

**MONDAY-7:00 P.M.**

**APRIL 26, 2010**

**CITY COUNCIL**

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 attending 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. Staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Human Resource Director K. W. Felton, Planning Director J. C. Brooks, Parks and Recreation Director B. V. White, Public Utilities Director P. A. Fredette, Finance Director S. E. Blanchard, Electric Director K. F. Clow, Inspections Director S. E. Ward, Fire Chief L. M. Mackey and Police Chief C. E. Crudup.

Mayor R. A. McLean opened the meeting and established a quorum was present. He called upon Reverend Toni Wood for the invocation after which he led the Pledge of Allegiance to the Flag of the United States of America.

**1} APPROVAL OF AGENDA:**

Mayor McLean called for approval of the prepared agenda.

Councilman M. E. Brooks asked to remove ***Item #8-b – Authorization to execute revised Reimbursable Agreement with the Airport Authority from the Consent Agenda and place it on the Regular Agenda for discussion.***

Councilman J. A. Stimatz asked to remove ***Item #8-a-Petition to Close an alley known as the Harrell Street Alley located between Harrell Street and Pritchard Street from the Consent Agenda and place on the Regular Agenda for discussion; and, remove Item #8-c – Resolution approving the Pasquotank County Solid Waste Management Plan updated May 2009 from the Consent Agenda and place on the Regular Agenda for discussion.***

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

**2} COMMENTS FROM THE PUBLIC:**

Ms. Freda Smith, 1509 Emerald Lake Circle # 103, Elizabeth City spoke requesting consideration of sidewalks in her area.

**3} PROCLAMATION AND PRESENTATION:**

Mayor McLean presented a proclamation to Pastor Max Edwards in honor of "National Day of Prayer - May 6, 2010". Pastor Edwards made brief remarks and invited members of Council to attend some of the activities that are planned in the celebration of National Day of Prayer.

Nelia Fernandez, Vice Chair of the Library Board of Trustees, addressed Council regarding some of the advantages that the Library offers. She spoke of the Teen Advisory Group (TAG). This is a group of teens that plans, presents and participates in programs, assist in collection development and serves as the library's ambassador to teens in the community. On behalf of TAG she requested that the City Council consider contributing \$1,000.

**4} APPROVAL OF THE MINUTES:**

a} Budget Work Session – April 12, 2010:

***A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the Budget Work Session held on April 12, 2010 as presented. Those voting in favor of the motion were: Hummer, Baker, Brooks, Hill-Lawrence, King, Meggs, Stimatz and Walton. Against: None. Motion carried.***

b} Regular City Council Meeting:

***A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the Regular Council Meeting held on April 12, 2010 as presented. Those voting in favor of the motion were: Hummer, Baker, Brooks, Hill-Lawrence, King, Meggs, Stimatz and Walton. Against: None. Motion carried.***

**5} CONSENT AGENDA:**

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

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

#### CONSENT AGENDA

- a} Authorized the submission of an application to the Tourism Development Authority requesting \$8,000 for the July 4<sup>th</sup> fire works.
- b} Removed CUP-07-09 - Kamalesh Patel to operate an Internet Sweepstakes Café at 143 Rich Boulevard and declared the application moot due to withdrawal of authorization from the leasing agent.

#### END OF THE CONSENT AGENDA

#### **6} PUBLIC HEARINGS:**

- a} Petition to close a portion of Carolina Avenue and relocation of same.

City Manager Olson advised this is a request to close a portion of Carolina Avenue adjacent to the Riverwind Apartments and the Health Club complex. The property in question is owned by Bald, III, LLC, owner of the Riverwind Complex. He is requesting the closure and will relocate that portion of Carolina Avenue.

Mayor McLean declared the meeting into public hearing.

Brant Wise, representative of the Owners, spoke in favor of the proposed closing and outlined the future plans of the developer. The development of the site would include the relocation of Carolina Avenue from the front of the building to the back of the building. All expenses would be paid by the developer. Some of the improvements would be storm water management where currently all the storm water that comes down Carolina Avenue dumps in the Pasquotank River. No treatment therefore all the oils, settlements, trash, garbage, etc flows into the river. With the proposed site plan that has been designed it will take all that storm water putting it into a holding pond for treatment before allowing it to discharge into the River. Again, with the improvements we are taking what they consider some negatives and trying to better the situation. As it currently stands, the road is approximately 15' wide so as cars are coming down they have to pull off to the side in order to allow anyone else to come down. With the improvements we will be building to current city standards with curb and gutter, 24" wide asphalt and improving the water and sewer in that area as well. He asked that Council take into consideration that the road is going through our

property at the present time. Bald, II, Inc. owns on the east side as well as the west side of the current road. As the roads currently stands it does not meet City standards nor does it meet NCDOT standards. We are not asking for you to close the road and give us the property we are just asking permission to relocate it from one side of our property to another side of our property. He has gone out and tried to meet with the individuals that will be impacted by this and the main thing he hears is that we would be taking their view. The view that they are enjoying is at the expense of another. We do not provide private access through the property therefore we are not cutting off access to the water. It is a view that people enjoy as they pass by on a public road. The County owned this property and instead of keeping it they elected to sell it to a private person thereby giving up the public's rights to this property. Citizens want to enjoy the property at somebody else's expense. He is asking that Council look at the City as a whole opposed to a certain smaller group of individuals and look at the potential benefits the development will generate for the City and community.

Councilman Stimatz stated that one of the objections from the people is from those that drive, walk, jog and bicycle through this area and clearly if you take the road out there will not be an opportunity to do those things. Have you given any thought to these items?

Mr. Wise said that we have and we will grant an easement that will run the full length of the shore front and we will grant a six to ten foot easement to allow pedestrians to utilize. That was one of the things that several of the people that he has spoken with expressed. The fact that we were going to allow pedestrian access satisfied their concerns.

Mr. Olson said that the TRC approval had a number of contingencies associated to the approval. We discussed having some type of pedestrian easement that would link back up to Riverside Road. The design elevations of this particular building have a garage on the first level and the actual living area will be on the second and third floors. It should not adversely affect any of the residents there by granting such an agreement.

Those speaking in opposition to the closing were: John Bonk, 1410 N. Williams Circle; Bill Winslow, 1204 Carolina Avenue, Charles Koch, 1213 Carolina Avenue, Gilliam Carlsen, 1203 Riverside Avenue and Jo Ann Foreman, 1200 Riverside Avenue. All stated that they enjoy the view and having the ability to take daily walks or rides and encouraged Council to deny the request to close Carolina Avenue. It was noted that letters were received from Elizabeth Madre Frost, Betsey and Julian Selig, Jr. who were also in opposition to this street closing.

Mr. Wise asked to say that we have met with CAMA and as he stated earlier we are reducing impervious coverage by almost 40 to 50% that we are taking

asphalt and gravel off the property so as CAMA sees the project it is something that they see as favorable because we are improving the current situation. Everybody wants to view the water as that was the main comment. We are willing to grant access to pedestrians, bikes, joggers, and bicyclist so that they can enjoy the waterfront. Right now they do not legitimately have that right to step off the road to see it. By us granting a dock or boardwalk and that is something that the City does not offer right now but we are willing to offer it so people can go down there and enjoy the water front. We are trying to give back. We still request that we be allowed to relocate Carolina Avenue. He would ask that Council to not take action tonight but to grant us a few months to look at other alternatives to see if there is something that we can work out. We would be willing to work with city planning to try to look at alternatives.

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

Councilwoman Meggs stated when Mr. Wise said you would be able to walk through then why did he put such a hideous gate at the end of Riverside where people walked, rode bicycles, strolled the babies, you name it but he put this hideous gate and put the fence up 8 foot tall.

Councilman Brooks said he likes to see the citizens banded together when they all have an interest in something. He suggests when citizens have a personal interest to show up at Council meetings. He would never vote against this many citizens coming up for something their heart and soul are into.

Councilman Walton said he is in agreement with Councilman Brooks. He thinks both parties have some good issues. Mr. Wise did a good presentation. When he asks that we table it because he is willing to work to perhaps make it better than what you already have there. This is not an easy thing as there are tax issues involved as well as there is history involved. Let's listen to everybody.

Councilwoman Baker said this is her ward and she has her own fence up. She is trying to look at the private part of this project and the benefit here for the City in the increase tax revenues and a better looking area. The buildings there now are in bad conditions. If there is a way to make everybody happy or at least a way to satisfy and to retune the project that may not involve moving Carolina Avenue we need to consider it. We are trying to drive somebody's private dollars and what they are going to do with their private dollars. She just doesn't want to close the door on a better idea if there is one out there. She doesn't have a problem giving them a few months to come up with something. She doesn't think we should close the door on something new or a better way to showcase the project and still letting people have the view. If they are willing to make some sacrifices and willing to make some changes then let's look at them. A few

more months isn't going to go one way or the other. If you have to put something in as a condition of the development then lets do that at that time.

Councilman Stimatz asked if Mr. Wise needed to withdraw this application or can we table action on this and come back at a later date.

Mr. Morgan said that the advertised public hearing has been closed. It is proper to table the item for a definite period of time if that is what Council would like to do.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to table action regarding the closing and relocation of Carolina Avenue to be brought back for another public hearing on September 13, 2010 at Council's regular meeting.***

Mayor McLean called for discussion.

Councilman Stimatz said Ms. Baker brought up a very important item. We are faced with a serious budget crisis. It is hard to sit here and hear the number another 1.2 million dollars coming through the door. Everybody in the City is going to gain. You have to look at that and balance it. You have to consider it. Don't shake your heads no as his job is to look at all the citizens of the City not just those that live on Riverside and like this view. Quite frankly, he likes the view too. He is appalled that we have not rescued more waterside property and he is more than glad to try to rescue some of this. He thinks there is a compromise and he thinks it lies in the question of access to that point. As Mr. Walton pointed out you could end up with something better than you have now if you let Mr. Wise work this out with you.

Councilwoman Hill-Lawrence said she doesn't know how long you have been working on the project of trying to rectify this. Certainly she doesn't care how much money we need in the City the citizens have a voice. It is really up to the citizens to determine what should happen in their community. We need development but you just can't push things down citizen's throats.

Councilman King asked if we give them four months do they plan on trying to not close the street or are you just going to go four months and come back to the next public hearing with the same issues.

Mr. Wise said his intentions are to look at all alternatives to balance out the comments made tonight and see what alternatives we can come up with to present back to Council.

Mayor Pro Tem Hummer said she realizes that we have to support growth and rehabilitating old buildings but she has always tried to listen to the people. That area is a piece of history for her also. There use to be a bus service by the City and Carolina Avenue was the scenic route that the bus took. It was just a big thing to do on Saturday night. She is offended for you that you were told your enjoying the view at someone else expense is very offensive to her. She would like to make an amendment to the motion that we turn down this project. Another thing she was unhappy to hear is that our street is not in conformance.

Councilman Stimatz called for a point of order as we have a procedural motion on the floor. You vote on that one and if it is defeated then you can do whatever you want too. That is the rule. Procedural motions come first.

Mayor McLean called for the vote on the motion.

***Those voting in favor of the motion were: Baker, King, Stimatz and Walton. Against: Brooks, Hummer, Hill-Lawrence and Meggs. Mayor McLean voting in the affirmative thereby carrying the motion.***

b} CUP-05-09 to operate an Internet Sweepstakes Café by Richard Chapman at 1501 W Ehringhaus Street:

Mayor McLean called upon Planning Director Brooks for comments.

Ms. Brooks stated that the applicant wishes to use a 1500 square foot section of units that were previously occupied by the Navy and Marine recruiting offices. Based on the request, 15 parking spaces would be required for this new use. The center has 133 parking spaces for its tenants. This use permit is similar to the other cases that council has approved for other locations; however, deficiency in parking has been the main concern. Based on the inability to acquire parking for this request the TRC and Planning are recommending denial of this request. If Council elects to approve this request staff is requesting that you reduce the number of terminals to 8; applicant shall comply with all conditions of Section 11-4.44.1 of the UNO, permit shall be subject to review and renewal requirement after the first 12 months of operation and the applicant shall have recorded the Conditional Use Permit and all conditions attached thereto with the Pasquotank County Register of Deeds, nothing authorized by the permit shall commence until the record owner of the property provides documentation of the Zoning Administrator that the permit has been recorded and indexed under the record owner's name as grantor.

Alex Rich representing the applicant and property owner stated this has been a long process for what it is. He started on the 4<sup>th</sup> of December in 2009 with the

other internet cafés. Those cafés were approved on February 22<sup>nd</sup>. We have been through several delays. We have had eight or more meetings with City Attorney, Planning, City Manager and Planning Commission. We have been back and forth on the parking issue. We have been trying to figure out what we need to do to comply with the UDO and get the parking. He agrees with June's report and it was just as recently as Friday afternoon that we were able to come to an agreement on those 15 spaces because the number went up and down. We have parking analysis that shows that we have ample parking. Since April 6<sup>th</sup> the Planning Commission gave approval and that was dependent on us getting the parking agreement. Since April 6<sup>th</sup> it went from we needed 27 spaces, to 12 then back to 19 to 15. We have been trying to get a handle on it.

Andy Meads asked to make a comment. He has been involved in trying to secure this parking. He was the one that contacted the Mall owner first which is who he actually purchased the property from. He is also the one that made contact with Mr. Mark Shultz who owns the Food Lion property. In this the Mall absolutely refused and after several pleadings with them their explanation was they have a mortgage on the property so they just can't call for an encumbrance on the property which is what his spaces would cause. Their bank has a say so on whether they could loan me parking spaces. The Food Lion owner does not have a mortgage on his property. After we go to this point and after speaking with the City Attorney we thought we were at leisure to do this. But, then we find out after we get the agreement drafted we were told this doesn't apply and it wouldn't work. He has the original plat and it shows that he has adequate parking. There are 22 parking spaces that are normally occupied by people in the other shopping areas. They park their rental trucks on his property every night which is fine as it makes him look busier. He has never less than 20 spaces on his property whether it is behind the property or the theater and like Mr. Rich has said here, these properties are opened different times of the days.

Mayor McLean declared the meeting into public hearing. There being no one who wished to speak for or against the proposed Internet Café, Mayor McLean declared the public hearing closed.

Mr. Morgan said what he thinks city staff is struggling with is the provision in our UDO which says whenever there are two conflicting rules the more restrictive rule has to apply. So, in all fairness to city staff they have been following the strict letter of the UDO and even though the shared parking provision is included staff has not been able to give Mr. Meads and his potential tenant credit under this provision because the UDO does not allow that. The one meeting that he participated in with Mr. Meads we all felt good about it and we left that meeting thinking the agreement would be coming from Southgate Mall. The document he was presented with he was seeing it for the first time involved the Food Lion Property. At that point is when city staff responded by saying no Food Lion is



deficient in their own parking requirements. He thinks that should City Council goes on record in this instance saying we find as a matter of policy with these usages the movie theater use and the other uses there that the shared parking provisions should apply and Mr. Meads and his tenant is allowed to have something less than what a strict interpretation would require. That he thinks would fix this situation.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve the Conditional Use Permit (CUP-05-09) Internet Café Sweepstakes for 20 terminals with a provision that the shared parking section of the UDO will be used to overrule in this particular case the required number of spaces. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.***

c} Petition for Voluntary Annexation of 1.55 acres – Rivers Retreat:

City Manager R. C. Olson stated that this is the annexation of 1.55 acres on US 17 South behind Farm Fresh. It is Rivers Retreat at Elizabeth Crossing. The City Council has previously approved the site plan on the development and addressed a number of concerns. The petitioner is requesting that the 1.55 acres be annexed at this time.

Mayor McLean declared the meeting into public hearing. There being no one present to speak for or against the proposed annexation, Mayor McLean declared the public hearing closed.

***A motion was made by Councilman R. E. King, seconded by Councilwoman J. M. Baker to adopt the following Ordinance incorporating the 1.55 acres owned by River's Retreat at Elizabeth Crossing, LLC and located adjacent to US Highway 17, South into the Corporate Limits of the City of Elizabeth City, with an effective date of June 1, 2010. Those voting in favor of the motion were: King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs, Stimatz and Walton. Against: None. Motion carried.***

**ORDINANCE #1041  
TO EXTEND THE CORPORATE LIMITS OF  
THE CITY OF ELIZABETH CITY, NORTH CAROLINA  
RIVER'S RETREAT AT ELIZABETH CROSSING, LLC  
1.55 ACRES - US HIGHWAY 17 SOUTH**

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

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

**WHEREAS**, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:30 p.m. on the 26<sup>th</sup> day of April 2010 after due notice by publication on the Friday, April 16, 2010 and Wednesday, April 21, 2010; and

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

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

**SECTION 1.** By virtue of the authority granted by G. S. 160A-31, as amended, the following described territory, is hereby annexed and made part of the City of Elizabeth City as of the June 1, 2010:

**BEGINNING** at a common corner of the owners listed above at the S. E. corner of the Edward Murphy property said Murphy property being recorded in DB 455, Page 16 with the Pasquotank County Register of Deeds. Said point also situated on the North side of Highway 17 Right-of-Way. Thence from said beginning point along the Murphy property N 9° 12' 41" W, 500.00' and N 9° 17' 55" W 621.86' to the true beginning point of the parcel being described herein. Thence along the edge of a swamp and a common line with the Murphy property the following calls N 31° 37' 36" E 51.79'; N 27° 14' 20"; E 84.87'; N 13° 58' 55" E 56.34'; N 42° 32' 24" E 53.34'; N 76° 33' 27" E 49.90'; N 66° 27' 50" E 49.28'; S 56° 56' 21" E 41.60'; N 52° 50' 54" E 27.22'; N 59° 25' 54" E 60.74'; N 58° 10' 09" E 62.50'; to property belonging to William Rich. Thence along the Rich property S 10' 43" E 228.00' to a point thence cornering and running through the property owned by Rivers Retreat at Elizabeth Crossing, LLC and along the existing city limits line S 79° 16' 22" W 421.15' to the **POINT OF BEGINNING** containing 1.55 acres. Reference is made to a map prepared by Hyman and Robey; PC dated 12/9/09 and entitled annexation plat for Rivers Retreat at Elizabeth Crossing, LLC.

**SECTION 2.** Upon and after the 1<sup>st</sup> day of June, 2010, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Elizabeth City and shall be entitled to the same privileges and benefits as other parts of the City of Elizabeth

City. Said territory shall be subject to municipal taxes according to G. S. 160A-58.10.

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

**ADOPTED** this the 26<sup>th</sup> day of April 2010.

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Roger A. McLean  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

**7} REGULAR AGENDA:**

a} Authorization to execute revised Reimbursable Agreement with the Airport Authority:

City Manager Olson stated staff is asking for reconsideration of an agreement with the Airport Authority. What we are trying to do right now is getting NCDOT pay the City directly instead of using the Airport Authority as the middle man. That would eliminate the need to have a bridge loan with the airport authority. The Authority is in agreement with this.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to authorize Mayor Roger McLean to execute the revised Reimbursable Agreement with the Airport Authority for NCDOT Grant Agreement 36244.21.5.1. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.***

b} Petition to Close Alley known as the Harrell Street Alley:

Councilman Stimatz asked what happens to the land if an alley/street is closed.

Mr. Olson explained that the alley/street is divided equally between the adjacent property owners. There is no cost but they will have to start paying property taxes and they have to get survey work done to get their deed modified to reflect the additional property.

***A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem L. A. Hummer to adopt the following resolution to close Harrell Street Alley located between Harrell Street and Pritchard Street and instruct the City Clerk to proceed with the requirements to close this alley as set forth by the N.C.G.S. § 160A—299. Those voting in favor of the motion were: Stimatz, Hummer, Baker, Brooks, Hill-Lawrence, King, Meggs and Walton. Against: None. Motion carried.***

**RESOLUTION #1043  
TO CLOSE  
HARRELL STREET ALLEY  
HARRELL AND PRITCHARD STREETS**

**WHEREAS**, NCGS 160A-299 authorizes the City Council to close public streets and alleys; and

**WHEREAS**, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of an alley known as the Harrell Street Alley and located between Harrell Street and Pritchard Street;

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

- 1} A public hearing will be held at 7:30 PM on the 7th day of June 2010 in the City Council Chambers of the Municipal Administration Building to consider a resolution closing that portion of an alley known as the Harrell Street Alley and located between Harrell Street and Pritchard Street
- 2} The City Clerk is hereby directed to publish this Preliminary Resolution once a week for four successive weeks in the Daily Advance, or other newspaper of general circulation in the area.

- 3} The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Preliminary Resolution.
- 4} The City Clerk is further directed to cause adequate notices of this Preliminary Resolution and the scheduled public hearing to be posted as required by NCGS 160A-299.

**ADOPTED**, this 26<sup>th</sup> day of April, 2010.

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Roger A. McLean  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

c} Resolution approving the Pasquotank County Solid Waste Management Plan:

City Manager Olson stated that every three years, Pasquotank County is required under NCGS § 130A-309.09A (b) to revise its Comprehensive Solid Waste Management Plan. The plan covers the City of Elizabeth City as well as Camden County.

Councilman Stimatz stated that there are virtually no new items on this plan in terms of things that need to be done. There is nothing in it that indicates that we should get Council off of our paper habits. We consume gross amounts of paper every two weeks. At some point in the future we need to at what we are doing and address this in terms of being more proactive. There is nothing current in the whole plan.

Mr. Olson said what we are doing with this document is we are just concurring with what Pasquotank County Solid Waste Commission has included this as part of their State requirements.

Mr. Stimatz said at some point in time he would ask Mr. King to have some kind of internal group look at what more could we be doing and better measurements for how effective and efficient we are.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to adopt the attached resolution approving the Pasquotank County Solid Waste Management Plan as submitted. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.***

**RESOLUTION #1044  
ADOPTION OF SOLID WASTE MANAGEMENT PLAN UPDATE  
DATED MAY 2009**

**WHEREAS**, the State of North Carolina requires counties and cities to prepare long range plans for the handling and disposal of solid waste; and Elizabeth City jointly participates with Pasquotank County and Camden County in the preparation of the mandated long range plan for the collection and disposal of solid waste; and

**WHEREAS**, NCGS § 130A-309.09A (b) requires that solid waste management plans be update at least every three years; and

**WHEREAS**, the Pasquotank County Planning Area Solid Waste Management Plan Update dated May 2009 has been completed and adopted by the Pasquotank County Board of County Commissioners after the required public hearing was held; and

**WHEREAS**, the City Council must approve the aspects of the plan that are specific to the City of Elizabeth City.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Elizabeth City hereby adopts the Solid Waste Management Plan Update dated May 2009 as presented by Pasquotank County.

**ADOPTED**, this 26<sup>th</sup> day of April 2010.

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Roger A. McLean  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

d} Renewal of Conditional Use Permit CUP-01-09-De Tours-400 West Main Street.

Council previously approved a conditional use permit at 400 West Main Street. As part of the approval this must be renewed by City Council on a yearly basis. The applicant has planted vegetation along the north property line adjacent to the four foot picket fence in order to be in compliance.

***A motion was made by Councilman J. A. Stimatz, seconded by Council R. E. King to renew the use permit for an additional year with the original 22 conditions and add that the property owner shall have recorded the Conditional Use Permit and all conditions attached thereto with the Pasquotank County Register of Deeds; nothing authorized by the permit shall commence until the record owner of the property provides documentation to the Zoning Administrator that the permit has been recorded and indexed under the record owners name as grantor (as per 4-11 B) of the UDO. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.***

e} Call for a public hearing to be held on Monday, May 10, 2010 at 7:30 p.m.

City Manager Olson stated this particular item was requested by Councilman Brooks. Areas requested to be revisited include: Section 86-25-Transferability of Taxicab Certificate; Section 86-30 – Revocation of Permit to Drive, Business License, or Vehicle for Hire Permit; and Section 86.66-Authority for removal of Taxicabs from Streets. The following is a brief description of the proposed changes:

Section 86-25 has been modified to allow the sale or transfer of a franchise to a third party as long as the recipient meets the qualifications as outline in the Vehicle for Hire Ordinance.

Section 86-30(9) would allow the taxicab inspector to revoke a permit if a driver was convicted of a misdemeanor or felony while operating a taxicab. Driving infractions (ticketed) would be excluded from this section.

Section 86-38 has been modified to exclude an individual from obtaining a permit if he/she has been convicted of a felony within the last five (5) years or if he/she had ever been convicted of a felony involving moral turpitude. The term "moral turpitude" has been defined as crimes such as forgery, arson, fraud, robbery and theft.

Section 86-66 has been changed to reflect the deletion of the City Manager and the inclusion of the City Council. This change should have been made with the January 25, 2010 changes.

City's Council's request to amend Section 86-47 is prohibited by State Law (NCGS 160A-304) which states, "Exclusive-ride service is defined as a taxi service in which the first passenger or party requested exclusive use of the taxicab."

Mr. Brooks asked what was the difference in the shared ride services and the exclusive ride services. We were talking about fare-paying customers and when we could just shared-ride. He feels if someone is driving a taxi and they want to pick up their nephew that is walking down the street that should be a process where they say it can be done.

Sergeant R. Pureza stated that State Law regulates exclusive ride services and that is a service that the first passenger has the exclusive use of the taxicab.

Mr. Brooks said that in 160A-304 it says the ordinance may also specify the types of taxicab services that are legal and the municipality provided all cases of shared rides will be legal.

Sgt. Pureza said if the City adopted the shared-ride services then yes it would be legal. The Police Department doesn't take any position on this issue.

Ms. Hill-Lawrence said the only one that we were really concerned about as the others were already approved was 86-38 and that is the one about felony. That is the only one that should be called for public hearing.

Mr. Morgan stated that it is State Law the franchise for a taxicab can only be transferred by the City Council, and it shall be unlawful for any franchise owner to sell or transfer a franchise.

***A motion was made by Councilwoman L. Hill-Lawrence, seconded by Mayor Pro Tem L. A. Hummer to call for a public hearing to be held on Monday, May 10, 2010 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for consideration of Sections: 86-25; 86-30(9); 86-38; 86-47; to change the wording in 86-25 to be consistent with the definitions (immediate family and removal of license) and to delete two definitions in 86-19.. Those voting in favor of the motion were: Hill-Lawrence, Hummer, Baker, Brooks, King, Meggs, Stimatz and Walton. Against: None. Motion carried.***

**8} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:**



Mayor McLean advised that he would go around the dais for comments and inquires.

City Manager Olson stated he had no further comments.

Councilwoman Baker asked the City Manager to provide copies of letters from the non-profit organizations. She also asked for the figures that the City pays for the 401K program non police funding, how much we pay to employees annually, how many employees contribute to their 401K personally and at what percentages and finally what is the limit the City can actually match personal contributions to 401K

Councilman Brooks stated he had no further comments.

Councilman King stated he had no further comments.

Councilwoman Hill-Lawrence asked if the City Manager had completed a plan for the proposed Youth Initiatives program.

Councilwoman Meggs advised that the parking lot on Church Street had been improved.

Councilman Stimatz thanked those that had sent well wishes to his wife during her recent surgery.

Councilman Walton said he thinks tonight's meeting went pretty good if we stop closing the door to other sides. You know there are always two sides to everything but when you close the door you are not being open minded and giving every body a chance just like the developer and the community. Both of those groups can be satisfied if they work it out. But, when you close doors and vote something out real quick to him that is what happened at our last meeting. He is bringing it up through love and he is not bringing it up through anger or anything of that nature. When we sit down and say we are going to discuss a budget with the citizens of this community that is who we need to think about. We will make a point to the Mayor on a \$6-\$8 million budget. We wanted to prove something to him. That is not right. When we set down we said we wanted to discuss the budget and we should have done just that. We should not have closed the door on people discussing it. That is not right and that is not fair. That budget that they want to take to public hearing now increases fees; it raises electric rates on businesses, increases money we are giving to non-profits. How can we raise anything if we are saying we are at an economic low? People have been coming to the meetings and they have issues but you turn right around and let the people put the issues back into the budget and they pass it.

The round-about was in there but there were so many of us that were opposing the round-about. We flip flop too much. We need to do something and make it steady. We should have had the opportunity to discuss that budget. Rich, there is \$200,000 in the building fund and how can that we used.

Mr. Olson said the \$200,000 is earmarked for improvements to city facilities. The Council put it in the budget a few years ago. You can use it for any improvements to city facilities.

Mr. Walton asked if we could do anything else with it.

Mr. Olson replied he does not believe so because it is specifically earmarked for public facilities.

Mr. Walton said we need to know because if there is \$200,000 we can do something else with we can use it toward the fire fighters. We need to know facts and that is why we need to discuss things and not just come here and be personal. Every time we get personal we get off track. He is going to try to stay away from that. He really likes everybody up here but he is going to love you more as time go by because this can be a better council than it is now.

Mayor Pro Tem Hummer stated she would like to say with love Mr. Walton. It was the Mayor that shut down discussion by leaving the room and Mr. Walton you followed him without being excused and as far as discussion is concerned that is set for May 10<sup>th</sup> at the public hearing. About the non-profits, the city manager never showed us the letters from the non-profits.

Mayor McLean stated he is trying not to dwell on what happened at the last meeting. He doesn't like private meetings between only certain members of Council. He was very disappointed at the way it was handled. Therefore, he is calling a meeting on Monday, May 3, 2010 at 5:30 p.m. for further discussion of budget items. The meeting will be held in the City Council Chambers.

## **9} ADJOURNMENT**

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

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

Mayor McLean adjourned the meeting at 9:53 p.m.

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

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Roger A. McLean  
Mayor