

MONDAY-7:00 P.M.

APRIL 28, 2008

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 S. S. Atkinson presiding. Those council members attending were: J. M. Baker, D. Evans, L. A. Hummer, R. E. King, B. S. Meggs, J. A. Stimatz and V. C. Watts. Staff members attending were: City Manager R. C. Olson, Deputy City Clerk V. D. White, City Attorney W. H. Morgan, Parks and Recreation Director J. D. Overman, Planning Director J. C. Brooks, Fire Chief W. C. Pritchard, Police Chief C. E. Crudup, Finance Director S. E. Blanchard, Public Utilities Director P. A. Fredette, Electric Superintendent K. F. Clow, Inspection Direction S. E. Ward, and Human Resource Director K. W. Felton.

Mayor Atkinson opened the meeting by welcoming those attending. He called upon Pastor Reggie Edlow for the invocation after which Councilman J. A. Stimatz led the Pledge of Allegiance to the Flag of the United States of America.

Pastor Edlow gave brief remarks about the Laurel Park area holding a prayer walk. This area has been troubled with drugs and gang activities. We need to show solidarity of community of people coming together on one accord. The walk will be held on Friday, May 2, 2008 at 6:00 p.m. and will start behind the Armory over in Laurel Park.

1} APPROVAL OF THE AGENDA:

Mayor Atkinson called for approval of the prepared agenda.

Councilman Stimatz said that I have two changes for the Consent Agenda. I would like to remove ***Item 8-B – Budget Amendment and Item #8-c-2 - Call for a public hearing to amend the UDO to create language to prevent demolition by neglect of Historic Landmarks and Structures within local and national Historic Districts from the Consent Agenda.***

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman V. C. Watts to approve the prepared agenda to include the above stated changes. Those voting in favor of the motion were: Baker, Watts, Evans, Hummer, King, Meggs and Stimatz. Against: None. Motion carried.

2} COMMENTS FROM THE PUBLIC:

Mayor Atkinson asked the Deputy City Clerk if we had anyone who had signed up to speak. Upon a reply of four, she called Kaylan Wyatt to the podium.

Ms. Kaylan Wyatt, 303 W. Ehringhaus Street, Elizabeth City spoke regarding the River City Youth Build Program. This is a program whereby the students are able to gain their GED diploma and they are also able to get training and instruction. They also do a class once or twice a week for those who want to open their own small businesses. We currently have 25 students with 8 walking on May 21st at COA with their GED. The program is for low income families and we take students of all races or genders and no matter what your background is. She was able to attend the Youth Leadership Council meeting in Washington DC.

Ms. Indy Kelly. 701 Harney Street, Elizabeth City spoke regarding the make-up of the City Council. What has happened? People marched for and shed blood for the right to vote and have representation in government. The present Council does not reflect the voting patterns of the people. People feel they don't have a voice that expresses their needs and concerns. We will continue to pray for each and every member. We are watching how you are representing us.

Michael Brooks, 119 Carver Street, Elizabeth City stated that if a person makes a false acquisition on or about someone in public through TV or newspaper it is called slander or liable punishable under the law. That is exactly what Ms. Baker did in a false accusation about a former council member carrying a gun in his sock. He commended on the recent series of elections, protests, appeals and special elections that we have experienced since October 2007. He feels that the local Board of Elections illegally certified Mr. King. He also feels that Ms. Baker violated the City's Code of Ethics when granting special consideration and treatment to any citizen beyond that which is available to any other citizen. The local Board again disregarded the law as well as the State Board. Where there is lawlessness there is no order. Where there is no order there is no peace. Where there is no peace there is confusion. We have Local and State Board of Elections who disregarded the law set forth by NC Legislatures and we have an elected official who believes she can break the laws of land with slander. If it is right to vacate Mr. Stallings seat when he did not contest his residency and Mr. Rivers seat with his appeal forth going then it is right to vacate Mr. King's seat who pleaded guilty to a felony. If a person can't vote with a felony how one can sit on City Council after pleaded guilty to a felony.

3} PROCLAMATIONS:

a} Senior Citizens Month – May 2008.

Mayor Atkinson presented a proclamation proclaiming the month of May 2008 as Senior Citizens Month to Mr. Hezekiah Brown and Mr. Wilson Byrant.

Mr. Brown gave brief remarks regarding our senior citizens and asked that we spend time during the month of May with our Most Valued People. Take them to lunch, dinner, movie, play, etc. but spend some time with our seniors. Hopefully if you do that it will become habit forming and you will continue to do this the full year.

b} Law Enforcement Appreciation Day – May 9, 2008.

Mayor Atkinson presented a proclamation proclaiming May 9, 2008 as Law Enforcement Appreciation Day to Nancy Muller, Alumni of Citizen's Police Academy.

Ms. Muller gave brief remarks regarding the appreciation of the police department that help make our community a safe place to live.

4} APPROVAL OF THE MINUTES:

a} March 24, 2008 – Regular Meeting

Mayor Atkinson called for action on the March 24, 2008 Regular Meeting minutes.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman B. S. Meggs to approve the minutes of the Regular Meeting held on March 24, 2008. Those voting in favor were: Baker, Meggs, Evans, Hummer, King, Stimatz and Watts. Against: None. Motion carried.

b} April 14, 2008 – Regular Meeting

Mayor Atkinson called for action on the April 14, 2008 Regular Meeting Minutes

A motion was made by Mayor J. M. Baker, seconded by Councilwoman V. C. Watts. Those voting in favor of the motion were: Baker, Watts, Evans, Hummer, King, Meggs and Stimatz. Against: None. Motion carried.

5} PUBLIC HEARINGS:

a} Petition for Voluntary Annexation - 189.71 acre parcel owned by Tanglewood Development, LLC.

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson stated that this is a petition for voluntary annexation of 189.71 acre parcel owned by Tanglewood Development, LLC. This particular tract is located on the south side of Halstead, southeast of the existing Wal Mart site.

Mayor Atkinson declared the meeting into public hearing. Since no one was present who wished to speak for or against the proposed voluntary annexation, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker that we adopt the following ordinance incorporating the 189.71 acre parcel owned by Tanglewood Development, LLC adjacent to Halstead Boulevard with an effective date of May 1, 2008. Seconded by Councilman R. E. King. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Stimatz and Watts. Against: None. Motion carried.

**ORDINANCE #08-04-3
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
TANGLEWOOD DEVELOPMENT, LLC
189.71 ACRES**

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 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 28th day of April, 2008 after due notice by publication on the 18th and 20th days of April, 2008; and

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

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, the following described territory, is hereby annexed and made part of the City of Elizabeth City as of the May 1, 2008.

BEGINNING AT A POINT set in the southern right-of-way margin of Halstead Boulevard Extended (NC Highway 344 - R/W by Monuments), and which point is located North $82^{\circ} 56' 03''$ East 1,146.57 feet from TANGELWOOD CONTROL MONUMENT 3 – NC GRID – NAD '83 (N – 936716.2635' and E – 2797655.1499' – Combined Factor 1.00004280); thence from said **POINT OF BEGINNING** and running along the southern right-of-way margin of Halstead Boulevard Extended the following courses and distances; North $79^{\circ} 19' 28''$ East 603.31 feet to a calculated point, thence running north-northeast along a curve (Curve Data: Radius is 5,965.80'; Tangent is 319.22' Delta is $6^{\circ} 07' 32''$; Bearing is North $76^{\circ} 15' 42''$ East; and Chord Distance is 637.52') a distance of 637.82 feet to a calculated point; thence running North $73^{\circ} 12' 13''$ East 402.19 feet to an existing iron rebar; which existing iron rebar is located South $25^{\circ} 05' 47''$ West 89.27 feet from TANGLEWOOD CONTROL MONUMENT 2 – NC Grid – NAD '83 (N – 937317.5312' and E- 2800428.0487' Combined Factor 1.00004320); thence cornering and running away from Halstead Boulevard Extended South $37^{\circ} 53' 59''$ West 654.86 feet to a calculated point; which calculated point is set on the southeasterly bank of a canal; thence cornering and running along the southeasterly bank of said canal South $57^{\circ} 07' 57''$ East 2,287.01 feet to a calculated point; thence cornering and running North $34^{\circ} 38' 16''$ East 270.67 feet to an existing iron rebar; thence cornering and running South $59^{\circ} 00' 39''$ East 853.77 feet to an existing iron rebar set in the northwesterly right-of-way margin of a 100" Railroad Right-of-Way, which existing iron rebar is located North $77^{\circ} 28' 15''$ West 89.91 feet from an existing PK Nail which marks the centerline of said 100' Railroad Right-of-Way; thence cornering and running along the northwesterly right of way margin of the 100' Railroad Right-of-Way $65^{\circ} 18' 29''$ West 4,263.72 feet to an existing iron rebar; thence cornering and running away from said 100' Railroad Right-of-Way North $21^{\circ} 05' 52''$ West 2,397.79 feet to a calculated point; thence cornering and running North $79^{\circ} 19' 28''$ East 933.76 feet to a calculated point, thence cornering and running North $10^{\circ} 40' 32''$ West 983.52 feet to the **POINT OF BEGINNING**, containing 189.71 acres, and being that property designated as "Proposed Annexation Area A Portion of D.B. 953, Page 1, M.B. Pg. 49, P56.1," on that plat entitled in part, "Annexation Map for Tanglewood Development, LLC.," dated March 4, 2008, prepared by Paul J. Toti, Professional Land Surveyor, which plat is recorded in Map Book _____, Page _____, in the

Pasquotank County Public Registry, and which plat is incorporated herein by reference.

SECTION 2. Upon and after the 1st day of May, 2008, 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 28th day of April, 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Rezoning Request RZ-02-08 – Hearndon Construction and Tanglewood Development, LLC

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

Ms. Brooks said that this rezoning request runs in conjunction with the annexation that was just approved. Hearndon Construction and Tanglewood Development, LLC requests to rezone 189.71 acres on Halstead Boulevard from Pasquotank County Zoning C-1 and I-2 to Elizabeth City Zoning O&I, R-8 and R-6. As proposed, 31 acres adjacent to Halstead Boulevard would be zoned from Industrial I-2 to O&I. 16 acres from C-1 to R-6; 2 acres from C-1 to O&I, 26 acres from C-1 to R-8 and 115 acres from I-2 to R-8. While plans have not been

submitted as of date, the applicant has indicated that development on this site that will be designed as a living and walking community with open space design throughout.

Mayor Atkinson declared the meeting into public hearing. Since no one was present to speak for or against the proposed rezoning, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman B. S. Meggs to approve the rezoning application RZ-02-08. Those voting in favor of the motion were: Baker, Meggs, Evans, King, Hummer, Stimatz and Watts. Against: None. Motion carried.

c} Application for Coastal Management Grant in the amount of \$400,000.

Mayor Atkinson called upon Parks and Recreation Director J. D. Overman for comments.

Mr. Overman stated that the City has been successful in the past in obtaining CAMA grants to obtain property as well as for the development of waterfront property. Most recently the development of Mariner's Wharf and this past year to purchase the waterfront property at the corner of Water Street and Camden Bridge. City staff has most recently submitted a pre-application to purchase the waterfront property along Charles Creek on Southern Avenue. The Division of Coastal Management has asked that the City submit a final application for this grant cycle. In this request the City would receive \$340,000 in grant funds with a \$60,000 City match. Staff has asked for an appraisal of these properties in order to determine which of the properties we could most likely negotiate an offer to purchase. Staff sees the opportunity to obtain grant funds as an economical way to obtain waterfront property for the parks system. For the time being the property would be developed as open space for passive recreation.

Mayor Atkinson declared the meeting into public hearing.

Mr. Bart Van Nieuwenhuise, 2762 Lee Road, Cusseta, Alabama, stated that the points of his discussion shall be focused on three major items. They are: Public Hearing Notification to property owners, demand of additional waterfront access and development verses public ownership. The first item was discussed with the Council at a previous attempt to utilize this grant process to acquire the referenced properties. It was defeated at that meeting in 2005. The issues brought to your attention then are the same that he will enumerate on this evening. The grant application requires that you hold a public hearing prior to

the submission. It does not detail what proper notification is required. Council should insure that all interested parties receive notification. The ethical, moral and due diligence in this notification process would predicate direct notification of any party directly affected by the proposed project. None of the property owners were notified. This fact surprises him and the problem associated with not notifying individuals that have an outright vested interest in your actions. The property owners have a right to be notified directly so that you have the best possible public input necessary to make a decision that can affect them in such a direct manner. The fact that you did not provide such notification shows a lack of due diligence in holding a fair and adequate public hearing. I bought this property in 1995 as part of my retirement plan. I bought it anticipating the future need of water front development to enhance the City's image and offer more downtown living. He purchased it with the knowledge that the museum would be built. Common courtesy would dictate that you notify anyone with a vested interest in a project of this magnitude.

The second item is the premise that you need additional waterfront access. The City currently has seven park areas along the waterfront area of downtown. The linear footage of this access and view exceeds 3,000 feet. The park areas are as follows: Lot at the Causeway Bridge (172'), Moth Boat Park (60'), Mariners Wharf (472') Waterfront Park (645'), Dog Corner Park (441'), Charles Creek Park (1,093') and the basketball court/conservation area (150'). The linear footage in private hands is 1,728' (Downtown Business – 986'; Southern Avenue – 742') The City already controls approximately 65% of the land along the water in the downtown area. The need in this analysis is not justified.

The last item is the possible development of the entire parcel as a downtown retail/residential mix use project. He has been in discussion with the major property owner for the last three years. He has also engaged several contractors to give him prices for the rehabilitation of his property to enhance its value as rental property. The mixed use proposal is consistent with the City's Land Use Plan as well as the previous action of Council to allow the Camden Causeway Mixed Use District and residential development between the Causeway Bridge and Waterfront Park. Wayne Trimmer Painting has gathered information for me on this endeavor. He mentions the people's name because he wants you to realize that he is serious about what he is saying tonight. He is knowledgeable about certain discussions that the major land owner had with City Council. The City Manager and the Mayor have stated this is in their control. We can take it by eminent domain. He will be glad to fight it in eminent domain. He will be glad to take it to court. You get and go forward with progress by working with the people that have a vested interest in the land. You don't get it by not notifying them of a public hearing. Thursday when he notified Ms. Redding of the fact there was going to be a public hearing tonight she called the Mayor and

talked to him Friday. The Mayor didn't mention one thing about there being a public hearing to her. That right there is insulting to me and Ms. Redding. The point of allowing the mixed use district is the tax value to the City in such an endeavor would be increased by ten fold and the retail and residential activity would enhance the viability of the downtown area.

In conclusion, he objects to your proposed use of the property on the merits that it is not the best use or in the City's best interest. He also objects to it based on the lack of your due diligence to notify the vested owners on holding this public hearing for action that requires the acquisition of property.

Ms. Alice Redding, 914 Riverside Avenue, Elizabeth City stated that she wanted to say first that Mr. and Mrs. Joe Gilbert who own property in that area are not able to be here tonight because of the severe weather. Ms. Linda Hayden has some representatives here. She is co-owner of four of the eight properties located on Southern Avenue that are the subject of this public hearing. We have owned the property for several years. She personally sought out and purchased them after many months of negotiating with the prior owners. She as a native of Elizabeth City and having lived close by on the waterfront for several years recognized and appreciated the beauty of the river and creek view there. She had a definitely plan in mind to at some future time develop the parcel not only for the financial benefit but also for the hope of adding to the positive impact on the Elizabeth City waterfront.

You may remember when a couple of years back that the City representatives entered into negotiations to get the eight properties. At that time when the issue was brought up at one of the Council meetings she spoke up because she was very concerned at the way the plans had preceded without her knowledge and notification. At that time the City Council voted to not proceed on with the purchase with a tie vote being broken by our former Mayor, Mr. Foster because of lack of notification to the property owners. At that meeting she spoke that in her opinion the best plans for the property would be to go along with development that would add to the waterfront something that would bring increase activity in events to the downtown and add to the tax base as well.

Since that time she has been in constant dialogue with the City, mainly Mr. Rich Olson. She indicated that she would love to work with the City in their effort to try to purchase the properties. She always emphasized that she thought development would be the best but if the City could come up with the price that we as owners would accept that she was willing to work and do all that she could to make that plan happen. She especially emphasized that she had been in contact with every single one of the property owners discussing the different possibilities of development verses a purchase by the City. She indicated to Mr.

Olson how all of the property owners were amenable to selling but all would be insistent on getting the very best possible price for the properties. She went over at length with Mr. Olson the money that it would take to purchase all of the properties. Over the last few months she made Mr. Olson aware of how important it was for her and some of the other property owners to move forward quickly. She was aware of the CAMA grant pre-application and immediately told Mr. Olson and our new Mayor, Mr. Atkinson that the application amount would in no way be even close to the amount needed to purchase the properties. She continued to have conversations with them and informed them that she was working with a developer to try to see about the possibility of a water front retail/condo development. They were well aware that some of us needed to sell as soon as possible. She has anxiously awaited the results and when Mr. Olson told her that the preliminary grant approval was far short of even the amount that they asked for, she told him that it was not going to work. They both indicated to her that the City was in ultimate control and they could prevent any development as they would have to approve our plans and could stop development by denying a zoning change or the City could even resort to getting the properties by condemnation or eminent domain. Just as a side note if we are talking about eminent domain she can suggest two waterfront parcels that would drastically improve our downtown appearance and attraction a lot more than the Southern Avenue properties. Mainly the Ideal Repair Shop and the Griffin Shipyard and she owns one of those.

That aside when she asked what period of time would be involved in getting more money; Mr. Olson indicated that it could be one to two years. She told him that she really didn't have that much time. She spoke with Mr. Atkinson this past Friday and he said that he wanted to let her know the latest developments. It was the same as Mr. Olson had told her. She told him just as she told Mr. Olson that she was on a short time frame and would like to proceed on with a project that would not only benefit her and the other property owners but one that would also be a huge asset to our Elizabeth City waterfront. She knows that in the past downtown development has been done in such a way as to restrict public access. Her plan would envision boardwalks that would allow the public to stroll along the waterfront which they certainly cannot do now anywhere except on the City properties. She sees us constructing a beautiful done retail/office/condo center that would provide a great destination for our hometown folks as well as visitors. You know when her children and grandchildren come to Elizabeth City to visit what we offer at the waterfront. We have only the museum and you can only do the tour there so often. The only other things of any interest at all is feeding the ducks and playing on the park equipment. She would love to see the waterfront buzzing with families going for ice cream and coffees, browsing art, gift and souvenirs shops and doing the things that we all enjoy doing when we travel to other small waterfront towns in

North Carolina. These are the towns where the town officials have combined their efforts with private citizens to make progress happen. In her opinion we do not need another open park. Just look at the great purchase the City made by the Camden Bridge. We have a rope off piece of green grass. It is absolutely benefiting no one. Her grandchildren can play on green grass anywhere. She wants them to be excited about coming here to see the shops and enjoy the unique specialty items that our local citizens could offer.

She would like to mention another instance where she believes an incorrect decision was made. That of the re-conversion back to the wetlands of the basketball court located on Southern Avenue near the Southern Avenue property back in 2005. She would like to read the letter that she wrote to express her objections to the wetlands conversion. This was done on April 10, 2005 and this was addressed to Mr. Frank Jennings. "I am writing to express my objections to the proposed re-conversion to wetlands of City property at the Charles Creek Community Park. One of the biggest assets of our Town is the riverfront. For years many people and organizations have been striving to see our town become a center for tourism like many east coast waterfront towns. We have spent thousands of dollars on consultants for advice and recommendations as to what we should do as a city to achieve this goal. The above area is one of the prettiest spots on our river. The view facing the river is absolutely beautiful with the bridge in the background. By converting this area to wetlands we are forever closing the door to the type of development that would not only give us the river and view to enjoy but also provide appropriate commercial development that would promote the downtown tourism. Boaters and tourists are not interested in seeing more swamp grass. They are attracted to the towns that offer quaint shops, small boutiques, coffee houses, tea rooms and restaurants that feature local cuisine. This re-conversion is not being done to facilitate the drainage as stated in the proposal. We all know that with modern technology appropriate drainage and flood control can be accomplished without allocating a large parcel of our scarce and valuable waterfront. It is only being done because some short sightness and misinformed group of individuals saw this as a means of getting \$250,000 grant money that was offered for land that could be converted to wetlands. As an adjoining land owner and native and residence of the City she strongly urges the officials making this decision to reconsider this proposal. It is certainly not in the best interest of the present and future development of downtown Elizabeth City. We will achieve our best results if the citizens and town officials work together to promote and encourage the appropriate waterfront development by continuing and implementation of our urban waterfront district. Only then can we be a real waterfront destination, a place where we as residents are proud to visit and bring our families and guests and also be an exciting stop for tourist and boaters."

You people on the City Council are aware that we as a city do not have the funds to make something like this to happen. It is mandatory that we facilitate it happening by granting the zoning changes and anything else possible to encourage positive development. She has been hearing for years about the recommendations of the Allison Platt Plan and there has not been one iota of progress made to get the plan going. When are we going to just stop talking and work to get some progress made? She herself would like to proceed with development as well on a couple of other parcels near the museum and the waterfront but she needs the City's cooperation. No developer is going to pursue these plans unless the City gives positive indications that they are going to cooperate to make it happen.

Finally, she does have to indicate her disappointment that even in her very recent conversations with the City's representatives neither of them gave her even the slightest indication that we were having a public hearing on the decision to move forward with the formal grant application. In closing as she speaks for herself and the other property owners none of us are going to take less for the properties than what we know they are worth. It would be foolish for the City to proceed with the application when we know that we are not going to sell for a very low price. Also, it would be very ridiculous for the City to spend money for a commercial appraisal when we know that the owners are going to obstruct any plans for purchase that in our opinion offer less than the market value particular at this time of low comparable sales. She sincerely hopes that you will all listen tonight and take our suggestions seriously and do all that you can to facilitate us proceeding on with great plans to really enhance our beautiful waterfront. She sincerely hopes that we can all work together and finally help our City move forward.

Mr. Bill Rich, 110 N. Water Street, Elizabeth City stated he was a local developer from Elizabeth City and he has been working with Bart and the Reddings in planning development potential for the property in question. He is here just to let you know what the development potential is for this site. It is a unique site in Elizabeth City because it would allow development of shops and residential flats that would be affordable for people to buy on the waterfront where there is not another site in Elizabeth City where that is possible. You could do small 700-800 square foot shops where you could have studios and organic food stores and shops where local people could own and have that vested interest of ownership. They could live above it in two bedroom flats and have a waterfront dock out front. There is no where else that you can do that. That is why as a developer he is excited about this piece of property. That is also why as a developer he knows what the value of it is. He is not saying don't put it in a city park but he is saying that it is worth a lot more than you all are saying.

Since there was no one else who wished to speak for or against the proposed CMAM Grant, Mayor Atkinson closed the public hearing.

A motion was made by Mayor J. M. Baker that we adopt the resolution authorizing the submittal of the full grant application for the 2008-09 Public Beach and Coastal Waterfront Program. Councilman R. E. King seconded the motion.

Councilman Stimatz said I thank the speakers for the enlightenment on this issue. It echoes some of my own concerns. In particular just based on the tax value we are \$75,000 short of the purchase price. We haven't figured out the costs for demolition, grading and site prep, landscaping and maintenance much less any appurtenances we have to add. The tax loss that will result because once it becomes public property we no longer tax ourselves. And, the storm water utility costs which will be transferred from the land owners to the City. Without those numbers I have a hard time just buying this property up. I see the potential for it too. I will be honest. My wife and I looked at one of those lots a long time ago and we missed it by two days. Somebody bought it before we could get to it. So, I'm not sure how it fits in with the Allison Platt Plan. I don't have that Plan in front of me and I didn't review it before I got to look at this. And, I just see a whole lot of unanswered questions. At the work session we had a very interesting presentation by our Director of Public Works who talked about our water distribution, sewer system and drainage system and curb and gutter for the streets. Just for that not counting wastewater treatment plant, the water treatment plant, the well field, the electrical distribution, etc. he is telling us that we need to come up with \$2 million a year just to maintain it. So, we are facing some pretty serious dollars and cents things and before I leap off of this bridge I would like to have a little more info on what's in it for us. What is in it for the City? What is the return on this investment? I know it is great to have that land down there but I am hesitant to give away a significant amount of tax revenue and incur a significant amount of utility costs and to put a lot of money into demo-grading-landscaping then there is the annual maintenance cost to go with it. Ms. Hummer taught him earlier on one thing that I will always remember. Be careful what you annex and what you get because we may be paying for it for a long time and I am not going there. So, I would like to offer an amendment to table this item until our second meeting in May.

A substitute motion was made by Councilman J. A. Stimatz that we table this item until the second meeting in May until we can answer some of these questions and have a better understanding of how it fits in with the long term waterfront plan and what the long term costs are going to be. Councilwoman L. A. Hummer

seconded the substitute motion.

Mr. Olson stated that the City has to have a complete grant application to the State by the first of June. By delaying the motion in essence the City Council in his opinion would kill it. First of all, let him state for the record that the owners approached us about applying for the grant. We did not approach them. We learned two years ago when this issue came out that there was a strong opinion among members of the Council not to go forward, but it was at their bequest that we applied for this grant. We realize when CAMA did cut back our funding request that we did not have enough to basically do the entire project. We would be looking at a phased in project where we would apply for CAMA Grants over a two-three year period which we have been very successful in the past with. Before we can do anything we have to have an appraisal as he told the property owners when we first started. He has no idea what their property is worth until we get a fair market appraisal. We have commissioned Josh Tunnel to do the appraisal of these eight different parcels. There is no way that we can buy all eight. City staff cannot recommend that we put more than the \$60,000 local match in this particular project. It is one of the goals of the City Council and has been for a number of years that we open up the waterfront. That goal is being met by us acquiring this property. In staff's opinion if Council wants to basically go ahead and table this for 30-days he would rather have a motion to just to instruct staff not to apply for the grant.

Mayor Pro Tem Baker said she thinks that along with the Allison Platt Plan because she does mention acquiring waterfront property, when our waterfront property is gone it is gone. That is it. There is no more. If we don't acquire all that we can while we can and we know what a tourism draw our waterfront is and she just thinks that we need to go forward with this and whatever property owners we can make agreements with we will do that and whatever ones we can't well we don't. We have all seen the sign \$275,000 for the one property on Southern and she questioned the tax value of \$87,000 and we ought to check on those taxes if it is worth that much money. She really thinks that we should go forward and she doesn't think there is any better time to and if they are willing to at least talk to us or work with us then we will be that far ahead of the game. It makes sense to her that we acquire what we can before the waterfront properties are gone.

Ms. Hummer said that she thinks that we are so far ahead of the game that we don't know what we are doing. She can't tell you how trouble she is to learn that the property owners were not notified. This is the second time, the same property owners. To talk eminent domain is a dejavu verses the airport property. How can you have someone go on someone else's property and appraise it without them knowing? Have we done that or are we in the process

of doing that. She hasn't been privilege to any of these conversations and also she shares the same concerns that Mr. Stimatz does. Where are we going to get \$150,000 to match this grant? We have got so many pots of money designated out here and we don't have the money. Something else that bothers her is two gentlemen came before Council at our last meeting and wanted to put low income housing at Dog Corner for the Hugh Cale Community. Somewhere in the back of her mind she gets this feeling that we want to control everything around there and we don't want the Hugh Cale Community to prosper either. That is becoming more obvious to her all the time. She will be happy to make another substitute motion.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman R. E. King to not apply for the grant in light of the way that it has been carried out.

Mayor Atkinson said that we have a substitute motion to delay this decision until the second meeting in May. Mr. Olson has clearly stated that a delay of this type would virtually kill the application. There would be no need to apply. Before we get two or three motions on the floor, he just wanted to make that clear. We have a second substitute motion by Ms. Hummer to deny this application. Councilman Stimatz said that he has two questions. The last meeting in May is on the 26th. Is your package ready to go now?

Mr. Olson replied that no it is not. We have to have the appraisal done and then we have to meet with the property owners and tell them what the appraised value is then we ask them to see whether or not they are going to sell it.

Mr. Stimatz said in that process it is going to take you two or three weeks to do that.

Mr. Olson said that we would have the appraisal back in two weeks and then we would start talking to the property owners at that particular time.

Mr. Stimatz said that you are going to be pretty close to that date before you can send it in.

Mr. Olson said yes it would be towards the end of the month depending on what we come up with. What he is hearing tonight is that we have two of the property owners here and one owns four parcels so we might as well just kill the project right now if that is the case. It just infuriates him that property owners approached City Staff. City staff never approached that property owner.

Mr. Stimatz said that he understands your frustrations. I will withdraw my

motion to table in favor of Ms. Hummer's motion.

Those voting in favor of the motion to deny the application going forward were: Hummer, King, Evans, Meggs, Stimatz and Watts. Against: Baker. Motion carried.

6} CONSENT AGENDA:

Mayor Atkinson called upon City Manager Olson to read the items on the Consent Agenda.

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

Consent Agenda:

a} Approved the recommendation to reappoint Maureen Donnelly to the Joint City/County Tourism Development Authority.

b} Call for public hearings to be held on Monday, May 12, 2008 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building.

1} Report to citizens that the City wishes to apply for a new revitalization grant.

2} Accepted Certificate of Sufficiency and adopted the following resolution regarding petition for Voluntary Annexation of 106.86± acres owned by Steven S. Berry.

**RESOLUTION #08-04-6
FIXING PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G. S. 160A-31, AS AMENDED
STEVEN S. BERRY
106.86± ACRES**

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the City Clerk as to the sufficiency of said petition has been made;

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

SECTION 1. That a public hearing on the question of annexation of the area described herein will be held at the Municipal Administration Building in the City Council Chambers at 7:30 PM on the Monday, May, 12, 2008.

SECTION 2. The area proposed for annexation is described as follows:

Being a tract of land approximately three miles Southwest of Elizabeth City, North Carolina and being Northwest of and contiguous to United States Highway Number 17 Business and Southeast of and contiguous to the Norfolk and Southern Railroad and being approximately three miles Northeast of the intersection of United States Highway Number 17 Business and United States Highway Number 17 Bypass in Mount Herman Township, Pasquotank County, North Carolina and being more particularly described as follows:

BEGINNING at a found iron pipe in the Northwestern Right-of-Way line of United States Highway Number 17 Business that is the Southeast corner of the Steven S. Berry property as shown on a plat attached to Deed Book 502, Page 668 in the Pasquotank County Registry. Said beginning point being approximately 537 feet plus or minus in a Southwesterly direction from a point where the city limit line of Elizabeth City intercepts with the Western Right-of-Way line of United States Highway Number 17 Business, thence from the point of beginning so located S 49° 15' 07" W – 1,082.63 feet with and along the Northwestern Right-of-Way line of United States Highway Number 17 Business to a point the Southeastern corner of the Steven Berry property described in Deed Book 696, Page 840 and shown as Parcel "D" on a plat recorded at Plat Book 28, Page 40, thence S 49° 19' 37" W-260.91 feet with and along the Northwestern Right-of-Way line of United States Highway Number 17 business and with and along the Southeastern line of the above referenced Steven Berry property to a set iron rebar, the Southeast corner of the Albemarle Educational Foundation property as described in Deed Book 278, Page 267; thence leaving the Northwestern Right-of-Way line of United States Highway Number 17 Business, N 36° 39' 29" W – 548.82 feet with and along the Western line of the above referenced Steven Berry property and with and along the Eastern line of the Albemarle Educational

Foundation property as described in Deed Book 278, Page 267 to a point at the centerline intersection of a ditch; thence N 36° 41' 32" W – 1,547.95 feet with and along the Eastern line of the Albemarle Educational Foundation property as described in Deed Book 696, Page 815 and Deed Book 696, Page 843 and with and along a ditch to a 5/8" rebar in the center of a farm path; thence N 36° 41' 00" W – 1,082.74 feet with and along the Eastern line of the property of Mildred and Maurice Berry as described in Deed Book 724, Page 120 and with and along a ditch as shown on a plat attached to Deed Book 502, Page 668 to an iron rebar; thence N 72° 00' 30" E – 438.55 feet to an iron rebar; thence N 36° 37' 30" W – 21.00 feet to a rebar in the Southern Right-of-Way line of the Norfolk and Southern Railroad; thence N 72° 00' 30" E – 2,456.10 feet with and along the Southern Right-of-Way line of the Norfolk and Southern Railroad to an iron rebar; thence S 49° 07' 30" W – 1,079.77 feet approximately along the South top of a bank of a ditch to a pinched top iron pipe; thence S 27° 53' 01" E – 2,124.03 feet with and along a line approximately 6 feet East of a measured normal to the edge of an existing canal, to the **POINT OF BEGINNING** containing 106.86 acres plus or minus

SECTION 3. Notice of said public hearing shall be published in the Daily Advance, a newspaper having general circulation in the City of Elizabeth City, at least ten (10) days prior to the date of said public hearing.

ADOPTED, this 28th day of April 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

End of Consent Agenda:

7} REGULAR AGENDA:

a} Budget Amendment:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised that this is a budget amendment associated with the Hugh Cale Revitalization Strategies Grant. It is two budget amendments. Section One is \$96,005 from the City's General Fund Balance and the Parks and Recreation Park Property be increased by the \$96,005 and Section Two deals with the Hugh Cale Revitalization Strategies Grant for the close-out of the grant itself.

Councilwoman Hummer asked about the transfer from the Revolving Loan Fund for \$150,000 then under Grant Administration there is \$151,111. She asked that these two figures be broken down for each grant administrator.

Regarding the \$151,111 Finance Director Blanchard said that she cannot do that. Part of it is Vincent's salary; part of it is administrative fees paid by grant funds to like Neighborhood Corporation. She doesn't have that detail tonight but she can certainly get it for you.

The \$150,000 that was transferred from the Revolving Loan Fund was the initially budgeted when the budget was first adopted as our match.

Councilman Stimatz said am I not correct that is the \$150,000 we had to put up when NCDC was driven out of the grant and had to walk away with their \$150,000.

Ms. Blanchard said no we always were going to appropriate that.

Mr. Stimatz said so that \$150,000 doesn't even show up here. We, the City, when NCDC had to leave they were bringing to the table \$150,000. When they were released from the Grant, I will be polite; they took with them that \$150,000. We, the City, had to make that up. So, that is not shown here.

Ms. Blanchard said that is correct. The initial project ordinance was for \$3.5 million dollars for the Hugh Cale Grant. Of course, budget amendments have been done that showed the reductions in the actual grant.

Mr. Stimatz said so why doesn't that show up as part of this grant since we put it into that building.

Ms. Blanchard replied because we didn't receive it.

Mr. Stimatz said he knows that we didn't receive it. We coughed it up. We had to pay it out. No different than the transfer from the Revolving Fund or the Elizabeth City match, I mean it is money that we ended up matching in this

project.

Ms. Blanchard said no. The only thing that we matched was \$150,000.

Mr. Stimatz said that I am not saying it was a match. It is money the City spent on this grant. What you are saying is because technically it is not part of the grant, you technically haven't accounted for it.

Ms. Blanchard said no. The only amount that the City paid was \$150,000.

Mr. Stimatz said that I agree when we had to come up or we were short on cash for building the building, am I not correct Rich.

Mr. Olson replied no. This deals with the original grant application that was applied for in 2001. This is our local commitment the City Council back in 2001 said that we would use the Revolving Loan Fund as match money for the grant.

Mr. Stimatz said ok. Got that then but we did out of the city's coffers have to come up with additional moneys to pay for the construction of the building, did we not?

Ms. Blanchard replied no.

Mr. Stimatz said so this is that money then. I remember distinctly that we were short on the construction costs for the building.

Ms. Blanchard stated that came from program income.

Mr. Stimatz said that brings me to the next question. The reason that I asked to have this pulled off is because we haven't resolved the program income issue. There is a lot of doubt in that and there are a lot of numbers that haven't been finalized and so I am not comfortable amending these without it. I would note in fact that a recent letter from staff to the perspective auditor doesn't show the same numbers that are on this sheet. And, the spread sheet that we got that was, the one I don't know was ever sent to DCA but this spread sheet right here and the numbers in it I can't make them add up to these numbers. Now, that may be me as he isn't a big bookkeeper. So, I am not comfortable making this amendment until we know that is why we called in an auditor because we don't know what the program income is.

Ms. Blanchard said that this is the actual program income the City has received. Now, whether there has been misdirected program income that the City has not received is unknown. But this is what the City has received.

Mr. Stimatz said well that is the question. You are saying that it is to record the final budget amendment for the Hugh Cale Revitalization. I would say that this is not the final budget amendment then.

Ms. Blanchard said what happens once a grant is closed out any future program income goes to a different fund. It does not continue to go to this fund once the grant is closed out.

Mr. Stimatz said so what happens to that money.

Ms. Blanchard said it goes to the Revolving Loan Fund.

Mr. Stimatz said is that the normal procedure.

Mr. Olson replied on this particular grant that was determined back in 2001 in the original grant agreement.

Ms. Blanchard said with any grant that we have.

Mr. Stimatz asked what happens if we don't pass this amendment. Is there any penalty? Can we just leave it open for a while longer.

Ms. Blanchard said that it will eventually have to be approved because these are the final numbers for the grant.

Mr. Olson said that if the Council has some reservations what he would request is that you go ahead and approve Section One which he doesn't think there is any dispute on and then City staff can at some point later in time bring you back Section Two even though he is pretty confident that the numbers will not change in Section Two but if you want to wait until we have audits and everything else he doesn't see it as a major issue.

Mr. Stimatz said I will feel much more comfortable doing that.

A motion was made by Councilman J. A. Stimatz to adopt the following Budget Amendment (Section One only). Councilwoman V. C. Watts seconded the motion. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King and Meggs. Against: None. Motion carried.

**BUDGET AMENDMENT
NUMBER 2008-5**

APRIL 28, 2008

BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance and the Hugh Cale Revitalization Strategies Grant Fund for the fiscal year ending June 30, 2008:

SECTION I. That the General Fund Balance Appropriated (103990.0000) and the Parks and Recreation South Park Property (106200.7303) be increased by \$96,005.

(To record South Park Expenditures. Loan proceeds were received last fiscal year.)

ADOPTED, this 28th day of April 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

Mayor Atkinson said that we need to have this done by June 30th and didn't he hear Mr. Olson say that the audit will be done by then.

Mr. Olson replied that he really doesn't know if the audit will be done by then. He doesn't believe so. It will probably be the end of July.

Ms. Blanchard said that this budget amendment will need to be done by June 30th. We need time to close this out because of the repayment funds coming in.

Mr. Olson said what we historically do is in the month of June bring a number of Budget Amendments before the City Council usually there are ten-fifteen maybe as many as twenty sometimes that we bring forward to balance our books at the end of the fiscal year.

Mr. Stimatz said that his thought is that we are going to hire the auditor what we

can say to him is that we would like for you to focus on this part of the grant first. Just get the program income squared away. What did we pay for the house or what were the costs. What did we pay for rehab? What did we pay for lead abatement? What did we sell it for? What were the closing costs? Then that will tell you what the program income is. If they just do that first, first task one, clean all of that up, look at all the HUD forms and figure it all out. I am thinking that they can do that fairly quickly. We make that the first thing they do so that we can close this out correctly. That is my own thought.

Mayor Atkinson said that he thinks that is a great idea if they will do that. If that is the process that they can follow he thinks that would be great if they do that but we are here tonight and they are down in Williamston. Is it your opinion Ms. Blanchard that what Mr. Stimatz has suggested that we can do that and will it be successful before June 30th.

Ms. Blanchard said that it is possible. She is not the one that is going to direct the audit. The auditors will have their own audit program.

Mayor Atkinson said that the audit will flow where it flows. There is some possible danger about not getting what we need even though it sounds like a good idea to him. He guess what we can do is monitor this as we go and then if we see that we are getting in deep water so to speak then we can come back together and approve what we have to approve at that time before the 30th. Does that sound right to you Ms. Blanchard?

Ms. Hummer said that it has been unclear to her just how far we are going back and she thinks that we should have the auditors go all the way back to Year One because she is unclear on some of the grant administration costs. She has said before the City benefited from \$25,000 a year in administrative costs. At one point we were supposed to have hired a part time person just to oversee that particular part of the grant. She believes that is when Ms. Anderson came on board so was that \$25,000 a year for three years spent for staff's salary or she is unclear as to how that was spent. She thinks the City needs to be audited just as completely as any one else. Under program income she learned last week that there was a check sent to ECNC and not put into program income however it was a "goof" by the City that this check was sent. Now, we are asking that it be given back to us. This has been a really bad grant and somewhere she has heard down the line that \$225,000 had to be sent back. Is that a correct figure?

Ms. Blanchard replied that the money wasn't actually sent back, it just was not requested. As you know in the first year of the grant there was not any expenditure. The grant expenditures were just not done. So, the first and second years of the entire \$350,000 allotment was not spent, therefore it was

not requested. So, yes it was approximately \$200,000+ that the City did not receive for this grant. Not that it was sent back.

Ms. Hummer said then it wasn't necessarily the fault of any sub recipient at that point. It was deadlines were not met, amendments were made, and extensions were asked for and granted so this really brought about a lot of our problems.

Ms. Blanchard replied that with the initial grant, yes.

Ms. Hummer said that she would like to ask since we are on this how much of the City's money or the grant money did OIC receive. Can you tell her a total?

Ms. Blanchard said that she can get it for you but she can't tell you at this time.

Ms. Hummer asked what years were they not in the program. Can you tell her that?

Ms. Blanchard said not at this time but she can get a detail of all the expenditures.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman J. A. Stimatz to table Section Two pending further information from Ms. Blanchard and the auditors.

Mayor Atkinson said Ms. Hummer you were continuing with the discussion I think.

Ms. Hummer said that yes she was. She would like to have those answers. She would like for the public to know just how much money OIC has gotten. She is tired of explaining this. Everywhere she goes and she thinks that it is time staff, the manager or someone explains just how much money OIC got and all the sub-recipients got. How much they cost the City. She thinks that is a fair question for a council member to ask to be put forward. She thinks that it is time to do that. She would certainly like to have that as soon as possible. She would have liked to have had it tonight.

Councilwoman Watts said that she was wondering if the audits and she is going to assume that we have audits from ECNC as well.

Mr. Olson replied that we have 2003 and 2004 from ECNC. They have a 2005 audit that has been completed but we have not received a copy of it.

Mrs. Watts said but we are requesting it because she didn't see that we were

requesting it. Is that true? She believes it was 2006 and 2007, so are we also going to include 2005 fiscal year because it is not in our papers.

Mr. Olson replied that as soon as their Board approves it. He attended their meeting and they had no problems but they did not have a quorum and at that particular time the audit would be given to the City.

Mrs. Watts said ok but the question was, are we requesting it though? Is that what you are telling her? She thinks that is what you are saying, correct. Then the situation with OIC then she will turn to you Ms. Blanchard. Is it difficult to ask the auditor if it is possible to have specific information given to us by a certain time as we are talking about June 30th as far as having that portion of it?

Ms. Blanchard replied that she has received no response from the auditors. She does not know what their time frame is. She doesn't know when they are going to start the audit or if they are going to do the audit. She just can't answer your question.

Mrs. Watts said just based on your experience you had an idea when we were sitting here talking and we were saying there was just no way that they could do it or the whole audit by a certain date or by June 30th. Well, in your opinion do you think they could have that portion of it done by June 30th? Is that something that we can definitely get? Can we get specific timing or a time frame that we possibly have.

Mr. Olson replied we have asked for a time line and once the auditor has provided us that they are interested in doing the audits which they have expressed an interest in doing that we will ask for a time line of when they will have the critical components of the audit completed. That we will do.

Mrs. Watts said when do you expect to do that and when can council expect to hear from you?

Ms. Blanchard said that we haven't heard from the auditors yet. We will have to wait until we hear from them.

Mr. Olson said as soon as the auditors get back to us. Hopefully by the Friday of this week he hopes to hear something from the auditors. There have a number of questions based on the RFP we have sent them. Sarah will be working with them to clarify any questions they may have.

Ms. Watts said if we don't hear from them by what time are we going to contact them.

Mr. Olson said that we would be contacting them by Friday of this week.

Ms. Watts said ok that is what she wanted to hear.

Those voting in favor of the motion to table action on Section Two of the Budget Amendment pending further information from Ms. Blanchard and the auditors were: Baker, Stimatz, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.

b} Amend the UDO to create language to prevent demolition by neglect of Historic Landmarks and Structures within local and national historic districts.

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

Mr. Stimatz said that I talked with Ms. Brooks separately and based on some input from me and her time table with the month of May being Preservation Month I asked her if it would be appropriate to move this back and she actually said yes into June would be even better. So his motion is to table the public hearing on this until June 9th to allow staff to work on it and also to integrate it with the current building code that we have so that the language matches up and there is no differences and then there are some other issues that I have already talked to her separately and I will leave that as it is.

A motion was made by Councilman J. A. Stimatz to table this item until the 9th of June. Councilwoman B. S. Meggs seconded the motion.

Mr. Olson asked for a point of clarification. He believes what the motion should be is to call for a public hearing to be held June 9th.

Mr. Stimatz said I stand corrected Mr. City Manager.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman B. S. Meggs to call for a public hearing on the amendment to the UDO to create language to prevent demolition by neglect of historic landmarks and structures within local and national historic districts at 7:30 p.m. for Monday June 9, 2008 in the City Council Chambers of the Municipal Administration Building. Those voting in favor of the motion were: Stimatz, Meggs, Baker, Evans, Hummer, King and Watts. Against: None. Motion carried.

c} Hugh Cale OIC Lease Termination:

Mayor Atkinson called upon City Manager Olson along with Mr. Morgan.

Mr. Olson stated that during your March 24th meeting the City Council instructed that the Mayor, City Attorney and he meet with representatives of OIC to discuss the sub-recipient agreement and also the audit issue which is still outstanding. We did meet with representatives from OIC and their attorney. He believes the date was April 9th. We had a very productive discussion with them concerning the sub-recipient agreement. We had provided them previous to that meeting the names of several auditors. They did pick an auditor at that particular meeting but unfortunately the auditor they chose no longer does audits of non-profits. We subsequently provided them another list of auditors to be used on April 11th requesting that they provide us that information on April 14th. Also on April 11th DCA did require from the City a complete financial and compliance audit be done on the Hugh Cale grant. Basically he received a letter from the Attorney for OIC, instructing them that they no longer wanted to have any communication with City Staff that they wanted to work directly through the City Attorney. He will turn it over to Bill Morgan on that.

Mr. Morgan stated that we did get a letter from the Attorney for OIC on April 11th that indicated just that. The last paragraph of her letter, "finally we discussed during our meeting on the April 8 2008 that all contact and correspondences would be directed to this firm as OIC's Counsel. I would appreciate if the City including but not limited to Mr. Olson would honor the party's agreement to correspond through the party's attorney."

On Friday afternoon April 18th he received a proposed lease agreement from the Attorney for OIC. The lease agreement was not part of our discussion on April 8th. Late evening of Friday, April 18th the revised sub-recipient agreement was also sent to him by the Attorney. He wrote to her on April 21st and indicated to her in his letter that as far as he knew the City Manager, Mayor and he had no authority from City Council to discuss the lease at all because that was not part of our discussions on April 8th and was not something that he understood Council had directed us to discuss with OIC officials. He then mentioned in his letter that he wanted her to provide some additional information regarding what appeal or due process rights she felt that OIC would have because his limited research and some research that Dr. Mani had done on behalf of the City did not indicate any specific appeal rights that OIC would have under the Sub-recipient Agreement. Any appeal that he saw would be directly to City Council itself. In any event, he asked her to provide us by the end of the day on Wednesday of last week April 23rd with a choice of auditors from the list that we had provided. This is a second list presented by the City of auditors that was agreed upon by the City

and OIC. Mr. Olson indicated the auditor previously selected by OIC no longer does those non-profits audits. We gave a list of five and he asked her to have OIC choose one of those five and provide him with the decision by the end of the day on Wednesday. He received no response from her by the end of the day on Wednesday. On Thursday morning of last week which would have been the 24th she called my office and asked. She did not speak with him as he was going in with clients when the call came in. She asked one of his co-workers if there was any response from the City on the Sub-Recipient Agreement or the proposed lease changes and he asked his co-worker as he was going in with other clients to tell the Attorney that he still had no response from her to the April 21st letter. He then re-faxed that letter to her the morning of April 24th and when he left his office about 4:20 this afternoon there still had been no response.

A motion was made by Mayor Pro Tem J. M. Baker that we instruct the City Attorney to prepare a termination letter for delivery to High Cale OIC to their Attorney no later than April 30th and that the lease agreement be effective on June 30th, 2008. Councilwoman V. C. Watts seconded the motion.

Mayor Atkinson said that we have a motion by Mayor Pro Tem Baker to terminate the Hugh Cale OIC lease agreement.

Mayor Pro Tem Baker said *for cause*.

Councilwoman Hummer said that we have had direction from our City Attorney that we needed to give them 180 days because we do not have cause until the audit comes in. Staff's recommendation here is to give them 180 days which would be October 29th, 2008. She does not feel comfortable with going with anything other than that. She is not sure that she feels comfortable even going with that because you are saying that you have not gotten a response. Was that from their Attorney or from OIC?

Mr. Morgan said that was from their Attorney since she had asked that all correspondence go through her. If he might add, if he is directed to terminate the lease for cause, he is not sure that legally we have cause at this point. Obviously he works at Council's instruction and will do the best he can to advocate for the City's position but he is not aware of cause at this point.

Ms. Hummer asked to continue. She has just heard our legal advice and she can't understand why Council wants to place us in the position of being sued. Also, they are being audited. The City has chosen an auditor to audit them. This is what we first wanted. This was our first inclination to choose an auditor

ourselves. It seems like we are circumventing everything. They are being audited so there is no cause. You can't terminate them for cause because we are going to get the audit that we have pressed for.

Mayor Atkinson said that he will have to ask Mr. Morgan that question about getting the audit. Is it his understanding, Mr. Morgan that they have not agreed to the audit?

Mr. Morgan replied that not that he is aware of. That is correct.

Mayor Atkinson said that we are going to be audited. The City is going to be audited from a – z. We hope that it goes wherever it goes. But, as of this moment to our knowledge we haven't been notified that they will do the audit. Just to take it an extra step Mr. Morgan suppose we don't hear from them just to get it clear what would be our position if we do not hear from them in regards to them agreeing to have the auditors to audit their books. What is your opinion at this time?

Mr. Olson said if he may interject Mayor, he thinks it is appropriate for City Council to go into Closed Session. You are asking the City Attorney for his legal advice which should not be done in open session. It needs to be given in Closed Session. He can basically give you that information. We have received notice that OIC may sue the City and that is why he is a little reluctant to have the City Attorney give a legal opinion in an open session.

8} CLOSED SESSION:

Mayor Pro Tem J. M. Baker made a motion to go into Closed Session to discuss this with the City Attorney. Councilman R. E. King seconded the motion.

Mayor Atkinson declared the meeting into Closed Session.

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

Upon the end of Closed Session:

Mayor Atkinson called the meeting back in session.

A motion was made by Mayor Pro Tem J. M. Baker to terminate the sub-recipient and lease agreements with OIC 181 days from 4/30/2008; and if the financial audits or other events give rise to termination for cause, the termination date will be amended to reflect a termination date for cause and direct staff to immediately begin negotiations with a replacement sub-recipient and lease to take over the operation of the City's training center. Councilman R. E. King seconded the motion.

Councilwoman Hummer said that she has a grave concern about the students that are in the middle of CNC training and all the other programs and all of those things she still have a concern about that. She also has concern about the Hugh Cale Community as to who will go in there. Will they be associated with the Hugh Cale Community? Will they be serious about revitalizing that community? Will they have ties there? This is what the community wants and if you could show her tonight that all her questions along those lines could be answered she would vote for it but she still has major concerns on behalf of that community.

Mayor Atkinson said just real quickly - maybe Mr. Morgan can help him with this. Those assurances that Ms. Hummer have inquired about should they come from OIC. He doesn't think that we can assure that.

Mr. Morgan said he does not believe it would be proper to ask those kinds of assurances from OIC at this point. All that we can do is to do the best that we can as a City to make sure that the replacement entity in the building carries through with those programs.

Mayor Atkinson said that is the intent of this Council.

Councilwoman Watts said so in addition to what Ms. Hummer is saying in her concern she would like to really actually summon all of the non-profits who are working throughout the City. She knows River City is working with the youth and there are other non-profit organizations in this town. Again she is reiterating that we have many and they are very concerned about our youth. And, she would absolutely asked and plead with you to come to the rescue. We need you. So, we need you to help us and to fill in the gap until at such time as there is another recipient to take the place of OIC.

Ms. Hummer said that she would also like to add not in defense of anyone but she knows that the City has made many mistakes also in this grant administration. It has been a nightmare and she just thinks that we should have waited for an audit of everyone. She hopes that this audit will be inclusive of every department that had anything to do with it. We have had a lot of

changes in administration during these five years. She just hopes that all of it is audited thoroughly. She is sure that the public wants that also.

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

d} Resolution calling for a Special Elections to fill vacant Fourth Ward seat.

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson said that on April 14, 2008 the Council declared Councilman Rivers' seat vacant. But at the request of city staff and the City Attorney did not call for a special election due to his pending appeal. The Council did authorize the City Attorney to file a motion to intervene which was done on April 25, 2008. We are hopeful that our motion will be heard sometime the week of May 5th, 2008 Staff is hopeful that we could bring an item calling for a special election to you on May 12th 2008. Unfortunately there is a number of other election issues statewide, primary and run off primaries that are scheduled in the months of May and June which prohibits the City from having an election if we do not call it tonight any sooner than the end of July. City staff has talked to the Local Board of Elections and also has received correspondence from State Board of Elections and what we are requesting at this time is that City Council goes ahead and holds a special election. The following are the critical dates:

Date filing period candidacy begins	May 7, 2008
Date filing period closes	May 16, 2008
Date Absentee Ballots Mailed	May 26, 2008
Date one-stop voting begins	June 5, 2008
Election Day	June 24, 2008
Run-off Election Day, if required	July 22, 2008

Since this is in conjunction with a State Primary the City costs of this particular election would be probably about \$2,000-\$2,500 according to Linda Page of the Board of Elections. Included in your packets is a resolution which he believes is right on point and if he could have the City Attorney read that resolution calling for the Special Election.

City Attorney Morgan read the proposed resolution.

A motion was made by Mayor Pro Tem J. M. Baker that we adopt the following resolution calling for a Special Election to be held on June 24, 2008 to fill the vacant Fourth Ward City Council Seat. Councilman J. A. Stimatz seconded the motion.

**RESOLUTION #08-04-6
CALL FOR A SPECIAL ELECTION TO
FILL A VACANT SEAT IN THE
FOURTH WARD OF THE CITY OF ELIZABETH CITY, NC.**

WHEREAS, an Order was entered on the 20th day of March 2008 and signed the 26th day of March 2008 by the Pasquotank County Board of Election declaring that Edward Kirk Rivers is ineligible to remain registered to vote at 512 Magnolia Street, Elizabeth City, North Carolina (in the City's Fourth Ward) and that his voter registration card shall be corrected to reflect his address of 101 Madeline Lane, Elizabeth City, North Carolina (outside the City's corporate limit); and

WHEREAS, under the provisions of NCGS 160A-59, Council members shall reside in the district they represent and when any elected City official ceases to meet all the qualifications for holding office pursuant to the Constitution or when a Council member ceases to reside in an electoral district that he was elected to represent the office is ipso facto vacant; and

WHEREAS, pursuant to the City Charter, the City Council must act within ten days of the event which caused the City Council seat vacancy and declare the seat vacant and call for a Special Election which shall be held not less than 45 days and not more than 60 days; and

WHEREAS, the City Council adopted a resolution declaring the seat vacant on April 14, 2008; and

WHEREAS, the City Attorney had recommended that the City Council not schedule a Special Election to fill the vacant seat because Councilman Rivers has properly filed an appeal of the Board of Elections Order, which appeal has not yet been ruled on by the Superior Court; and

WHEREAS, the State Board of Elections has now informed the City that an election may be held prior to a Superior court decision on the pending appeal; and

WHEREAS, NCGS §163-287 also requires that legal notice of the Special Election shall be published by the Pasquotank County Board of Elections no less than 45 days prior to the Special Elections; and

WHEREAS, acting under the instructions provided by the State Board of Elections, the City Council of the City of Elizabeth City now deems that the Special Election shall be held as soon as possible, with the following timeline and

fee:

Date filing period candidacy begins	May 7, 2008
Date filing period closes	May 16, 2008
Date Absentee Ballots Mailed	May 26, 2008
Date one-stop voting begins	June 5, 2008
Election Day	June 24, 2008
Run-off Election Day, if required	July 22, 2008

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City that the Pasquotank County Board of Elections is directed to hold a Special Election to elect a Councilperson to serve in the Fourth Ward of the City of Elizabeth city as provided for herein.

ADOPTED, this 28th day of 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

Councilwoman Watts said that she wanted to ask the Attorney a question if she could. Mr. Morgan what does the City require for a person to run for a particular ward.

Mr. Morgan replied that he or she must be a qualified voter in the State and must reside in the Ward in which he or she desires to represent.

Ms. Watts asked if that was a city law or ordinance?

Mr. Morgan replied that is part of our City Charter.

Ms. Watts said that is part of our City Charter. She is trying to get to another point here. She wanted to know that because she wants to know it states here in this resolution that Mr. Kirk Rivers the first portion of it that he lived at the address of 101 Madeline Lane. As she understands it at the last meeting it was

also stated in our books that he has lived there since his marriage of May 26th 2007 and in addition that when he filed to run as a Fourth Ward Candidate on his application at the State Board of Elections office his address was put down as 512 Magnolia Street. Now, she just wants to know for the record if someone could please clarify this for her. She is not trying to make something up here. She does not quite understand who is responsible for prosecuting if need be. What is it called? Let me ask this of you Mr. Attorney. What is it called and has any law been broken. If Mr. Rivers filed as a resident of the Fourth Ward when in reality he was a resident of 101 Madeline Lane which is outside the city limits. Are we the City to enact on the law in this position or are we covering up sweeping under the rug kind of speaking. Something that has been violated and she believes it is a felony is it not. Am I misunderstanding?

Mr. Morgan said that he is not as clear on the criminal laws as he perhaps should be but have not had to research that but any criminal prosecution would have to come through the District Attorney's office and in his opinion the District Attorney's office would probably not act on any kind of criminal charges until the appeal process through the Civil Court System has been completed. That is just a guess on his part as I know that the DA has a fair amount of discretion as to when and when not to bring criminal charges but it certainly not something that the City could legally prosecute because only the District Attorney's office could bring criminal charges against someone.

Ms. Watts asked who takes it to the DA's office.

Mr. Morgan said that he supposed in as much as the City Manager by statute is responsible for insuring that the laws are followed within the City limits and he as the City Attorney am also responsible for that if there were an inquiry to be made perhaps we could make that inquiry. But, again only the DA could decide whether or not to file criminal charges.

Ms. Watts said then let me turn to the City Manager. Can you help her out?

Mr. Olson said that you are asking a legal opinion of a city manager and that is not well versed. He is getting a real education in North Carolina Election Laws. As we saw with an earlier challenge associated with the candidacy he believes it would rest on the Local Board of Elections if they believe that there was some type of fraud or something associated with that, they would be the ones as they did previously request some type of prosecution of an individual.

Mr. Morgan said that is correct as he recalls now seeing and he cannot site chapter or verse but there is a statutory provision that requires that the Local Board of Elections report those kind of findings to the DA and that the DA act

upon them

Mayor Pro Tem Baker said that she has a question for the attorney. Bill, does typo's affect this resolution like of instead of is. I see when you read it at the end of paragraph three represents the office is ipso facto vacant instead of-of.

Mr. Morgan said that the final version of the resolution should include the word is rather than of in the fifth line down in the second paragraph.

Ms. Hummer said also what Mr. Morgan just read the State Board of Elections has now informed the City that an election may be held not shall be held. There is a difference in those two words. Ms. Kelly so elegantly stated what has taken place over a period of the last few months and she has a problem calling for a special election with an appeal pending even though the law seems to differ on whether it is an election protest or a residency challenge, but she still has a problem with it personally.

Mayor Atkinson called for a vote on the motion.

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

d} Rezoning Request RZ-01-08

Mayor Atkinson called upon Ms. Brooks for comments.

Ms. Brooks stated that the application before you tonight was tabled at your March 24th meeting. The applicant requested to rezone this parcel from R-6 to O&I. The purpose of this rezoning is to convert the first floor into offices and retain the second floor for residential use. As request you have included in your packages a site layout plan showing parking behind the building, the first floor and the second floor areas. She believes this is all the information that you had requested at your public hearing.

Mr. Stimatz said thank you. Ms. Brooks I will note one typo on the National Historic District Map. It says resister instead of register. That is just a typo. I have a question on the site plan. You show a vegetated fence, a six foot privacy fence and a vegetated buffer. What is the width of that buffer?

Ms. Books said ten feet.

Mr. Stimatz said that is a ten foot buffer.

Ms. Brooks said that it can be reduced to ten feet with a fence.

Mr. Stimatz asked what is the width of this lot. Do you remember?

Mayor Atkinson said maybe he can help out with this a little bit. While we are flipping through the pages of this he is going to ask at this time if anyone who wants to speak in favor of this application including the applicant or his representative he can come forward at this point. After we hear from the applicant we will hear from anyone that is in opposition to this application. If there is one then you will have a brief opportunity for rebuttal to those comments. After that the conversation will be limited to staff and the City Council members. Now, Mr. Stimatz what is your question again or have you found it. We have the man here that may know.

Mr. Stimatz said that I was just curious how wide the lot was. It is not to scale so it is hard for me to understand what is going on here.

Mr. Don Faircloth, Jr. said going from memory he believes it is about 65 feet on the rear.

Mayor Atkinson said Ms. Brooks he has a question for you. What is the zoning of the school on the corner and the house adjacent to this property?

Ms. Brooks replied both are R-6.

Mayor Atkinson said that the request is for O&I. Everybody realizes that the O&I designation goes with the whole building and not necessarily if it is O&I, it is O&I from the first floor through the roof. It goes with the property. It could be Office and Institutional all the way but I doubt that it would be. Is it not your opinion that when we and he will call this a spot zoning change the zoning from R-6 traditional R-6 Residential neighborhood to an O&I that we are setting up a situation where the house that is adjacent to the school could very easily go commercial and is that what we want to do for this corridor is strip it out with O&I and commercial. Once it starts he knows from fifteen years of experience it is very difficult to slow it down. What are your thoughts on that?

Ms. Brooks replied that technically speaking it does open the door for other applicants to come along and requests rezoning to O&I if not a heavier use so she would say that Council needs to be very cautious in whether then rezone this parcel or not. It does open the door for the neighborhood.

Mayor Atkinson said and also across the street. It sets a precedent to change the character of the single family or multi-family homes. It easily could change the character starting at this property and going north.

Mr. Stimatz said I am correct in reading this the Planning Commission voted 5-0 to do it and staff recommends approval.

Ms. Brooks said that we did the O&I as it is a more restrictive type of use. She thinks originally the applicant had requested a C-1 and C-2 and we kind of talked with him to get it to something that would permit either office type uses or residential uses and it is the lesser of the two evils.

Mr. Stimatz said ok, but Planning Commission voted 5-0 in favor of it. You guys are recommending approval and one thing that keeps it from going completely commercial is the fact that they had to come in for a parking variance if they are going to make offices up there. That is the reason that we are here tonight is because they can only shoe horn so many parking spaces which limits what they can do. So we still have control of this property. I find it interesting that the school or all the property that the school is on is still R-6, maybe we should re-designate it, you know. That is an interesting question. It is O&I in essence. Correct. What is the school? It is an institution so the county is in violation of—he is just kidding.

Ms. Brooks said well schools are traditionally a part of residential neighborhoods.

Mr. Stimatz said I understand. I note too that rezoning of this property result in non-compliance with the future Land Use Plan and the future Land Use Map, the FLUP and the FLUM, I love those. Do we have to articulate our reasons why, correct by state statute.

Ms. Brooks said that is correct.

Mr. Stimatz said you have some good answers for that since you recommended approval.

Ms. Brooks said that is up to City Council to decide why they want to approve it. Well, it could be a continuation of residential use in the office and institutional. The office use is restrictive. It is a primary corridor or a collective street running through the City.

Mr. Stimatz said ok well on your last page you talked about the need to rezone property supported by the future Land Use Plan and the general land use trends along this section. Moreover, it is a more appropriate transition from the high density residential to commercial and the uses in the Central Business to the south and in the General Business district to the north along Road Street. So, I think those are good reasons. We think it is ok. Again, this goes back to we

don't have conditional zoning because we don't have a comprehensive plan. Right Rich. Someday we will get there and be able to do this and not worry about this.

Mayor Atkinson said not to belabor the point but he wants to be sure that Council knows that they are clearly setting a precedent by putting in an O&I here on this property and they are setting up the property adjacent to go commercial or O&I. He knows that previous councils have done this in other parts of this neighborhood that are big spot zoning. He just knows how this goes. You are going to have people that are going to come in and they are going to try to say well you set this property up for O&I, we are surrounded by or we are continuing to ask for O&I, we have commercial here and I am right across the street from Commercial and I am across the street from O&I it will be a hard battle to deny those applicants. Now, maybe the City wants this to be stripped out all the way down to the stop light at the far end. Maybe they do. But, he thinks that it would be a shame to go into these single family neighborhoods and put in commercial property on North Road Street when he knows there are some beautiful houses there. He is an advocate and has always been for restoration. He knows this might not be a popular subject with some people but what you decided to do tonight is going to be long lasting. So, as long as you know that, that is fine and good because he will not be voting. He won't have to break a tie on this. He is just telling you that you are setting a precedent and we will all live long enough to see what the outcome of this is. He doesn't think that it is fair to the neighborhood personally to do that because it will leap frog like you have never seen it before. He thinks Ms. Brooks has been around in various cities to know that he is exactly right. Is that true Ms. Brooks?

Ms. Brooks responded that is correct.

Councilwoman Meggs said that she remembers that we had one of these not like this but another that came before us and it was spot zoning. It was recommended that we didn't but we did pass it. However, she did vote against it. She is going to have to vote against this because of the spot zoning. If she did it one time she has got to do it every time or she feels like she should go back and redo another vote. That is her only reason for it is that once you do it one time and some of those single dwellings she questioned it.

A motion was made by Mayor Pro Tem J. M. Baker to deny the Rezoning Application RZ-01-08. Councilwoman B. S. Meggs seconded the motion.

Councilwoman Watts said that she has one question. Ms. Brooks do you know how far this property is from she believes there is a church like right down at the

next corner of that building, is that right. There is a Baptist church there, what is it called? She does not believe that there are maybe three or four houses residential houses along that line. Is that correct because you don't have any thing up there that tell her how many from the school and she believes there is an apartment house located right beside this as well plus maybe two more houses before the church. She is trying to take into what you said.

Mayor Atkinson said that he believes that it is several houses before you get to the church.

Mr. Olson said that there are five houses.

Ms. Watts said that there are five parcels but are there five parcels before the church. Ok so there are five parcels before the church so we are looking at probably five residential homes as what you are referring to Mayor as to having commercial right within this residential area.

Mayor Atkinson said what he is saying is that typically what happens in a situation like this that once you have a spot zoning of O&I and you have leaped over one residential area that will almost go at least O&I if not Commercial. Then the next step is across the street you set a precedent. Well some of those houses might be more valuable as O&I or more valuable as Commercial. What you are doing is you are disrupting the integrity of a single family neighborhood. He thinks that is what we need to be very aware of not only on this case but all throughout the City. We won't know who we are if we keep tearing these houses down, we won't know who we are. That is his only point.

Ms. Hummer said that almost all of Road Street going north is residential until you get to the intersection.

Ms. Baker said that she just wanted to say that there are a lot of restoration efforts going on along Road Street. It is very contagious that people are fixing up those homes and it is no secret that she is an historic buff and our zoning map already looks like Swiss cheese and this would just be another hole in it. She just can't support it.

Mr. Stimatz said yes sir. Another point too is we already know we have an excess of commercial property in this town when you look at the vacancy rates, etc. The other thing is that and he will bring this up to the City Manager because we asked this once before. We went to the State DOT and asked them to reduce the speed on Road Street to 25 mph because it is essentially residential and we wanted to get the traffic off. We were told they denied us. At the time we asked what were our other options. We still haven't been

provided that. That is still a pending issue side bar on that one. I would just like to know what our options are. Do we go to the State or do we go to the State Legislature, do we appeal it to the governor, how can we change that because I think in keeping with the desire to make this residential then we ought to lower the speed. When I drive 35 miles per hour down Road Street it bothers me. It bothers me because I can't even think about driving 35 mph down Colonial or Harney or Main Street or any other street at 35 mph. Yet if you are not doing that some truck is on your rear end getting ready to run you over.

Mayor Atkinson said that he appreciates your comments Mr. Stimatz. He would like to throw in one more thing. From work on the Land Use Plan and the Halstead Corridor that he was on committee for over two years we have over 700 acres of commercial land as it stands now. We have over 40 vacant buildings in our downtown area right now according to ECDI at last count. There are lots of opportunities for O&I right downtown. That is where the focus needs to be. He called for a vote on the motion.

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

e} St. Stephens Church Site Plans:

Mayor Atkinson called upon Ms. Brooks for comments.

Ms. Brooks stated that in 2007 City Council rezoned property owned by St. Stephens Church from R-6 to O&I. The O&I District require Council to determine the number of parking spaces that will be required for a church. St. Stephens submitted a site plan which shows parking for 34 cars in an adjacent lot and three on-street parking spaces. The seating capacity of the church that they propose to construct will be 750 seats in the sanctuary. Under the current ordinance is a requirement of one space for four seats. If the church met parking requirements they would need to provide 188 parking spaces. The church is proposing to provide only 18% of what would normally be required for this type of use. As outline in the recommendation, Cypress and York Streets have 40 foot right of way and are currently utilized for residential parking. Staff has concerns whether adequate fire and safety vehicles will be able to provide services if these streets are used for the majority of the church's parking. Staff does not concur with the amount of the proposed parking by the Church. Based on the capacity of the church staff recommends and concerns over the fire and safety vehicle access, staff is of the opinion that they should meet at least 50% of the minimum parking requirements. That would be approximately 95 parking spaces.

Mayor Pro Tem Baker asked if we allow that 50% to anybody that comes forth looking for this. Are we that flexible that we allow 50%?

Ms. Brooks replied that at this point the way the O&I zoning is in the Ordinance City Council determines the amount of parking spaces. If it were up to staff we would recommend the full 188 parking spaces but since this is at the discretion of City Council the numbers that they would deem adequate. She thinks that in staff's opinion she doesn't believe that we could bring forth a recommendation of less than 50%.

Ms. Baker said that she would like to state that she ran some numbers over the weekend and she assumes that you don't build a place less than 750 people unless you are anticipating filling it from time to time. 750 seats divided by 188 parking places would be four people per car coming in. If you take this 750 people and divide that by the 95 parking places we are willing to negotiate that would be eight people per car and if you divide that same number by the 37 parking spaces they are proposing that is 20.2 people per vehicle. She doesn't think these are clown cars coming from the circus but that is what it sounds like they must be. If it is only 37 spaces for 750 people that makes no sense to her. She knows when her own church had more people than we had space for we had a satellite church. We opened up another place where the people were coming from. She is sorry but she can't support this either tonight.

Mr. Stimatz said does the church have any outlying parcels that could be counted against this total.

Ms. Brooks replied that the applicant has not given staff any additional lots that they are willing to use at this point. She believes that when we discussed the rezoning with Council members last year we approached satellite parking with them and several different options as this was raised as an issue.

Councilman R. E. King said that he believes that they have someone to represent them.

Mayor Atkinson said that he knows that people have signed up to speak on this application. Is the spokesperson available to come forward now or the representative or the applicant. After they speak if there is opposition to this application then we will have the applicant or his representative have a moment for a brief rebuttal. Is the applicant or his representative here?

Mr. Izell Jackson, 206 West Board Street, Elizabeth City came forward.

Mr. Stimatz said that my question was were there any other property that the church owns that could be counted as satellite parking to make up or go beyond the 37.

Mr. Jackson stated that there are some other properties that we have been able to acquire. They have not been developed at this time because we have been at a standstill as to exactly what Council was going to require. But, he would like to point out that in this area which is an R-6 District most of these lots in this area are only 40 feet wide and some are only about 80 feet long. We have a district that has been sitting there a long time where we don't have the luxury of very large lots.

Mr. King asked if Mr. Jackson could give us the number of how many lots you do have and where they are at.

Mr. Jackson responded by saying that right now on Harney Street we are proposing to take out the outreach center that we have at this time and there are three lots there. Actually there are two on Harney Street and one that we had a house on that we took down that was on Cypress Street. There are two other lots that we own over on the other side of Harney Street that we bought from Eyeball Incorporated to try to develop. We also bought lots along York Street. We have one satellite lot that is closer to the Parsonage Street area. But, when we get into the landscaping requirements as far as the Zoning Ordinance that zoning or the landscaping ordinance does not really justify or is it really being favorable in these R-6 Districts. Because by the time you put in all of your landscaping and you do your striping you have taken all of the land away. He realizes this is a hardship for City Council but he is sure that you realize that we have one of the worst drug areas over there. Really what we are proposing we are not proposing to bring in a church that has never been there this is an existing church that has been there for well over 115 years. We have a sanctuary that is over 50 years old. We are just trying to put up a new sanctuary on the same existing property that we have always had. The parking is just a problem to do that. We are trying to help clean up that area and make this area of the City a whole lot better. Parking is really killing us.

Mr. Stimatz said I think the unfortunate thing is there are too much space between staff and you and rather than turning you down and having this thing— am I correct that if we turn it down they would have to wait a year.

Mr. Olson said that he doesn't think you have too as it is not a rezoning but a parking issue.

Mr. Stimatz said I would suggest that maybe we try to go back to the drawing

board and see what other accommodations we can try and make. If we are going to make an exception we need to look at all possibilities and that would include looking at the buffer zones. I think in that particular case we would have to get some definite input from all of your neighbors. The other thing that I don't know if you looked at is potentially having a long term lease agreement with somebody if there is another area that has parking. I don't know if you have looked into it. I am just saying that 22 people to a car is just a little hard to believe and I have to think that if people show up they are going to clog those streets. Unbelievably. That is a real safety concern for all of us. My thoughts would be to table this issue and have you sit down with the Planning Staff and see if you can carve any more room out someplace else.

Mr. Jackson said that we are still concerned with this as far as trying to carve some, suppose the landscaping requirements and the Planning is willing to work with us because we meet the full voice of your zoning ordinance you are going to basically eat up these small lot with just trees.

Mr. Stimatz said that I am suggesting that maybe that is where we have to sit down and start making some adjustments. But, we can't make them in a vacuum and we have to look at your neighbors to those lots and whatever accommodations that we are going to have to make there. It is a very odd case. What is your current membership?

Mr. Jackson replied 450-500.

Mayor Atkinson said Mr. Jackson in regards to the buffering issue that you are talking about he believes that there is a way to deal with that you can go to the Zoning Board of Appeals which he understands that you have already been too on other issues not the rezoning of your property from R-6 to O&I but prior to that you had to get BZA and he thinks that they were amendable to what you were asking for. Everybody wants to support a church. Everybody should want to protect the church so that the zoning is protected also. BZA in his view would have been the way to go originally and let them do their waive but that is water over the dam now. So to protect the church, you have a church sitting in an O&I, Office and Institutional but BZA is the way to go. They have right to give a variance on the buffering and the landscaping which was an issue for you.

Mr. Jackson said that he is still saying that if they give some variance on that if they are still going to leave enough room to acquire the additional 60 spaces that you are asking for.

Mayor Atkinson said that he thinks that Mr. Stimatz hit a good note on going back and getting with Planning and letting them advise you exactly what BZA has

the authority to do when it comes to buffering and landscaping and that sort of thing because as you know the numbers that Mayor Pro Tem quoted is a lot of people.

Mr. Jackson said that they know that they don't have 22-passengers vans as everybody is coming up in their personal cars. That is very evident. He doesn't mean to be contrary but if we look around the inner city and most parking areas he doubts very seriously you will find any parking lot within this City in this general area that can provide 95 parking spaces. It is just not available.

Mayor Atkinson said the question that he might have would be how do you see the parking taking place if you had 500 people that come to the church? He knows that you propose 700 and some but at 500.

Mr. Jackson said that we use undeveloped lots and the ones that we have developed. Keep in mind that this is a neighborhood church and we have quite a few members that walk across there. He was born and raised in that area and he has been to that church over 50-years.

Mr. Olson said would the church consider possibly running a shuttle service by a passenger van and shuttling people from a satellite spot, say for or five blocks away to the church.

Mr. Jackson said that we do that now. We run vans out to the University for a lot of our students to come there every Sunday.

Mr. Olson said would that be an option if we could find a spot within a mile.

Mr. Jackson said that we are doing that now. Yes, we would provide the transportation.

Mayor Pro Tem Baker said that she has a question on the minutes of the August 27th meeting when you were here before. There was information that you had 56 parking spaces on site.

Mr. Jackson said that is what he thought that we had at that time. He doesn't know where the number 37 came from.

Ms. Watts said Mr. Jackson is that your name sir. How many do you have let's say this coming Sunday. What number of persons would you estimate?

Mr. Jackson said this coming Sunday. He would probably estimate that we would probably have 350-400 people.

Ms. Watts said that she has been to St. Stephens Church and it has been quite a while since she has been there and God knows she couldn't find a seat and she knows that you all have grown since then and that has been several years ago that she was there. So, she agrees with you on tabling it but however the fact remains that folk is going to that church. Whether the City decides to give them a parking lot or not folk is going to that church. We are not going to stop people from wanting to hear the word of God the way their pastor preaches it. Certain pastors have something that we all want to hear and that particular church has a striving church and they do reach out to the community she has seen some of the work that they do, however we cannot stop people from going to church. She would certainly hope that we would consider what staff has recommended. They have already recommended to us a minimum of 95 off street parking spaces be provided. She is with you but the thing is that she doesn't want us to forget that people are going to go to church and they are going to park on the grass or in somebody else's driveway if they got too. She has done it. She is just going to be honest. Anyway she does hope that we would consider and have a little sensitivity to people who are willing and wanting to go to church because she is for that.

Ms. Meggs asked how many services do you have on Sunday.

Mr. Jackson said we only have one right now.

Ms. Meggs said have you thought about having more than one service.

Mr. Jackson said that he does not have the authority to speak on that.

Ms. Meggs said that the church that she attends have two and that helps with the parking.

Mr. Jackson said he is sure there has been a study on that but most of our parishioners enjoy the 11:00 morning service. Some of them are just not ready for change.

Mr. King said that he believes that you have the engineer here. Can he come forward? He is thinking that you have about four or five lots. Provided that you get with BZA and they give you some lead way for the buffer zones and things, do you think that you can provide 60 additional spaces.

Mr. Hollis Ellis answered no as he would not be able to provide 60 additional spaces. That would require approximately 12 lots in a continuous row to provide 95 spaces unless the landscaping requirements could be reduced. Even then if

we reduce the landscaping requirements with two lots we may be able to get about 15 spaces and then the one lot that is non contiguous may be about 3. We are looking at a total of about 18 spaces. The church does have 12 additional spaces that are active at the existing book store. Those spaces were not included in the parking count because they were existing. They would give us a total of 49 spaces that would be proposed.

Mayor Atkinson asked what were you thinking when you got the O&I zoning on what you were going to do about the parking. Those 37 spots are not going to do you any good.

Mr. Ellis said that the original 56 spaces that we had shown were indicative of the fact that there would be no landscaping. It was an approximate based upon how much land area that is contained.

Mayor Atkinson said that the BZA waive that. If they waive all the buffers and landscaping you still would short 40-50 spaces based on staff's recommendation which is half of what the UDO requires.

Mr. Ellis said that one thing we would request is that BZA would lift the 500 feet for remote parking. Maybe the church could shuttle from the University and that could substitute for the number of spaces. They would have essentially the number of parking spaces.

Mayor Atkinson said that he doesn't think there is a member on this Council that doesn't want the church to have what they need and succeed. Everybody wants that but at the same token he thinks that some of the council people and himself included want to be sure that we don't impact the neighborhood in a negative way by cars all over the place. You can understand that. He is going to go to that church as he wants to see 450 people in there. He is going to sneak in there one day.

Ms. Watts said that she wants to make a comment on what you said. You said something about having two services or something like that but it would be kind of difficult for when you go to an African American church even the Baptist act like Holiness. He is telling you that Reverend Banks is worn out at 11:00 before he even gets up there. She is telling you let alone having to preach. She can't image him preaching twice within a couple of hours. From one service to another as he can get into it can't he. Yes indeed, oh yes he can. She does hope that we will try our best to accommodate this church and the good work that they are doing.

Reverend Ricky Banks said with your permission he thinks that he first thing that

he would like to do on the agenda tonight is to just pause for the tragedy that took place in Suffolk, Virginia. For those persons who got up this morning and now they don't have anywhere to live. With your permission he would like to have a moment of prayer but if he is not allowed then that will be fine.

Mayor Atkinson said you know Reverend there is no one on this council any more compassionate for people that have lost their houses no one that their heart goes out to more than me. He is sure that everybody on this Council feels the same way. He respects your request but with due respect he thinks that is something that each individual can do on our own. Having said that let's go forward with the issue of parking spaces.

Mr. Banks said secondly he thinks that it is important that you understand why there is an overflow at the church. It is because of the area the church is located as Mr. Jackson has alluded to the fact that it is heavily drug infested, gang activities other activities however that presents the greatest need for evangelism. Our church is filled on Sunday because of the fact that we embrace and we support those persons that have those problems. We bring them in and evangelize them. What he has discovered is that when an area has a problem that we concentrate on that area of what happens is you do not solve the problem but you move the problem to another area in the City. St. Stephens Church is concerned with not conforming people's minds with the way of the world but transforming their minds to doing the things that are right. So his thought tonight before this City Council is that he hopes that you will hear what he has said. We understand that there are laws that we must abide by but he hopes that this City Council will also understand the laws were made to be amended; laws were made to be dealt with in the interest of a city and a town. He thinks Ms Watts has it plain and simple. If you don't grant it they are going to come and they are going to park and he wants to say his last thing to you Mayor that he doesn't want you to sneak in he wants you to come in. If you get close you will know that you are close to St. Stephens because of the volume that you will hear and it won't be anything out of the ordinary going on but you will just know that you are in a Baptist Church with a Pentecostal flavor. He wants you to know that you are welcome at any time and any other city council members who feel that we are just talking then come see us. Come visit us and you will be glad that you did.

Ms. Hummer said that she would like to ask Reverend Banks or Izell either one. First of all she can vouch for the fire in that church as she has been many times. Has anyone given any thought to trying to purchase Ms. Christian Patterson's house which is right behind the church. She knows that it is a complicated piece of real estate.

Mr. Banks said that he knows that City Council can act on what looks like is coming in the future, but we have many irons in the fire as to acquiring lots in the immediate area. Again there are many lots that we have available that can be used for parking that has not been mentioned here tonight that will come close to the 95 that they have asked for and we have the documentation to show that those lots are available. The lot that you just mentioned we have inquired about that and several others have expressed interest in doing what they know we are trying to do. That is to make that section of the City a great place to live, work and play.

Ms. Hummer said that she commends you for it and she thinks that we as a council has to find some way to make this work because you are doing what we can't do. We don't have the money to revitalize that area at the moment. What you are doing is just that.

Mr. Banks said that he also thinks that the Council needs to understand that in the African-American community the church has the greatest influence on an individual so if the situation and if lives and persons are going to be changed it is coming through the church. That is what we are there for and they know that we are there for them. That is why they come to St. Stephens Church. That is why we are here tonight not because we have a bad problem, we have a good problem.

Ms. Hummer said rather than table it she thinks that we should make some recommendation to staff to work with the people from St. Stephens.

A motion was made by Councilman J. A. Stimatz to table it until staff and St. Stephens can come back with a number that they both can feel good about it. Seconded by Councilman D. Evans. Those voting in favor of the motion were: Stimatz, Evans, Baker, Hummer, King, Meggs and Watts.

9} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:

Mayor Atkinson asked City Manager for comments.

Mr. Olson replied that he had no further comments to make.

Mayor Atkinson called upon members of Council for comments.

Mayor Pro Tem Baker said that she has several comments to make. Number one is she would like to apologize in advance to Pastor Edlow because she is not going to be at the Prayer Walk, she is going to be in Georgia on Friday so she is

not going to be able to make that but it is not because she did not want to. She wanted to comment a minute on the Building Bridges Conference that was held this past Saturday at the Kermit E. White Center and that was a fabulous conference and Mr. Brown and his staff and his committee did a fabulous job in putting that together. She doesn't know what the final number of people was but there were in excess of 100 people there. She would say equally divided among males and females, blacks and whites. A few Hispanic she also saw. It was a fabulous collection of people. She learned a lot there. Just a good presentation and good people that made presentations about confrontation about dialogue and debate. It was a great thing and she really enjoyed it and she was glad that she got to represent the City in the welcome along with Congressman Butterfield who was there.

She was also pleased to represent the City at the Opera on the Pasquotank that was held that very same night. That was a great, great event that filled the Gaither Auditorium at the Museum. So, we have lots of good things going around the City. The ribbon cutting also for George and Company. Another building expansion. We just have great things going on in Elizabeth City.

She wanted to correct a statement that she made at the last meeting where she said the land transfer tax goes all to the County. She made a statement that the sale of the old Wal Mart building netted the County \$350,000 but actually it didn't it only netted them \$70,000. In any event the City didn't get any of that. It still all went to the County even though the property was within the City limits. So she makes that correction that it wasn't \$350,000.

The other thing she would like to mention is about the OLF. Many of you remember when we took that vote she needed more information and held off voting on that support for a meeting or so. But, since then she has done more research and she knows more about that than she did at one time. One thing that troubles her is that three years ago when the OLF was looking at going to Perquimans County, Pasquotank County supported that in the form of \$25,000 contribution toward that effort and she thinks that we should all join forces and encourage our County on behalf of the City to support his effort. One thing that troubled her most if you will look at the numbers of flyovers or touch and go or whatever they are called. They are looking 32,000 a year. They will go over the Northside School District area with 2500 students in there every school day. The school area is three tenths off the centerline of the runway and at 3000 feet those jets are going to be screaming and at 32,000 a year there will be one coming over every six minutes. That is not a good learning environment for our kids. That is no learning environment for our kids. We really need to be together better than we have and oppose this. There are meetings that are going to be held. One in Camden in May. There are meetings that are going to

be held so that you can learn and voice your opinions. It is a pretty scary thing for us to be subjected to that.

She just wanted to make note that she is not going to mention what she took tonight at the hands of Michael Brooks. You all know how it came out in the paper and how it came out in the courts and with the Board of Elections.

Councilman Evans said that he thinks that he would like to make a comment. He would like to thank the Mayor, Mayor Pro Tem, City Manager, Attorney and everybody else for bearing with him right now. He seems to be kind of quiet on the City Council but he is just learning the flow of everything as this is very new to him and he appreciates your patience. Before too long you probably won't be able to shut him up.

Councilwoman Watts said that she only has to say that it was given to her to announce this. To remind everybody about Juneteenth celebration that is going to be June 21st and she believes it was in our agenda recently. She wants to thank St. Stephens for coming out and it was certainly good to see Pastor Rickey Banks who she hasn't seen in a few months. She wanted to let them know that she appreciates them coming. The other thing last but not least she wants to thank all of the constituents for an incident that happen in the Fourth Ward and we just want to continue to pray for family members affected by the recent incident. Thank you so much for your support and the many calls and right now the calls and the comments in the newspaper in the portion of the internet. Thank you for your comments, she really does appreciate it. God bless you all.

Mr. King said that he has one thing. Rich where are we at with the speeding in Chesterfield Heights.

Mr. Olson replied that if he is not mistaken we did the survey down there and there were two or three roads that we requested DOT to go ahead and put the 25 mph speed limit signs on. He will check on that for you.

Mr. King said that we did a speed study to reduce the speed. Has that been completely?

Mr. Olson replied that everything in that area is 25 mph right now except for two streets that are not posted right now. Our conversation with DOT is that they thought that they were 25 mph. We asked that they go ahead and put the sign up saying 25 mph.

Mayor Atkinson said that he will make a couple of quick comments. There is a lot going on in the City. Mayor Pro Tem went over a couple of things that she

was able to help him out with while he was out of town. But, he was able to attend the Earth Day Celebration that was sponsored by Shaklee Corporation out at the tennis courts where we had a tree planting and a very nice outing that day. Mr. Overman participated and did a great job with his staff. He thought that was very well done. Also, last Saturday at 7:00 he had the opportunity to attend the Tar Wheel Event which we had right at 400 bicyclists that came in from all over the east coast. It was really nice event. He was able to give greetings to those folks and wish them a happy trip. Right after that from 9:00 - 9:30 he was at Charles Creek Park March of Dimes walkathon for the babies and they had a tremendous turnout. He understands it was the largest walk that they have had. A couple of hundred people he is sure. It was well done and a very worthwhile event and he was happy to participate with that. Then later in the week he was able to attend the fundraiser for the Canine for the Police Department which was a well done affair. It was nicely done at the Culpepper Inn. Mr. and Mrs. Franzese were the organizers for that. They really did a great job. Several Council people were there and he thinks that they raised over \$1000 at that one event to help purchase another canine for the police department. It was a very good event and everyone attended had a very good time.

10} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Atkinson adjourned the meeting at 10:20 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Stephen S. Atkinson
Mayor