

**MONDAY- 5:30 P. M.**

**APRIL 4, 2011**

**SPECIAL MEETING**

The City Council of the City of Elizabeth City held a Special Meeting on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor R. A. McLean presiding. Those council members attending were: J. M. Baker, M. E. Brooks, L. M. Hill-Lawrence, L. A. Hummer, R. E. King, B. S. Meggs, J. A. Stimatz and J. B. Walton. City staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Deputy City Clerk V. D. White, Planning Director J. C. Brooks, Parks and Recreation Director B. V. White, Finance Director S. E. Blanchard, Police Chief C. E. Crudup, Electric Director K. F. Clow and Public Utilities Director P. A. Fredette.

Mayor McLean established a quorum was present and called the meeting to order. He called upon Councilman R. E. King for the invocation after which he led the Pledge of Allegiance to the Flag of the United States of America.

**1} POINT OF ORDER:**

Councilman J. A. Stimatz stated he had a point of order. When he made a request to televise the meeting, the City Manager took a poll of Council and it was interesting there was an article in the paper recently about Camden and Currituck taking polls that were unauthorized. If he is correct Mr. Morgan, we need to verify that vote in chambers.

Mr. Morgan said you should do that in open session.

Mr. Stimatz said in order that we don't violate the open meeting laws he would like to make the following motion.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to televise this meeting.***

Mayor McLean said he felt that Chairperson Hummer did a really good job on the last Finance Committee of making that committee work very effectively. He thinks we are going to have another meeting on April 18, 2011. It was a very good meeting this morning. He called for a five minute recess to get clarification on this request from the City Attorney.

Mayor McLean declared the meeting back into full session. He stated the reason he called the recess was to get some clarification in terms of the vote for not

televising this meeting. The vote was five to four and there is a motion to not televise. The persons he talked with stated it is not standard practice to televise Special Meetings. He called for the vote.

Roll Call Vote

Brooks	No
Stimatz	Yes
Meggs	No
Hummer	No
Walton	No
Baker	Yes
King	Yes
Hill-Lawrence	No
Mayor	No

Motion was denied

**2} APPROVAL OF THE AGENDA:**

Mayor McLean called for a motion to approve the agenda.

Councilman Stimatz stated that he notes that Item 4-Council Censorship Proceedings as the subject matter while the memo says the Mayor he wants a discussion of the censure process out of the Code of Ethics. He is not sure why we need to do it because we discussed and passed this in December. However, as posted, the agenda will not allow us to discuss Ethics Censure. Rule 2-A of the Rules and Procedures for City Council specifically states only those items of business specified in the notice may be transacted in a Special Meeting. Censure of the Ethics Policy was not in the notice. How do we handle that?

Mr. Morgan stated when he sees the word "Censorship" he takes that to be either a typo or misunderstanding of the use of the word. He clearly understood that his role was to report to Council tonight regarding the non-binding censure powers that Council has.

Mr. Stimatz said he understands that but the notice goes to the public and the public sees what is presented. They don't have your insight or inside knowledge. He goes back to what our rules say. Do we need to suspend the rules or how do we handle it? Technically he sees it that we are not in compliance with the rules. There are ways to handle that. His question is how you propose to handle it.

Mr. Morgan said clearly he is not aware of any power that this body or any other elected body has to censor an individual or another councilman in this case.

Mr. Stimatz said Mr. Morgan I accept that. He accepts it could be a typographical error. Our rules don't talk about typographical errors; they talk about what is in the notice. His question is how do we handle this; can we suspend the rules in this instance?

Mr. Morgan replied clearly under our rules at a special meeting only those items of business specified in the notice may be transacted. We do not even have in our procedures the ability to deviate from the stated agenda for a Special Meeting.

Mr. Stimatz said what is your opinion?

Mr. Morgan you are certainly right that censorship and censure are two different things and he suppose under a strict interpretation of the definition of the words that censure is not properly on the agenda for tonight but he thinks clearly it was the intention that the censure be discussed.

Mr. Stimatz asked if there was any method to suspend the rules.

Mr. Morgan replied that you can by vote of Council suspend the rules by Motion 5 would require 2/3 vote of the membership of Council to suspend the rules. In this case it would require 6 of the 8 to vote to suspend the established rules to allow censure to be discussed or not.

Mayor Pro Tem Hummer said when there is a majority of members present at a Special Meeting an item can be added to the agenda.

Mr. Morgan said no as under the rules that we established in February 2010 the last sentence of Rule 2A only those items of business specified in the notice may be transacted at a Special Meeting called in this manner. Call in this manner refers to the two Council persons calling for the meeting. Certainly Council by a vote of 6 to 2 could vote to suspend the rules to allow this to be discussed.

Councilman Brooks asked if there was anywhere in there that it could be amended because we are basically talking about one word.

Mr. Morgan stated were this a regular meeting it certainly could be but because it is a Special Meeting it can't be amended. All that we could do Mr. Brooks would be to vote to suspend the rules as this issue and that would require the 2/3 vote which in this case would be 6 out of the 8.

Mayor McLean said he thinks the intent of this issue was to bring it to the attention of the Council the rules and procedures relating to censure.

Information that we had relatively to what could be done and what cannot be done by individual council members that would affect negatively on the operations of the Council. You have provided information for us to review.

Mr. Morgan replied that he had.

Mayor McLean said we are not here to censure anybody tonight. We are here to just talk about the issue relative to censure, etc. Isn't that correct?

Mr. Morgan said that is his understanding but as Councilman Stimatz pointed out clearly censor differs from censure and that is the point he is trying to make. Certainly we could discuss censure were there a vote of 6 of the 8 council members to deviate from the established rules. If you would like for the discussion to occur tonight Mr. Mayor he supposes a motion to deviate from the rules would be in order now and certainly we could discuss censure without question.

***A motion was made by Councilwoman J. M. Baker that we suspend the rules to allow this meeting to be televised.***

Mr. Stimatz said if the purpose of having this on the agenda is to provide us with information he feels he has gotten sufficient information both in terms of your memo and the reprint of the ordinance itself and Article 4. Unless there is some reason to go beyond that he doesn't see what the big deal is.

Mr. McLean said it was put on the agenda for discussion. As he said before this information and why we put it on the agenda tonight does not put us in the position to try and censure anybody. We just wanted to make sure that we are familiar and updated on what we can do along these lines. So what is the issue now?

Mr. Stimatz said unless you suspend the rules to change the agenda we cannot discuss censure or anything related to it.

***A motion was made by Councilwoman B. S. Meggs, seconded by Councilman J. A. Stimatz that we not discuss this item and bring it back at the next meeting.***

Councilman Brooks said lets go ahead and suspend the rules. We can bring it up anytime. Let's just vote on it.

Mayor McLean said she made the motion but there was no second.

Mr. Brooks said she made the motion about televising the meeting. That is the motion that she made. He is not talking about televising it. As he understands the conversation between the Attorney and Tony the only way we can do it we can suspend the rules with a 2/3 vote. To keep drawing out this thing just on censure and there was only a typo that is why. Let's just suspend it and bring it up at a later date. We can bring it up in a Closed Session and we don't have to go through the rumble of keep messing with this thing. It is just getting drawn out.

Councilman Walton said we could go through it and then see if political politics are still taking place.

Mr. Brooks said it is and you know it is but we can always do it in Closed Session.

Mr. Stimatz said no you can't.

Mr. Brooks said he is talking about the conversation between you and the attorney, Tony Stimatz. You know everything about everything. He is talking about the conversation that you and the Attorney have been having for the last 15-20 minutes. That is what he is talking about.

Mayor McLean called for a vote on the motion on the floor to remove this item from the agenda and bring back at the next meeting.

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

Mayor McLean called for a motion to approve the remaining items on the agenda.

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

### **3} UPDATE ON PROPOSED SPLASH PARK:**

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated as the Mayor alluded to earlier this particular item was discussed at some length at the Finance Committee meeting this morning. He

has included this item in the General Fund Budget for FY 2011-2012. He is proposing a ten year debt financing for this \$400,000 which means the City's debt payments would be roughly \$42,000 per year. The General Fund is now balanced and we are working on the electric utility right now. We should have the budget to the City Council by Wednesday.

Councilman Stimatz said he is not sure why this is on the agenda. The Finance Committee didn't review it before the agenda was put out. This is an item that would normally go to them. Also, do we have a formal recommendation from Parks and Rec to go ahead with this project?

Mr. King said it has been discussed by the Parks and Rec and Youth Task Force. We have not come back and said formally lets do this.

Mr. Stimatz asked if the Finance Committee reviewed it.

Mr. Olson said that this particular item is just one of many projects included in the budget that he will be presenting to the City Council.

Mr. Stimatz said he is trying to understand why we are having a Special Meeting for it. You could have just put it in the FYI and he would have been happy.

Mayor McLean said let him see if he could help you to become less confused. This item is because a lot of our citizens especially for the youth to feel good about where we are going. This is going to be an item that is going to cause additional debt and like so many times before we wait until the last minute to decide where the money is going to come from and what we have to do as a Council is to stay in front of things to make sure that we are aware of what is going on. The splash park is a phase that is the first of a series of things that we think that we have to do in order to bring about the type of youth activities that we are looking for. As we look at the overall Finance Committee and what it has to do between now and the next couple of months. The splash park is probably going to be the biggest item but it is going to take the joint effort from the Youth Task Force Committee, the Joint Committees between the City and County to make this project work. What we need to do is to make sure that the Council is aware and maybe there are some things that you can do in terms of talking with constituents or businesses or vendors that you can do to help us not only fund this project but to make it one of the best projects that the City has ever had. In this project it has been proposed by the City Manager that we incur debt that is going to cost us about \$42,000 a year. We probably are going to bring this item back to the Council as part of our budget. We will be meeting with other individuals who are involved who want to bring money to the table including churches. We also have our Economic Developer involved as well as some individuals.

Councilman Walton stated that on Wednesday we will have a meeting and they will present some things that will make it look even more like a reality.

Mr. Mclean said he has talked with a lot of youth groups and when we talk to youth groups as a council the young kids ask him about skating. We are also going to be looking at a skating rink. This is just the first in a number of things that we need to do as a City in order to bring about additional youth programs.

#### **4} UTILITY RELOCATION SOUTH OF ELIZABETH STREET:**

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated this item came up before the Council at the last City Council meeting when we were discussing what we called Contract II of the Elizabeth Street project. Contract II includes all the work that needs to be done on Colonial, Martin, McMorrine and Poindexter Streets. We received one bid from George Raper & Sons in the amount of \$4,892,978. \$1.4 million of that project dealt with the duct bank work to bury the electric lines on Colonial Avenue. City staff believed that was too much to pay for that work so we requested that Council delete those items associated with the duct bank from the base bid. There was an alternative bid for dye stamped concrete in the amount of \$410,714 which the Council did go ahead and authorized to accept the bid. These bids will be forwarded to NCDOT for their review. We do have a three party agreement that the City will be entering into with NCDOT and George Raper for the costs of this work. Included in the item that went before the City Council last Monday was budget amendments roughly for \$424,692. That is part of the project that falls outside the scope of work that DOT will be paying for. Those include the side streets of Martin, McMorrine and Poindexter between Colonial and Main Streets. We brought a memo to Council at the last meeting that we use some Powell Bill Funds and also some Storm Water Utility Funds to pay for that work. That is not DOT eligible costs but those particular items were broken out in the bid so we do have hard firm prices for those items within Contract II.

Mayor McLean said we talked about this last Monday night. We talked about coming up with a defined cost for this particular project that would include costs such as the \$10,000 for sidewalks. He thinks during that time we were informed that the \$10,000 would come directly from DOT.

Mr. Olson said that is correct. The project that the City staff will be submitting to DOT does include the dye stamped concrete which he will address shortly and other related work associated with the project. The stamped dyed concrete was originally put in the bid and we did receive a recommendation from ECDI not to

go with the stamped dyed concrete but to go with what we call ribbons. That is the inlaid brick that you presently have on Main Street. That particular design requires that the engineer go out and do a layout for every block because of the short time line that DOT has provided us that could not be done. That is why we put what we call a place holder in the project for stamped dyed concrete. We do anticipate that the ribbon work will be considerably less than the stamped dyed concrete especially based on the prices we have received.

Mr. McLean said he wants to be clear on this. This is a little bit different than what we presented on Monday night. The sidewalks that we are going to put in are going to cost us \$33,210 of the \$242,692. It will cost the City \$242,000 out of its funds. That is one number. The other number, the \$410,000 is strictly to go from a standard gray surface cement sidewalk to a sidewalk that is architecturally treated. One way using a colored concrete in the bid but as the manager said in an effort to save money overall and at the request of ECDI and consistent with what you have on Main Street today, we are talking about putting in a ribbon of brick which would be less than the \$410,000.

Mr. McLean said you are saying that the \$242,692 is included in the base bid of \$3,897,322.

Mr. Fredette replied yes. That is correct.

Mr. McLean said to bring the sidewalks up to the proposed level that the Downtown Business Group is looking for would cost additional funds.

Mr. Fredette said it would cost the project as we are trying to include it with the DOT. If we have DOT to approve the project that \$410,000 will be part of what DOT is paying for in the project.

Mr. Olson said if DOT does not allow that to go forward then that particular item would be brought back to the City Council for further discussion.

Mr. Mclean said you have three issues here. If DOT supports the cost of \$410,000 then we can do it that way.

Mr. Fredette said that is correct. Then there would be no money out of pocket for the City other than the \$242,000.

Mr. Mclean said if we keep the base bid intact the sidewalks that are in the base bid there would be no additional costs to the City.

Mr. Fredette replied that is correct.

Mr. Mclean said what if we upgrade it; how much would that cost?

Mr. Fredette replied that at this time we don't have the numbers for the brick ribbons but it will be less than the \$410,000. As long as the State allows that costs in the three-party reimbursable agreement that costs is borne by the State. The State could not approve any upgrade of the sidewalk for architectural treatment. That is still an option out there. The State has been extremely good to the City through this project. They have looked over these numbers however we don't have a final signed three-party agreement that includes that costs. We always have the option of saying no.

### **5} REDISTRICTING:**

Mayor McLean called upon Mayor Pro Tem Hummer for comments.

Mayor Pro Tem Hummer stated this was put on the agenda just for informational purposes tonight. The Redistricting Committee is still meeting, still looking at numbers and taking requests for any new areas to be looked at and we are still with the same two maps that we left with. It is her understanding that one more map has been added for tomorrow's meeting. Everyone has been provided with the maps, either electronically or by paper. We did run out of paper last week and had to go electronically. It will be brought to the full Council when the Committee reaches a consensus.

Mayor McLean said the work of this Committee is extremely hard and they are trying to fulfill the task. He has said all along that we need to give them a chance to do their jobs to do the job that they were asked to do and he is happy about the fact that they are getting close. In his discussion with Mayor Pro Tem and some of the members we are getting close to coming up with a drawing that will benefit this City as well as being in compliance with the Justice Department.

### **6} CLOSED SESSION:**

Mayor McLean entertained a motion to retire into Closed Session as per NCGS 143-318.11 (a) (6).

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

Mayor McLean declared the meeting into Closed Session.

**7} RETURN TO REGULAR SESSION:**

Mayor McLean entertained a motion to return to Regular Session.

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

**8} ADJOURNMENT:**

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

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

Mayor McLean adjourned the meeting at 7:00 P. M.

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

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Roger A. McLean  
Mayor