

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

Mayor McLean established a quorum was present and called the meeting to order. He called upon Councilwoman L. Hill-Lawrence 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 McLean called for approval of the agenda.

Mayor Pro Tem L. A. Hummer asked to remove the following items and place them on the Regular Agenda.

- a} Consideration – Condemnation & Demolition of 1205 Bias Street***
- b} Consideration – Proposal by Pepsi Bottling Ventures for beverages for South Park Athletic Complex***
- c} Consideration – Authorization to Execute Grant Agreement Letter; Funding Approval Letter and Individuals authorized to submit requisition of funds forms for CDBG-ER 10-C-2141***
- d} Consideration – Amendment to Contract for Enfield Recreation Area Concession Stand***
- e} Consideration – Award of Bid for South Park Fencing to Albemarle Fence Company in the amount of \$96,693***
- i} Consideration – Payment in Lieu of Sidewalk installation at Northside Park Commercial Subdivision***

Councilman M. E. Brooks asked to add: ***Discussion of Redistricting.***

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman M. E. Brooks to approve the prepared agenda to reflect the above noted changes. Those voting in favor of the motion were: Hummer, Brooks, Baker, Hill-Lawrence, King, Meggs, Stimatz and Walton. Against: None. Motion carried.

2} COMMENTS FROM THE PUBLIC:

Ms. Helen Wilson, 1219 Glendale Avenue, Elizabeth City expressed her neighborhood concerns and fears regarding the possible placement of an electric substation near their homes. She encouraged Council to not take Ms. Farmer's property.

Caitlyn Spear, Horseshoe Road, Elizabeth City expressed her concerns regarding the possible placement of an electric substation on Mrs. Farmer's property.

Richard Gilbert, 1623 Penny Drive, Elizabeth City expressed his concerns regarding redistricting issues.

Darrell McKinley, 1726 Providence Road, Elizabeth City spoke in regards to the redistricting.

3} APPROVAL OF THE MINUTES:

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilwoman B. S. Meggs to approve the minutes of March 14, 2011 as presented. Those voting in favor of the motion were: Hummer, Meggs, Baker, Brooks, Hill-Lawrence, King, Stimatz and Walton. Against: None. Motion carried.

4} PRESENTATION:

Mayor McLean presented a proclamation proclaiming the month of April as Fair Housing Month to Mr. George Bright, Fair Housing Committee.

Mr. Bright made brief remarks.

5} CONSENT AGENDA:

a} Adopted the attached Resolution opposing the closure of the Branch Post Office in Downtown Elizabeth City:

RESOLUTION #2011-06

**OPPOSING CLOSURE OF THE
BRANCH POST OFFICE IN DOWNTOWN ELIZABETH CITY**

WHEREAS, the U.S. Postal Service has announced plans to suspend services at its Elizabeth City branch office on Main Street by July 22, 2011; and

WHEREAS, the downtown post office serves an extremely vital function for Downtown Elizabeth City as well as City of Elizabeth City government and its closing would have a profound negative impact on city and county government and businesses in the downtown area; and

WHEREAS, the post office is within walking distance of most businesses in Downtown Elizabeth City, and many businesses and individuals have post office boxes there where they receive their mail each day, and is convenient for shoppers and businesses in the downtown area to mail packages, to purchase stamps, money orders, and other postal services; and

WHEREAS, it would be very disruptive for the post office to close, requiring businesses and individuals who currently use the downtown post office to drive to the post office on Ehringhaus Street where there are usually long lines and a shortage of parking spaces; and

WHEREAS, although the Postal Service has indicated that it is not economically feasible to continue operating its downtown branch, its closing will have an economic impact on Downtown Elizabeth City.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Elizabeth City opposes the closing of the branch post office in Downtown Elizabeth City and urges the U.S. Postal Service to reconsider its decision to suspend services.

BE IT FURTHER RESOLVED that the City Council of the City of Elizabeth City requests the involvement and support of our Congressional Delegation in keeping this post office open so that it can remain an important part of the community.

ADOPTED this the 28th day of March, 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Authorized Parks and Recreation Department to be sponsoring agency for 2011 4th of July celebration; solicit funding from the community to support the event and submit application to the Tourism Development Authority for \$8,000:

c} Called for a public hearing to be held on Monday, April 11, 2011 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for each of the following:

1} Consideration – RZ-01-11 by McDowell & Associates, P.A. to rezone 100, 101, 102, 103, 104, 106, 108, 110, 112 & 114 Northside Park Drive from R-15, Residential to General Business GB.

2} Consideration – TZ-03-10 to amend Article XI Section 11.1.5(F) Development Standard Signs Ordinance Menu Signs of the Unified Development Ordinance.

End of Consent Agenda

6} REGULAR AGENDA:

a} Condemnation and Demolition of 1205 Bias Street:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson advised that the condemnation is for a dilapidated single story single family dwelling located at 1205 Bias Street and has been vacant since May 2001. It is in violation of the NC State Building Code and Elizabeth City Minimum Housing Code. The cost to demolish the structure is \$849.00 plus the tipping fees. The property was originally owned by Eleanor Beals. The City Attorney has done a title research which is now our policy concerning any condemnation/demolition works.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman J. A. Stimatz to adopt an ordinance to demolish and remove the structure at 1205 Bias Street with the owners being responsible and charged for all abatement expenses, including but not limited to any accrued interest charges after the initial billing.

Councilman King asked if the Beals have been notified as he knows they live in Norfolk.

Mr. Olson replied that yes they have been notified.

City Attorney Morgan stated Mrs. Beals is the sole owner now as her husband passed away several years ago. Mr. Ward had the notices sent out from his office.

Building Inspector Ward said she was sent a notice and we have had several conversations with her and she is well aware of the proceedings. She accepted the certified letter that stated she would be responsible for all expenses that would occur.

Mayor McLean asked if he had any conversation with her personally. What is the overall cost she would have to pay?

Mr. Ward responded that he hasn't personally but his staff has. She would have to pay all demolition costs which he believes is \$849.00 plus the landfill tipping fees which is actually relatively cheap. The tipping fee is usually about double the demolition costs. She is probably looking at \$2,000 - \$2,500 total fees.

Mayor McLean asked if she does not pay this what is the value of her land that is going to be left with the house on it.

Mr. Ward said it would be posted against her taxes.

Mr. Morgan said the tax value of the property is \$18,600 on the most recent assessment. He might add when he completed the title search in the fall she owed back property taxes going back to 2008.

Mayor McLean said he guess the reason he is asking these questions is when he first came on council we had an issue like this because of a house that was demolished on Broad Street and we don't want to have to go through that again. Is there anyway that you can contact her or you can go see her and let her know what the costs is going to be because if she doesn't pay this \$2000 she is going to lose that parcel.

Mr. Olson said the issue with the Lawyer lawsuit at that particular time we did not have the City Attorney doing the title searches of the property. City Staff verified the ownership of the property at that time. From now on city staff will have the City Attorney provide a title opinion and also will do the appropriate research. Also to give the Council the heads up we have six other condemnations which will be moving forward within the next few months.

Mayor McLean asked how old was Mrs. Beals?

Mr. Ward said he does not know.

Councilman King said he tried to buy this piece of property a while back and she is elderly.

Mr. Morgan said her late husband when he died in 2008 was 84 years old.

Mayor McLean said so she is probably 86-87 years old.

Councilman Brooks asked if the house could be used for a fire training burn.

Mr. Ward said he had the fire department investigate it and it has no useful benefit to burn it. We looked at that trying to save her some money.

Mr. Brooks asked if it would save her any money.

Mr. Ward said it would save her some money but the fire department is limited on the number of structures they are allowed to burn each year and they were not going to be able to get any benefit as far as training benefits so they declined to burn it.

Mr. Brooks said no benefits. That means anyone if the house burnt down no one that has never experienced a burning down of a house having the magnitude of fire could benefit from it. How much money could be saved if we use it as a burning exercise?

Mr. Ward said based on the structure it is basically all wood frame so you are looking at minimum landfill tipping fees anyway as far as weight. Obviously you wouldn't have that cost if it were burned. He believed the fire department was concerned about using that house as one of their three structures they are allowed a year as one of their training exercises if it wouldn't benefit them.

Chief Mackey explained that the fire department use those houses as training and when we say it won't benefit us that particular house if we set it on fire it would go up within a matter of minutes. What we look for are structures that we can light a fire in, go in and put it out, come back and light it up again, go in and put it out as it is used for training. The structure integrity has to be there in order for us to use it for rescue training. We go in, cut a hole in the roof and as an exercise we do breaching, those types of exercises. That particular structure will not give us what we need as far as burning the house for training purposes. Just burning the house down as a community service or as a public service is another thing. Then you have got to place on it the consideration of who is going to pay for the asbestos abatement if there is any in it in regards to that house. That is basically what we are talking about when we say it will not benefit us. We have several houses that we have now on the books that we have been given to burn that have been investigated, checked off as far as

asbestos that we have set up to burn. We have one at the college that they have given us the rights for a whole year before we have to burn it to the ground. The structure you are talking about will not give us anything as far as training. The only thing we can do with this house is to light it off and let it burn to the ground but there are costs associated with only doing that.

Mr. Brooks said he is trying to figure all this out. Since it is a senior citizen and we know how the economy is and it is probably even harder on her as her husband has passed and she is up in the years and he was trying to save her some money. What he foresees is if she can't pay for the demolition and all the other stuff that goes with it her property would be taken from her and that is a sore spot with him. He is trying to figure out how to make it better for her.

Chief Mackey said the only way that we could burn that particular structure and stay within the guidelines is to be given a waiver by City Council.

Mr. Brooks asked if there was any way that he could get the numbers as he doesn't think there is anyone on Council that would be against a waiver in order to help an elderly citizen. Is there any way he can get the numbers on what could possibly be saved.

Mr. Ward said he could get you an estimate. He believes you can save a couple of hundred dollars as you wouldn't be putting the debris in the landfill.

Mr. Brooks said to someone on a fixed income a couple of hundred dollars is a big savings. He is concerned with that. He doesn't think with something like this coming before us that most of us have got a heart some way down in there. He doesn't think we would try to hurt an elderly person that has live eight plus decades on this hurt and try to hurt them financially. Since you just told him the number off the top of your head can you get the precise number by the end of the week or will you say that you are pretty close right now.

Mr. Ward said he would say that he is pretty close right now. He doesn't think the fire department would have a problem burning it as it is, they just don't want to use it for training exercise when they are really not going to get any training benefit out of it. If you look at the pictures it has no flooring.

Mr. Brooks said he is listening to the Chief also. He said that they can burn it down with a waiver from Council. He understands what you are saying but he is also listening to both of you.

Chief Mackey said there are two things you will need to look at with a waiver. The waiver from Council and we also have to look at the EPA standards. We will have to meet the EPA allocation for burns also. That is why we are limited to the

number of burns that we can have during the burn season. That is another consideration that we have to undertake. We will be glad to look at it and see what we can do.

Mr. Brooks said that he is willing to go through that process if it will help any. He understands all points of view but he also understands the financial burden that will be placed on this senior citizen.

Councilwoman Meggs said and while you are doing that study look at the environment the burning will affect the people with asthma, etc.

Chief Mackey said the main thing we will look at is the asbestos that will be released into the community.

Mr. Olson stated that there is no asbestos on this property as we have already had it checked.

Councilwoman Baker said she does have a heart believe it or not but she does not want to set a precedent for this woman. She is on her seventh decade too but she does not want someone setting a precedent for her for something that we don't even know that she is hard up. She may be or she may not be but this is what we have to do. This is our job. This house has been sitting there in this condition since 2001 or something. It has been sitting there a long time. She has been notified which according to our ordinance that is what we have to do. We don't have to like it as we just have to do our jobs.

Councilwoman Hill-Lawrence asked where was this property located. Is that right behind the University?

Mr. Ward replied that it was over in that general area.

Ms. Hill-Lawrence said she is looking at the fact that she paid her taxes up until 2008. You sent a certified letter and she thinks you should wait and try to get a response from her first. It could be she is elderly and she doesn't know if she lives alone or with her children or someone taking care of her. She would not touch it until you get a response from her. You can send a second letter and give her plenty of time.

Mr. Ward said we will be willing to do whatever Council says. She has had plenty of time. She owns other properties. She is well aware of the proceedings. The other properties are in a lot better shape than this one. She has been notified twice on this particular property as well as advertisement in the newspaper. We certainly want to help her but he is just saying that she is well aware of the proceedings. She has a home in Norfolk but she also lives here

part time. She has stayed in contact with our office. She has been real nice to work with and she understands the proceedings. He has not personally spoken with her but his staff has.

Mayor McLean asked Mr. Ward if he could verify her status as far as her well being.

Mr. Ward said he knows she owns several properties. She is renting several of them and several are vacant.

Mr. Stimatz said he seconded the motion because we can authorize the demolition. At the same time we would like to minimize the cost to this person. Ms. Baker brings up a good point. If we start trying to discriminate and that is what we are doing, discriminating based on some factor, age, etc, it is illegal or you set a precedent which means we can't discriminate against anybody else. So these other seven or eight that we have in the hopper we are going to have to give the same consideration. Since you can't discriminate based on age, that doesn't matter what the age of the person is. They could be twenty-five years old millionaires and you can't discriminate. He thinks we should authorize the demolition however, we should instruct staff to work closely with the owner and the Fire Chief to try to mitigate the costs as much as possible to gain maximum advantage for us and that person. He thinks we should hold off for demolition. This dwelling is blight on the neighborhood. He wouldn't want that in his neighborhood. That is another consideration we need to take. The people have been looking at it for five years. It is a haven for dope users, etc. That is why he seconded it to go ahead and demolish it aware of what Mr. Brooks have said and he thinks we can incorporate that. Staff can go back and look at it and do it the least cost to this person.

Councilman Walton said with all that said he thinks that we should table it until they bring back the information that Councilman Brooks is asking for.

Mr. Ward said there is no way to know how much less the cost would be because what he is telling you is the demolition fee is going to be same, \$849.00 by a demolition contractor no matter what. He is going to charge to set up his equipment. What is unknown is the actual material that we would be dumping in the landfill. Obviously if we get a waiver to burn it you will not have as much. You will have a little bit of foundation, masonry work but not as much.

Mayor McLean said the house has been like this since 2001. The house that you are going to burn down at ECSU is three times the size of this house. The house that you burned down before at ECSU was also about three times the size of this house also. It was not an EPA problem then. You did that in order to save the University money. This is his concern. We don't have any acknowledgement

that she actually received the letter that you sent to her. She is 87 years old. There are laws when you start dealing with people at a certain age that we have to be aware of. It happened to his Mother when she signed for something but when he indicated that there are certain things that happen and she would not have signed. That is why we have to make sure that we do due diligence. We have two cases that he is familiar with. One case the City was sued and we lost money and another we lost money because we agreed not to take all the assessed taxes because we thought that due diligence was not done. He just believes that we should take time and make sure that we talk with this individual because another week or two is not going to make a lot of difference because either way the house is going to be destroyed. He thinks what we do for this one person we should do for all six individuals that we are talking about. We have to change the way that we are operating.

A motion was made by Councilman J. B. Walton, seconded by Councilman M. E. Brooks to table action on this item until the information requested is brought back before Council. Those voting in favor of the motion were: Walton, Brooks, Hill-Lawrence, Hummer, King, Meggs and Stimatz. Against: Baker. Motion carried.

Councilman King asked that we send her one more certified letter. After that if she signs this certified letter then we proceed.

b} Proposal by Pepsi Bottling Ventures:

Mayor McLean called upon Mr. Olson for comments.

Mr. Olson advised that the City staff took bids for the sale of liquid refreshments at both South Park and River Road Sports Complex. You have included in your packets the two proposals that were received back. One from Coco-Cola and the other from Pepsi Bottling Ventures. As you can see the value of the Pepsi Bottling Ventures over a period of time is essentially more than Coco-Cola.

Parks and Recreation Director White advised that what she did was she contacted both entities and asked what could they do for us? Both of them sent in the information describing what they would provide. Pepsi offered to donate \$18,000 in 2011 towards the purchase of five scoreboards.

Councilman Stimatz asked why was this item taken off the Consent Agenda. What was the issue?

Mayor McLean responded it was taken off the Consent Agenda because any time that you have a proposal going out like this that affects the community it needs

to be brought to us. The only reason he asked that this be taken off the Consent Agenda was because we had a proposal that went out for the concession stands and he was approached by individuals who wanted to know why was the city council involved in awarding bids for the concession stands. He said to him that the staff brought it as a recommendation to Council for us to approve and we approved it. He was not prepared to really speak with this individual. The reason that this was brought up he feels that we need to know the details in case we are approached by Coco-Cola as to why we didn't go with them.

Ms. White stated that Coco-Cola offered to give us a total of \$32,500 for five years. That is what we can expect if we sell 1000 cases of products per year. They are compared exactly the same.

Mr. Stimatz said that he thinks the Mayor makes a good point. If we are going to ask for bids on something we need to do an RFP.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to accept the bid submitted by Pepsi Bottling Ventures.

Mr. Walton said here we go again. Certain things you want to rush through. He is glad that we took it off the Consent Agenda and put it back on the Regular Agenda so that we could discuss these things. If we are being the ones that people are saying we supported this, if we don't know what the specifics are we are not supporting it. We are rushing things through the Consent Agenda without fully discussing them. It makes more sense now that you said what you said. One of these is for five years and one is for seven years. We don't know the ins and outs of it because all we are getting is just a paragraph summary. Some of those things may be some things that we are not approving. We need to see it so that we can make a good judgment.

Ms. White said the rush that we have is we have got to get these scoreboards ordered. It takes anywhere from twelve to sixteen weeks to get them scoreboards in. She told both entities that we are building this complex and we have five baseball/softball fields, what can you do for us financially and what can you do for the City to get this park built. She is trying to get money to help us get this park up and running.

Mayor McLean said he likes what Pepsi has offered but you have to understand that if you do the RFP you outline what you want and what you need to have done in order to have this done. That way they can bid on the same things and we can compare apples to apples and oranges to oranges.

Ms. White said Pepsi is not buying the scoreboards. They are giving us \$18,000 that we are going to put toward the purchase of the scoreboards.

Mayor McLean called for the vote on the motion:

Those voting in favor of the motion were: Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, King, Meggs and Walton. Against: None. Motion carried.

c} Authorize Mayor to execute the Grant Agreement and Funding Approval Letter for CDBG-ER 10-C-2141 and designate the following individuals by title to sign Requisition for Funds forms: Mayor, City Manager, Finance Director and Chief Accountant.

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated this is the Community Development Block Grant Economic Recovery Grant. This particular grant will cover the improvements to Pearl Street and North Road Street. The total value of the grant is \$1.8 million. The State of North Carolina through their CDBG programs will provide the City \$950,000 in funding.

Mayor McLean said the issue that we have with this one is the authorization to execute the contract.

Mr. Olson asked what is the issue. Staff's recommendation is to authorize the Mayor to execute the Grant Agreement and Funding Approval Letter for CDBG. That is a requirement of the Community Development Grant that the Chief elected official is the only one that can execute the agreement. That is why the recommendation is the way it is. Individuals by title to sign requisitions for forms are the mayor, city manager, finance director and the chief accountant. This is what all of our CDBG Block Grants have been since he has been here.

Mayor McLean asked couldn't the Mayor Pro Tem be included in this approval process. He would like to add Mayor Pro Tem in order that in his absence she can sign the documents.

Mr. Olson stated that it requires two signatures to submit any of these forms. Any one of these five people listed by position can execute the forms and submit them to the State as one of the two.

A motion was made by J. M. Baker, seconded by Councilman R. E. King to authorize Mayor Roger A. McLean to execute the Grant Agreement and Funding Approval Letter for the CDBG-ER 10-C-

2141 and designate the following individuals by title to sign requisition for Funds forms: Mayor, Mayor Pro Tem, City Manager, Finance Director and Chief Accountant. Those voting in favor of the motion were: Baker, King, Brooks, Hill-Lawrence, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

d} Amendment to Contract for Enfield Recreation Area Concession Stand:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated at the last City Council meeting the Council authorized the execution of a contract for the Enfield Recreational area concession stand. The contract was awarded to Kaiem Frink/Nothing But Flavor NPD Waterice for \$2,500, He has requested that we change the date of the contract. Instead of running from January 1, 2011 – December 31, 2011 to March 23, 2011 –March 22, 2012. He would also like to change the name of the business be change to NewPennDel. This is a 501c corporation.

A motion was made by Councilwoman J. M. Baker, seconded by Mayor Pro Tem L. A. Hummer to authorize the changes requested by Mr. Frink in the award of the Enfield Recreation Area Concession Stand contract as stated above. Those voting in favor of the motion were: Baker, Hummer, Brooks, Hill-Lawrence, King, Meggs, Stimatz and Walton. Against: None. Motion carried.

e} Award of Bid for South Park Fencing to Albemarle Fencing Company in the amount of \$96,693:

Mayor McLean called upon Mr. Olson for comments.

Mr. Olson stated this is a bid for the fencing on the South Park Athletic Complex. We have five fields. We sent out RFP to eight fencing companies and we only received one back. Albemarle Fence Company submitted a bid for \$96,693. This bid is slightly lower than the budgeted amount of \$100,000.

Mr. Stimatz asked why was this item pulled from the Consent Agenda.

Mayor McLean said yes he had a question. Where is the money coming from to support this fencing project?

Ms. White said this is through the PARTF Grant, the City and the County. 50% would come from the PARTF and the 25% from both the City and the County.

Mayor McLean stated that in the future for clarification he is asking that you please show the source of funds.

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to award the South Park fencing bid to Albemarle Fence Company at a cost of \$96,693. Those voting in favor of the motion were: King, Hummer, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

f} Payment in Lieu of Sidewalk Installation at Northside Park Commercial Subdivision:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated that we have a request from Dr. Michael Sue who has constructed medical offices out on Northside Parkway Drive to do a payment in lieu of installation of sidewalk or what we call a sidewalk deferment. This particular subdivision was developed in the County. Subsequently it was annexed in the City. If the subdivision was done in the City we would have made allowances for the sidewalk to be installed. Unfortunately this particular subdivision does not have curb and gutter but has open ditches, which makes it extremely difficult to go ahead and put the sidewalk in because of space conflicts. What we are requesting is to instead of requiring him to install the sidewalk for him to make a payment in lieu of to the sidewalk fund in the amount of \$7,407.12. We have done similar things with the Perkins Estate Subdivision several years ago.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem L. A. Hummer to accept funds paid into the sidewalk deferment fund for the cost of sidewalk installation along the Northside Park Drive right-of-way in the amount of \$7,407.12. Those voting in favor of the motion were: Stimatz, Hummer, Baker, Brooks, Hill-Lawrence, King, Meggs and Walton. Against: None. Motion carried.

Councilman Stimatz said a side note. Something that came up during the ECSU Recognition Day, the gentleman said we don't have a way to get from the University to here. Councilman King and he have talked about this to some other counselors. At some point and not too distant future we would like to see a plan to have a really nice sidewalk between the University and downtown. Someone suggested it might have been Jean that we get the Ceramics School to make up a Viking logo that we can embedded in the concrete and call it Viking Way and that

is your way to get from downtown to the home of the Vikings. At some point bring us back a plan.

Mr. Olson asked to inform the Council because that is an issue that has been outstanding is the sidewalk on Herrington Road. It will have to be Southern Avenue as there is no curb and gutter on Herrington Road and the State will not allow a sidewalk to be installed unless there is curbing and gutter.

Mr. Stimatz said the short path from the University is Southern Avenue.

Mr. King said Councilman Stimatz and he have been looking at this a lot. If you go from the University you have sidewalks on the west side and then it switches over to the east side when it gets in front of Witherspoon. From Witherspoon all the way down to B Street is really tore up. It is in bad condition. The rest of it is ok. He thinks the only problem that you will have is when get in front of Ms. Jones house. Other than that you will have clear passage all the way to downtown. He agrees with Councilwoman Baker that we put some type of ceramics or something within the concrete.

g} Request for grant from Garden of Hope/Northeast Coalition to End Homelessness in the amount of \$5,000:

Mayor McLean called upon Mr. Olson for comments.

Mr. Olson said we have received a request from the Garden of Hope House/Northeast Coalition to End Homelessness for a \$5,000 grant to help them in the operation of the Homeless Shelter which is presently located at 709 Herrington Road which is the facility that we entered into a sub recipient agreement on November 8, 2010. The shelter has been extremely busy and he believes the shelter is still full as of today. They are requesting additional funds. The Council's Contingency Fund has been spent and any money you give to any outside organization would have to come out of the City's Reserve Account.

Mayor Pro Tem Hummer asked shouldn't this come before the Finance Committee first? She believes that is why we established the Finance Committee.

Mr. Olson said he doesn't have a problem with that. We have a utility bill issue which is of great concern to city staff. That is why it is being brought before you at this particular time. They are past due on their utility bill and we have already given them more than enough time to bring this bill up to date.

Mr. Gustave Smith came forward and said that we have \$493.00 right now that is owed on the utility bill for this past month. Every thing else has been paid up to date. The Coalition to End Homelessness has been paying all the expenses for

the Garden of Hope House at 709 Herrington Road. It is just taking us some time to get off the ground properly. All bills have been paid and we are full. He has written a number of grants recently. Those grants will not come through until later this year. We are looking at August or beyond before the grants come through. We have just run short on funds to keep it going properly. We don't want to give up and stop it. We are at the present time preparing some fund raising efforts to go into the community to help us. We have appealed to churches and so forth. We can house nine people at a time. It has been full every since we opened the doors. We have had a number of turnovers in there because we have had a number of successes so far. People have been able to move on and become self sufficient already. We have a waiting list also of people wishing to come in. In addition to that, beside Herrington Road we have also been putting people up into two of the motels in town. That has taken up a lot of the Homeless Coalition funds. These are homeless families and homeless individuals through the months of December, January and February. They were enormous bills even though the motels give us a break on the rates.

Mayor Pro Tem Hummer said if we were to send this to our Finance Committee which meets next week, it would still have to come back at our full council meeting on the 11th of April. What kind of hardship does that place you under?

Mr. Smith said recently we have had to turn people down. He personally had to turn down three people that we could have put up in the motel if we had the money but we just don't have the funds. Not only the Coalition itself has put the money out of the organization but some of us personally have used our own personal money to put people up and to pay some of the bills. It is a temporary situation and we have gone after grants. A number of grants have been written but there is no guarantee that you will get a grant, but we have applied for everything that we can find. At the beginning of the coming year we will be eligible to go to HUD and get federal monies to help us with our operations but you cannot go to HUD for the first year of operation for an emergency shelter. This first year is very tough.

Councilman King said he is very passionate about the homeless and the situation is growing larger and large.

A motion was made by Councilman R. E. King, seconded by Councilman J. A. Stimatz to give the Homeless Shelter \$5,000 as well as refund to them the \$500 used to apply for the Special Use Permit so that they can continue to operate.

Councilwoman Hill-Lawrence said she is thinking about the other young man that came up and asked for \$3,000 and we only gave him \$2,000.

Ms. Meggs said when we take it out of the reserves and we are already getting letters from the LGC she feels for them as she knows no one who has worked for the homeless more than she but we are going to be homeless. Our city is in financial difficulty and she can't say she is going to vote to raise the taxes. She has problems with this.

Councilman Walton said he is in agreement along with Ms. Meggs because we don't have the monies. We did have the money when we gave Mr. Tony Rice his. He still doesn't think that we should give the full amount. They said they have fund raisers planned and hopefully that will be successful as he will help with that. He would like to offer a friendly amendment. A person has to have that utility bill paid. That is \$500 right now. He thinks we should give them the \$500 right now plus \$3,000 to keep them going right now.

Councilman King said he can't accept the friendly amendment.

Mr. Brooks said the term used earlier was "precedent" and Tony Rice asked for \$3,000 and we gave him \$2,000. He understands the dire need and he wished you had accepted the friendly amendment. We try to be fair across the board. He came up and asked for \$3000. We should pay your utility bill and give you \$2,000. He agrees with Betty that we are going to be homeless if we keep giving monies away.

Councilman Stimatz asked how much do we have in the reserves?

Mr. Olson replied that we have \$6 million.

Mayor McLean said this is why we have the Finance Committee. He would like to make sure that any time someone requests dollars to bring it to the Finance Committee and we can work out the details then we can bring it to the full Council. That is what we need to do. When it comes to dealing with the homeless we don't want to see a council that is divided. We should be together on what we should do.

Councilman King said he brought Mr. Rice's request to the Council and he asked for \$3,000 and Council gave him only \$2,000.

Mayor McLean declared a five minutes recess.

Mayor McLean declared the meeting back in session.

A substitute motion was made by Councilman M. E. Brooks to give them \$2,000 plus refund the \$500 Special Use Permit fee. Councilman J. B. Walton seconded the motion.

Roll Count Vote:

Brooks	yes
Stimatz	no
Meggs	yes
Hummer	yes
Walton	yes
Baker	no
King	no
Lawrence	no

Mayor McLean voted yes thereby carrying the vote.

Mayor McLean said that he would like to place on the agenda for the Finance Committee consideration of contributing the other \$2500.

h} Award of Bids:

1} Construction Bid for Raw Water Tank and Adopt Budget Amendment:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson said what you have in front of you for consideration is a bid to drain and repair the Raw Water Reservoir at the Water Treatment Plant. This particular item was brought to the City Council at your meeting several weeks ago and you rejected the bids at that particular time. This item is being brought back to you with a recommendation to award the bid to ELJ, Inc. in the amount of \$521,000. There is a budget amendment to go with this one.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. E. King to award the construction contract to repair the raw water reservoir at the Water Treatment Plant to ELJ, Inc. for \$521,100; and further moved that the City Manager be authorized to execute the required contracts for construction; and to adopt the following budget amendment as presented.

Mr. Brooks said what is the purpose of the Finance Committee?

Councilwoman Baker said that is a good question.

Mr. Brooks said he thought that bids and all that stuff go through the Finance Committee and now that has just disappeared. Either we are going to use the Finance Committee for the purpose that it was set forth or not. We don't need to

just have committees for the sake of titles. We need to utilize them. He is now seeing them already before the full Council.

Councilman Stimatz said well he had the same thought because last week there was something on it and it had to go to the Finance Committee. Then he went back and looked at the minutes and the purpose of the Finance Committee was established to look at strategic budget issues and advise council on strategic budget issues. When the debate came up for the Finance Committee he said it then and he will say it again, he didn't think there was supposed to be another layer of bureaucracy who will be looking at every contract and every bid and slow down the normal workings of this City which has been going fine every since Rich showed up in 2003. If we are going to do it he doesn't care which way you guys want to go on this but make up your minds. Either they all go or none of them go. Michael's point is well taken. What is the purpose of the Finance Committee? He thinks if you go back and look at the material that was presented to Council that night of the debate and the motion that was made, the Finance Committee's job is to look at the big picture not the micro picture. They are to look at financial policy, they are to look at big items in the budget, make recommendations to Council about financial policy and budget. So he is with Mike. If you are going to take it off last week then you should take every single one of them off. Then they all have to go through and the Finance Committee is going to have to start meeting weekly in order for Rich to get his job done because he can't wait two weeks for somebody to be in the middle between him and getting the job done. If that is what you want then let's make it clear to everybody.

Councilman Walton said well Michael that was a good question. Tony you gave a good little rap up of what your thoughts were. But until we took things off the Consent Agenda tonight and put them where they belong and now it falls right in line of what we were trying to do. It was already on the Regular Agenda so we didn't have to take it off the Consent Agenda. It was in the proper place. It was just the Consent Agenda area that we needed to move to the Regular Agenda to show places where it needs to go. Now all those things that we taken off the Consent Agenda plus this item needs to go to the Finance Committee. That is not hard.

Councilwoman Hill-Lawrence said that she thinks when we started the Finance Committee that we did have some guidelines. Is that not correct. We were to follow those guidelines with the things that we are supposed to be looking into.

Mr. Stimatz said it is very interesting that those on the Finance Committee can't tell us what those guidelines are.

Mr. Brooks said we don't want to go against what has been established. What he understood is that bids were supposed to go through the Finance Committee.

Let him know when we are going to do a flip.

Ms. Hill-Lawrence said you are not on the Finance Committee.

Mr. Brooks said no he is not on the Finance Committee but he knows what was said.

Ms. Hill-Lawrence said you don't know what was said because you were not there.

Mr. Brooks said he was right here.

Ms. Hill-Lawrence said she is talking about the first meeting. You were not there.

Mr. Brooks said he has the floor and let him finish talking please.

Ms. Hill-Lawrence said well tell the truth.

Mr. Brooks said let him finish talking. We don't want to talk about the truth and you don't want to get him started. He had the floor and she just butted in and started running her mouth. He had the floor.

Ms. Hill-Lawrence said she is sorry.

Mayor Pro Tem Hummer said she would just like to change the subject and make a friendly amendment regarding the second paragraph in her motion where it says further the city manager be authorized to execute the required contracts for construction. She will create another scenario if we are going to have more signatures on all the other documents then that should read mayor, mayor pro tem or city manager.

Ms. Baker said she believes that was just for those particular grants that those signatures were necessary and not for this particular one. Is that not right Mr. Olson?

Mr. Olson said this is a construction contract and not a grant agreement.

Mayor Pro Tem Hummer asked if there was a law against her friendly amendment.

Mr. Olson said no it is not.

Mayor Pro Tem Hummer then she will make the following friendly amendment:

Councilwoman Baker said no she would not accept the friendly amendment.

Mayor McLean said it has been moved and seconded the recommendation given by the staff would be amended to include: Further that the mayor, mayor pro tem or city manager be authorized to execute the required contracts for construction. Questions?

Councilman Stimatz said yes we can do what we want. It is great but he has been on this Council for five years and we haven't failed to sign a contract yet. He is not so sure what is driving all this. It doesn't matter either way. He will vote for it but he thinks it is unnecessary. That is his thought.

Mayor Pro Tem Hummer asked isn't that the same as trying to be consistent as the previous subject.

Mr. Stimatz asked to respond. If you go back to the previous one it had to do with requisition for funds and it had to do with that particular document. Can you explain what a requisition for funds is?

Mr. Olson said it is basically you have a grant agreement and then the funding approval grant with the CDBG grant is there are a number of five or six standard conditions that have to be met before that particular form can be executed and returned to the State. First of all the grant agreement has to be executed and sent in. Then funding approval is dependent on if you can fill out everything in the grant agreement and the supplemental conditions are in the funding letter of approval.

Mr. Stimatz said the requisition for funds. Isn't that basically a document that says we have met all the criteria, please give us funds?

Mr. Olson said that is correct.

Mr. Stimatz said it is not a contract. So it is different than a contract so it is not the same document. So they are not the same.

Mayor McLean said he believes that we are inconsistent in what we are doing. In some cases the Mayor signs for the requisition of funds, contracts and he thinks that we need to make it consistent. Right now we have tonight we are going to approve close to \$4 million in contracts. That is not small potatoes. He thinks after this was brought to his attention to make it consistent in turns in what the mayor and mayor pro tem does is relatively to the signing of the authorization of contracts he thinks we need one of these signatures along with the city manager. Not that it is going to derail what he does because we are always available to sign

documents. He thinks that more than one person should sign off on contracts of this nature especially when they are this size. These are huge contracts.

Mr. Stimatz said that is why City Council authorizes the City Manager to do it. Council takes the direction to tell him to sign it. That is all that we are doing.

Mayor McLean said he does not agree that only the City Manager signs it. It should be signed by someone else. That is what he has discovered by the business that he is in that on contracts whether you are the controller or the chief finance officer you always have the head of the operation to sign off on it also.

Mayor McLean asked to restate the motion that is on the floor.

To include the Mayor, Mayor Pro Tem or the City Manager as persons authorized to sign contracts.

Mr. Stimatz said you are asking for dual signatures.

Mr. McLean said yes.

Mr. Morgan said there is certainly nothing wrong with that legally. That is a rule that Council can adopt.

Mr. Stimatz said he doesn't think he is prepared to let the Mayor and Mayor Pro Tem sign off on a contract without the city manager's signature. He will vote for an amendment that says, the city manager countersigned by mayor or mayor pro tem.

Mayor McLean said that is what he is saying.

Mr. Stimatz said that is not what he heard.

Ms. Baker said she will do that too.

Mr. Walton said you two hear the same thing. You and Jean hear the same thing.

Mr. Stimatz said then the amendment is to amend it to allow the City Manager to sign and to be cosigned by the either the mayor or mayor pro tem. Is that your motion Ms. Hummer?

Ms. Hummer said yes.

Mr. Stimatz said he can live with that.

Mayor McLean stated the full amendment to the motion is as follows:

Mayor Pro Tem L. A. Hummer made an amendment to the previous motion to state that the mayor, mayor pro tem or city manager be authorized to execute the required contracts for construction. Councilman J. B. Walton seconded the amendment. Those voting in favor of the motion were: Hummer, Walton, Baker, Brooks, Hill-Lawrence, King, Meggs and Walton. Against: None. Motion carried.

Mayor McLean called for the vote on the following in its entirety:

A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. E. King to award the construction contract to repair the raw water reservoir at the Water Treatment Plant to ELJ, Inc. for \$521,100; and further moved that the City Manager, cosigned by the Mayor or Mayor Pro Tem be authorized to execute the required contracts for construction; and to adopt the following budget amendment as presented. Those voting in favor of the motion were: Baker, King, Brooks, Hill-Lawrence, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.

**BUDGET AMENDMENT
NUMBER 2011-05
MARCH 28, 2011**

BE IT ORDAINED: by the City Council of the City of Elizabeth City that the following amendment be made to the Capital Project Fund for the fiscal year ending June 30, 2011:

SECTION I. That the Water and Sewer Fund Retained Earnings Appropriated (353990.0000) be increased by \$521,100 and the Water Department Raw Water Tank (354011.7300) be increased by \$521,100.

(To appropriate funds for cleaning and repairing raw water tank.

ADOPTED, this 28th day of March 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

2} Contract I for utility relocation on Pearl Street Sewerage Pump Station to George Raper & Sons in the amount of \$881,091.00; and Human & Robey in the amount of \$66,500.00:

Mayor McLean recognized Mr. Olson.

Mr. Olson stated this particular bid item is a construction bid for Contract I for utility relocation on Pearl Street Sewerage Pump Station. The City took bids on this particular item on March 21, 2011 and we received two bids. The low bidder was George Raper & Sons at \$881,091. We are requesting that you authorize the following:

Award Contract I for Utility Relocation Work to George Raper & Sons in the amount of \$881,091.00. Said amount includes the construction of the project as bid.

That a contract be awarded to Hyman & Robey in the amount of \$66,500.00 for the construction administration and inspection costs, filed layout survey cost and geotechnical engineering testing; and

That the City Manager with counter signature by the Mayor or Mayor Pro Tem be authorized to execute the required contracts with counter signature by the Mayor or Mayor Pro Tem for construction and the administrative and engineering work and the requisite three party agreements with NCDOT

A motion was made by Councilman J. A. Stimatz, seconded Councilman J. B. Walton to adopt the following resolution that would award Contract I for Utility Relocation Work to George Raper & Sons in the amount of \$881,091.00. Said amount includes the construction of the project as bid; and further; that a contract be awarded to Hyman & Robey in the amount of \$66,500.00 for the construction administration and inspection costs, field layout survey cost and geotechnical engineering testing; and further that the City Manager with counter signature by the Mayor or Mayor Pro Tem be authorized to execute the required contracts for construction and the administrative and engineering work and the requisite three party agreements with NCDOT. Those voting in favor of the motion were: Stimatz,

***Walton, Baker, Brooks, Hill-Lawrence, Hummer, King and Meggs.
Against: None. Motion carried.***

**RESOLUTION #2011-07
AUTHORIZING AWARD OF CONSTRUCTION BID
(PENDING CONCURRENCE BY NCDOT)
FOR CONTRACT I UTILITY RELOCATION
PEAR STREET SEWAGE PUMP STATION
IN CONNECTION WITH
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TIP U-4438**

WHEREAS, the City of Elizabeth City's water distribution and sewer collection systems north of Elizabeth Street must be relocated before the reconstruction of Elizabeth Street (NCDOT TIP U-4438); and

WHEREAS, construction bids were solicited for this project with a bid opening scheduled for March 8, 2011; however, because the required three bids were not received, the project was re-advertised for a March 21, 2011 bid opening; and

WHEREAS, on March 21, 2011 the City received two bids for this project, with George Raper & Sons as the apparent low bidder with a bid of \$888,091; and

WHEREAS, the cost for Contract I will be funded entirely by NCDOT and will be subject to a three-party agreement between the contractor, NCDOT and the City.

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

1. Contract I for Utility Relocation Work is awarded to George Raper & Sons, Inc. in the amount of \$881,091, pending concurrence by NCDOT.
2. Further, that a contract be awarded to Hyman and Robey in the amount of \$66,500 for the construction administration and inspection cost, field layout survey cost, and geotechnical engineering testing.
3. Further, that the City Manager be authorized to execute the required contracts, with countersignature by the Mayor or Mayor Pro Tem, for construction and the administrative and engineering work and the requisite three party agreements with NCDOT.

ADOPTED this the 28th day of March 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

3} Award of Bid for Contract II and Adopt Budget Amendment for utility relocation South of Elizabeth Street to George Raper & Sons in the amount of \$3,987,322; and Hyman & Robey in the amount of \$448,500:

Mayor McLean called upon Mr. Olson for comments.

Mr. Olson stated this particular contract is the most complicated of all the contracts. Contract I, which you just approved there is no local dollars associated with that contract. It will be paid 100% by NCDOT. This particular contract deals with the water distribution sewer collection system on Colonial Avenue, Poindexter, McMorrine and Martin Luther King Streets, south of Elizabeth Street. This is all in conjunction with DOT Project U438. We had a bid opening on this particular project on March 21st, 2011. We only had one bidder on this particular project and that is after we had put it out for the second publication. We still only received the one bid. The construction bid for this project was submitted by George Raper in the amount of \$4,892,978.00. In addition, there was an alternate bid to dye stamp a brick pattern on the sidewalks in the amount of \$410,714.00.

Public Utilities Director Fredette stated this project is to redo all the infrastructure utilities south of Elizabeth Street, between Elizabeth Street and Main Street and Water Street and Poole Street. We put it out as one major project which included all the utilities plus a duct bank so that we can put underground all the overhead wiring. The base bid for that project was \$4.9 million. The alternate requested was to put some architectural feature in the sidewalk and that was put out as an alternate bid and that alternate bid was \$410,714.00. As we analyzed the bid the costs for the duct bank by itself was \$1.4 million. After some consultation between Shawn Robey, the City Manager and himself, we felt that the \$1.4 million was a bit excessive and probably not approvable by the City Council. So we are asking tonight approval of a contract of about \$3.2 million. We are taking out the \$1.4 million for the electrical duct bank. The material for the duct bank in

having it installed by city crew along side the general contractor while he is doing the other utilities in this area. He doesn't know what that number is but you can expect it will be a hard number for the materials and there is also going to be an adjustment to the contract number because the contractor is going to be doing the excavation of work to provide for a place for us to put the duct bank. From the base bid we took out the \$1.4 million but we included the alternative bid so that we could do some architectural treatment to the sidewalks essentially so they would look something like the Main Street work. The request is for you to approve a construction contract in the amount of \$3,897,322.00. That is the base bid minus the electric plus the alternate for the sidewalk.

Mr. Olson said in addition there is a second contract to be awarded to Hyman and Robey in the amount of \$448,500 for construction administration, inspection costs, field layout survey costs and geotechnical engineering testing. They will all be paid 100% by NCDOT. There is local funds involved in Contract II and for that reason you do have a budget amendment where staff is requesting that Powell Bill pay for \$192,962.00 and \$50,000 for the Stormwater Utility Fund for a total amount of local contribution \$242,962.00. We will be bringing back to the Finance Committee the issue of doing the work in-house. We still have not refined the cost estimates for the materials. There is money that we have that we can possibly utilize within the electrical budget to buy the materials but we need to fine tune those costs and we are not ready to have that done at this particular time.

Councilman Walton asked Mr. Fredette if he was saying that off of Elizabeth Street you are running some duct bank and does that mean that you are not going to have utility poles standing anymore.

Mr. Fredette responded by saying we took that out of the contract as bid. What we have tried to do was to put duct in the ground so that we could run the wires through there for electric. It will be all of Colonial Avenue, Martin Luther King, Poindexter and McMorrine Streets between Elizabeth Street and Main Street. By using city crews we should see a savings of more than half of the original bid.

Mayor McLean said you are saying that the total construction project as bid is \$4,892,978. That was the project bid. In addition there was an alternate bid for dye and stamp of \$410,714. Does that increase the base bid by \$410,714.

Mr. Fredette replied that is correct.

Mayor McLean stated this is the type of item that should come to the Finance Committee because not only are we talking about awarding contracts with changes but we are talking about amending our budget also to accommodate those changes.

Mr. Olson said he would like to address that issue as he shares your concerns. Unfortunately the City has a contract with NCDOT to have this work done within a specific performance schedule. That was previously approved by Council. Unfortunately, this is the second time that we have had to bid this out so we are roughly a month to six weeks behind meeting our time lines we need to get the work done. We are really six to eight weeks behind where we need to be to start construction. Our cost is \$242,962.00. NCDOT will be paying the rest of the costs. NCDOT's money does not run through the City's books.

A motion was made by Councilman J. A. Stimatz to adopt the following Resolution awarding Contract II for utility relocation work to George Raper & Sons, Inc. in the amount of \$3,897,322.00 to include the construction of the project as bid excluding the work associated with the electric and communication duct bank and includes the alternate bid for the dyed and stamped finish on the sidewalks; and further; that a contract be awarded to Hyman & Robey in the amount of \$448,500.00 for the construction administration and inspection cost, field layout survey cost, and geotechnical engineering costs; and further, the City Manager with counter signature by Mayor or Mayor Pro Tem be authorized to execute the required contracts for construction, administrative and engineering work and the requisite three party agreements with NCDOT include any resolution thereto; further that the City Manager be authorized to negotiate with the communication companies and return to the City Council with a proposal to fund the underground duct bank for the electric and communication cables; finally to approve the following budget amendments for the proper funding and accounting for this project. Councilman M. E. Brooks seconded the motion. Those voting in favor of the motion were: Stimatz, Brooks, Baker, Hill-Lawrence, Hummer, King, Meggs and Walton. Against: None. Motion carried.

**RESOLUTION #2011-08
AUTHORIZING AWARD OF CONSTRUCTION BID
(PENDING CONCURRENCE BY NCDOT)
FOR CONTRACT II UTILITY RELOCATION
SOUTH OF ELIZABETH STREET
IN CONNECTION WITH NC DEPARTMENT OF TRANSPORTATION
TIP U-4438**

WHEREAS, the City of Elizabeth City's water distribution and sewer collection systems on Colonial Avenue, Poindexter Street, McMorrine Street and Martin

Luther King, Jr. Drive, south of Elizabeth Street must be relocated before the reconstruction of Elizabeth Street (NCDOT TIP U-4438); and

WHEREAS, construction bids were solicited for this project with a bid opening scheduled for March 1, 2011; however, because the required three bids were not received, the project was re-advertised for a March 21, 2011 bid opening; and

WHEREAS, on March 21, 2011 the City received one bid for this project, with George Raper & Sons as the apparent low bidder with a bid of \$4,892,978; and in addition an alternate bid was included to dye and stamp a brick pattern in the sidewalks for \$410,714; and

WHEREAS, the cost for Contract II will be funded jointly by NCDOT and the City and will be subject to a three-party agreement between the contractor, NCDOT and the City.

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

1. The bid for Contract II for Utility Relocation Work is awarded to George Raper & Sons, Inc. in the amount of \$3,897,322, pending concurrency by NCDOT. Said amount includes the construction of the project as bid, excluding the work associated with the electric and communications duct bank; and includes the alternate bid for the dyed and stamped finish on the sidewalks.
2. Further, that a contract be awarded to Hyman and Robey in the amount of \$448,500 for the construction administration and inspection cost, field layout survey cost, and geotechnical engineering testing.
3. Further, that the City Manager be authorized to execute the required contracts, with countersignature by the Mayor or Mayor Pro Tem, for construction and the administrative and engineering work and, the requisite three party agreements with NCDOT.
4. Further, that the City Manager with counter signature by the Mayor or Mayor Pro Tem be authorized to negotiate with the communication companies and return to the City Council with a proposal to fund the underground duct bank for the electric and communication cables.
5. Finally, budget amendments for the proper funding and accounting for this project are hereby approved.

ADOPTED this the 28th day of March 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

**BUDGET AMENDMENT
NUMBER 2011-06
MARCH 28, 2011**

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, 2011:

SECTION I. That the Powell Bill Fund Balance Appropriated (103990.0010) be increased by \$192,962, that the Transfer from Stormwater Fund (103970.3400) be increased by \$50,000, and Elizabeth Street Capital Improvements (105700.7302) be increased by \$242,962.

That the Stormwater Retained Earnings Appropriated (343990.0000) and Transfer to General Fund (348500.9100) be increased by \$50,000.

(To appropriate funds for drainage, sidewalks, and road surface for Elizabeth Street project.)

ADOPTED, this 28th day of March 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

i} Redistricting:

Mayor McLean called upon Councilman Brooks for comments.

Mr. Brooks stated the reason why he put this on the agenda was because every time he looks at the Daily Advance they are giving half information and half truths about what the Redistricting Committee is all about. You need to understand it is not something that the City has said that we are just going to do. Usually redistricting starts with the Federal Census. The Daily Advance is getting it wrong. People are going to the Daily Advance blowing off steam and they have half truths and we need to make sure that we get this thing right. The redistricting usually starts with the Federal Census which takes place ever ten years. This means that the district lines have to be redrawn at least every census to account for population shifts. This is all based on the Supreme Court Ruling in 1960 because it was the ruling by the highest court of our land and he guess it could be called a federal mandate. Our city's Redistrict Committee consists of four members of Council and one private citizen from each of the City's four Wards. The public is free to sit in but not free to speak at this time. Any information that the Committee has before them and if someone wants it they can request that material. At our first meeting options were given to the Committee drawn up by the Planning staff and the City Manager as to what the Justice Department will accept under Section 5 and in line with the law suit that was filed against the City of Elizabeth City years ago. The option given was only a guideline and it is not the Committee's responsibility to draw lines of redistricting according to the criteria set by the Justice Department. After the Committee has come up with that decision we have to present it to the full City Council for their consideration and vote followed by a public hearing. A simple majority and as long as we have everything based on the criteria set forth by the Justice Department it can go forward. At that time the public can voice their concerns, dislikes and likes. It is fine. You will have the option to do that during the public hearing. At our first meeting we were informed and given the information as to the process that we must follow. At that first meeting we only had one private citizen there and they were given the information that we had before us as the Committee. The next day the most racist letter was written to the editor that he has read in a long time. Printed by the Daily Advance perverting the course of justice according to the United States Code 15-12B. Unfortunately, some of our Council members not on the Committee are going down a criminal path by interfering with a Federal mandate and perverting the course of justice. He will take this time to say to those who follow that path it is a criminal offense to conspire with another to pervert the course of justice. Obstruction of justice in any United States jurisdiction refers to the crime of interfering of work of police, investigators, regulatory agencies, prosecutors or government officials. Obstruction can include elected officials in the conduct of the office, misfeasance, malfeasance and nonfeasance. Any time anyone wants

to come to the Committee meetings they are welcome to come. This committee has made no decisions as far as who is drawn out where and from what he understands the Committee meetings went very well until he starts hearing all the hoopla in the newspaper. We haven't made any decisions. After we make a decision that is acceptable by the Justice Department then it comes before full Council for a full vote. Then we will have the public hearing. Any likes, dislikes, concerns then can be voiced by the public. He doesn't think there is any malice intent as far as what this Committee is concerned with any member or council member. We have to do what the Justice Department will approve.

Mayor Pro Tem Hummer said after hearing some of the public comments and after a telephone call she received on Saturday from the Daily Advance and this is the first time she has ever responded to the Daily Advance before they printed the article but she is sure it is headed for print. First of all she would like to say that this Committee did not draw the lines of the two maps that they chose to work from. Those two were drawn by the City Manager and City Staff. She tried to explain this to Ms. Hill-Lawrence when she confronted her and asked her why she took her out of the Ward. She replied that she did not draw the lines and she didn't. And, when she got a call from the Daily Advance she was shocked because another council member has gone to the Daily Advance and accused the Committee and her in particular of breaking the law. She just found that unfortunate because she has had a conference call between the City Attorney, City Manager and she also called the City Attorney and bothered him yesterday on Sunday afternoon in an effort to comply explicitly with the Justice Department rules. It was brought up by the reporter that she was trying to prevent full council from getting the maps. That is not true either. She did say that she thought the Committee should get them one day to study and the full Council could easily get them the next day. She had the City Attorney contact Mr. Olson in Greensboro and concurred that would be in keeping with the public records laws. She has even been told that another council member is trying to get maps drawn showing that we are in noncompliance when we have only had two meetings. We have only had two meetings. It is a very complicated process and it is a learning process for everybody and she thinks that everybody on that committee has the right to voice any concerns or ask for any scenarios they feel like they need in order to make the decisions on redrawing the lines. There is going to be controversies and if everybody would just be patient as Mr. Brooks has said when we get to a point where we can bring something to the full Council we will. Council can then tear it all to pieces if they like and send it back to the Committee. Any thing that anybody asks to be drawn even it is something that someone wants to "lets show this committee is non compliance" is going to the Justice Department and they are going to see that there is an effort to frustrate and stymied the Committee. She thinks that is very unfair. The council person who went to the Daily Advance stated that a committee member told them that we were breaking the law. She has talked to the Committee members and she

hasn't been able to find out whom and she doesn't think anyone on the Committee said that. She thinks that person should have gotten their facts straight before they went to the newspaper and she has worked very hard in trying to keep the committee in compliance and get legal advice on exactly how the meeting could be carried out. She will assure you that nothing illegal is going to be done if she is chairing it. In the first meetings as Mr. Brooks stated we had one visitor and she did get the handouts. They were small letter size maps and it was easy to give a handout. One gentleman spoke tonight that he wasn't offered anything at the second meeting but they are huge maps that she doesn't know if we can afford to give them out. What if we had 100 people to come in she doesn't see how we can give 100 maps out. She does agree that the maps should be turned around so that the audience can see them. It was very unfortunate that someone chose to go to the newspaper before we even got started. She said she was disappointed and she really is. She is very disappointed in this council person. As she said that Committee did not draw the lines putting Ms. Lawrence out of your Ward and she has the floor. She thinks that the public needs to know it is a duly appointed committee by the Mayor and we have the right to see everything and study everything and ask any questions we want too. If someone in her ward has a concern that their neighborhood is being taken out, she has the perfect right to voice that concern. It is not about how many votes she might get. She doesn't have any idea who votes me in except my family and close friends and she thinks that was unfair also. She is following the advice of our City Attorney and our Planning Director who has been exceptionally helpful in getting the information to everybody. She thinks everybody just needs to be patient and you will get a chance to talk. We will have public forums and public hearings as we will also be going to Community Watch Groups and the public will be allowed to speak at all of these. This is a very over whelming task when you get in a room with representatives from all four wards asking questions at the same time. If they ask a question that might seem inappropriate then who is to judge that. She can assure you that we are in compliance and we are not breaking the law. She resents being accused of it, she really does. She hopes the newspaper is looking tonight so they will get the straight story.

Councilwoman Hill-Lawrence said she is sitting home at her computer and she gets a telephone call from the Daily Advance saying, "Do you know what is going on?" I say no she is not on that committee and she doesn't know what is going on. He then says, "What do you think about what happened tonight?" She says, "What happened tonight?" He says that some members of your council, second meeting has decided that this is the direction to move. Somebody said she is going by the paper she was not there. Someone said that is good and someone echoed when they were asked, don't you feel kind of unmoved or unnerved about moving an incumbent out of their area and they say no. She is at home and she didn't know anything about this. This is the reporter that she got. Then to top it

off one city council member said historically which is the most racist statement that she has ever heard, historically Edgewood belongs to Riverside. Yes, she is upset. She is very upset that seven council members nobody is going to be affected but her. On no! If she is going to be affected you are going to be affected too. Take it because she is taking this to the highest level because yes she has read the Civil Rights, Voting Rights Act of 1965 and there are some sections in there that speaks clearly to discrimination. She is an African-American woman as you well know every morning when she gets up. She cannot forget that she is. She is a female and out of seven city council members you all decide that this is the way to go immediately after two meetings. Yes she is angry. She is angry that all of you that sit up here twice a week with her didn't have the audacity, the courage to say to her, Lena that may be a possibility and that goes from the City Manager, Planning Director and City Council. That was a devious, deceitful planned act. She knows what it is. The Community talks. Both sides talk both black and white. They talk and she knows what the movement is but she is afraid it is not going to work because she owns a house on Crescent Drive and you decide to choose that street to be the dividing line, Crescent Drive. Doesn't that seem a little unusual? Why didn't you try Edgewood? Put ECSU in the movement. No, but you decide after two meetings that this is going to be the dividing line. Well, let her tell you something, if you think that is an orchestration to get her out, she has got money to buy a house anywhere she wants to go in the Fourth Ward. So you are not getting rid of her. As she said in the paper she may go over to Ward One or she may run for Mayor of the great City of Elizabeth City. So she does have some options. Either way you cut it isn't going to work. That is all she has got to say.

Councilwoman Meggs said before she gets started she wants to thank June and Amy as they have bent over backwards any time we have come up with an idea or anything they are ready to show us where we have to do this or do that. When you change one thing you change another thing. You change this and you change that. She looked at that map for the first time because she was out the first meeting we had. She looked down there and she saw Brothers Drive which she lived for almost 50-years on that thing and she was a member of the Fourth Ward for 50-years. She was Chairman of the Democratic Party for every year, Melvin Daniels or herself. She has always thought that wouldn't it be nice if we were in the First Ward because we always use the church for everything for voting, etc. She never thought about Lena Hill-Lawrence.

Mayor McLean called for a five minute break.

Mayor McLean called the meeting back to order.

Mayor McLean said the comment he is going to make is he thinks that everybody has to give the Committee a chance to do its job. That is the only thing that he is

asking you to do before you reach the conclusion about what is being done. Every thing has to come to this Council. We are not going to do any thing to disrespect anybody on this Council with that Committee. Let's give the Committee a chance for it to complete its job. It has a very difficult job to do but when we finish it will be in compliance with the Department of Justice and it will be in compliance with what we think we ought to do as a Council. That is what we are going to do.

Ms. Hill-Lawrence said she wants you to know that your committee started this and not her as she was home.

7} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

City Manager Olson stated he had no further comments:

Councilwoman Baker said her comments on the Finance Committee is nobody seems to know what the real task is and she says if they study all of these issues and they come back to full Council with recommendations from that Committee she is still going to want to see all the paperwork. She is not just going to listen to somebody else that is forming an opinion for her. She does her research. She looks at the book. She opens it before the night of the meeting. She is still going to want the information. So why should they waste their time just researching every thing to bring back their opinions on what they think we should vote on. She doesn't believe in that. The only other comment that she has is that she was called Saturday by the Daily Advance as well and you can see her opinion in the article when it prints and she hopes that it does print.

Mayor McLean said let him comment on Councilwoman Baker. You talk about the Finance Committee. Tonight I asked Mr. Fredette and Mr. Robey what was the cost of the project going to be. He didn't have the cost of the project. He said who is going to pay for the stamps in the sidewalk. They said that DOT will pay for it. That is not true and we caught them off guard because they didn't have time to prepare. When you look at the document that you study you will see that the largest share in this particular document that the amount of \$410,000 has not yet been determined. We approved something tonight that we have no idea what we approved because we haven't had the chance to look at this in a much defined way. That is why it needs to go through the Finance Committee. It is very difficult to do the type of work that has to be done by a Finance Committee in a full session like this. He has worked with numbers all of his life and he asked specific questions tonight that he knew they could not answer because they had not thought about what he was going to ask about. They need the opportunity to come before a small group of people to share information with us that we have concerns about and then we can bring it to you. We approved contracts tonight without knowing the total costs of the

project. That is why we need a Finance Committee. We also dealt with two amendments to the budget. Anytime you change your budget you can't bring it to the full body to change your budget. That budget change should take place through the Finance Committee whereby it can be reviewed and compared to the overall budget scheme. You can't do that in a full session but yet anything this Finance Committee does has to be brought to the full Council but at least you have these four people that you know understands it.

Councilman Brooks said Mrs. Barclift down by the Patrol Station are we still trying to get her situation taken care of.

Mr. Olson replied that yes we are. We have had a couple of meetings with NCDOT concerning that and they have informed us that to stabilize her property will require rifferaff. The size of the pipe is cost prohibited so we are waiting for DOT to come back and provide us what amount they are willing to share on the rifferaff.

Mr. Brooks said during the course of the day he runs into a lot of young people. He finds it amazing as they look at the Council meetings also. He guesses it will be kind of difficult for him to persuade them to become an elected official when they see this kind of stuff going on. Whenever a committee is formed, the information that comes from the Committee if you don't get it firsthand it might not exist because the Daily Advance's job is to sell papers. He has never seen so many council members in the paper the last couple of weeks in his life. Everyone is talking about something that doesn't exist. We haven't made a determination about anything yet. It still has to go before the Justice Department and it has to go before full Council. We have to have a public hearing. All the hoopla is just that, hoopla. This is the State's Justice Department as it doesn't have anything to do with the Justice Department in DC. It doesn't have anything to do with that. We have to understand that whatever that is sent forth it has to meet Section 5 by the Justice Department before it will go through. What we don't want is for the Justice Department to decide where our lines are drawn. They will decide so his concern is when we bring it to the full Council and the public hearing and someone gets disgruntled and start sending protests to the Justice Department. That would take it out of our hands and the Justice Department doesn't care what you think or who you know. They will draw it just like that. We need to be very careful of that.

Councilman King said he wanted to thank the Council for sending him to Washington, DC. It was a lovely trip. He had the opportunity to shake Michelle Obama's hand and he hasn't washed it since. She was at the conference Tuesday morning and her biggest thing is on obesity. She spoke highly of trying to stop obesity in America. There is a program, "Lets Move" that she is working with and hopefully we still stop some of the obesity in America. The next thing

we went on Capital Hill that Wednesday morning and the biggest issue on Capital Hill is the CDBG. A lot of cities and states are going to lose money on this program including North Carolina. We were up on the hill trying to let our legislators know that we need this money. He was talking from people from all over and they were all saying that we need this money to help us do certain things. That was the majority of that day. Other than that it was a nice trip. He thanks Council for being given the opportunity to go. It was a great experience.

Councilwoman Hill-Lawrence said she wanted to tell Mr. Brooks thank you for advising them of what the Justice Department is going to do because that is just what they are going to do but it is not going to be the State Justice Department but the United States of America's Justice Department that will be down here overseeing to make sure that it is done correctly.

Councilwoman Meggs said she had no further comments.

Councilman Stimatz said Rich, at our last meeting he brought up the issue of the "no parking" signs that were installed on Colonial. He did some research in our minutes and there is a quote from you that says, "City policy is that requests for that have to come to City Council for approval." So he would hope that you will be bringing it to us with the research and neighborhood survey to find out if this is desired because he has gotten negative comments on that. The other item is probably a real barn burner but it is lingering. Last year when we were discussing the CUP's for the Internet Cafés we went ahead and changed the definition within the CUP itself from front door business to front door business. Staff was directed to bring back a change to reflect that in the UDO itself. We haven't seen that. He has asked twice that it be brought back to us. It is a simple one liner, probably three words. Can we do that so it is set in concrete?

Mr. Olson said yes we can do that. This body also requested that we look at the hours of operation and other stuff and it all has to be a zoning text amendment and staff has been working on it now.

Mr. Stimatz continued by saying it is not soup until the DOJ says it can go in the can. So guys and gals if you have some interest talk to your council people. The other members that are not on the Committee have the same right to ask for information about redistricting that they do and get info from staff on those things. He thinks that is only reasonable. We do get the same package that they get. We get the minutes of the meetings. You know as was pointed out it is tough. You are trying to move lines around. He will tell you his biggest concern. One of the proposals that he saw changes the Second Ward into the I-95 alligator. It goes from the golf course down past Oxford Heights and out to Tanglewood and this narrow strip on Hughes Boulevard. His concern is that puts 85 – 90% of all the properties that flood in the City in one ward. Therefore, all

those people lose any representation. Additionally, it puts a significantly part of all the businesses in town in one ward so when you are trying to get support for an initiative for flooding things or businesses you are going to have a tough road to haul because the other people are going to say well I only have residential and he doesn't care about your business issues so we are going to do this. So, when you are doing it yes you are trying to make this Title 5 mandates but he hopes the Restricting Committee and you out there whenever they come up with a map give it to the press and let them print them all. There were a bunch of different versions and we can come up with another one in five minutes. What if we make it 67% instead of 65% it will move a whole block. So, it is going to take time and you are going to have to massage it and we don't have a lot of time in one sense. Stay informed and read the Daily Advance with a grain of salt which he always does and he thinks for the Committee if nothing else just shove it out the door and let everybody see what you are doing and we all know it has to come to this body. It has got to come to us. If we screw it up as Michael pointed out the DOJ will take a screwdriver to us and back it out. That is not a problem and that is all. Don't get all wired on this thing.

Councilman Walton said you make a lot of logic there Tony because he has been thinking about this thing a lot. You have got to let the Committee work and finish their work first. He knows the Daily Advance has called him a couple of times and he didn't even answer the phone. When you start reporting relic and people believe in relic it is time to not even talk to those people. It is just sad that some people get all upset. There is nothing wrong with disagreeing. You don't need to act the way some are acting up here. He has noticed how fast a lie can grow.

Councilwoman Hill-Lawrence said it wasn't a lie though Johnnie.

Mr. Walton said he is in your Ward and if you had called him he could have given you a little bit more insight.

Ms. Hill-Lawrence said you should have called her and told her what the deal was.

Mr. Walton said like he said it isn't worrying him. It is not going to worry him tonight or tomorrow. We are still going to meet as a committee and we are going to bring back some information and you all can approve it or disapprove it. Then the Justice Department has got to approve it. They have said how the process works twenty times tonight and you still don't understand it.

Ms. Hill-Lawrence said she understands it perfectly well.

Mayor Pro Tem Hummer said she is sure that this looks to the public that we shouldn't talk about these things but by law we can't go in the back room and confront each other as we have to do it here and we apologize about that. We are within the bounds of the opening meetings law by confronting each other out here. She has another comment to make and she is also disappointed that another colleague would place her in a precarious position. Mr. Stimatz, her colleague in the Second Ward and she is going to address this to you and it has to do with recent series of emails regarding a specific council meeting and a set of minutes and the wording in that set of minutes where you called her by name to city staff and said that the wording in those minutes were Anita's interpretation not hers. That is a very strong accusation and it is saying that she asked a staff member to change the minutes which is absolutely untrue. She would hope that you didn't mean that. Like she said earlier she is very disappointed and she would have given you a whole lot more credit for professionalism than that. She is very disappointed. One more comment on the Committee. She hopes that the Committee stays in tact after all of the going to the newspaper and all this criticism. She still says if council members have to attack each other when we are trying to do a difficult job and she thinks that is said and it says a lot.

Mayor McLean said his comments are to thank the staff for all the work that you do. It may appear to the public that we don't get along but we actually love each other.

Councilwoman Hill Lawrence said no we don't and don't tell that lie.

Mayor McLean said well he loves you and that is the way that it is supposed to be. On this Committee you have to let's wait and give it a chance to work. Let us do it as a Council so we can do it in an orderly manner because nothing is going to be done to hurt anybody that he sees but let's give the committee a chance to work because he remembers the first time when this was done and the City was sued. That was a tough thing to go through. It really divided this City. We don't need to do anything that is going to divide us. That is why he put good people on the Committee to work with the City and to insure that we do it the right way. He also would like to say on the Duke/Progress merger we are now working with other cities trying to find ways to reduce our utility rates. Every day as Mayor he has to talk with people who are suffering because of the utility rates because they cannot afford to pay their bills. We are working with New Bern who has already spent \$60,000 in legal fees to try and get some type of assistance from the Duke/Progress merger. They are asking us to also support them. He will be coming before Council during the Finance Committee process to request funds to help support their efforts in terms of insuring that Progress Energy and Duke Power treat us in a way that we should be treated in order for us to cut our wholesale costs. The Mayor from New Bern has agreed to

come speak to us about what has been done. He thinks what we are hearing from this Council is that they are very adamant about what we should do as a City and he doesn't have any problems with that. As Mayor it is his job to try and hold things together and to try to impress upon each of us to make sure that we conduct ourselves in a way that is going to be respectful and appreciated by the public. Everybody in this City they know each one of us. They know what we can take and what we can't take. It is not like they don't know us. One thing that he will say about this Council is that you don't miss meetings and some of you have committee meetings that you don't miss and you spend a lot of time doing what you do. He knows that is appreciated by the entire City.

8} CLOSED SESSION:

Mayor McLean entertained a motion to retire into Closed Session.

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman M. E. Brooks to retire into Closed Session for consideration of personnel matters as per NCGS 143-318.11 (a) (6); 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: Hummer, Brooks, Baker, Hill-Lawrence, King, Meggs, Stimatz and Walton. Against: None. Motion carried.

9} 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, Hummer, King and Walton. Against: None. Motion carried.

10} CLOSED SESSION ITEM:

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve the Closed Session Minutes as presented in Closed Session. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

11} ADJOURNMENT:

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

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

Mayor McLean adjourned the meeting at 11:55 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Roger A. McLean
Mayor