of concerns. The transferability is one, the lettering on the sign and the violation amounts. She agrees with the previous speaker.

3} APPROVAL OF MINUTES:

Mayor Atkinson called for Council's pleasure regarding the minutes of the Special Meeting held on December 15, 2008 and the Work Session held on February 23, 2009.

A motion was made by Councilman E. K. Rivers, seconded by Councilwoman L. A. Hummer to approve the minutes of December 15, 2008 Special Meeting and the February 23, 2009 Work Session. Those voting in favor of the motion were: Rivers, Hummer, Baker, Evans, King, Meggs, Stimatz and Watts. Against: None. Motion carried.

4} CONSENT AGENDA:

Mayor Atkinson advised there were no items on the Consent Agenda.

5} PUBLIC HEARING:

a} Revision of City's Noise Ordinance:

Mayor Atkinson called upon Police Chief Crudup for comments.

Chief Crudup said at the February 23, 2009 Council meeting, staff brought a number of proposals regarding the revision of the City's Noise Ordinance, Chapter 50, Article II. The primary purpose for discussing the noise ordinance was due to some complaints received of noise violations from Trios Nightclub. Citizens in the nearby area of Meekins Street complained of the loud bass beat coming from the club and has requested our assistance in rectifying the problem. Because a revision of the current Noise Ordinance would have an effect on

neighborhoods in our communities many discussions were held. Council recommended calling for a public hearing to receive citizen's comments.

Mr. Tom Henderson an expert in the various weighting networks explained this is between an A-weighted sound network and a C-weighted sound network. Mr. Henderson explained even with good, modern construction, bass beats are difficult to contain within a structure. Mr. Henderson also agreed with staff's recommendations to use the C-weighted network to measure decimal readings at a 3-minute LEQ which is continuous noise level.

As far as enforcement, our current ordinance is restricting enforcement and is calling for us to have a certified officer when we only need an officer that is trained in the usage of the meters. Our current ordinance doesn't penalize repeated offenders. We are requesting our ordinance reflect repeated offenders and we are also recommending several revisions to the current ordinance. Under Section 50-35, 38 and 39 we are recommending that an A or C network is reflected in these sections. Under Section 50-37, omit the word "certified". The officer would only have to be trained in the use of a sound meter. Under Section 50-39, the penalty section, we would continue to give a warning for the first violation and after that for any violation of the noise ordinance, the first offense would be \$100, second offense \$250.00; third offense \$500.00, fourth offense \$750.00 and any subsequent offenses would be \$1,000 per offense.

Mayor Atkinson declared the meeting into public hearing. He asked City Clerk Pierce-Tamplen to call those who signed up to speak to the podium.

Martha Quidley, 210 Meekins Street, advised that she has been sick with the flu for the past few days but she was here tonight to ask for the City's help in eliminating this terrible noise problem.

Lenwood Quidley, 210 Meekins Street, stated he was here tonight to plea for some relief on this noise problem. The duration of the bass sound has not changed. Other sounds such as vehicles are here and then they are gone, but that bass sounds goes nowhere. Please help with this problem

Rosa Williams, 208 Meekins Street, said this is her sixth time coming before Council pleading for help with the noise problem coming from Trios. It is still a big problem. Please do something about it.

Carlise Williams, 208 Meekins Street, said the other night he was disturbed from his sleep at 2:00 a.m. and he was wondering how members of this City Council would like for some car to come and park in front of your home and start playing loud music at 2:00 a.m. and continue to be back for four days straight.

LeighJean Gilbride, 1306 W. Church Street, said she feels that the proposed amendment is a step in the right direction. The penalties should be enough to make it hurt. As to noise coming from cars, well cars and truck are here and then they are fleeing. It is not the same as with the nightclub. She and her fellow neighbors can't do anything but Council can and she is asking for your help in getting this ordinance changed.

There being no more speakers, Mayor Atkinson declared the public hearing closed.

Mayor Atkinson called upon Chief Crudup to come back to the podium to discuss the time elements.

Chief Crudup said he overlooked that section. Under Section 50-39, Table One, Sound Level for Occupations Use we recommend lowering the sound level for public space and commercial and/or business so it would reflect the same as in our neighborhoods from 7:00 a.m. to 11:00 p.m. lowering the sound level to 60 dB. Also, from 11:00 p.m. to 7:00 a.m. lower the sound decimals to 55. In Table One it shows dBA and dBC network which would allow us to use both weighted networks to measure bass beats and/or if we have some noise that we need to measure using the A network.

Councilman Stimatz said he has a problem with the wording of dBA and/or dBC. We heard from Mr. Henderson the type of noise you are trying to get at is listed on the dBC scale. If you say "and/or" then that means that the operator has a choice of saying which scale he would use. He thinks you need to either say dBC or just leave it at that. He doesn't understand why we need both scales. If you do have both scales and are going to measure both scales you need to make some statement about the level on which scale. We need to make it clear to the people that have to comply what they have to comply with. It is not fair as written.

Chief Crudup said that the dBA scale normally records it as the human ear hears it. The dBC and the reason that we want to introduce the dBC weighted network is to try to test those flat, lower bass tones that is in music. If we go measure a nightclub we could use the dBC scale and it wouldn't restrict us to using just one scale. If we need to use the dBA scale we wouldn't have it in our ordinance if we restrict it to only the dBC scale.

City Attorney Morgan said that Mr. Stimatz makes a good point. He thinks if we were to include a sentence in the ordinance: a violation under either scale constitutes a violation of the ordinance. That would clarify it.

Mr. Stimatz said he thinks you should pick the word "and". If you go then you are going to measure both scales. That is what you are going to measure each time. You measure both every time on this scale and if you violate one you are in violations.

Mr. Morgan said he would put right before your language second revision if you would just include another bullet there: A violation under either dbA or dBC scale constitutes a violation of the ordinance.

Mr. Stimatz asked should we not also delete the word "or" where ever it appears after "and"?

Mr. Morgan said he would rather you have "or" instead of "and" because he thinks if you talk about "and" then an attorney could argue that a person would need to violate both in order to be in violation. If you omit one word he would rather see you omit "and" instead of the "or".

Mr. Stimatz asked him to look at 50-38(b). That is the one where he thinks you ought to say "and". In other words, we, the City, are going to measure both. You will be in violation if either is in violation. We are going to measure both every time. Based on what we measure you could be in violation of one or the other or both.

Mr. Morgan said that he agrees as long as we include a sentence to that affect he thinks it would be ok.

Mr. Stimatz said he would suggest 50-38(b) we take out the work "or" there. He can see it in the other one. It is just a definition in 50-35. He would like to ask Chief Crudup a question. At the February 23rd meeting staff was asked to investigate creating a standard based on the receiving location. Did you look into that? You were also asked to create a standard similar for what we have for autos that such a distance measure verses a dB measure so that you don't have to have a meter to determine that they are in violation. What was the result of that research?

Chief Crudup replied we have already taken readings from the houses before on several occasions. As to your second question he doesn't recall that research.

Mr. Stimatz said also at the last meeting it was suggested that language should be put in that would set a 12-month limit from the first violation for the subsequent violation. He doesn't see that language in here.

Mr. Morgan said "Any subsequent offense within the same twelve (12) month period as the first offense" would be alright.

Councilman Rivers asked to say before we take a motion that at the last meeting he specifically asked that we have a standards set. That Friday the standard was set. The police department came and took a test on the db scale. The first time the db scale read it was not in violation. They retook the dBA scale again. The door opened and there was a violation. If the first time it was taken there was no violation why do you need to take it a second or third time. The dBA he thinks is all about timing. The dBC and he concurs with the dBC as the one that we need to go with because the dBC takes and that is what people are hearing in their houses. The loud bass that is coming out. He thinks there should be a three minute continuously sound. Like we heard today. An eighteen wheeler hit the stop light one time and that is a five second and we won't hear it any more nor will it occur at any other time. If the violation occurs with a dBC it's a three minute continuous noise and then it comes in with the reading. You have a three minute continuation that takes out any guess work. That way the police shows up on a song that has no bass then the dBA is not going to site them. Then the very next song changes that dBC will pick it up because they have to be there for three minutes. He can't go with the dBA unless there are rules in place. This just happened Friday and he is still waiting on the complaint to come forth.

Councilman King asked in Section 50-37 you have a verbal warning. He feels that a written warning would be more conducive to the person. If the officer says he gave a verbal warning that is between him and me. Nothing is saying that this really happened. He really feels that a written warning should be in place instead of a verbal warning.

Councilman Rivers stated that he feels Section 50-37 (c) should state" "any initial noise complaint shall give a written warning off the meter reading to the alleged offender. That is why we have the equipment.

Chief Crudup said that another section in our ordinance he thinks it is very important that we leave it in there. We don't want to be restricted if at the time we don't have the meter it would leave us to be able to enforce our ordinance. If something was to happen and we don't have a meter present we would want to still be able to enforce the noise ordinance in the City. That is using a subjective measure. If we remove that it is going to restrict us from enforcing the ordinance.

A motion was made by Councilwoman B. S. Meggs, seconded by Councilwoman L. A. Hummer that we adopt the amendment to the following Noise Ordinance as presented by the Police Chief as well as those revisions made by Council.

Councilman Stimatz said he would offer a friendly amendment to Ms. Meggs motion.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to offer a friendly amendment to the original motion to include the word "written" instead of "verbal" in Section 50-37 (c). Also to correct Section 50-37 (c) to read (b) – (d) instead of (b) – (k). Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs, and Rivers. Against: None. Motion carried.

Mayor Atkinson called for a vote on the original motion that includes the friendly amendment.

Those voting in favor of the motion were: Meggs, Hummer, Baker, Evans, King, Rivers, Stimatz and Watts. Against: None. Motion carried.

**ORDINANCE #0931
AMENDMENT TO CODE OF ORDINANCE
CHAPTER 50, ARTICLE II. NOISE**

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

SECTION I: Chapter 50. Article II. Noise

Amend Chapter 50- Article II. Noise by deleting and/or adding as follows:

Section 50-35. Definitions

Second paragraph:

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated db(A)

Second paragraph to read as follows:

A and/or C weighted sound level means the sound pressure level in decibels measured on a sound level meter using the A-weighted network. The level so read is defined db(A) and/or db(C).

Section 50-36. Penalties for violations of this article.

(a) Any violation of this section shall subject the offender to a civil penalty in the amount of \$50.00

To read as follows:

(a) Any violation of this section shall subject the offender to a civil penalty in the amount of \$100.00 for first offense; \$250.00 for second offense; \$500.00 for third offense; \$750.00 for fourth offense; and \$1,000 for fifth and "Any subsequent offense within the same twelve (12) month period as the first offense".

Section 50-37. Unlawful; enumeration

(c) A sworn law enforcement officer upon being informed of any initial noise complaint shall first issue a verbal warning to the alleged offender. On any subsequent complaint from the same location a sworn law enforcement officer shall, if the proper noise measuring equipment is available and a sworn law enforcement office that is certified and trained use such equipment is available, measure the sound and proceed in accordance with subsections (b) – (d) of this section. In the event the equipment or operator is not available he shall cause a summons to be issued.

To read as follows:

(c) A sworn law enforcement officer upon being informed of any initial noise complaint shall first issue a written warning to the alleged offender. On any subsequent complaint from the same location a sworn officer shall, if the proper noise measuring equipment is available and a sworn law enforcement officer that is trained to use such equipment is available, measure the sound and proceed in accordance with subsections (b) – (d) of this section. In the event the equipment or operator is not available he shall cause a summons to be issued.

Section 50-38. Standards

(c) Sound level meters shall be at least Type II meeting American National Standard Institute (ANSI) SI.4-1971 requirements. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement equipment.

To read as follows:

(b) Sound level measurement shall be made with a sound level meter using the A-weighting and C-weighting scale, set on "slow". A violation under either scale constitutes a violation of the ordinance.

Section 50-39. Maximum permitted sound levels by use occupancy.

Table I

Sound Levels by Use Occupancy

<u>Use Occupancy Category</u>	<u>Time</u>	<u>Sound Level Limit (db(A) and/or db(C))</u>
Public Space, Commercial or Business	7:00 – 11:00 p.m.	65
	11:00 p.m. – 7:00 a.m.	60

To read as follows:

Table I

Sound Levels by Use Occupancy

<u>Use Occupancy Category</u>	<u>Time</u>	<u>Sound Level Limit (db (A) and/or db(C))</u>
Public Space, Commercial or Business	7:00 – 11:00 p.m.	60
	11:00 p.m. – 7:00 a.m.	55

SECTION II. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION III: This ordinance shall be effective upon its adoption.

SECTION IV. Adopted this 9th day of March 2009

Stephen S. Atkinson

Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

6} REGULAR AGENDA:

a} UDO Text Change Amendment TA-01-08:

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

Ms. Brooks stated at your last Council meeting, based on Councilman Rivers' motion to revised the sign ordinance, we have come back with modified language for the sign ordinance. We addressed those issues that were specified in Mr. Rivers's motion. They are defining sandwich boards which are permitted in the Central Business District, the construction, the total number, permit place and liability, application fee and renewal. Because a new definition is being added, the alpha numeric numbering of six definitions will need to be amended. She proceeded to address the 13 proposed amendments.

Councilman Rivers asked that after reading the signs he has a problem and he would ask Section J (2) where it says the sign frame shall be painted or stained wood or anodized aluminum or metal. Sandwich board signs constructed of composite plastic material are allowed, but not encouraged. He thinks that we do not need that. It is saying we don't like it but it is allowed. That is an opinion and he thinks that should be removed. Stenciled or spray painted signs are prohibited. Once again that is an opinion. If a sign looks tacky then that is based off the business. He thinks that should be removed because he has seen some nice spray painted signs. He asked that be removed.

Then he goes to Section J (1) and if you raise it up to 2.5 and 4 that would change the linear foot because the linear foot is width times the height. He thinks instead of giving size if you just say 12 square feet where it says the maximum message area should be 12 square feet. What that does if you went 6 x 2, 3 x 4 all we are saying you can go to 12 square feet and he thinks that would be acceptable with the Chamber and Ms. Williams. Do you see any problems with that?

Ms. Brooks said she thought the intent of the sandwich board ordinance was to make the signs look conforming and not have the tall slender ones or short wide ones or what ever but to make them more uniform in size.

Mr. Rivers said he can understand that but the key to that is we all know that certain sidewalks some or larger and some or smaller. We specifically have here not to obstruct the flow of pedestrian traffic. If we leave it 8 square feet per side you are saying 4 x 2, so they all stay uniform. He has an A-frame sign that he uses at the Funeral Home that he measured today that's 1 X 4 so he would be in compliance. So you are saying to leave it like it is so they will be in uniform. Based off your explanation he can understand that.

Mr. Stimatz said he would like to start with a definition of sandwich board sign. Other than saying that sandwich boards signs are self-supporting A-frame, freestanding moveable signs with only two visible sides, he sees no reason to say the rest of that. That is all policy related stuff which is covered elsewhere. We had this point made by somebody at our last meeting who said we have policy mixed in with definitions.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman E. K. Rivers to only have the following wording in (W) Sandwich Board Sign. Sandwich board signs are self-supporting A-frame freestanding moveable signs with only two visible sides as the definition. Those voting in favor of the motion were: Stimatz, Rivers, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

Ms. Brooks said we need to make a technical amendment because we added a definition in so it changed the alpha numbers in Section 11-1.1 Definitions.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman E. K. Rivers to adjust the numeric numbering in order to be consistent. Those voting in favor of the motion were: Stimatz, Rivers, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

Ms. Brooks said the next proposed amendment would be J – Sandwich Boards Signs. Sandwich board signs shall only be allowed for use in conjunction with retail stores or shops, and on-premise eating or drinking establishments within the Central Business District.

Mayor Pro Tem Baker said that she has had a problem all along with just limiting it to the Central Business District. There are sandwich board signs as we speak on Hughes Boulevard, Halstead Boulevard and in other little shopping areas. She does not know why we are discriminating against these other businesses.

Ms. Brooks asked to respond. The sandwich boards are intended to be on the City right of way in the downtown district. The sandwich boards that are in

other parts of the city are typically on private property. We are only addressing those sandwich boards that would be on the sidewalk which is within the right of way.

Ms. Baker said that is not where she sees them now. She does not have a problem with them being in the street as long as they are not interfering with traffic or vision. If they only have them on private property which she understands in a strip mall or maybe they are right in front of the business, but that isn't the case in all cases. There are some in the right of way on Hughes Boulevard.

Ms. Brooks said but are they on the sidewalk as that is what this particular code amendment was intended to address – sandwich board signs on the sidewalk.

Ms. Baker said she doesn't have every single one of them yet but she did drive by today and noticed that they were definitely other sandwich board signs.

Mr. Stimatz said if that is your intent your language doesn't achieve it. The other thing is when you go to the table of permitted signs, it very specifically only allows sandwich boards in Central Business. You don't make any differentiation between private and public sidewalks or right of ways. If your intent is to only regulate the ones downtown then we need to make some change somewhere that these rules only apply to sandwich boards downtown. Then he has a real problem because he thinks all sandwich boards ought to be the same. The same rule should apply for all of them. It may be that you want to indicate permitted with sign permit or special use permit or what.

Ms. Brooks said we need to go back and look at that particular instance where people may have a sandwich board on their property to see if it fits under another definition where it is outside of the right of way.

Mr. Stimatz said if we pass this tonight we make all the other ones illegal.

Ms. Brooks said they are illegal right now. We don't permit sandwich board signs at all period. Even all of those downtown are illegal.

Mr. Stimatz asked what if he said they were temporary signs or special event signs.

Mr. Olson said that there are specific rules and regulations that you need to abide by. Temporary event signs are 30-days.

Mr. Stimatz said he understands that but it doesn't prevent you from having a sandwich sign as a special event or a temporary sign. All it says is you have to abide by the period.

Mr. Olson said that requires a special permit to get that event. That could be addressed in the permitting process.

Mr. Stimatz said his point is the intent of what you meant to do is not reflected in the language or table and how do we correct that. It is very clear, shall be allowed in the Central Business District.

Ms. Brooks said she went by the motion that we had last time to limit them only to the Central Business District.

Mr. Stimatz said he understands the motion but we are talking about making changes. Ms. Baker brought this up and what he is hearing from you and that was true why you said our intent was only to set the rules for downtown. We are not affecting the ones elsewhere. You agreed with her that she is right and we should allow sandwich signs elsewhere.

Ms. Hummer said we have spent countless hours and she doesn't know how many meetings and it was brought to us to just regulate the signs in the Central Business District not up and down the highway, up and down Ehringhaus Street. It was very clear to her that this was just meant for the Central Business District and those businesses operating in the Central Business District. We can surely bring it back to include all the rest of it at another time, but we do it at every meeting. We bring back the whole shooting match at every meeting. It is beginning to be ridiculous.

Mr. Rivers said Ms. Baker just wanted to add that so let's vote on it. If we approve it the way it is then it should only be an X in the table for Central Business. Let's just stay with the letter and vote and if she wants to add General Business and we will either vote it down or vote it up and keep on going. It is Council decision and staff will enforce what we adopt.

Ms. Baker asked if we cannot just allow General Business and let the permitting process dictate if somebody can have a sign in that district. Just add the GB to the table.

Ms. Brooks said that we can add sandwich signs to the General Business if that is your desire.

A motion was made by Councilman D. B. Evans, seconded by Councilman R. E. King to approve this amendment as presented with the deletions and corrections that we just talked about.

Mayor Atkinson called for discussion.

Councilman Rivers said that he can't go with that motion because he is definitely not in favor because he thinks that we need to identify size. He likes 10 linear square feet as 5 and 2. The sign that came before us he didn't see a big difference. Then the other one is the fee. How much is a sign that goes on your building.

Ms. Brooks replied that it is based on the linear width of your building. She believes it is one and a half square feet times the linear width.

Mr. Olson replied that it is \$100.

Mr. Rivers said he understands the \$30 fee and it doesn't sound like a lot, but if you are opening a business \$30 is \$30 right now. We are going to put the fee out there just for a collection for the City to a degree. Do we have to charge \$30 for every sign? Are we trying to make money off that? It is hard being a businessman. He thinks we need to try to get people into the businesses. The electric bill makes up for that \$30. The electric bill makes enough money off of our restaurants that at least allow these businesses to be able to do something without just charging for every little thing in the good times as well as the bad times. He was just wondering about the fee. He does not like the size, the linear feet, the fee and the lettering on the signs. There are a couple of changes he would like to make.

Mr. Stimatz said the issue that Mr. Rivers brings up can be easily fixed. It is a simple change in the current definition in Section J-1. It can be written to say; the maximum display area shall be 8 square feet per side of the sign. The display area width shall not exceed 2 linear feet and the height of the display shall not exceed 4 feet. The issue of the frame is actually covered if you go back to the definition page under new (X) Sign Area. "The necessary supports and trim moldings shall not be included when calculating the area of the sign. That takes care of the problem. We don't have to worry about the size of the sign per se' if we set the display size. You are the one that has to determine what the necessary frame and support are. You set the display area as 2 x 4 and you already have the authority to allow them to have the physical size of the sign bigger than the display area. Secondly, he agrees with Mr. Rivers on Number 2. We have to delete it in its entirety. He could care less if they used compressed cardboard or left over beer cans to make it unless you are going for a particular look. If you are going for a particular look then you should have some historical standards that you can reference. In this age of materials whether it is hand painted or spray painted or whatever, he can do a sign that is graphic that you would think it was spray painted. He agrees with Mr. Rivers we should drop Section J-2 in its entirety in terms of how we tell them to construct their sign. He would point out in Section J-3 in the next to last sentence you need the work

"right angle" because if you pass this as written the word right angle is not in there. It should read, "business at a right angle to the building façade in order to reduce visibility from the". We can't accept it as it is written. There has to be that change. In J-4 the issue of transferability came up. He has a real problem wondering why we can't transfer it with the business. He is just suggesting this to his colleagues. That the second sentence and drop the "not" transferable with the sale of the business then it is clear. The sign goes with the business. The business goes out of business the sign is defunct. No one is going to put a sign up there for another business if they start a new business. It just doesn't make sense. Again, this gets back to business friendly and not unfriendly. If somebody wants to sell a business for whatever reason we shouldn't be saying well too bad. He doesn't care if they are going to have the same menu. He doesn't care if they are going to have the same place. You have to take that sign and put it aside and get a whole new permit for the same sign.

Mayor Atkinson said there are a lot of items that need to be looked at and to keep it as simple as possible so that every council member can follow you that we vote on each item rather than going through a whole section and trying to put that into a motion. It may be easier to digest.

Ms. Hummer said several meetings ago the sign companies enlightened us to the fact that they have a pattern for these sandwich boards and that 24" would not be wide enough. Does Mr. Stimatz interpretation further down in the ordinance gives them the 30" that they need so they don't have to alter the construction of the signs that they already have patterns for?

Ms. Brooks said typically and if you go back into the sign section when you measure sign area you include everything within the frame. We measure the whole outside of the frame. It can address this question but she would like to make a suggestion. You are limiting the display area to 8 square feet. She thinks to keep signs from becoming a really grandiose type sign we see it in other areas of sign display area but the architectural features of the frames become so massive that your signs become twice, three times as large. She doesn't think that is the intent of what you are trying to achieve with sandwich boards. She thinks you need to set the display area and then put a maximum on the exterior widths. She thinks the 30" would be acceptable with maximum height of 4 feet and then just limit the message area on the inside.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman E. K. Rivers to amend the original motion, to amend paragraph J-1 to read, "the maximum display area shall be eight (8) square feet per side of the sign; the display area width shall not exceed two and a half (2½) linear feet and the height of the display shall not exceed four and a half (4½) feet. Those voting

in favor of the motion were: Stimatz, Rivers, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

A motion was made by Councilman E. K. Rivers, seconded by Councilman J. A. Stimatz to amend the original motion to remove J-2 in its entirety. "The sign frame shall be painted or stained wood or anodized aluminum or metal. Sandwich board signs constructed of composite plastic material are allowed, but not encourages. Stenciled or spray painted signs are prohibited. Synthetic materials such as chalkboard and whiteboard are acceptable accent materials". Those voting in favor of the motion were: Rivers, Stimatz, Baker, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

A motion was made by Councilman E. K. Rivers, seconded Councilwoman L. A. Hummer to amend the original motion to remove J-9. "Lettering on the sign shall be small enough to not be legible from automobile traffic on the street". Those voting in favor of the motion were: Rivers, Hummer, Baker, Evans, King, Meggs and Watts. Against: None. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to amend the original motion to amend Section J-3 to insert the word "angle" after the word right in the next to last line. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to amend the original motion to amend J-4 to allow transferability with the sale of the business by deleting the word "not" on line three and inserting the words "with the sale of the business immediately after that". Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to amend the original motion to amend J-12 to strike the word "shall" and insert the word "may"; and insert the word "temporarily" at the end of the word removed on the first line. Those voting in favor of the motion

were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

A motion was made by Councilman E. K. Rivers, seconded by Councilwoman V. C Watts to amend the original motion to remove the \$30 fee associated with sandwich signs. Those voting in favor of the motion were: Rivers, Watts, Hummer, Meggs and Stimatz. Against: Baker, Evans and King. Motion carried.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman V. C. Watts to amend the original motion to allow Sandwich Board Signs in the General Business District and the fee for the sandwich board signs will remain \$30 for the GB District and to amend Table 11-1.1. Those voting in favor of the motion were: Baker, Watts, Evans, Hummer, King, Meggs, Rivers and Stimatz. Against: None. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to amend the original motion to amend Section J-13 to change the last two sentences to read "Assessed fines will not exceed \$30.00 per violation, each day is considered a separate violation". Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

Mayor Atkinson asked Council's pleasure regarding the original motion made by Councilman Evans to approve the amendment as presented with the deletions and corrections that we just talked about.

Those voting in favor of the motion were: Evans, King, Baker, Hummer, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

7} APPOINTMENTS TO PLANNING COMMISSION:

Mayor Atkinson advised he would like to submit the following names for reappointment to the Planning Commission. Each of those he is recommending are business individuals and have a great knowledge of the operation of the Planning Commission. He has spoken with each and all are willing to continue to serve in this capacity.

- a} Susanne Stallings, 417 Seldon Street – Term expiration 2/2012
- b} James Turner, 408 Rhode Island Avenue – Term expiration 2/2013
- c} Linda Etheridge, 1824 Rivershore Road – Term expiration – 2/2013

- d} Ernest Sutton, 1722 Edgewood Drive – Term expiration 2/2013
- e} Donald Witosky - 1807 Edgewood Drive – Term expiration 2/2013.

A motion was made by Councilman E. K. Rivers, seconded by Councilwoman B. C. Meggs to confirm the Mayor's appointment as stated above.

Mr. Stimatz stated in looking through the UDO it requires that the terms be staggered. When he looks at this he does not see staggered terms. He previously asked this be withdrawn so that we could have another month because Council wasn't even aware that these positions were opened.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to table action until the first meeting in April.

Ms. Meggs said that the Mayor has already spoken with these individuals and they have all agreed to do so and she feels that we should support the Mayor's recommendation.

Mayor Pro Tem Baker asked the number of terms that they are allowed to serve. Most of these four will come off unable to serve after this term. Is that correct?

Mayor Atkinson said he didn't know if that was true. He knows it is in the case of Ms. Etheridge. It would not be in the remaining four.

Ms. Baker said her point being is if that were to happen she thinks if we make a concerted effort on the next appointments to maybe appoint them for a lesser term so that we have people coming off in two year terms so we don't have three or four people coming off at the same time as to what could happen to Council. We all could be voted off at the same time and then you would have no continuity or good experience of what has happened on that board. She thinks if we make in future appointments make a concerted effort to make sure that we don't have four people expiring at the same time.

Ms. Watts said that she wanted to say that she is for the persons that are here but she too would like to know who the persons were so that Council could have possibly been informed prior to and making sure that there were chances given to other individuals but Mayor having you say that you have gone through the applications and that you have thoroughly reviewed them. She would like to withdraw her second to the above motion. She certainly trusts your best judgment that these individuals are capable of doing the job.

Mayor Atkinson called for a second to Mr. Stimatz's motion. There being no seconded, he called for action on the original motion.

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

b} Road Resurfacing Project – 2009:

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

Mr. Fredette stated in the current budget \$800,000 was approved for the resurfacing of city streets. Eighteen streets have been selected for this project. The work on the streets being considered will range from full a bituminous concrete overlay, some will include cold planning of the existing surfacing to shape it before the overlay and full depth reclamation on Burke and Charles Street. Six of the streets that he has presented to you have not been cleared through the Utilities Superintendent. In other words there may be some potential liabilities with the water/sewer system under the roads that we have to consider. Within the next two weeks we plan to ask contractors for unit price bids for the work that has to be done based on the estimated units on the proposed work as presented. Upon receipt of the unit bids a determination of the roads to be done within the approved budget will be recommended back to City Council for approval at the April 27th council meeting.

Councilman Stimatz asked if consideration also be given to improving Villa Drive and Gregory Street.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to authorize the Public Works Director to proceed in getting the bids for this paving project. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

c} Release of Closed Session Minutes:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised the City Attorney, City Clerk and himself reviewed each set of Closed Session Minutes as to their content and if they were available for release for the period of October 3, 1994 through November 14, 2001. Attached you will find resolution approving the release of those minutes available for release.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to approve the release of those Closed Session Minutes as reviewed by the City Attorney, City Manager and City Clerk for the period of October 3, 1994 through November 14, 2001. Those voting in favor the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

**RESOLUTION #0931
RELEASE OF CLOSED SESSION MINUTES
FOR PERIOD
OCTOBER 3, 1994 – NOVEMBER 14, 2001**

WHEREAS, North Carolina General Statute, Section 143-318.10 (e) provides that every public body shall keep full and accurate minutes of all official meetings, including any Closed Sessions; and

WHEREAS, the City Council of the City of Elizabeth City adopted Resolution #08012 creating a policy to unseal Closed Session Minutes in accordance with State and Federal Law; and

WHEREAS, the City Attorney, City Manager and the City Clerk after review of Closed Session Minutes for the period October 3, 1994 through November 14, 2001 are requesting that these minutes be unsealed and placed in Minute Book #1-Release of Closed Session Minutes;

NOW, THEREFORE, BE IT RESOLVED, that the City of Elizabeth City's Closed Session Minutes for the period of October 3, 1994 through November 14, 2001, be release and open to public inspection.

ADOPTED, this 9th day of March 2009.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

7} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Mayor Atkinson asked the City Manager if he has any further comments.

Mr. Olson said that Chief Mackey informed him today that we did get our FEMA Grant for the fire truck. We finally got the official word. He is working on seeing exactly what our shortfall is because we did not get all the money we requested. He will be reporting that back to you probably at your next City Council Meeting.

Mr. Stimatz said he would also like to thank Public Works for fixing the large dip at the entrance of Hughes Boulevard from Medical Avenue and for fixing the depressed drainage grate in front of the Culpepper Inn.

Councilwoman Meggs said she had no further comments.

Councilman Rivers said he would like to thank Rich, Linda, Sarah and the Electric Department for working with him on an extremely high electric bill. He would encourage staff to work with customers that are having extremely high bills.

Mr. Olson said that he would try to work out something to assist those needing it and he will send it out to Council by the end of the week.

Mayor Pro Tem Baker said that she has a couple of things. One is people that set up shop in vacant parking lots or anywhere in town that seems to be a place where they can open the trunk of their cars to sell flowers, sneakers, Avon or whatever it is without a license. Do we have a policy whereby we check or maybe the police check for licenses? Do our police stop these people and ask them.

Mr. Olson said that it hasn't been a priority of the police department. Take for example the old supermarket on Ehringhaus. The landlord has told us that he doesn't want trucks and other things setting up there. The police do go in there and asked them if they have written permission from the owner and if they have the appropriate permits. It is usually done on a complaint driven basis.

Ms. Baker said that she attended the group work camp meeting this morning. It was the initial meeting for the RCCDC who brings in the group work camps in the summer to help with residents homes to do painting, wheelchair ramps, light carpentry and things like that. There are 400 kids coming again this year between July 26 and August 1st and they are coming from all over the country. And, they will be looking for help from the City and help from businesses. There was a representative from the Coast Guard, County, churches and it was a good start up meeting. They are going to be coming to us looking for help to pay for

materials. They have to come up with \$20,000 to help pay for the materials. The kids come and they pay themselves for the privilege of working on our residents houses. She was thinking maybe with our hospitality committee we as the City could do an ice cream social or cookies or something like that in addition to maybe finding some grant funds. It really is a big help to our citizens and she was also thinking it would be a good time for us to recommend our neighbors who need help with their houses that may not come forward themselves and say they need help but we could get an application from RCCDC on behalf of our neighbors or people around our area that we know need help but will not ask for it. It is something that the city needs to be aware of it. This work camp program has about 25,000 kids already signed up for this summer program. They will do about 60-80 homes here in a week. Just be mindful of that when you see the ad coming out or if you know someone that needs help with their house.

Councilwoman Hummer said she has had a number of calls and conversations about high utility bills this month. One that really touched her was a lady that lives alone and has one source of income that is her \$400 social security check. Her utility bill was right around \$400 this month. She would like to request for consideration since we are going into our budget sessions now if we could possibly have some sort of contingency fund and put so much money aside in that for people who are really in dire straights and leave it to the discretion of the Finance Director's department. People have got to have some help someway. We find money in the middle of budget session that wasn't budgeted for instance a \$12,000 feasibility study. We don't look very good when we do some things and leave other people to fend for themselves. Another thing there is a street that is not in her Ward but it is Seldon Street between Main and Church Streets. It is the brick street and there are some really bad, large cave ins on that street. They have been there forever and they are really dangerous. That is a well traveled street. She would also like to thank Police Chief Crudup for implementing the volunteer program. There has been an outstanding response to that. She for one volunteered and it entails so many things that the public can help with it. She didn't realize that you were going to be putting forth such an effort. It really is a good thing. We even had someone apply from Camden who would like to come to Elizabeth City and help us. She thinks it would be good to let Council see the list of things that the volunteers are going to be doing. It is really interesting.

Councilman King said that he would like to thank Public Works for the job that they are doing. Last Council session he asked about the street sweeping. Paul Fredette gave him a tour and showed him exactly how the streets are being swept and he understands it now.

Councilwoman Watts said along the line on the electric bills. She is in agreement with everyone who has made mention that we need to do something. She thinks that we need to remember that there are people who during the war were fighting for our country many years ago. If you think about it some of these folk who are on single income benefits were out working for us to help us maintain safety here in the United States. They worked for us for \$.32 an hour. Can you image getting a social security check based off of that? Part of their pay is off of \$.32 an hour. If you were by chance blessed enough as an African American maybe your pay was even less, rich or poor it doesn't matter. If you were born in that era then you know about that. She would even go so far as to say maybe we can do something a little bit in conjunction with Ms. Hummer's offer and to making anybody 62 years or older go back to the old rate of pay for the electric bill. Let's allow them a little bit. Can we do something like that? The other thing she wanted to say is she wants to know how much is the statement from Mr. Hornthal for the cost of the OIC issue. Is that a large bill?

Mr. Olson replied that it is all being taken care of by our insurance and he hasn't seen any billing. He can get that from the insurance company but we aren't paying anything.

Mr. Watts said she wants to encourage everybody. She knows that things are tight especially to those who are in the Fourth Ward. She does want you to know that her door is open as they have always been since she has been here. If there is anything that she can do to help you, do not hesitate to give her a call. She will do what she can to help you. God bless you until next time. Her prayers and heart are with you.

Councilman Evans stated he had no further comments.

Mayor Atkinson stated he had no further comments.

8} CLOSED SESSION:

Mayor Atkinson advised that we need a motion to retire into Closed Session.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to retire into Closed Session for consultation with the City Attorney as per NCGS 143-318.11(a) (3); and consideration of Closed Session Minutes as per NCGS 143-318.10(e). Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

Upon the end of Closed Session:

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman B. S. Meggs to return to regular session. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

9} CLOSED SESSION ITEM:

Mayor Atkinson called for action regarding the Closed Session Item.

A motion was made by Councilman D. B. Evans, seconded by Councilman R. E. King to approve the Closed Session Minutes of August 25, 2008, September 9, 2008, November 10, 2008, December 8, 2008. January 26, 2009 and February 23, 2009. Those voting in favor of the motion were: Evans, King, Hummer, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried

10} ADJOURNMENT:

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

Dianne S. Pierce-Tamplen, MMC
City Clerk

Stephen S. Atkinson
Mayor