

MONDAY-5:30 P.M.

MARCH 22, 2010

CITY COUNCIL

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

Mayor McLean opened the meeting and welcomed those attending. He established a quorum was present and called upon Associate Minister Diane Brothers for the invocation after which the Pledge of Allegiance to the Flag of the United States of America was given.

1} APPROVAL OF THE AGENDA:

Mayor McLean called for approval of the agenda.

Mayor McLean stated that he would like to make one slight change. We have a special treat of a performance by the Albemarle Arts Center Players and he would like to move them right after the Approval of the Agenda.

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

2} ARTS OF THE ALBEMARLE:

Mayor McLean called upon Ray Meggs for comments.

Mr. Meggs stated two weeks ago the Center Players of Arts of the Albemarle presented Sam Bealsy Rhythms and we had the honor and privilege of bringing over 500 children from Pasquotank County Schools into the theater on Friday two weeks ago. The Center Players presented a song called "Shadow Land"

routine from their performance. He stated this program started with eight children in the fall and we had to ask people to come and now we have thirty-five. We also have four scholarships that are underwritten as well. This was just a sample of what the Arts of the Albemarle does for leveling the playing field in this community reaching out and making that wonderful facility that you invested in a home for everyone to learn how to live and play. He asked for the support of the City Council to continue to do the wonderful things that make our community a better place for all of us.

3} PUBLIC PARTICIPATION:

City Clerk D. S. Pierce-Tamplen called the following individuals to the podium.

Ms. Gloria Birt, 107 Beachwood Street, Elizabeth City spoke to City Council regarding her high utility bill.

Mr. Ernest Sutton, Jr., 501 Cardwell Street, Elizabeth City spoke regarding the Teen Entrepreneurship Alliance Foundation. This is a program that caters to the youth teaching them business and entrepreneur skills.

4} PRESENTATION:

Mayor McLean called Police Office Tamie Goins to the podium. Ms. Goins recently returned from Iraq and Councilman Walton presented a monetary gift of appreciation to her and her family on behalf of Councilman King, Attorney Morgan, Mayor McLean and himself.

5} PROCLAMATIONS:

a} Take Our Sons And Daughters to Work Day:

Mayor McLean presented a proclamation entitled "Take Our Sons And Daughters to Work Day – April 22, 2010" to Julie Bridges. Ms. Bridges make brief remarks.

b} Fair Housing Month:

Mayor McLean presented a proclamation entitled "Fair Housing Month – April 2010" to Mr. George Bright. Mr. Bright made brief remarks.

6} APPROVAL OF MINUTES:

Mayor McLean called for Council's pleasure regarding the minutes of the March 8, 2010 Regular Meeting.

A motion was made by Councilwoman B. S. Meggs, seconded by Councilwoman J. M. Baker to approve the minutes of March 8, 2010 Regular Meeting. Those voting in favor of the motion were: Meggs, Baker, Brooks, Hill-Lawrence, R. E. King, J. A. Stimatz and J. B. Walton. Against: None. Motion carried.

7} CONSENT AGENDA:

City Manager Olson read the items on the Consent Agenda.

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

Consent Agenda

a} Approved the following Budget Amendment:

**BUDGET AMENDMENTS
NUMBER 2010-05**

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

SECTION I. That the JAG Recovery Grant Revenue (103490.5113) be increased by \$98,704, the Capital Outlay Grant JAG Recovery (105100.7407) be increased by \$75,767, and the Reimbursement to Pasquotank County (105100.4510) be increased by \$22,937.

(To record City/County grant for surveillance equipment and gang prevention.)

SECTION II. That the JAG Solicitation Grant (103490.5114) and Capital Outlay Grant JAG Solicitation (105100.7408) be increased by \$18,413.

(To record grant for MDT's and PAL equipment.)

SECTION III. That the COPS Rehiring Grant (103490.5113) and Salaries - COPS Grant (105100.0201) be increased by \$185,000.

(To record grant for three police officers.)

SECTION IV. That the General Fund Balance Appropriated (103990.0000) and Buildings Capital Improvement (105000.7300) be increased by \$3,500.

(To record renovation of third floor Conference Room.)

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

- b} Adopted the following Resolution Instructing City Clerk to Investigate the Sufficiency of Voluntary Annexation Petition for 1.55 acre parcel owned by River's Retreat – Elizabeth Crossings, LLC – North side of Highway 17 South:

**RESOLUTION #1032
DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G. S. 160A-31
RIVER'S RETREAT AT ELIZABETH CROSSING, LLC
1.55 ACRES**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on March 22, 2010 by the City Council; and

WHEREAS, G. S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Elizabeth City deems it advisable to proceed in response to this request for annexation;

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

THAT the City Clerk is hereby directed to investigate the sufficiency of

the above described petition and to certify as soon as possible to the City Council the result of her investigation.

ADOPTED, this the 22nd day of March 2010.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

End of Consent Agenda

8} REGULAR AGENDA:

a} Update – Hayes Iron and Medal:

City Manager Olson stated the City issued a zoning permit in 2007 to Hayes Iron and Medal which is located on Ward Street. They requested and received a zoning permit for used auto parts sales. This process included purchasing of recyclable auto parts, non ferrous metals. As a part of this process items are purchased, sorted and resold to other vendors for melt down and reuse. They do not resell to the general public. During the last city council meeting we had a resident to come forward and voiced some concerns about the problems at the site. Part of the problem that we are experiencing in this area is that there is no transitional zone. The I-2 Zone backs up to a R-6 neighborhood. He showed a number of pictures showing some of the concerns. When they originally came in to get the zoning permit most of the work was done inside the building. It was not an obnoxious use. In 2008 as their business grew they started moving it outside of their existing building. City staff met with them and required that they put up a fence to screen some of the material they have in there. The Industry has been very cooperative with staff. At the present time they have an option on some property in the county and they plan to relocated hopefully within the next four or five months.

Councilman Stimatz stated in our UDO we have a definition of a salvage yard. We do not have a definition of a recycling yard. When Hayes was originally permitted they were permitted as a parts recycling for wholesale. The application does not reflect that usage. The problem is this usage is a salvage

yard. It is being used as a salvage yard. When they were inside it was ok because they were inside a building. When it came outside it became a salvage yard. The problem he has had since last June and the difficulty he has had is that he feels that we as a city have been slack in addressing this issue. The fence wasn't put up until October of last year after they had already gone outside. The salvage yard requires five acres. That site has less than two acres. A salvage yard requires 800' setback. It met none of those things and the problem that it got to that state was because we as a city didn't do our job. He doesn't really blame Hayes Metal and Iron because they thought that they were operating within what they felt was ok. He knows they are trying to move because they have done a great job and their business has increased. You need to know that if you drive by there that it is not a recycling center but a salvage yard. Again, we don't have anything in our UDO that allows for a salvage center. He will continue to work to help this gentleman to move as quickly as possible to his new location and to insure that we as the City don't make this mistake again.

Mayor McLean said that he drove by this site and these pictures are no where near what he saw. He feels that if staff had known this was going to happen they would not have allowed them to operate from that site. What he saw was really bad.

Councilwoman Meggs asked what is something that can be done, that will help this situation. She doesn't blame the residents for being upset.

Mr. Olson replied that first of all you have an I-2 zone next to a residential zone which should not have occurred. You always need some sort of transition. The City may issue a rezoning request. We can rezone the property and maybe zone it General Business and that would be less obtrusive. Staff would recommend that we have conversation with the owners to see if we could get it rezoned to GB. That would not, in his opinion, limit his ability to what he could utilize the property for. The second issue is the problem that we have right now. It has become something that staff did not vision when it was approved. Elizabeth City has 326 different uses in our zoning tables that we do not have definitions for. When that does occur we look at the new illustrated development which is one of the Planning Guides to try to group these issues. Our UDO is inadequate in certain areas.

City Attorney Morgan stated that we are scheduled to meet with the owners this Wednesday afternoon and he will carry the concerns. We need to step cautiously from a legal perspective.

b} Award of Bids for Charles Creek Bridge:

City Manager Olson stated that the environmental studies concept design and

engineering design work for the reconstruction of the Riverside Avenue Bridge over Charles Creek is now complete and the City is ready to start the construction work. Three construction bids were received and the lowest qualified bid was submitted by English Construction Company, Inc. for a total construction cost of \$1,277,000. The Engineers (URS Corporation) has reviewed the bids and their recommendation is to enter into an agreement with English Construction Company, Inc. The bid documents, the engineer's recommendation and the approval of the City Council to contract with English Construction will be submitted to the NC Department of Transportation for approval by the Construction Office. In addition, we will be submitting the second phase of URS Corporation's Agreement for Construction Engineering and Inspection for a value not to exceed \$191,550 to NC-DOT for their concurrence.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to authorize the City Manager to enter into a Construction Contract with English Construction Company, Inc. for the reconstruction of the Charles Creek Bridge in the amount off \$1,277,000. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Meggs and Walton. Against: None. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to authorize the City Manager to enter into the second phase of an Engineering Contract with URS Corporation in the amount of \$191,550 for the construction engineering and inspection for the Charles Creek Bridge Project. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Hill-Lawrence, King, Meggs and Walton. Against: None. Motion carried.

c} Update on U-4438 "The Project" :

Mr. Olson advised that the City received notice this week that the State NCDOT Board of Commissioners approved the acceleration of the construction of Elizabeth Street and the East bound drawbridge replacement over the Pasquotank River. The scope of work will include:

- Reinforce subsurface & reconstruct roadway of East Elizabeth Street from 450' West of Road Street to Water Street, including adjacent cross streets for a distance to be determined by the Geotechnical unit;
- Reinforce subsurface & replace concrete sidewalks along East Elizabeth Street between Road Street and Water Street; including adjacent cross streets for a distance to be determined by the Geotechnical unit;
- Modify curb cuts along East Elizabeth Street with ADA compliant

- ramps;
- Remove & replace east bound bridge No. 19 with wider bascule bridge;
- Replace fender system for west bound bridge;
- Replace controls for both bridges
- Construct tender house on new east bound bridge

The improved road way will continue to be posted at 35 mph though it will be designed for 40 mph. NCDOT through traffic counts has determined that traffic volume is 18,600 vehicles per day while the improvement will be designed to handle an anticipated traffic volume of 28,400 vehicles per day in 2030. The typical cross section will be 5 lanes with curb and gutter.

The Public Utilities Department has spent a great deal of time with the State and their surveyors during the past week to help them inventory existing utilities and to help them understand the connectivity of the respective water and sewer systems. The City should support the State's concept to relocate the water and sewer utilities as part of the project at no cost to the City. These lines are very old and need to be repaired or replaced and most likely a major source of I & I. This week the State will be collecting the details of the sewer and water systems on Colonial Avenue. Their location work will include specific location of the service connections and the depth of the sewer lines which will include some subsurface exploration from Road Street to Water Street. The equipment being used will shut down each block one block at a time on Colonial Avenue as they are working on it. We have asked that they work on the section of Colonial Avenue between Road Street and Martin Luther King Street from 6 pm to 6 am.

d} Mayor's Task Force on Youth Initiatives:

Mayor Mclean stated he asked that this issue be placed on the agenda tonight so that he can share his vision of a Mayor's Task Force on Youth Initiatives. He asked Mr. Olson to identify all of the youth programs that were developed to handle youth activities. He is trying to help put together a strategic plan to look at what the City offers relative to the support of youth programs. At this time, there does not seem to be a coordinated effort or clearing house between the organizations/agencies where an individual can find information on programs offered to our youth. Due to this lack of coordination is where we have probably missed some youth programs. We want every child to have the opportunity and take part in the programs that are funded by agencies such as the Girls Scouts, Boys and Girls Club, Girls, Inc. and Elizabeth City Parks and Recreation. We want to determine what part we are going to play relatively to the development of the youth of Elizabeth City.

Councilman Stimatz said that he applauds the Mayor for taking this initiative as it

is long overdue. Your voice is the voice that we need to lead us. He has always felt that way. He feels this is one of the biggest issues that he has found in Elizabeth City. He would suggest one of the first things we need to look at is how do we start the clearing house. It should be joint city/city because we are all county residents.

Mayor McLean asked Mayor Pro Tem Anita Hummer, Councilman Tony Stimatz and Councilman Johnnie Walton to serve on this Task Force.

9} COMMITTEE REPORTS:

a. Albemarle Economic Development Commission – (Mayor Pro Tem Hummer, Councilwoman Hill-Lawrence and Councilman Brooks: We discussed the reorganization of DRS. We also focused a little on Phase II of the Airport Extension.

b. Central Communications Advisory Board – (Councilman Walton): Mr. Walton stated that they met and any time anyone would like to have a tour of their facility just let him know and he will set it up. It is a secure building because there is so much intelligent in there. It keeps records, all kinds of records.

c. Elizabeth City-Pasquotank County Airport Authority – (Councilwoman Hill-Lawrence): Ms. Hill-Lawrence stated the only thing they did at the meeting was discuss the reorganization of DRS. That was the primary focus of the entire meeting. She will be forwarding the minutes of their meetings to Council in the future.

d. Fireman's Relief Fund Board – (Councilman Stimatz): Mr. Stimatz said there was no meeting

e. Joint Land Use Plan Committee – (Councilman Stimatz): Mr. Stimatz stated there has not been a meeting.

f. Joint Redevelopment Commission - (Councilman Brooks): No report as there has not been a meeting.

g. North Carolina Eastern Municipal Agency – (City Manager Olson): Mr. Olson said the meeting for Wednesday was cancelled.

h. Solid Waste Committee – (Councilman King}: Mr. King said he was unable to make the meeting.

i. Tourism Development Authority – (Councilwoman Baker): Ms.

Baker stated we have a meeting on Thursday. She will tell you that a couple of representatives from the Tourism Board have met with a couple of private individuals and Coast Guard and we are scheduling a couple of meetings to see if we can get some fireworks interest going. There is a private individual that is looking at possibly helping us out but the City and County are going to have to come forward with the money.

j. ECDI – (Councilwoman Meggs): Ms. Meggs thanked Tim Williams for his leadership role. They are working hard on the upcoming Potato festival. They are also continuing their work on the selection of a new director.

k. Water Committee – (Councilwoman Baker, Councilman King and Councilman Walton): We were unable to make the meeting.

l) Chamber Board – (Councilwoman Meggs): Ms. Meggs stated the Chamber has been busy preparing for the Business Expo. It is going to be a really good event and she hopes that all members of Council will attend.

10} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

City Manager Olson stated you received an email concerning the proposed city/county joint meeting that was scheduled for the 5th Monday which would have been March 29th has been cancelled. However, several members of Council have expressed an interest in having a pre-budget meeting in order to bring Council up to date on some of the issues that staff is facing. The other issue could be the consolidation of the Parks and Recreation Departments. He requested that Council call a pre-budget meeting next Monday.

Mayor McLean stated as a request from staff he is calling a meeting for Monday, March 29, 2010 at 5:30 p.m. for a pre-budget discussion and review of the proposed consolidation agreement of the Parks and Recreation Departments with Pasquotank County.

Councilwoman Lens Lawrence stated she would like to comment on the fact that Councilman Brooks and she attended the Congressional Conference in Washington, DC. It was an awesome experience. This was one of the best she has ever had the privilege of attending.

Councilman Brooks stated at the previous meeting it was voted unanimously to have the city clerk come under the supervision and authority of the Mayor and City Council. A letter was sent forward to Representative Bill Owens. He

responded by saying he was in receipt of recent letters stating to your knowledge there was no opposition on the City Council of the request and that a local bill be introduced in the 2010 Session of the General Assembly that would change the City of Elizabeth City's Charter with regard to the appointment and supervisory authority of the city clerk. Then to make a long story short, he stated that based on the opposition that he has received from citizens of Elizabeth City he is unable to sign a statement certifying to the legislation that this request is non-controversial. This disturbed him so bad that he went to the City Charter which says otherwise. Rule 23 tells us that an adoption of an ordinance says that the City Council will have an affirmative vote equal to the majority of all members of the Council not excused from voting on the question shall be required to adopt an ordinance. He was trying to figure out what kind of political game that Representative Owens is trying to pull because he is out of order and out of step with our charter under 1-6 and 1-7 of our Charter and General Statue 12-2. This disturbs him because the council had the majority vote and that is what governs this City. He plans to call his office tomorrow. He receive a letter in the mail asking him to back him in his quest for our representative. He said that when we requested that the Clerk be put under the supervision of Council he really doesn't feel the public realizes how much work Dianne does for the Council. Those proclamations that are read in our meetings, Dianne is the one that writes these proclamations. He gives her great praise for that and that is why we want her to work under the Council's authority as we want to look good. He continue by saying he is disturbed about what happened at Parks and Recreation the other day. He also stated that he enjoyed the Conference and he feels that he learned a lot.

Councilman Walton stated the Mayor Pro Tem asked him to mention a retreat because the budget sessions are about to begin. In the past we have been going to a location where we prioritize what we want to occur. We have not done that yet. We have talked about a lot of things but where are we going to put them on the priority list. Each one of us feels different about each one of those items so we have to prioritize it and put it in our vision and go from there. Two years go by so fast. The second thing that he has is the Oak Grove Project. We have talked about it happening in the spring of the year and this is spring. Do we have a beginning date? Have we sent out notices to the community?

Mr. Olson stated that he executed the contracts last week and they should be starting before Monday. Notices have been sent out.

Councilman J. A. Stimatz stated he was pleased to see the focus on our youth. When he ran four years ago his two issues were fiscal infrastructure and citizens.

We have to engage. He does not want to be seventy-five years old cowering in his house because people are shooting up the town wondering who is running the government and who is running the City.

Councilman R. E. King stated the only comment he has is on Roanoke Avenue, are we still on target with it?

Mr. Olson replied that yes we are and Phase II will begin within two weeks.

Councilwoman Baker stated she wanted to applaud the Center Players for the wonderful performance they gave tonight. It is hard to believe that we have so much talent in our area. You look at all the odds that are going on and the things that people are helping kids to do and learn and it is mind blowing. She attended the Hopeline Legislation Meeting this morning. It was a good presentation by a very worthy organization helping battered women get back to the community. The Customer Service Task Force is going along well. We have a meeting every week and we have a very dedicated committee. She thinks we are making good strides. She asked the city attorney regarding Mr. Owens' letter to us, we know it takes him to present the bill but isn't there something that he has to meet before he can put the bill on the floor.

Mr. Morgan stated that it is his understanding that when a bill is proposed during a short session which is what we are approaching now, he has as the Bill's sponsor has to certify that it is a non-controversial item and as he read his letter the way he interprets his letter he has received so many phone calls, emails, letters, etc. from city residents that he could not certify or didn't feel ethically capable of certifying that it was not a controversial item.

Councilman Brooks asked to respond. He did his research contrary to what you did. According to what he saw when he did the legal research he is totally in left field. What he is saying is that if we have got it in our rules what he just read to you, Rule 23. It is not a matter of controversial issue. He just didn't want to do it. He understands where the angle you came from but according to the law it is not that. He adheres to you because you are an attorney to go and look it up like he did. He doesn't take politicians word for what it is so he did his own research of what he wrote in the letter. It wasn't in order and compliance of what the law says. If what he says is true then lets do away with our charter and do away from all our rules and all other stuff and let Bill Owens run the City Council by himself.

Councilwoman Meggs said she wanted to thank Tim Williams for the work that

he is doing in leading this group. He has about 18 applications and he is meeting with the Search Committee and we should soon have the position filled. The Potato Festival is moving right along and should be a good event. She stated that there is a scholarship that is going to be available to someone that writes the best narrative on what the potato means to this area.

Councilwoman Baker asked to say ECHNA is also offering two \$500 scholarships. It is also an essay type of thing on National Preservation Month Theme, which is "Old is Green".

Mayor McLean stated he had a few comments. He wants to echo the sentiments what Councilman Brooks said about Dianne Pierce-Tamplen. She has a side kick who works for her, Darrick Allen. They both work very hard. He did his first ribbon cutting last week at Pet Sense. The proposed date for the retreat is tentative April 30-May 1. On the salvage yard, Ms. Hummer is quite upset over it. She is not here tonight but he feels that we can work something out. He would like staff to provide a summary of all capital items that have received \$5,000. We want to keep up with what is taking place so that we can share it with our citizens. He also would like Mr. Olson to work with staff to identify every structure in Elizabeth City that is substandard or not presentable or needs repair work. He thanked Council once again for all their hard work.

11} CLOSED SESSION:

a} Personnel Matters as per NCGS 143-318.11 (a) (6).

A motion was made by Councilman J. B. Walton, seconded by Councilwoman L. Hill-Lawrence to retire into Closed Session for discussion of Personnel Matters as per NCGS 143-318.11(a) (6). Those voting in favor of the motion were: Walton, Hill-Lawrence, Baker, Brooks, King, Meggs and Stimatz. Against: None. Motion carried.

12} RETURN TO REGULAR SESSION:

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

Mayor McLean declared the meeting back into full session.

13} ADJOURNMENT:

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

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

Mayor McLean adjourned the meeting at 9:20 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Roger A. McLean
Mayor