

MONDAY-7:00 P.M.

JUNE 27, 2011

CITY COUNCIL

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

Mayor McLean established a quorum was present and called the meeting to order at 7:07 p.m. He called upon Reverend Addie Overton for the invocation after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} APPROVAL OF THE AGENDA:

Mayor McLean called for approval of the prepared agenda.

Mayor Pro Tem Hummer asked to add Councilman J. B. Walton to ***Item 7-B – Authorization for Travel Expenses*** as well as a short ***discussion on the Travel Policy; remove Item 7-h-1-a from the Consent Agenda and place it on the Regular Agenda for discussion; and to add to the Regular Agenda a discussion on Community Support Grant proposed application.***

Councilman Stimatz asked to ***remove from the Consent Agenda Item 7-D Sponsorship Agreement for South Park Sports Complex and add it to the Regular Agenda.***

Councilman Brooks asked to ***add to the Regular Agenda an update on the Rental Inspections positions and an update on the situation at 1165 US 17 South.***

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman R. E. King to approve the prepared agenda to include the above noted changes. Those voting in favor of the

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

2} COMMENTS FROM THE PUBLIC:

Mrs. Freda Smith, 1509 Emerald Lake Circle, Elizabeth City read a letter on behalf of Girls Inc. requesting financial assistance from the City to help purchase playground equipment.

3} PRESENTATION:

Mayor McLean presented a proclamation proclaiming the week of July 1-7, 2011 as "Independents Week" in Elizabeth City. Mr. James Furst accepted the proclamation and made brief remarks.

4} CONSENT AGENDA:

Mayor McLean called upon City Manager Olson to read the Consent Agenda.

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

CONSENT AGENDA:

a} Approved the following Budget Amendments:

**BUDGET AMENDMENTS
NUMBER 2011-12
JUNE 27, 20**

BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2011:

SECTION I. That the JAG Police Grant (103490.5112) be increased by \$15, 937, Police Capital Outlay (105100.7400) be increased by \$1,782, and Reimbursement to Pasquotank County (105100-4510) be increased by \$14,155. That the COPS Rehiring Grant (103490.5115) and the Police COPS Salaries (105100.0201) be increased by \$105,934.

(To record Police Grants.)

SECTION II. That the Insurance Revenue (103350.8300) and Police Claims paid (105100.5430) be increased by \$30,000.

(To record Police vehicle accidents and unemployment claims.)

SECTION III. That the Charles Creek Bridget DOT Payment (103490.5700) and the Charles Creek Bridge Project (105700.7301) be increased by \$604,783.

(To record Charles Creek Bridge Project.)

SECTION IV. That the Waterfront Market Vendor Fees (103650.1000) and the Waterfront Market Expenses (106200.4600) be increased by \$4,000.

(To record Waterfront Market collections and expenditures.)

SECTION V. That the Electric Development Fees (303490.4501) and Stockbridge Development Fees (308300.7344) be increased by \$134,551.

(To record Stockbridge electrical installation.)

SECTION VI. That the General Fund Balance Appropriated be increased by \$73,208 and the following expenditures be increased.

(104200.0600)	Administrative Group Insurance	\$ 4,286
(104200.1700)	Administrative Maintenance of Vehicles	5,000
(104200.3100)	Administrative Auto Supplies	600
(104200.5410)	Administrative Insurance Liability	2,022
(104600.4500)	Tax Contracted Services	10,000
(106600.0600)	Non-Departmental Group Insurance Retirees	25,000
(106200.7300)	Parks & Recreation Capital Outlay	25,000
(106700.0700)	Elizabeth City Downtown Retirement	1,300

(To record overages.)

SECTION VII. That the Electric Retained Earnings Appropriated (303990.000) be increased by \$23,000 and the Non-Departmental Group Insurance-Retirees (306600.0600) be increased by \$23,000.

(To record overages.)

SECTION VIII. That the following expenditures be increased or decreased as indicated:

	<u>Increase</u>	<u>Decrease</u>
(318100.4503) Water Treatment-Purchased RO Water		\$200,625
(318100.3302) Water Treatment-Chemicals & Lab Supplies		\$100,000
(318200.0220) Waste Water Treatment-Overtime	\$ 21,667	
(318200-4500) Waste Water Treatment-Contracted Serv.	138,395	
(318200-4501) Waste Water Treatment-Contracted Serv.	283,807	
(318280.7300) W&S Maintenance-Pump Sta Improvements		43,244
(318280.9100) W&S Maintenance-Transfer from Stormwater		100,000

(To record overages due to spill.)

ADOPTED, this 27th day of June 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Approved the following Budget Amendments and Bid Award for the Water Street Intersection Improvement Project to Barnhill Contracting Company in the amount of \$460,049.

**BUDGET AMENDMENT
NUMBER 2011-13
JUNE 27, 2011**

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

SECTION I. That the Powell Bill Fund Balance Appropriated (103990.0010), Powell Bill Transfer to Water Street Improvement Project (1057000.7303), Stormwater Retained Earnings Appropriated (343990.0000) and Stormwater Transfer to Water Street Improvement Project (3485.9102) be increased by \$180,024.50.

(To record Water Street Intersection Project.)

ADOPTED, this 27th day of June 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

**ORDINANCE # 2011-04
WATER STREET IMPROVEMENT
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED: by the City Council of the City of Elizabeth City, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

SECTION I. The project authorized is the Water Street Improvement Capital Project Ordinance to be finance with DOT funds.

SECTION II. The officers of this unit are hereby directed to proceed with the project within the terms of the project documents and the budget contained herein.

SECTION III. The following amounts are appropriated for the project:

Transfer from Powell Bill Fund	\$180,024.50
Transfer from Stormwater Fund	\$180,024.50
DOT Reimbursements	<u>\$100,000.00</u>
	\$460,049.00

SECTION IV. The following amounts are appropriated for the project:

Water Street Intersection Improvement	\$460,049.00
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SECTION V. Copies of this capital project ordinance shall be made available to the Budget Officer and Finance Director for direction of carrying out this project.

ADOPTED, this 27th day of June 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Called for a public hearing to be held on Monday, July 11, 2011 in the City Council Chambers of the Municipal Administration Building at 7:30 p.m. for consideration of RZ-03-11 to rezone 1.86 acres from R-6 Residential to O & I, Office and Institutional at 304 Pearl Street.

d} Authorized entering into an agreement with Elizabeth City State University regarding generators.

e} Accepted Quitclaim Deed for pump station property in Hunter's Lake Phase I.

f} Appointed to Airport Authority the following:

- 1} Wayne Perry – Reappointment to 2-year term
- 2} Orestes Gooden – Reappointment to 2-year term
- 3} Jean Pierre Miller – Appointment of Chairman for 2-year period

h} Appointment to Parks and Recreation Advisory Board:

- 1} Danielle Horwat – Appointment to 1-year term

END OF CONSENT AGENDA

5} REGULAR AGENDA:

a} Authorization of Travel Expenses:

Mayor McLean called upon Mayor Pro Tem Hummer for comments.

Ms. Hummer stated that on the Consent Agenda there were already two requests for attendance at the BEMO Summer Conference in Durham. They were for Mayor McLean and Councilwoman Hill-Lawrence. More recently Councilman Walton requested approval to attend. The balance remaining in Council's travel line item for FY 2010-2011 is \$1,547.64. With approval of these three requests there will be a balance remaining of \$300. We need to discuss that and also on the travel policy there was a brief discussion by the Finance Committee and there was a consensus of the Finance Committee that the total allocation for Council travel which is \$16,500.00 was to divide that by nine which is the Mayor and eight council members. That would give each council member \$1,833.00. Of course if there were any changes during the year that would come back to the Finance Committee and then full Council. That was the second item. Also, there were some questions on some of the travel expense detail report which the Finance Committee had requested. She has a couple and Ms. Meggs had one. There was an item in August of last year for meals and travel to the BEMO conference and she just wondered why there are two in the same year. It was for \$475.00 and it was for Ms. Hill-Lawrence. This may have to come back at some time after Finance has had a chance to look at it. Then on November 10, 2010 several Counselors went to the NCLM Annual meeting and most of the figures for rooms were in the three hundred dollar range except for one which was \$545.23. That was for Mr. Stimatz and she just wanted to mention that it came up in the meeting. She will give Ms. Blanchard a copy when she finishes. Then there is an item on March 11, 2011 and it just says travel to Raleigh and it doesn't say to what. It was for \$171.36 and that was for Ms. Hill-Lawrence. She would like to submit that to the Finance Director and then she can get back to us with further explanation on those things since they were brought up. We need to vote on the requested travel for three counselors as well as dividing the travel allocation.

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to approve the travel requests received from Mayor McLean, Councilwoman Hill-Lawrence and Councilman Walton to attend the summer conference of BEMO. Those voting in favor of the motion were: King, Hummer, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to adopt the change in the Travel Police to reflect that the allocation for Travel be equally divided between the Mayor and Members of City Council with each individual receiving \$1,833.00 for travel.

Councilwoman Hill-Lawrence asked if a council member because a lot of them don't travel if they want to transfer their funds over to someone that does is that permissible.

Councilman Stimatz said that is his question too.

Councilwoman Meggs said that she wants to say that when you look at this sheet and you figure up we have some that has spent \$4000 this past year traveling and going to conferences and things. She is not saying that they were not good and they didn't get a lot from it. Then we have one that has spent over \$2,000. She thinks that when we stop and think that this comes from our taxpayers' money. Is this what you want us to do? She knows of people that have had to borrow their money to pay their taxes and yet we sent counselors to these places that the hotel and so forth are outrageous. She doesn't think it corresponds with what our wealth is in our area. There are a lot of people hurting and we talk about we can't help anybody with their heat and all the other stuff but when we can use this kind of money for travel, then she is opposed to it.

Councilman Walton stated he doesn't think the idea of a person going to another person and transferring is a good idea because issues do come up. Somebody does a favor for him it shouldn't get into the favor business. He thinks if a person needs to go on a trip then it needs to be the consensus of Council if it can be transfer or not rather than going one on one with another person.

Councilwoman Hill-Lawrence said she thinks everything still should come through City Council. Some may just decide to keep it and turn it back to the City. She wants to comment that she is a taxpayer and you are a tax payer even when you serve on Council. She pays a lot of taxes and she might want to take hers and travel with it. We are taxpayers as well. She doesn't think anybody up here will misuse the City's money, certainly not her. She does think that we live in an area and we must come to realize that we live in an area that there are not a lot of resources available to us. We don't have a lot of opportunity for training and development so when we get an opportunity to go some place and learn some things and we need to learn some things about how other cities are operating. She doesn't think we should be denied that because we are worried about funds. We put funds for travel in the budget and if we think it is not valuable then we shouldn't put it in the budget. But if it is valuable and it is placed in the budget then she thinks that Council members should have the privilege and the opportunity of using the resources that are available.

Councilman Brooks said he thinks that Councilman Walton brought up a good point. He thinks that it should come before Council if you use all your allocated

money. If it is over \$200 it doesn't matter if you have the money or not because if Council doesn't approve it you are not going to go. Everything rides on the back of Council.

Councilwoman Baker stated she agrees with Councilman Walton. She doesn't think that we should allocate a specific amount for each counselor. She thinks a lot of council members are on committees and things that have out of town conferences and out of town meetings. She knows when she was on the Legislative Affairs Committee it was a trip to Raleigh and that is several hundred miles and it doesn't take long to add up additional mileage. She thinks we budget for the NCLM and ElectriCities conferences.

Mr. Olson said we have in the past budgeted for those two specific items. He thinks the earmarked items are Town Hall Day, Annual League Meeting and ElectriCities Conference.

Ms. Baker said there are some people that need to travel for the committees that they have volunteered on and they were elected too. Some people don't travel. They choose not to or just don't have committees that meeting somewhere else. She doesn't think it is a good allocation to account for \$1833.00 per council member. Some never hit that. She thinks those three things that we budgeted for and everything else comes before Council. As the newly elected Vice Chair of the Tourism Development Authority she would think she could gain great help for the City by going to the Tourism Conferences. She would like to go to that but she doesn't expect to go without it coming back to Council first. She thinks it would be a valuable thing for people on boards that are allowed to attend these types of things to increase their knowledge and networking with other officials and learning a lot that you can bring back and help your own community. She is not in favor of the allocation of \$1833.00 per council member for that very reason.

Councilman Stimatz stated if it ain't broke don't fix it. He doesn't know what we are trying to do here. If you want to travel, ask if there is money and if we want you to go we will let you go. \$1100 or \$1200 is already sucked up in the NCLM conference and Town Hall stuff and all that is left is \$600 and he doesn't want to have to keep track of that. That is micro-managing. He has been on Council for six years and has never had to worry about this.

Mayor McLean asked if we budget for every council member to attend the ElectriCities.

Mr. Olson replied no as we usually have one or two members to attend the ElectriCities Conference. About three or four years ago we had the majority of

City Council went and that by itself was about \$12,000 because it was held in Myrtle Beach, South Carolina.

Mayor McLean said there are no funds in addition to the \$16,000 that is budgeted.

Ms. Hill-Lawrence said she heard someone mention that there was a question about the \$171.00 spent in Raleigh. This was spent by herself. She will tell you she has \$400 that the League of Cities gives her for travel so just deduct that out of her money. Rich has the contract on that. That is her money that she is given to travel and that is what that travel to Raleigh was. It was to one of those meetings. That is a different budget.

Councilman Brooks said he is for allocating a certain amount if we chose two people to go to the League meeting in DC. When we went to that meeting some cities sent their whole council. His whole thing is we can shut down Council at the next meeting and send our whole Council. We can do that also. That is why he is for the \$1833.00.

Councilwoman Hill-Lawrence said she has to agree with Councilwoman Baker in suppose and we are talking about not transferring money over if you don't use yours but suppose she has more or someone has more to go that is going to cost more than \$1800.

Mr. Brooks said you need to take that into consideration before you get on all those boards because that is all we have allocated for travel. If you know we only have a certain amount for travel don't get on 18 boards that require travel.

Ms. Hill-Lawrence said she doesn't think it matters how many boards you get on it as we should have the resources available. If we go we are not going to party. It should be a work session when you go to these conferences. For her it is anyway. She attends everything that she is supposed to attend and she brings her reports back and she does everything she is suppose to do so she is working. She thinks if she chooses and if someone thinks enough of her to put her on a board that is going to make her City look good. That is what it is about as she wants to make her City look good.

Mr. Olson stated that Council adopted a travel policy a number of years ago and it was amended April 27, 2009. Basically the motion he is hearing before Council right now may be put in the following wording as an addendum after the first paragraph: "Each Council member and the Mayor shall receive an equal allocation of Council's budgeted travel funds."

Mayor McLean called for a vote on the motion.

Roll Call Vote:

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

Motion carried with a vote of 5 yes and 3 no.

b} Appointment to Tourism Development Authority:

Mayor McLean stated that it was recommended that Councilwoman Baker be reappointed to the Tourism Development Authority.

Councilwoman Meggs said that we discussed this in as much as at one time we had this problem with the Airport Authority. If we get things half way during a year then it makes it bad when the new Council comes on and she is not reelected then it proves to become a problem. We discussed it and said let's say until the end of the year and then let the incoming Mayor make the appointment.

Councilman Stimatz stated the Finance Committee was the wrong group to discuss this issue. It is not a monetary issue as it is a personnel policy issue and it is actually the Mayor's appointment. The Airport Authority had to do with not following our own procedures and dotting I's and crossing T's and we had midyear appointments. We didn't do them correctly and that caused some confusion. If you do it then it is not a problem.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. M. Hill-Lawrence to reappoint Councilwoman J. M. Baker to a second two year term on the Tourism Development Authority.

Councilman Brooks said he understands what Councilwoman Meggs is saying because he remembers that nasty fight with the Airport Authority. That was a nasty fight. It was nasty because it was dependent upon reelection. He thinks whether it is McLean or another Mayor to let Jean go until December and then let it be the decision of the next Mayor. It is a two year appointment and she may not be reelected.

Mr. Stimatz said he will amend his motion to read:

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to reappoint Councilwoman J. M. Baker to a second two year term on the Tourism Development Authority subject to resignation if she loses the election.

Councilman Brooks asked what was the problem that we ran into with Councilwoman Lawrence. Maybe he doesn't understand what happened there. If someone would explain that to him that made it so bitter as far as whether she could be appointed that the Mayor is authorized to give. Why was it a big problem then and not now?

Councilman Stimatz asked to explain that. It started when Councilman Lehmann was not reelected. He resigned from the Airport Authority correctly because he was not longer a city representative. Councilman Rivers was appointed in that January and what happened was his term needed to be specified. It needed to be specified that he was filling the unexpired term of Mr. Lehmann. Then in July which is the normal time to make the appointments, the Mayor should have come in with a recommendation for an appointment to the two year term. Subsequent to that, two years down the road, Mr. Rivers didn't get reelected, he resigned. In January of that year, the Mayor appointed him to start. Again, he should have appointed him to fulfill the unexpired term of Mr. Rivers and then in July reappointed him to a full two year term to expire in two years. That didn't happen. Then what happened was Ms. Lawrence wanted to be on the Airport Authority and he doesn't know what really drove this and it doesn't really matter and there was a question and the Mayor decided to take him off in the middle term. Rather than having a big floor fight about it he said fine, no big deal, he will resign. Technically we didn't do the right thing then. In fact, Ms. Lawrence and he had this discussion on several occasions. We appointed her in January and technically she should be reappointed last July to fill the whole two year term. She technically has not been appointed to her two year term that she is currently in. So it is a book keeping problem Michael. This one states clearly if she doesn't get reelected she resigns. The Mayor would come in and recommend someone to fill the unfilled term that she represents for another eighteen months.

Ms. Hill-Lawrence said she has a question. Since it is a two year term why aren't people just straight out appointed for two years. If you are going to be the mayor for two years then you appoint me wherever you appoint her to for two years. You know in two years you may come back and you may not. The other mayor that comes in can choose who he wants. She doesn't think it is fair to Jean to single her out.

City Attorney Morgan said the enabling legislation of each of these bodies requires when the terms begin and when they expire. Clearly with the Tourism Authority the City's appointment as a Counselor is a prerequisite that she or he be a sitting council member. So, if Ms. Baker was not reelected then it would be incumbent upon her to resign and be replaced by someone who is on Council at that time.

Mr. Stimatz said it would be incumbent upon the Mayor to make such an appointment at that time to fill the unexpired term.

Mr. Brooks said is there anything that covers if she doesn't resign then what. You can't force her to resign.

Mr. Morgan said you can force her to resign because it is clear from the Legislation that person who sits in that seat has to be a counselor.

Mr. Brooks said we are going into some deep stuff here because to eliminate all that you just appoint through December and then you don't have to worry about her resigning or not.

Mr. Morgan said it is required that the person be appointed to a two year term in the enabling legislation.

Councilman Walton said you are saying that Council can't undo what they want. Council can undo whatever we want to undo. If that person turns out that person has terrible ethics and even a principal of a school would put them out of that position. He thinks we can overturn almost any thing that we do. He is not saying that the person is unethical.

Ms. Lawrence said she checked it out and they said this can be changed. You can take it to our representative and have it changed. You can change it.

Mr. Brooks said we know with the majority vote Council can do that. We keep acting like we don't have this authority. All of a sudden we get confused. The Mayor can appoint Jean in until December. The next Mayor can put whomever he wants in there. He thinks she should continue to be there until December.

Mayor McLean said the recommendation was to let Councilwoman Baker remain in the Committee's position as a member representing the City. We don't know what is going to happen in December and we are none guaranteed to be reelected in December. Beyond December 31st either way if she is put there with six months or for two years she will be there through December 31st. It is left up to this body and this is not the first time he has had a recommendation pulled from the Consent Agenda.

Councilman Stimatz said he would like clarification on whomever we want to put in there we have to approve them for a two year term regardless that is what the law says. That is the legislation and that is what the enabling legislation says. We are required to follow the law and the law says it is a two year appointment starting one July so whomever we want to put in there has to be a council person, and they have to go in for a two year term. If the Mayor wants Ms. Baker what is the problem in appointing her for a two year term. It must be a Council person so when you lose the election and when you have the swearing in of new officers and that person is no longer a council person then they do not meet the enabling legislation and they can't show up for the meetings as they are automatically out of it and probably the first order of business at that first meeting would be to appoint someone to that position or least the first meeting in January. We have to put somebody in there for two years.

Mr. Brooks stated you can talk legislation all we want to but when we dealt with the Airport Authority we didn't follow legislation then and now all of a sudden we are going back to the rules. He is surprised at Ms. Lawrence because that was a big battle then.

Ms. Lawrence said but she won. She is up there.

Mayor McLean called a five minute recess.

Mayor McLean called the meeting back at order. He stated first of all he wanted to apologize to Councilman Brooks if he thinks he cut him off, he wasn't doing that. He just wanted to move on to try and get some information from the Attorney. Based on what we have just been told is that the appointment has to be for two years. There is a motion on the floor to appoint Councilwoman Baker to a two year term on the Tourism Development Authority. It was seconded by Councilman King.

Mr. Brooks asked what did the City Attorney say.

Mr. Morgan stated the enabling legislation requires that the appointment be for a two year term. Also, though, the person who sits in that seat has to be a council member so should the person who is appointed tonight not be reelected by virtue of the legislation that person is no longer a member of the Authority.

Mayor McLean called for a vote on the motion.

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

C} Sponsorship Agreement South Park Sports Complex:

Mayor McLean called upon Councilman Stimatz for comments.

Councilman Stimatz said he pulled this document because he had a couple of questions. The Finance Committee went over this, correct. His first question is in paragraph two it says, high resolution of electric copy. He thinks that should read "electronically". Quite frankly you need to define the file type. You can run into serious problems if they give you a strange file type that you don't understand or that the printers can't use. You need to define the file type that you will accept. In paragraph three, you say we might be obligated for repair or damage to the advertising panel resulting from vandalism. He doesn't know if you want to put for acts of God, nature or whatever because you will leave yourself open otherwise if a hurricane comes through and tears it up then technically we would be responsible for repairing it. Do you want that responsibility? If you do then leave it the way that it is but if you don't then you need to change it. In paragraph five you say two months and he thinks you need to say 60 days. Two months gets vague. If you mean 60 days then say 60 days. You say from day of signing, is that by when the person submits it or is it when you accept it, i.e. it has to be signed by both parties. He thinks you need to clarify that language. Now this gets really sticky. Are there any sponsor or content restrictions? Ok, so Headlights comes up and says they are going to put a banner out there and they have naked women out there is that going to be ok.

Parks and Recreation Director White replied that it has to go before the Parks and Recreation Advisory Board.

Mr. Stimatz asked the City Attorney that you are talking about advertising in a public space on public property. Is it open to all Mr. Morgan, all content?

Mr. Morgan replied that if it meets the Supreme Court's test for publishable materials and not obscenities.

Mr. Stimatz said we might find it objectionable but we can't turn it down.

Ms. White said there was an ordinance that was adopted in the late 80's about recreation department not allowing beer sponsors and cigarettes sponsors to do team sponsorships.

Mr. Stimatz said he would like that research then. It is a public facility allowing public advertisements by public entities and Supreme Court is pretty hard on any kind of restrictions. Another question is this. Are there premium spots, like center field, right fields, etc. and if there isn't then how do you assign the

location along the fence line. Is it by lottery or first come first serve? He thinks you should put that not necessarily in the agreement or you could put it in the agreement and you need to date and time stamp these when they are received and signed. Someone can come in and say well I was here two hours before him and he wants this location and the other guy says no I want it. You don't want to get into that argument. He would suggest as an administrative thing to set up mechanism for your date time stamp when you sign the agreement. That would be the controlling thing.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker with those changes to adopt this agreement in principle. Those voting in favor of the motion were: Stimatz, Baker, Hill-Lawrence, Hummer, King, Meggs and Walton. Against: Brooks. Motion carried.

d} Community Support Grant Application:

Mayor McLean called upon Mayor Pro Tem Hummer for comments.

Mrs. Hummer stated the City Manager has provided you with a handout for the Community Support Grants which use to be called the non-profits. It is a work in progress but we wanted you to see it tonight. He plans to send the applications which are a part of this handout out to fourteen applicants so far and she believes there was one more tonight and this person would have to also be sent an application. Everything will be explained to them on what they need to submit and then we will most likely have a Special Meeting in August to take care of these applications and these requests. When this document is finished then we will vote on it then.

Mr. Stimatz said this is all done on a reimbursable status, correct. You reimburse after the fact.

Mr. Olson replied yes

Mayor McLean asked each council member to review this document and get your comments/questions back to the City Manager by noon July 1, 2011. It is very important because if you have agencies that you wish to support and you see something in this document that will prevent that you need to make sure you bring it to the City Manager's attention.

e} Inspection Department's Positions:

Mayor McLean called upon Councilman Brooks for comments.

Mr. Brooks said he placed this item on the agenda and he would like to have Mr. Olson give an update on what is going on with the Rental Inspections.

Mr. Olson replied as Council may remember the Legislature did pass a Bill that will limit our ability to continue our Rental Inspections Program as it has historically been. The Legislature grandfathered the City of Elizabeth City in under the Legislation that was approved however; the maximum we can charge is \$15.00 per residential unit. Right now we are charging \$25.00. If you have more than four or more the most you can charge is \$50.00 for the entire application. If you have the Tanglewood Apartments that have 180 units we would get \$50.00 total for the entire application process. We had budgeted about \$90,000 in anticipated revenue in that line item. We have not done the exact numbers but we now anticipate that will drop to \$30,000. It will not be enough to support one Rental Inspector's salary. Staff still needs to run the numbers on that. We do not know whether or not the Governor will veto that particular legislation but if she does veto and based on the numbers it was passed in the Legislature they can easily override her veto. We are anticipating that the legislation will become law.

Mr. Brooks said he has a problem in that we gave \$30,000 to non-profits when we are on the point of losing an employee. We are in a recession and we just throw \$30,000 out to non-profits. We could have kept it at \$20,000. We just gave away \$30,000 to non-profits and one of our employees is about to lose their job. He would have never voted for it as he thought it was wrong then and he still thinks it is wrong now. Try to put yourself in our employee's position where we can give away \$30,000 and they are about to lose their job. There was nothing wrong with the original \$20,000. Now we are going to go through the process and see how we are going to disperse that. That will be a nasty fight. Put yourself in that employees' position as they set there and see you just give \$30,000 when they are about to lose their job because of the Legislature. What he is saying is this is a bunch of non caring folks when it comes to the employees in that nature. We need to start thinking about how we just give away money. It is good to talk about and try to make yourself sound intelligent but he is dealing with real situations. These are real situations and people are losing their jobs and we are still hurting but we just give money away. He wasn't here to vote on it and maybe he shouldn't say anything about it but the fact is that those that vote on it need to reconsider some things. That is why he asked to put it on the agenda. When he read the article he found out that we had just thrown \$30,000 extra to non-profits. That is disturbing to him and whether it disturbs anyone else it doesn't matter to him. He ran for Council so he could serve the citizens of Elizabeth City and his job is also to look out for the employees of Elizabeth City.

Mr. Stimatz asked if we require privilege license for our rentals. Is there any reason why we couldn't?

Mr. Olson said he would check into that.

Councilman King said he thinks we have brought the standard of living for some of our citizens up. These guys come in and he has rentals and they don't treat him no different than nobody else. They come in and say this or that has to be done. With the rental program it gives people somewhere decent to live. He thinks this Council should do everything possibly can to hold on to these two inspectors so we can maintain a good quality of life for our rental residents.

Mr. Olson stated he is looking into this situation and he will bring it back to the July 11th meeting.

Councilwoman Lawrence said she is the one that requested the park but when it comes to someone's job she would forfeit repairing the park and let that money go to the employees.

Councilwoman Baker said she hates to see any employee lose their job but nobody wants to see several hundred children to go without services and educational opportunities, recreational opportunities that these non-profits provide. Don't dish us.

Mr. Brooks said we have been giving non-profits \$20,000 for the past four years and now we are in a recession and we are going to up it \$30,000. These organizations were doing well with the \$20,000. They are not suffering. He has only seen one non-profit to come up here and say they are having problems paying their electric bills.

f} Update on Hayes Iron and Metal:

Mayor McLean called upon Planning Director Brooks for comments.

Ms. Brooks stated we know that they are still looking for a new site. They do not have any active applications at this time with the County or City but last conversation with them they are still looking to move. She went by there today and it appears that their amount of recyclable goods is shrinking. It still looks the same but not the volume that we had before. It looks like they are going to be with us a little bit longer.

Mayor McLean said he would like staff to look at any ways that we can help them relocate a spot that they can go in that would not be offensive to our citizens.

Mr. Stimatz asked why haven't they reinstalled the fence.

Ms. Brooks replied that we will be addressing that with them.

Mr. Stimatz said it has been almost a year. Why does it take a year? It has been almost a year since we moved them off the other three lots and they still don't have the fence up. This is an issue that he has. You talk to staff, tell staff and you talk to the Manager and there is no action. That is what his constituents see and that is what he continues to see. When he was told to move off the three lots the fence should have been up the next day. His concern is this as long as you continue to call him a recycling operation and there are specific guidelines for recycling centers in the City wherever you put him he can put up that garbage mound and spread it out in any neighborhood he wants. One thing you need to look at is having some recycling center rules so we don't have to ignore the salvage yard rules which are what they are.

h} Update on 1165 US 17 South Drainage Issue:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated this item we have discussed on several occasions and it deals with a drainage problem that is location on US 17 South at the very southern end of Elizabeth City.

Public Utilities Director Fredette stated we inspected the property and there is no question there is an erosion problem that is significant in that area. There is no question that the people that own that property are victims of a public facility to move water. But, as we looked into it we also found out that their property line is the city limits. The real drainage problem is of course outside the City and most of the contributing water is outside the City. More importantly we found out in 1969 the State DOT bought a drainage easement actually on the adjacent property. It was purchased and it was constructed or widened to handle the water presumably in anticipation of four lane widening of US 17 South. All of the 600 acres that drain into it is a small portion that is city water. We have very little contribution to it. We didn't construct the drainage facility. The State has been out there and talked to the residents and told the residents that they disclaimed responsibility. In correspondence that the Manager received earlier this month the State said that they would accept responsibility for about one third of the construction costs. As we look at it construction costs are significant. The design costs are significant as well as permitting costs are also going to be significant. Staff's recommendation to Council is that we don't have a responsibility there and we should not accept the responsibility for that drainage way and that we should continue conversations with the Department of Transportation regarding that facility.

Councilman Brooks stated when the issue first came about the property at 1165 US 17 South he brought it before Council. Some council members went out there and looked at it and some didn't. It is in the Third Ward off 17 South and when the residents called him he was really amazed because sometimes people over exaggerate the severity of the problem. In this case it wasn't that. It was more severe than she could ever express. His problem is yes before her property was annexed into the City it was in the County. She had the County Manager to go out there and he said that they weren't going to do anything. DOT will not accept the responsibility. So, when she was annexed into the City and she called him he found it amazing because first of all someone is responsible. He doesn't care how much of it is in the city. Her house is in the City limits. The problem he has now is we are in the hurricane season and that ditch is eroding her property. At the consensus of Council we said that we would do riffraff. The amazing thing with that is we had a hydrologist from DOT and we were waiting on that for half a month. They finally came back and started talking about this much soil is disappearing and then they talked about the cause. The City Manager was telling us maybe we could fix it with the riff raft and we wouldn't have to do that much expense. Now, here we go today. This immaculate written letter. The drainage area that is tributary to the drainage ditch in question the 600-800 acres less than a hundred acres drainage tributary to the ditch is in the City limits. So, what we are saying is it is ok. A portion of it is in the City and we are not going to be concerned. We are going to make DOT do their job. Then at the end and the last paragraph he is really impressed with. In any event, staff agrees that the Barcliff property should be restored and that the Barcliff's have no responsibility for the damage that occurred to their property. On the other hand staff believes that the City has little or no responsibility to participate in the cost sharing of corrective action for the project. He has a problem with that because as a Council we already had agreed by a unanimous vote to fix her property. Because we are in the hurricane season we don't know how much rainfall we might get or might not get and that will cause further deterioration of her property. It is already about six inches from falling in. He is listening to what staff is saying and they are saying ok we are going to get with DOT. We are going to play around with DOT until they pay for the project because of this design. It doesn't make any sense. Again, he says the citizens are the ones suffering for this while we are playing tit for tat. He has seen some projects that we have done that we say we will take care of the project and send them a bill but we are not doing that for this although Council already voted unanimous that we need to go ahead and fix the project. No paper work that you can give him will make him understand how we as a Council giving authority under North Carolina General Statute say ok fix it. We agreed unanimous vote and now we are saying that we think that DOT should do it. For what reason you didn't get involved with it to start with Mr. Fredette he does not know. But, it would have been a lot better if you had. To him this is just a stall and delay. He doesn't know how anybody else looks at it

but if you go out there and see her property you don't want to keep delaying and postponing as it is a severe problem that we are thumbing our noses at because she doesn't have the money to do it herself. She is a taxpayer and she lives in the City limits so why aren't we doing what we voted to do for these residents. He doesn't understand.

Councilman Walton asked how much would it cost to have this fixed.

Mr. Fredette responded that a preliminary cost estimate would be from \$75,000 to \$100,000.

Mr. Brooks asked what happened to the riff raft that we were talking about earlier. We talked about that and it isn't like this just came up. He is not an engineer but he does know what we discussed.

Mr. Fredette said several years ago the State attempted to fix it with riff rapt and it failed. Right now if we look at the erosion there is no banking left to riff rapt. Pat McDowell and he are not convinced that any amount of riff rapt would solve the problem long term. We have offered two recommendations. One is a culvert approximately 200 feet along with a cross section that would be large enough to match 4' x 6' box culvert under US 17 plus accommodate drainage flows along the easterly side of US 17 both north and south of the existing drainage ditch. A second option would be to relocate the ditch approximately 25 feet in a southeasterly direction with the existing DOT easement. Both are expensive pieces of work.

Mr Brooks said his thing now is the time frame. If the City tried to impose upon DOT to take care of the majority of the responsibility there is no time frame that DOT will say they will do it. That is the problem they are facing. All this will tell you how quickly the property is being eaten away. You know when you start talking dollar signs DOT is going to claim broke and the City is going to claim broke and in the maintain a taxpayer's house is about to fall in a ditch that she has no responsibility for.

Mr. Fredette said the claim of emergency he agrees that it is an urgent situation but the flipside to say the sky is falling today remember that this problem started 40 years ago.

Mr. Brooks said it is ok. He is not trying to give you an immediate answer because there isn't one. What he is saying is it doesn't matter if it started 3000 years ago what he is saying is now we are looking at the problem and he wants to go from where we are to taking care of the problem.

Mr. Olson stated that what we have done so far is we have engaged Pat McDowell. We now have a cross section that we can meet and discuss the issue more intelligently with DOT and also their hydrologist. You see the cross section included in the drawing and it is very alarming. He believes the Barcliffs do have a course of action against the State based on what he sees here. The State has not adequately addressed the drainage issues over the number of years and he has no problem of city staff being an advocate for the Barcliffs before DOT. As you can see from the cross section it is very alarming what has occurred over 40 years. The existing ditch has tripled in size. The depth has probably gone down three or four feet from that DOT had set the depth elevations.

Mr. Brooks said since the City and the State is aware of this situation what happens if something drastic happens to her home or one of the individuals get hurt in that house because of the problem that the City and the State know about

Mr. Morgan said that the ultimate liability would lie with the entity or entities as the case may be who were responsible for causing the damage that led to the house falling in the ditch or whatever. Based on what he has observed in his limited knowledge about the situation it certainly appears to be an issue that the State is largely responsible for. Ultimately in his opinion the responsibility would lie with the State. The City only annexed the property and as far as he knows that is the only involvement that the City has had. It appears that the ditch as originally constructed lies outside the city limits. That is a relevant, pertinent fact.

Mr. Olson we will have a meeting with the District Engineer and if we have to we will get the District Engineer down here and have these discussions with him. Now that we have more detailed surveys and information that Pat McDowell has provided us he thinks we can make a very strong case with DOT to address and solve some of the problem.

6} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

City Manager Olson stated he had no further comments.

Mayor Pro Tem Hummer said she would like to thank Chief Crudup for assigning an officer to her sector of the Second Ward. He came and spent some time in the neighborhood and introduced himself and she really appreciated it and hopefully will help matters.

Councilwoman Baker said she has a couple of items. She had a complaint about water pressure on the 300 block of Main Street. They can't get water out of their hose and they are concerned about the fire hydrant. She had a complaint

from a customer who received multi bills. Different service addresses, same last name and they are related but the due dates are different and they were sent to the billing address instead of the service address. They complained a couple of times to our Customer Service Department and their solution was to tell them to get an additional PO Box which she hated to hear that and it is not a solution. She doesn't know if we routinely send them to billing addresses instead of the service address. The only other thing she has is County Manager Randy Keaton's FYI they got a 50 kW diesel generator and equipment building from Version. Don't we lease space to Version on our water tower?

Mr. Olson said we do and they have provided us the building that they are vacating behind city hall.

Councilman Brooks said he has received some good feedback and he doesn't know what you are doing on Speed Street but he got some good feedback. That is a good report.

Councilman King said he has one thing. The completion of the fence on Herrington Road when will that be finished?

Mr. Olson replied that there are some legal issues associated with some property there.

Mr. Morgan explained there were some adjoining parcels there where portions of lots had been conveyed to a joining property owner but there was a 25' strip of land that was left without a record owner and that is what has delayed the construction of the fence. We need to make a corporate level decision to go ahead and install the fence. He will talk with the Manager about that either following the meeting today or tomorrow and try to get something done.

Councilwoman Hill-Lawrence said she wanted to thank Mr. Olson for coming to their first community meeting last week. She also wanted to thank Councilman King and the Mayor for being there. We got some real positive feedback from the group that was there. They really had a good time sharing with the elected officials and the city manager. We are starting our Community Watch Group and Councilman King is assisting us in making that a reality. Our next meeting is July 17th at 7:00 p.m. and we invite all city council members to come to our community and our Ward.

Councilwoman Meggs said we have a problem at First Methodist Church in the play area. We have a fenced in playground and we could lock it at night but then they would climb the fence and mess us the fence plus the children in the neighborhood could not get in to play. At night we have homeless people that go in that ship thing and spend the night there. They leave it in a mess. There

are unmentionable things that she cannot mention in public that are left there. There are men and women both in there. Our teachers have to go out and clean it up every morning before the children come.

Councilman Stimatz said he wishes everybody a Happy Fourth of July. He has made his annual donation of \$500 to the fireworks fund. He knows they are in need of funds as we are a little short this year. Dig deep all you Council members. It is a great event celebrating our Country's birth and the continued freedom that we all enjoy. To him it is worth the price and he hopes all of you will be there. Are we going to have the collection jars at the collection places? He hopes that the Daily Advance will let people know that this is a great tradition but it takes money and it would be helpful if they would put their dimes and nickels and quarters in that pot so that we can keep doing this. He can think of no better thing to be doing that celebrating Independence Day in America. He has a hard time finding anything else he had rather be doing. He urges everybody to come and to support it with your presence and contributions.

Councilman Walton stated that someone was supposed to bring back information about the lightning in the City, the dark spots, etc.

Mr. Olson said it was the alleys and Councilman Walton did mention College Street. He has some information and he will provide that to you.

Mayor McLean said first of all he wanted to thank City Council for all the work that you do as well as all the staff and members of the community that has stayed with us tonight. We need to save our Post Office downtown. We really need to continue to work on that. He did a photo opt with Ms. Jane Culpepper and Ms. Smith as well as Ms. Charlotte Clark. He thinks they have given us until July 28th so you need to make contact with our representatives. We don't need to lose our Post Office downtown. The Fourth Ward community meeting was really a good meeting and he enjoyed it. These are the kinds of things he does on a daily basis. He attended the Little Miss ECSU Alumni Pageant yesterday. There is also a seminar that is going on that is called Pearl. That is a good program. He has got to give Shirley Meads and Mr. Ralph a lot of credit as Meads Pool is jumping. They did that without our support as well as the County's support and that goes to show you what people can do when they set their minds to it. They deserve a lot of credit. He is hoping that in some way we can find a way to help them to move on with that program. Juneteenth was a good celebration at the Waterfront. He thinks everybody had a good time. He attended two banquets and he knows that Mayor Pro Tem Hummer attends a lot of stuff for him but he thinks she turned her telephone off last week. He attended a banquet for the National Association of Negro Women and the National Council of Negro Women. Someone talked about the smell in the water. He doesn't know what is causing that but we need to fix it as that is a bad smell.

He thinks he heard someone say it was being caused by being at the end of the line. He must be at the end of the line then as it will almost knock you out. He is hoping that it will be fixed. We want to send condolences to the family that lost their ten year old son recently in an automobile accident. Another thing we need to look at is the proposed splitting of Pasquotank County. We need to come up with a statement on that so that Council can review it. We have not made an official statement and we need to know the pros and cons. He is going to try to come up with a staging place for the Council to meet on July 4th.

7} ADJOURNMENT:

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

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

Mayor McLean adjourned the meeting at 9:21 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Roger A. McLean
Mayor