MONDAY-7:00 P.M. AUGUST 11, 2008 CITY COUNCIL

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

Mayor Atkinson opened the meeting by welcoming those attending. He called upon Pastor Ernest Sutton for the invocation after which Boy Scouts Troop 175 led the Pledge of Allegiance to the Flag of the United States of America.

1} AGENDA APPROVAL:

Mayor Atkinson called for action regarding the prepared agenda.

Councilwoman L. A. Hummer asked to add to the Consent Agenda as Item #9-f, Easement Request from Embarq.

Councilman J. A. Stimatz asked to add to the Regular Agenda as Item #10-e, Appeal Decision for any Sub-Recipient.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to approve the prepared agenda as presented to include the above noted items. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

2} APPROVAL OF MINUTES:

a} Budget Work Session – June 2, 2008

Mayor Atkinson called for action on the June 2, 2008 Budget Work Session Minutes.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman D. B. Evans to approve the June 2, 2008 Budget Work Session Minutes. Those voting in favor of the motion were: Baker, Evans, Hummer, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

b} City Council Regular Meeting – July 30, 2008

Mayor Atkinson called for action regarding the July 30, 2008 Regular Meeting minutes.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve the July 30, 2008 Regular Meeting's minutes with minor corrections. Those voting in favor of the motion were: Stimatz, King, Baker, Evans, Hummer, Meggs, Rivers and Watts. Against: None. Motion carried.

3} CERTIFICATE OF APPRECIATION:

Mayor Atkinson presented a Certificate of Appreciation to Captain Mark Rose and Captain Michael Andres of the US Coast Guard Base. Each gentleman will be leaving their post here in Elizabeth City to move on with their careers.

4} PRESENTATIONS:

Presentations from the Special Olympics were presented to the Mayor, Manager and several members of the City Staff for their assistance with the Bocce Ball celebration.

5} COMMENTS FROM THE PUBLIC:

Mayor Atkinson called upon City Clerk D. S. Pierce-Tamplen for the number of speakers signed up to address City Council.

Upon a reply of three with one giving their three minutes to the first speaker, Ms. Pierce-Tamplen called Ms. Rogelyn McLean, 1001 Pennsylvania Avenue, Washington, DC to the podium.

Ms. McLean, Counsel from Crowell & Moring Law Firm, and she represents Hugh Cale OIC and she spoke not on behalf of OIC but she wanted to make clear to the Council that she as well as the NC DOJ and the Division of Community Assistance of the North Carolina Department of Commerce are eagerly awaiting the notice of appeal that they filed on July 7th of this year. She also would like to make her intentions clear on what we mean behind that notice of appeal. Her

client, OIC, has received $25,000 from this Revitalization Strategies Grant. That is the first thing that she wanted to make clear. Most recently when Council voted to terminate the lease agreement she would like for you to put that on her shoulders. Again, the Council set a two day deadline for her to respond to the Council to say whether or not we would agree to the particular auditors that the Council had put forth. But, prior to then and always OIC has always been agreeable to an audit. She told Mr. Morgan, Mr. Olson and the Mayor this on April 8th and that has always stood. When the Council voted not to continue with those negotiations it was because Mr. Morgan had written her at a time when she was out of the office and she told Mr. Morgan this. We disagree on whether or not he remembered whether or not she would be out of the office, but put that on her shoulders. The first and only thing that she would like for all of you to know is that Hugh Cale OIC at least since her conception of her re presentation of them and based on her research has always been open to an audit of this $25,000. It has never changed. The idea that the sub-recipient agreement is separate from the lease agreement is not true. There has been a time when Mr. Morgan and she have agreed on this and today we are disagreeing on this. She does know that the only thing Hugh Cale OIC is receiving under this lease is the building. The only thing they are receiving under the Sub-Recipient Agreement is the building. They cannot be separated. Therefore, whenever the Council does solidify its appeal procedures we will be moving forward on the premise that the Sub-Recipient Agreement and the Lease Agreement are one. She wanted to make clear to everyone that is not a far fetched idea. The only thing that Hugh Cale OIC is receiving under the Sub-Recipient Agreement is the occupancy of the building. For the Council to undo the lease is to undo the Sub-Recipient Agreement. One of the things that she is the most concerned about is that in the future not only the NC Department of Commerce but also the City will want to go back to HUD for more money. She does not want to be the one that goes back to HUD and say don't give them any more money as they wouldn't hear our appeal. The Grant says that they have to have these appeal procedures in. She can't get a response. She does not want to be the one that goes to the Federal Government to hurt a City that she use to be a resident of and a city that her Father is still a resident of. Regardless of how persons see her contact or see OIC that is where she will have to go and not where she wants to go but what the regulations say is that before she can get to court she has to exhaust all of her administrative remedies. That means before we can go anywhere she has to go to HUD and plead her case which of course does not go well for DCA as far as the State, for Elizabeth City as far a City or for her client because they too depend on these funds. She wanted to make sure that everyone knew what we are proceeding under and exactly what they want. Possible two weeks ago she invited both the DCA and the City Council appoint some people and sit down and lets talk about this because again the audit that the lease was terminated because we wouldn't do that audit is under way right now. Once that audit is done, all of us, including every council

member, every citizen will see that her client has received $25,000 since 2003. She does not want to take this any further than $25,000. She wants to sit down and make everyone secure and everyone confident that we can move forward under this agreement and take care of these kids that heretofore have been nowhere in these conversations.

Mr. Richard Gilbert was called to the podium but Mr. Gilbert had left the meeting.

6} PUBLIC HEARINGS:

Mayor Atkinson advised that the hour was at 7:30 p.m. and we will go right into our public hearings.

a} RZ-03-08 – Rezone 706, 708, 800, 802, 804, 900, 902 and 904 Southern Avenue – Dolphin Docks Development.

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

Ms. Brooks stated that the applicants, Alice Redding, Bart Van Nieuwenhuise, Joe Lynn, Lilly Gilbert, Linda Hayden, Richard and Neal O'Daniel request to rezone eight parcels on the east side of Southern Avenue consisting of 2.61 acres from R-6 Residential to O & I, Office and Institutional. In addition to the rezoning to O & I, the applicants are requesting that City Council reduce the minimum amount of required parking and setbacks. This site is adjacent to and south of Dog Corner Park and abuts Charles Creek. Surrounding land uses include single-family to the west and east, a park to the north and the City's basketball courts to the south. The parcel currently has seven residential structures located on them. If rezone, the applicants propose to demolish six of the structures and redevelop a portion of the site in a mixed of commercial and residential uses. The residential structure owned by Dr. Linda Hayden next to Dog Corner Park will remain and continue its residential use. The current zoning R-6 classification is primarily intended to accommodate a variety of medium density single family, two family and multi-family dwellings. Limited neighborhood retail stores are permitted with the special use permit. The O & I District is primarily intended to accommodate office, public institution, business, professional and personal services with limited retail support. The maximum density minimum setback and on site parking requirements will be determined by City Council. The applicants have presented a conceptual development proposal in your packet that shows a four-story mixed use project with sixteen retail units on the first floor and thirty residential units on the second, third and fourth stories and a public boardwalk access. The applicants have also proposed using some of the park in Dog Corner to meet their minimum parking requirements. The City does not have conditional zoning and the property owners are under no obligation to adhere to the sketch plan once the rezoning is approved. When making a determination as

to approve or deny rezoning requests Planning Staff considers the area's zoning pattern adjacent land uses, the Joint Pasquotank/Elizabeth City draft Land Use Plan and the impact the zoning will have on the adjacent property owners and neighbors. In this case the residential component of the proposal complies with current land uses permitted in the R-6 Zoning Classification. Introducing non-residential land uses south of the intersection of Water and Shepherd Streets is unsupported. The current land use trends and draft Land Use Plan describe the intersection of South Water Street and Southern Avenue and Shepherd Street and Riverside as an obvious line of demarcation separating the retail commercial activity downtown and along the waterfront from residential activity to the south. The physical separation of this property from the downtown waterfront properties does not contribute to the economic rejuvenation to the downtown community. At the Planning Commission meeting adjoining residential property owners on the west side of Southern Avenue were opposed to this rezoning. They were opposed to the introduction of commercial uses on this side and to a four story structure which would encumber their view shed of the properties and to the public. Reference made in the applicant's application relating to the waterfront overlay district is not considered valid by Planning Staff. City Council tabled the waterfront overlay district discussion in 2003, thereby making this a moot point. Staff is also of the opinion the information regarding CAMA Urban Waterfront Rules and the 30' buffer rule exemption does not apply in this case. Discussions with the City's ECDI Director confirms that the subject property is not or nor has it ever been considered a part of the Central Business District or is considered a part of the City's Business District. Planning Staff does not support this rezoning request. At the Planning Commission Meeting there was lengthy discussion concerning this rezoning and the development of these parcels. Planning Commission voted 3-1 to approve this rezoning without any reductions to the setbacks and minimum parking requirements.

Mayor Atkinson declared the meeting into public hearing for consideration of RZ-03-08.

Ms. Pierce-Tamplen called Mr. Bart Van Nieuwenhuise to the podium.

Mr. Van Nieuwenhuise, Maverick Consulting, LLC stated that the developers of the Southern Avenue Property adjacent to the Dog Corner Park invite you to share in their vision of adding a quality development to the Downtown Area and take another step in sparking the revitalization of the Brown Street area. His reference to the Downtown Area and this being within the reach of the Downtown Area is really predicated on a number of issues but one major one is it is only 500' from the new Museum of the Albemarle a beacon of tourism and the center piece of the downtown area. The rezoning request of the O & I designation is a natural geographies and logical step in this direction. An addition to the area that brings quality residential and selective retail

development to an area in need of revitalization fulfills the goals of the City's proposed Comprehensive and Land Use Plans. He will note that the City does have a proposed Comprehensive Plan and the current Land Use Plan that is being quoted by the Planning Staff is a draft.

The development fulfills these goals by providing a quality development that improves the vitality of the Downtown Waterfront area while adding the waterfront goal by the provision of a public access boardwalk that brings the property to serve as a bridge between the two parks. The goal of the Land Use Plan is to provide appropriate use of land in areas of the City. The actual uses shown on it are never meant to be static but should adjust to the overall intent of the plan. The natural and systematic extension of the adjacent O & I District in combination with improving the value of the adjacent Brown Street Revitalization Area conforms to the living document intent of your Land Use Plan.

In summary, of those items, the development proposed and the zoning designations requested achieves numerous City goals. The goals it provides are as follows: 1) increased waterfront access to the general public and whether one agrees with the downtown designation on it or not, it is waterfront and has been recognized as waterfront by the fact that the City has been willing to consider acquiring the property not once but twice for a waterfront park; 2) increased waterfront downtown living opportunities giving it is only about 1000' from the Waterworks Area which is part of the downtown. The fact that you are connecting waterfront property only beckons for it to be a portion of the downtown; 3) revitalization promotion of the Brown Street Area; and 4) compliance with the City's proposed Comprehensive and Land Use Plans. An added benefit of the plan is the sixteen-fold increase potential in the ad valorem taxes collected for the property.

The facts that justify the rezoning are evident and in the best interest of the City. The developers request your approval of the O & I designation with a maximum density of 50 condominium units (residential and retail) with the requirement to meet all other city standards. We have no intent to not meet the parking requirements or not to meet any setbacks requirements. That was actually for a point of discussion with the Planning Commission.

The presentation that he presented that is in your folder is a fact sheet of ideas and things to discuss in regards to the project. The zoning issue, density issue, the setback issue, parking issue, landscape buffer issues, plan review and procedure issues and the development cost in ad valorem value. He could set up here and focus solely on the zoning issue which is really the issue that he is asking for tonight. But, without touching base on some of the other issues because of our presentation to the Planning Commission issues of the parking and setbacks came out. We were also asked to provide sketch plans and a detail

of our plans to an extent that is usually is not required for a rezoning. He thinks that it is imperative that you understand how those things transpired. The zoning facts are that the current zoning is R-6. The proposed zone is O & I. The surrounding parks are all currently O & I. The adjacent O & I on Charles Creek Park abuts our property or the zoning for our property. Waterway and a road right-of-way are no impediment to that adjacent delineation. The Museum is in the Central Business District. Again as he said only 500' away. Adjacent residential is R-6 but was developed prior to zoning rules adoption. Majority of the houses and structures in this area are either modified or currently existing in their state as they were probably built between 1900 to 1940. There are not many structures in that area and you can drive it to see that are new and totally renovated. Some revitalization of the older structures has taken place. The area is unstable with many under valued and deteriorated properties and he notes that because the Planning Staff recognized that it was a stable community. He bought his house in 1995 and through the time period of 1995 to 2000 when he lived in it, gun shots at 2:00 in the morning were common place. Vagrants or people knocking at his door for money were common place features. The fact is right now with the fact that he does not live in it; he has vagrants that come to live in it from time to time. The area is not stable. There is drug business in the neighborhood and that was evident when he lived there. The area has a mixed of retail uses. The Brown Street Hugh Cale area that is adjacent to it has a mixed use of residential, commercial and institutional uses. It is inner mixed almost like it would be in the downtown district. The O & I is an outright compatible with the adjacent uses and a natural extension of the surrounding zone in regards to being a buffer which the O & I is designated as between a very high intense use of Central Business to a lower use of R-6. The O & I is a natural delineation. The other aspect that he must present tonight in regards to that is that on May 11th when he was putting together his presentation of his zoning application, he talked with Ms. Alice Redding of her discussions with the Planning Director June Brooks in regards to what our zoning options would be. After talking with Alice he gave June Brooks a call and he asked her what about the Waterfront District. It hasn't been established yet. What about extensions of the Central Business District. The City couldn't go along with that and would not feel that was compatible. She did state to him when he asked what about O & I. She said that would be compatible to the adjacent land uses and also would be something that the City could go along with. Since that phone call, the Planning Staff has certainly not gone along with it. The density and use facts that are presented on the next sheet of the presentation is R-6 zoning regulations allowing maximum units (20) for the density table of your zoning regulations of 9-4-1 only allowed retail use in it without Council approval is convenience stores. There are other uses with the Conditional Use permit that are allowed. The O & I zoning regulations request from us is a 51 residential unit, 50 as requested in the letter is fine but that is a maximum utilizing the apartment district density in the Table 9-4.1. You do not have a matrix in the

table for O & I. It is required for Council to set the density in the O & I District. It allows numerous retail uses. Our retail uses would focus on more tourist oriented and was also presented to the Planning Commission which he would say that we agree with their favorable recommendation for approval to allow the O & I Zone with requirements to match all city standards with the only thing that the requirement density to be set by Council. The Planning Staff recognized that our water setback does not meet the 30' minimum requirement of CAMA. If you take a scale to this drawing or any that are in your booklet you will see that the 30' minimum has been provided everywhere from the water. We have every intention of meeting the CAMA requirements because a major CAMA permit would be required for any of this project whether it be R-6 or under the O & I District. The 30' and the mention of Dr. Hayden's property not being part of this project are not correct. Dr. Hayden requested from us and she signed on with the O & I District with us, but she requested that for the time being that we don't include her property in the sketch plan use but that property is part of this rezoning and it would be eventually a part of the re-subdivided or combination of the eight properties. It is not the intent to leave that house as a single residential unit through the process of developing this property. She said that she has the need to live in it for a while and she would like for us to try to accommodate her. In that regard Building A is position to allow that. It can be moved 30' to the south to accommodate the setback requirement. The sketch plan in other words has been designed to meet all current setbacks of the O & I zone and the R-6 Zone also requires the same setbacks. Parking facts are the Planning Staff review utilizes the ultimate build-out of what we proposed with the most intensive use. The Sketch Plan Design does provide 61 spaces. The Hayden property can be utilized to allow 22 more spaces. More importantly the final site plan modifications could allow additional spaces and any final plan would require compliance with parking standards and it would be our intent to meet them.

Landscaping and buffer facts were one. The proper space has been provided to allow compliance with city standards. The Sketch Plan is an idealistic view of development scheme to provide overview for rezoning request. The actual plan would require Technical Review Committee review and approval to meet City standards (building permit application would require site plan to meet all requirements.)

In recognizing the review process for a detail review rezoning concept plan and intended use. That has been provided. We went far beyond the requirements of the application. The O & I requires review of certain uses only after submittal for Conditional Use Permit (this takes place after the rezoning & reviewed for its own merits). The final plan review for City standards is handled by Technical Review Committee and a major CAMA Permit review for this property is required

before submittal to the City. The Plan approval would require compliance with all design standards and again we intent to meet them.

He would like to compare the development costs and the realization of the economics of R-6 verses O & I. The building costs for 46 units is $3,672,000, the site work is $350,000, landscaping is $80,000 and a predication on this O & I Zoning from our standpoint and when he tells you he is going to do something he will deliver and do it. None of us involved in this rezoning or the project or the people that are going to present after him are going to put this in their mouths and not follow through with it. We will develop a streetscape in front along Southern Avenue and we will provide a public access boardwalk along Charles Creek which is ultimately the thing that complies with the Land Use Plan and the Comprehensive Plan and the Waterfront access and the need to require the property for a waterfront park. The total costs in this endeavor are estimated at $5.8 million. The sales ad valorum value of 46 units at $180,000 is $8.2 million. The current ad valorum tax value to the City is $454,000. That is a 16 fold increase in ad valorum taxes collected by the City. The R-6 costs for 20 units have a total cost of $3.5 million and a total sale of $3.6 million. Though the cost analysis here does not include the cost of the streetscape or the boardwalk because as a developer if we look to develop as R-6 we would not provide the public access boardwalk or the streetscape because it is not cost effective.

He went through some pictures that showed the concept of the proposed boardwalk. This one is in Mobile, Alabama and the boardwalk is what we wanted to highlight as the type of boardwalk that is predicated on this design.

As he went through some of the pictures again he would like to share this vision of this proposed development and us producing a quality waterfront development that adds to the quality of the downtown experience. The commercial portion is only needed to add to this quality and the area's vitality. The developer has stated to the Planning Commission that the proper proportion of this segment is what is essential to the success of the project. This success would be obtained by limiting the commercial portion probably to only eight units on the first and second floor of Building A. The remaining units would be dedicated to residential units in both Buildings A & B. The density allowance with the O & I zoning designation is not the same as R-6. The density matrix does not exists in the Density Tables and therefore set by City Council. The zoning request is compatible to the adjacent zoning of the parks and a natural logical extension based on Planning and Land Use standards. A logical extension includes the fact that Dog Corner, Water Front and Charles Creek parks are all zoned O & I. Extending an adjacent zoning district to an area is a common practice and compliance with the intent of your proposed Land Use Plan. It is also a sound planning principle. The practice has been utilized by Elizabeth City

to expand commercial areas that are shown on its Land Use Plan as residential. In regards to this he would point to the fact the corridor of Halstead Boulevard. As land use becomes more prevalent in commercial use because most of that land was agricultural ten or fifteen years ago and you envisioned a land use plan you picked the land adjacent to the corridor to be only retail and commercial and you leave what is behind it as residential. As it develops that intent changes and it has a history of being done along Halstead Boulevard with that property behind that originally wasn't in your Land Use Plan is now zoned commercial verses residential. The natural extension is the fact that O & I District now exists south of Shepherd Street. They want to say that to extend the O & I District is beyond what should be done. The O & I District does exist in your parks from Shepherd to the last three properties you acquired and it exists in Charles Creek Park, all south of Riverside Avenue. Drawing a line in the sand and saying it can't go beyond that isn't sound planning principles. Again, it is a living document and is meant to expand with the goals and visions of the City. He is asking you to join us in that vision.

Recognition of the property as part of the City's waterfront and connectivity to the City's Central Business District. How have we made that case? Planning Staff says that we haven't. Well, the documentation of this exists for this statement has been written and presented by the Planning Staff to Council twice in the last three years. How is it designated waterfront twice by the fact that they wanted you to consider as a body to take it for a waterfront park. You can't have it waterfront in one instance and not waterfront in another; he doesn't think that cuts mustard. It is waterfront property. In the resolution the one that was done in 2005 that was prepared for you to sign it if you approved that grant application it stated, "Whereas, the City of Elizabeth City is in the process of revitalizing it's downtown waterfront with the addition of a Museum of the Albemarle and a new park to attract tourist." Right there, whoever wrote that resolution for Council to consider it considered the property as part of the downtown area? The resolution further states, "That the Southern Avenue property would be purchased as an addition to the Charles Creek Park site. It is an important destination for local residents and utilized for festivals and fireworks and other community oriented events." As long as he lived here for nine and half years as the Public Works Director, fireworks were part of a community downtown event. Anyone attending it at a downtown park there is a connectivity to bridge that between downtown and our property that we are requesting the O & I designation.

The discussion on the waterfront overlay district is another item that has been presented to you that recognizes this as part of the City's waterfront. The district has not been approved but has been recognized as a potential district by both the Planning Staff and the Planning Commission. One does not necessary need to adopt something to make it legitimate. The many discussions of this

matter by the City make it worthy of being considered compatible with the proposed Comprehensive Plan. The City has recognized the proposed Comprehensive Plan in approving several of its Master Plan. A standard practice of planning is to insure that all city master plans and land use plans have compliant goals and objectives to a City's Comprehensive Plan. The design of the project has incorporated all necessary standards for the O & I District with the requirements for the major CAMA permit.

The view shed has been maintained by the use of a split building design. The orientation of Building B with it's angled to the water and positioned relative to Building A. The current uses have a view shed that includes the profiles of seven residential districts and accessory buildings. The sketch plan does not show any exemptions to the minimum water set back of 30' required by CAMA.

In summary the proposed development meets the requirements of compatibility with adjacent uses. Again, the developers request approval of the O & I District with a maximum density of 50 units and the requirement to meet all other standards.

The last thing that he would like to share with you in regards to some of the comments made in regards to the Planning Staff. One of their items in the information in front of you questions his use of your operations department in viewing water, sewer, roadways, drainage, and electrical distribution system. A normal person doing this presentation or putting this information together that would be a rightful thing to do to say that he assumed that was a minimum impact from this would be caused on all this infrastructure. He has to remind you that as the Public Works Director for five years and as an Assistant Director for four and a half years, he took your water and sewer capital improvement project from conception to completion and spent $30 million doing it. He knows what water, sewer, roadway, drainage, and electrical distribution systems you have. He would hope that he could assume that his knowledge hasn't faded in the past. Thank you very much for allowing him to speak. For him it bodes well to have vision for a city and he hopes that you join us in that vision in looking at a quality retail and residential development that provides public access with no cost to the City.

Ms. Alice Redding, 914 Riverside Avenue, stated that Marshall Redding and she own four of the eight properties that are the subject of this rezoning request. She would like to recognize one of the other property owners that is here, Mr. Richard O'Daniel that lives in Chesapeake, Virginia. He will not be speaking but he supports this request.

We bought the properties in October 2003 for investment purposes. She has been working with the other four property owners for over two years to develop

the area. One of the biggest assets of our town is our river front. For years many people and organizations have been striving to see our town become a center for tourism like many other North Carolina coastal cities. 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. This area which is located very close to our downtown is one of the prettiest spots on our river. The view facing the creek is absolutely beautiful with the bridge in the background. It is her desire to do a development that would not only give public access to the citizens and tourists that come to our town but also provide an appropriate commercial development that would greatly increase revenues needed by our City to keep us a viable thriving town by increasing out tax base. We all know and have traveled to other towns that have made enormous efforts to establish zoning jurisdictions that encouraged development that would promote a thriving water front to attract retirees and promote local tourism. No matter whether one is a native of Elizabeth City as she is or a potential retiree, visiting boater or a tourist traveling through we are all attracted to the towns that offer quant shops, small boutiques, coffee houses, tea rooms and restrooms. One of the most important aspects of our project is that we are offering the people public access. As has been stated in much of the previous recommendations from consultants we need to try to allow development that allows this public access. We are the first to do this. We are offering this up front as one of the main attractions of our venture. Your Planning Staff recommended denial of our request for the rezoning. They stated the proposed zoning request is inconsistent with the joint Pasquotank County and Elizabeth City Land Use Plan as drafted. They stated that the introduction of tourist oriented commercial activity to this otherwise stable community is not recommended south of the Southern Avenue and Shepherd Street intersection. They also state that the subject property is located in a well established community. She would like to quote from the approved minutes of the two Planning Board meetings. Some of the words said by Ms. Etheridge, the Planning Board Chairman. She might also add here that she was highly impressed by the efforts put forth by the Planning Board Chairman and members to look objectively into this zoning request. It is apparent that we have highly qualified people there who are trying to make wise and responsible decisions for the people of Elizabeth City. She reads from the minutes of the Planning Board Meeting which took place on June 3, 2008. "Staff argues correctly that the proposed rezoning is inconsistent with the draft CAMA Land Use Plan. Certainly all policy decisions and rezoning requests should be measured for consistencies with the goals, policies and recommendations of the Plan. On the other hand the LUP also says the LUP is one of a variety guides in making a policy decision. The Plan should be viewed as a tool to aid in decision making and not the final decision." The analysis also says that the property is in an historic overlay district and that five properties are contributing structures, however, very recently the City was pursuing grant funds to purchase this property for open space and presumably to demolish or remove the buildings. If the historic

designation was not an impediment to the City's project it is hard to argue that it is an impediment now. The rezoning does fall outside the area currently delineated by the Allison Platt Waterfront Master Plan. Staff contends that Shepherd Street should be the demarcation line between residential and commercial development. One of the Waterfront Master Plans main recommendations was to establish a waterfront overlay district so the City could better control waterfront development. In 2004 the Planning Commission worked for several months trying to establish boundaries and uses for a new Waterfront Overlay District. The final draft for the Overlay went north of the bridge to Knobbs Creek included the Camden Causeway and south to the basketball court. She knows that when she went for a rezoning for the Ideal Repair Shop on Riverside this is some of the paperwork that she received and she would like to pass it out. It definitely includes this area as part of the Waterfront District.

The Commission thought that revitalization would occur in these expanded areas and redevelopment has since happened to the north. She does not find it unreasonable that an attempt is being made for redevelopment to the south as this is how growth occurs. It expands from the center. She must also reject the idea that this is a stable residential community that should have no commercial uses. It is a part or borders the Hugh Cale Section an area targeted for redevelopment because it is not stable. Except for Dr. Hayden house all of the structures are empty or rented. Most are in need of repair. There is commercial development on Southern Avenue. This is to be expected as it is a major street artery for our City. A grocery store is across the street. A restaurant was a block away until it burned recently. A funeral home, three churches, a school, the University and the Edgewood Center is just down the road. This is not spot zoning. There is residential zoned property across the street but not on the other side. The Land Use Plan also states that downtown rejuvenation and waterfront development can be important economic assets to the community. The right redevelopment and the right rezoning of this property can be an asset to the residents. Public water access is another objective of the Land Use Plan. She will continue to quote, "Elizabeth City has not adopted a waterfront Overlay Ordinance yet, however, in 2004 under the direction of the Planning Director the Commission worked diligently for several months to develop a Waterfront Overlay Ordinance with expanded boundaries and at no time was the expansion ever debated or deemed inappropriate so she finds that the current staff insistence that existing boundaries are set in stone is a matter of opinion. Although she agrees that view sheds are worthy protection since Elizabeth City does not have a waterfront Overlay Ordinance the statements regarding view sheds are not enforceable. No body would ever be able to build on waterfront property if people across the street did not want it. Neither does Elizabeth City have architectural standards except in the Historic District. Since this is not an area reviewed by the Historic Commission, opinions regarding the historic detail

of the proposed buildings are not enforceable. This neighborhood received $1.75 million in Grant monies. The name of the Grant application was the Hugh Cale Revitalization Strategies Grant. It was a grant designed to make major improvements to the neighborhood over a five year period from 2002 – 2007 with a potential $350,000 reimbursement for work each year. The neighborhood would certainly not have received this money if it was deemed stabled. The grant application must have mentioned urban blight, drug dealers, crumbling houses and broken dreams. She certainly was not in any way disparaging the residents of the Hugh Cale Community who we all know have come together to rescue this neighborhood. The statement regarding renters was in reference to the property under consideration of rezoning tonight as the minutes clearly show. However, it is well known that Elizabeth City does have a problem with rental property mostly due to landlord neglect and the City recently enacted an ordinance requiring inspection of rental properties. Currituck Manager was recently quoted in the newspaper. He said that their attorney had given them the opinion that Currituck could accept any gift a developer voluntarily gave the county. The voluntary donation to the City of an easement along 800 feet of the Pasquotank River with a fifteen foot wide boardwalk is a gift that the city should not reject lightly. If waterfront access for our citizens can be assured without the expense of public monies which was the main objection to the CAMA grant application then we should look at this project again."

The R-6 zoning which the Planning Department says is the adequate zoning for us to do the project is not accurate. It does not allow us to have the density necessary for the project to be financially feasible. No investor is going to proceed with a project that is not going to be a sound money producing investment. As a native and resident of Elizabeth City she sincerely hopes that you as city council members can see the vision that we have and give us a positive vote in order for us to proceed with a project that will actually change the landscape of this town in our lifetime not in the distant future.

We have been working with a Mortgage Loan Officer, Mr. Chuck Prigmore who is the managing partner of the First Atlantic Commercial Group out of Virginia Beach to help us work toward getting financing to enable us to proceed with this project. She has personally known him for several years and he has helped me tremendously in securing financing for other projects. She really values his opinion as to the validly and potential for our project.

Mr. Chuck Prigmore, 3504 Brannon Drive, Virginia Beach, Virginia stated he is here to follow up with the portion that Ms. Redding just spoke about in reference to the financing of the project. In these times of all the economic havoc around the country financing is probably the second most important part for us in getting the rezoning for the project. We currently have private investors that would issue commitments for the funding of the project based on the loan value

structure based on the information that was quoted earlier of the total cost of the project being $5.8 million and the total sales value of $8.2 million. This is based on current private investor financing of approximately 65% of loan value. That would give us approximately total of $5.3 million that would be available to finance the project. He is here to lend his support and once we have the zoning change and do some other appraisal work with the project we could issue a commitment on the project to get the funding in place to get the project underway. In looking at the numbers as far as the current zoning of R-6 in the twenty units as was put forth and stated earlier there wouldn't be efficient amount of monies available there to do the financing for that particular type of project. But, once you see the rezoning of the land and the additional density there would be an efficient amount of value created to make the project viable.

Mr. Bill Rich, 400 South Water Street, Elizabeth City, North Carolina stated that he was Bill Rich and he owns the Rich Company in Elizabeth City. They are local developers. He has lived in Elizabeth City for approximately 35 years. He has lived and has an office within two blocks of this site the entire time that he has been here. He has agreed to serve as the Head Developer of this deal along with the Redding's, along with Mr. Van Nieuwenhuise if it goes forward. He knows that a lot of you know him as he has done a lot of development in the Elizabeth City area. He did the Waterworks and a lot of waterfront subdivisions. He has done development in Washington, North Carolina, Belhaven, North Carolina, Bath, North Carolina, Edenton, North Carolina but he has also done a lot of development outside of the area in South Carolina, Georgia and Virginia. He can pretty much pick and choose whatever he wants to develop because he just does it, if it is fun, if it makes sense and if it looks like something that is going to be helpful and worthwhile to the community. He finds this development to be all of those things. He is excited about hanging his hat with it if we can get it rezoned. Without the rezoning it is economically not feasible. You saw the numbers of $3.8 sell out and $3.6 millions cost. Without the boardwalk it is not going anywhere. It will be a public park without the rezoning. We need the rezoning. It makes sense with the O & I zoning and the density of 50 units and he is asking for your support with this request.

Selma White, 108 Cypress Street, Elizabeth City, North Carolina said a lot of people on Council know her. She is a local business owner here in Elizabeth City. Elizabeth City is her home. She read about this project in the newspaper and basically she wanted to come up and speak on it because she was in the military and she used to bring her kids home when she was on leave and we used to go over to the park and play. We have been involved with using the Dog Hut there selling dinners and different things. She understands growth but you know she just feels like so much growth is going on in Elizabeth City that a lot of the smaller people are just getting left out. And, she understands that they are trying to do some good things but when you look at the cost of the homes that

are going to be there a lot of the middle or lower class people can't afford these things and you know to her she just feels like if you are going to have growth at least make it so other people can afford to live and enjoy some of the things that is going to be here in Elizabeth City.

Mr. William Sawyer stated the reason that he was interested in this project is he has real estate across the street. He has two brick houses that he rents out to families that have children. If you looked at this property you can see the growth behind the old houses adjoining the creek. It is very dangerous for children if something is not done. To put a boardwalk there will fix this so that people and children will have a safe place to go to the river. The way you are talking now you are interesting in leaving it like it is. He can't understand that. He has a four bedroom and a three bedroom houses and they have a few children. He would like to see it developed so that it will be a safe place for our children to run down the boardwalk or maybe fishing in the creek. We haven't done much for the children in that neighborhood and in fact he doesn't know of anything that we have done. It is time for us to wake up and look this situation over and let's see if we can't improve it. He knows the City Manager wants the taxes to go up on it because he has made the statement many times that we have got to have taxes. We need properties that will pay the City taxes.

City Clerk Pierce-Tamplen informed the Mayor that concluded those signing up to speak under this public hearing.

Mayor Atkinson closed the public hearing and called for comments from Council.

Councilman Stimatz stated that he had a question for Ms. Brooks. He is totally confused. He has a request for a rezoning and then he has a statement from the petitioner saying that all they want is O & I without all the requirements that are actually in the request that we got so he feels like he has a whole new thing to look at. Here is his real question. He has a real problem with the O & I from this perspective. We have more commercial space available than we are filling especially in the downtown area. We have a high vacancies rate. Creating any more commercial space is not going to help the Central Business District which we are committed too. He would offer to the Petitioner that the reason the parks is O & I is probably that was the designation they had twenty years ago and we haven't bothered to change it. He would think that we should come up with our own designation like P & R, Park and Rec because that is what they are. So the idea that Dog Corner is O & I and we can extend it south is specious at best. The concept of creating a residential community with a boardwalk has tremendous appeal--tremendous appeal. The problem that he has is with the O & I we turn the key to the asylum loose to the inmates. They decide what the density of the retail is going to be. They can increase and have as much commercial as they want. It can all be commercial and none will be residential.

That is his problem. He does not understand why the R-6 is not good enough. His suspicion is R-6 doesn't allow you the density that the O & I does. Is there some other zoning that would allow it? We don't have conditional zoning because we don't have a Comprehensive Land Use Plan. So, we are sort of stuck here. He likes the idea and he doesn't mind the density and he thinks the idea of the boardwalk is terrific. He thinks there are a lot of people that would love to live along there but he does not want to open the flood gates to a whole bunch of commercial space when the Central Business District and the downtown we are not filling up. We have issues there and he would rather see that develop first with commercial and retail. So, is he correct that is our dilemma?

Ms. Brooks said that is the dilemma without the conditional zoning once you get the zoning in place there is no guarantee that they will build what they presented tonight.

Mr. Stimatz asked if there was a way out of this. Is there a light at the end of this tunnel?

Ms. Brooks said that she doesn't think that she can give you the answer that you are seeking tonight. She thinks what they are asking for is a mixed of residential and commercial. The density they want if it is going to be geared more to a residential development maybe apartment district but that may not suit the commercial element that they are also looking for.

Mr. Stimatz said that he doesn't have a good answer. He doesn't like what he has got. He likes the concept and he likes the idea but it sounds like to enable that he has got to let go of too much. He has got to harm other parts of the city. We have already made zoning changes on Halstead that we knew were wrong. We increased the amount of commercial out there when we already had more commercial space than other communities do. He does not want to open it up for that. At the same time, he loves it. It is great. Residential townhouses, boardwalk, kids walking along there, people strolling up and down or going down to the basketball court he thinks is fabulous, so how do we get there.

Mr. Brooks said that is a decision that you are being asked tonight. Do you think that the O & I is the appropriate zone?

Mr. Stimatz said no. His answer for him is no because he does not want all the commercial development because he thinks that it is wrong, but he likes the idea of the residential. He is looking for a compromised here and he doesn't hear one.

Ms. Brooks said that she doesn't think that she can give you a compromise at this point.

Mr. Stimatz asked at what point could we have one.

Ms Brooks said that she thinks that we would have to create additional zoning classifications in our UDO and do some amendments.

Mr. Stimatz asked the Manager to explain that.

Mr. Olson said that he thinks the issue is if you go ahead and do that he thinks we are fairly close to getting the Land Use Plan and then you will have your contractual zoning. He knows that we have had this discussion for a year now concerning the Land Use Plan and our inability to go ahead and do contractual zoning. This particular project would be an excellent one to do contractual zoning for. It is obvious that this would be an excellent test of that new zoning requirement.

Mr. Stimatz asked how long would it be?

Mr. Olson replied that he thinks he told you a year ago that it would be a couple of more months and it has already been a year or more. He knows that CAMA is reviewing some revisions we have sent them concerning the Joint Land Use Plan. They have finished Chowan County and Edenton's. Theirs were in front of us. He believes they are actively working on ours now. Every time that CAMA reviews it we have 8-9 pages of comments or additional things that they want us to modify. That is part of the problem that we are having. Every time we go for a modification CAMA doesn't want a Land Use Plan they want a Comprehensive Plan and they are trying to do it through the back door.

Mr. Stimatz asked if he was correct that if we deny it then they would have to wait a year for any rezoning request. They could withdraw it for the time being then it would give us time to explore alternative solutions, correct.

Ms. Brooks said that is correct.

Mr. Stimatz said that this goes back because we have had this discussion. He knows Mr. Mayor that you know somebody down there in CAMA and he doesn't know if you have had a chance to speak with them but it sounds like we need to have a real heart to heart and work on something before the first of the year.

Mayor Atkinson said you are right that he has been in contact with the folks down in Morehead City frequently over this property over the last several months and they have sent several pages of questions back to the City and he thinks you are on that Committee as a matter of fact, the City, County and Ms. Brooks and others to resolve some of those issues. He knows that Ms. Brooks and Shelly

Cox are working with them as we speak probably. There are a lot of issues but he would not be optimistic with years of having worked on the Land Use Plan that this is going to happen over night. While he is speaking he will echo the sentiments that you spoke about as far as the number of buildings that we have downtown that are vacant right now. He will echo the comment about the vacant buildings. He thinks the last count he got from ECDI it was somewhere in the neighbor of 40 some vacant buildings that really need a lot of attention. He would not be optimistic about the Land Use Plan or the Comprehensive Plan. In fact he does not think the Comprehensive Plan has been touched since three planning directors ago and he was involved with that from the inception of it. The Land Use Plan has not been finished. The Waterfront Overlay that Ms. Etheridge referred to that he worked on along with other commissioners for about two years is absolutely nowhere. There is a lot of work that has to be done on these things and they need a lot of attention.

Councilwoman Hummer said that she thinks that this is the only opportunity for that area to ever be revitalized. The Hugh Cale area had to call a halt to all of its revitalization because of the discovery of so much asbestos. Tonight before us we have several opportunities. One is a gift of public access which is what she has fought for years to maintain public access for our waterfront. You have someone who is going to put a boardwalk all the way around it. Mr. Sawyer pointed out that we need something for the safety of children in that area. According to their plans it has the design that will fit in very well with the Museum. It has the same architectural configuration of the roof top. When you talk about too much commercial she does not know where the forty buildings are that are vacant in the immediate downtown. Maybe she should ride around and look for them. This whole area has a history of commercial activity. It seems to me that Planning Department based a lot of their decisions on the fact that this wouldn't be in compliance with the Land Use Plan, well we don't have one so that is kind of puzzling to her. One of the things that the City has talked about and tried to work toward for years is revitalization of the Brown Street area. That is a stated City goal. To turn it down would fly in the face of what the City's goals are. A lot of the property below Shepherd Street is designated O & I. Probably about 40%. Some of these things just don't hold water. Also, the Shipyard is non-contiguous and it sits there as it is a non-contiguous piece of property. No one does anything about it. Most importantly tonight you have a representative from a Financial Institution who is willing to make a commitment at a time when you can't get a loan for anything. This is predicated on this rezoning to O & I. You have a local developer who is well known and his work is well known. We are talking local developers putting local people to work bringing in she thinks she heard $16 million in revenue when we are so desperate for revenue. She can't believe you people want to turn it down. She said just in the back of her mind she feels that there are some plans for that piece of property that she doesn't know about. She hopes that she is wrong.

Councilman Evans said like Tony or Councilman Stimatz he thinks that it is a good idea and he likes the way that it looks. It looks good. As far as the specifications that go along with it he is not exactly sure of. He has done a lot of reading here and he sees that it doesn't fit in with some of them. He thinks as far as us having that area as the Harbor of Hospitality and that is one of our main assets in the City right in that area, that whole area. If we could find some way to make it work. He doesn't know. He is kind of with Councilman Stimatz on that as far as finding ways to make changes.

Councilman Rivers said that O & I comes back before Council for parking?

Mr. Olson said that he believes what the applicant is asking for at this time is that you go ahead and rezone it and give its parking destination at this time instead of having it come back.

Mr. Rivers asked if we could remove the parking.

Ms. Brooks said yes you can request that they come back for parking.

Mr. Rivers said if we request that they come back for parking with a site plan because the site plan will dictate how much parking we need. His question that he wants to find out is are we just allowing for the residential to be turned down and it be all commercial, they would still have to come before City Council in order to get the parking and if we don't allow the parking then the project fails. Correct. If we give parking of 200 spaces and it is only available for 100, it can't go forward. Correct.

Ms. Brooks said that she would assume that they would have to downsize them with what they would want to build.

Mr. Rivers said that it is coming back to us as O & I the site plan has to come back before City Council and we can request to have a site plan even when it goes to TRC. Council can pull it if anything changes that a city council person is not happy with, it can come back before this body and we can change it. So, he is definitely in terms of not necessarily worried because it comes back before us for a site plan. His question is right now do we have an easement or do we have access to that property that is there now. Do we have a boardwalk?

Ms. Brooks replied no.

Mr. Rivers said no boardwalk. If he wants to walk his children he can't go because it is private property. We have a developer that is coming forth to provide one. If the Shipyard was before us when he was on Council we voted to

change that and go to a mixed use because everybody was ready to make the area better than what it is right now in the eyes of City Council. We have six owners that have petitioned and will give back public access and a boardwalk back to the City which Dog Corner is used for volleyball. We have it used for fishing tournaments. People use it as parking lots and so they would have access to walk it to the fish court and back. He thinks it would be valuable asset to the community. It would increase the water access that we have at the present time. We made a mistake in and put that open air grass market right beside the fish court which is something that we should not be proud of as City Council. He voted for it so he is part of it. This project would give the citizens a place to walk along the waterfront. We have homecoming parades come down that street. If you are worried about commercial development when it comes back he is not for O & I and not for giving them a parking designation tonight. He doesn't think that he can concur to make sure that we do hold a concerned like councilman Stimatz has brought forward to the table that we do need to make sure that the development does not go too much commercial. He thinks that we should hold back the parking designation. But if we are in favor we should go ahead and vote it up. He thinks it would be an asset to the community and Southern Avenue going to the University. He thought that we talked about putting that little circle in the intersection. Then he has heard so many times people tells us when development occurs they are going to have to come with a 30-year Stormwater plan.

Mr. Olson said that their plan doesn't really address the Stormwater issue.

Mr. Rivers said that he is pretty sure when they come back with their site plan it will address it as they are not going to build a $5 million project and have it flood or go under water, so he is thinking that will improve with what we are talking about putting that roundabout intersection. They are not talking about holding the boardwalk to themselves. He is excited about that and if the commercial helps the project financially stable then he thinks that we should move forward. It is not always going to be what we want but it is a two part situation. They have to make money and we need to give our citizens a boardwalk where they can walk and get to the waterfront as well as get to the basketball courts. He thinks it will be a great asset to our community on this side of Shepherd Street. We are always talking about that side of Shepherd Street but this side of Shepherd Street will be very beautiful connecting to our public parks. Then we can tell people that they can walk from their boat all the way to our public parks and walk along the water. He thinks that it is a great project and he thinks that we should give it to O & I and have them come back for their parking requirements.

Councilwoman Meggs said that Kirk has said the same thing that she had in mind. She was wondering if they had a way that they could compromise and maybe get something done as near as possible.

Ms. Brooks said no that we cannot create conditional zoning until after CAMA approves our Land Use Plan. Without the conditional zoning anybody can paint a picture as pretty as they want it, but once you have the zoning whatever is allowed in that zoning district they can change their plan. If we had conditional zoning you could tie whatever they show you into the site plan or the development plan to that zoning and that is what they would have to do.

Mr. Stimatz said that we could get a three story office building.

Ms. Brooks said that we could. We have to wait for CAMA to approve our Land Use Plan before we can go forward with conditional zoning.

Mr. Olson said that one thing that concerns him is and this is not saying something disparaging about the people who are bringing the rezoning request forward is there is nothing that binds them to give us a boardwalk because we don't have conditional zoning. This individual says that he will give us a boardwalk but there is no guarantee afterwards that will happen because we don't have the conditional zoning.

Ms. Hummer said that she just heard something about density and isn't Council the one who will set the density requirement.

Ms. Brooks said the density and the O & I, yes.

Mr. Rivers said if it comes back before us and he wants to make sure but it is coming back before us in a site plan we approve parking then they have to come back before us for a site plan. When they come back with the site plan and it is presented before Council, we give them parking and the density at that time. They can't change it for parking.

Mr. Olson said that usually they don't come back with a site plan but what they come back with is a very specific request with density and side yards and all your setbacks that is what they come back for. Now, the Council could as part of that review process as we did on North Poindexter Street about three and a half years ago we had an issue where a site plan was presented to the City Council.

Mr. Rivers said that if we are not happy with it then the conditions can come back at that point. With any changes and if they don't have the property in order to put the parking spaces or if we say 100 parking spaces then they

couldn't do 25 office spaces. The parking would be based on what council sets for the parking.

Ms. Brooks said that you have to remember you have the minimum standard in the UDO for square footage for commercial spaces and that would give them the minimum if they want to reduce the amount of parking that is when they would come back.

Mr. Olson said that we just went through this issue two months ago with the Church in the Sawyertown area which we are still working through at the staff level where they requested a "reduction of parking" and we are still working with them on that. That is basically what the petitioner will bring back at some later point in time as most likely a reduction in parking.

Mr. Rivers said that is why the O & I says it is set by Council. He thought that is what it says. He thought it says that parking is set by Council. She uses as her recommendation the tables that you have and it is off staff's recommendation. O & I parking is set by Council. What the staff uses for their recommendation to Council is up to the staff but Council sets parking.

Mr. Olson said yes that is correct.

Mr. Rivers said your recommendation is off of what Mr. Olson has said and city council sets parking for O & I.

Mr. Olson said but just remember the issue we had with the church that is still on-going.

Mr. Stimatz said that you clearly stated here on page three of your response in fact you underlined it, the maximum density minimum setbacks and onsite parking requirements will be determined by City Council. Now, that gives him a little bit more of a fuzzy feeling than he had before about control. Because if they see that they are going to have a density and you say ok well how much is residence and how much isn't and we say we are only going to give you this much for parking and we are going to give ten spaces beside that and it doesn't support whatever commercial they want. He doesn't know if this is true or not but in here it says that the retail aspects of this is not critical to the success of this project. If he could ask this of the developer if you have the density of 50 units is that sufficient for you to go on with the project whether it is commercial or residential.

Mr. Van Nieuwenhuise responded by saying that the density is the most critical portion whether it be residential we would like to have some density.

Mr. Stimatz said that he feels a little bit better about this because he thinks this is the question. It has to come back to us. We have to set the parking. They have to come up with something. You are going to recommend it based on the UDO and we will make the decision based on the overall what is best for the City. It is hard to turn down $4 million a year in tax revenue. It is a tough number to turn down. Now, the reality is as we both know they could get the O & I and we may never see them again. They will sell the property next week, make a fortune and it will sit there forever and the next guy that comes in and says that he wants to build an O & I as industrial. A real ugly building and there won't be a boardwalk. Correct.

Ms. Brooks said that is correct.

Mr. Stimatz said that is the risk folks. If they comply with all the setbacks what are we going to tell them that they can't build that building? Not likely. We have no leverage with them and by that time we would have conditional use and even then if we have any leverage then. The zoning would already be in place. We would have no leverage. That is the risk folks.

Mayor Pro Tem Baker said that her concerns are she would love to see a boardwalk too. She would love to see public access to our waterfront more than the City has provided down on Water Street. But if there is nothing saying you are going to get a boardwalk there is also nothing saying that we are going to get streetscape features. Nothing saying that we are only going to get twelve retail spaces like as stated in the presentation. But, she is concerned with a four story building on one side of the street and we still have the Brown Street homes, Edge Street homes, all these homes on the other side of Southern Avenue and one of the big problems that she has got with that is the precedent setting that was just one at the end of Riverside with the spike fence which is in appeal right now but it was a lawsuit that was won for lost of view. If you are putting up a four story building in front of these homes on Southern Avenue on the other side of Southern and you take away these people's view we have already got a precedent lawsuit for taking away that view. Why would we go and take away a view from a dozen people including Mr. Sawyer's people on that street. Unless it looks like it fits in with the museum but it is not. It is close to the museum but it is not making her feel warm and fuzzy. She can't see where Ms. Etheridge approved or voted for this.

Ms. Brooks said that she voted against it.

Ms. Baker said that she thought she heard someone say during the presentation that she voted for it.

Ms. Brooks said no she voted against it.

Ms. Baker said she is really concerned with the lost of view thing because that is still in appeal and they have won in court but it is still in appeal and that scare her. She has a view across from her house that she doesn't want to lose and she is really interested in the outcome of that appeal. She would definitely be interest in this too and don't want to do anything else to put us at risk of approving something like this.

Mr. Rivers said this is zoned R-6 and R-6 allows for two dwellings per lot.

Ms. Brooks said that it allows for single family, duplexes and multi-family.

Mr. Rivers said all they would need would be 9000 sq feet in order to put a duplex on the lot. Correct.

Ms. Brooks said that she believes so.

Mr. Rivers said that we are talking about that we could end up with approximately 16 duplexes on our waterfront. Correct.

Ms. Brooks said yes and she did a quick evaluation of multi-family and they could get 20-21 on the 2.6 acres.

Mr. Rivers said we would have no control and it doesn't come before City Council. They could just put duplexes up there and we don't have to like it. Oh well we don't have any control as it doesn't come back before this Council so we could not stop it. Is that correct?

Ms. Brooks said that is correct.

Mr. Rivers said that he understands what everybody is saying. You are right we could end up with 20 duplexes or we could end up and hope that the developers try to do what they are saying that they are going to do. No one is guaranteed to say what they are going to do tomorrow. No one knew the financial market would have pull out like it has. But, a person comes before us, presents a plan; if we don't give the parking we have not given total control of the project away. It comes back before us. We can set parking based off what we want. So, if we don't like it when it comes back before us we can set parking at 30 spaces and that would have to make them downsize the building to whatever it may take. You can do that. Right now what is stopping them from putting 20 duplexes and we not liking anything about it and we wouldn't end up with a boardwalk. It could change but that is a chance we all take. He just thinks that with the park next door to it, a development on this side of Shepherd Street he thinks that it would be a great asset to our community. A lot of time he sees developers that

come before us and he doesn't know them. But I think the difference is and he is not saying that makes any difference but it does because he had the opportunity of seeing them in Wal Mart. That is on their conscious. They can do what they want to do. But, he thinks that we should give them the O & I tonight to move forward with the process and then when they present their site plan and ask for density and parking at least we have given them the opportunity to start searching to see if the project is feasible. Until those actual numbers hit and until they get a commitment letter they need O & I designation in order to really shop the project and to make it. He is for passing the O & I without the parking and density and that will come back. At that time we will do parking if they have their deed in hand and they are ready to deed over the boardwalk then so be it. You can always make sure they do what they say they are going to do.

Ms. Meggs said that she would like to make a substitute there. Is there a way that we can pull back for six months and see what we can do about this?

Mayor Atkinson said that Council can do what they want to do. They can withdraw it but he is not optimistic about any of those three subjects coming back and being completed. Land Use, Comprehensive Plan or the Waterfront Overlay he is not optimistic about that.

Mr. Rivers asked can't we put our own waterfront overlay. What did we do with Halstead Boulevard when Wal Mart came before us? Wal Mart wanted and Rich you came back and told us that they would comply, blah, blah, blah and we gave them their zoning before we ever had an overlay.

Ms. Brooks said not the early stages.

Mr. Rivers said that we gave Wal Mart theirs and we were waiting on a Halstead Overlay. We did that.

Mr. Olson said that he personally thinks that there are too many loose ends that we are discussing right now. An Overlay Zoned District would take 4-6 months at the earliest. We have some stuff that could be resurrected and discussed and "put on a fast tract". There is some history that June is not familiar with why that particular project was put on hold what three or four years ago. He would have to review the notes of the Planning Department to see what caused that. You have a very tough decision in front of you tonight. You have a concept which he thinks has a great deal of merit but there is no way that you can guarantee the concept will go forward and that is the dilemma facing the Council right now.

Ms. Hummer said that she is a little unclear on conditional use. Are you saying that to accept a gift is the same as conditional use?

Mr. Olson replied that a conditional use is where you put specific conditions on the rezoning such as you will build a boardwalk, you will deed the property to us, and you will not have more than 25 units and no more than 3 commercial units. You can be that very specific in Conditional Zoning which we don't have right now.

Ms. Hummer said that she would like to ask the City Manager you are on the Tourism Board and you are on the Economic Development Commission. We are trying to find revenue because we don't have the revenue we anticipated for this year and next year may be even worst. You say there are too many loose ends but there are a lot of loose ends in the aviation project and a lot of other things that we have done. This is a chance as she just stated to get a lot of revenue and to bring some tourist related shops to our waterfront like other cities have and to improve the looks of an area that is flooded a lot of times and she thinks it is a tragedy that the Historic District hasn't traveled along that street because there is architectural along there. We were going to go in and demolish some of the houses that do have architectural features that should be saved.

Councilwoman Watts said that she hasn't said much tonight but she guess she has to say this. First of all she would like to ask a question. What was the potential purchase price of these units?

Mr. Olson stated that he believes it was $180,000 according to the work up that they had provided.

Ms. Watts said for $180,000 and maybe there are a lot of people that can afford that but we had a young woman that came up to the podium who said, you know a lot of folks can't afford that. She tends to agree with her and she wants to kind of look at this. This is a wonderful, great thing and she thinks that Southern Avenue from the south end there needs it. We need revitalization all the way past the University frankly. She wants to say this and she is going to leave it alone. If she paid $180,000 for a unit and she believes it was said that Charles Creek is a beautiful outlook. The water is beautiful, if you see the boats they are beautiful and you can get a glimpse of the water front down there in front of the museum, the grass is gorgeous, but she can not for the life of her think of paying $180,000 and looking out of her window down at somebody fishing with perhaps their shorts halfway down to their knees. She really didn't want to say that as a joke but we are talking about people like you and me. The average person goes fishing. We go fishing in our shorts. If somebody calls her and say hey we are catching catfish down here, she will grab whatever she got and run down there to that that thing and throw her a line. She really doesn't care about what she has got on. She wants you to think about it as it is a great idea and she loves it. The reality is where you are putting it and what

you are talking about opening it up too. It just doesn't kind of jive. So when you make this decision you need to consider that. The folks that will be able to spend that kind of money show that lady was telling you the truth. It ain't going to be some of us that can't afford it she can tell you. $180,000 is a lot of money. Anyway she is going to leave it there but she just wants the Council to not just think of things one way but to think of things in every way before you make your final decision.

Councilman King said for the record that he owns property at 703 Southern Avenue and he has been listening to everyone speak tonight. He grew up on Southern Avenue. He knows what is happening on Southern Avenue and he knows what it was like. Right now we are talking about going commercial. We are talking about going condos and it all sounds real good. It is an old neighborhood. It is more historic and he knows it is time to move on but he is thinking that we can do all this on one side of the street but we are not doing anything on the other side. You have White Street and Edge Street and what are we doing about those streets. He understands the revitalization grant that things didn't work out right. Now we have a developer that is looking at one side of the street. A boardwalk sounds real good, but how many of us are going to walk down that boardwalk. How many? Let's be realistic here. How many people are going to walk down that boardwalk? There will not be a whole lot of people doing it. He feels like if we go with the O & I tonight and he thinks Councilman Rivers you might have said it, if you approve it tonight and the next thing you know once they did it they could sell it off to somebody else. They come in and the next thing we know and he has property across the street and he is looking at two floors of condos. That is not right because it can easily be done. Nothing is guaranteed. He knows they are local people but nothing is guaranteed that they are going to give us a boardwalk. He thinks that the City needs to set down and if we want a boardwalk lets find the money to put a boardwalk up. That is his feelings about it but let it be known that he does own property over there.

Mr. Stimatz asked Ms. Brooks if she has the permitted uses for O & I.

Ms. Brooks said that it is a mix of offices, limited retail, they do have some residential elements, but it is a more intense zoning.

Mr. Stimatz asked what did the I mean.

Ms. Brooks responded by saying institutional.

Mr. Stimatz asked what kind of things could fall under that.

Ms. Brooks said that you are talking about---

Mr. Stimatz said steel Butler Building with cheerleading classes.

Ms. Brooks said right, they don't control the building materials it is the use of that goes into the building.

Mr. Stimatz so what kinds of activities that can go into there.

Ms. Brooks said that you are talking about maybe retail, you are talking about maybe some professional offices, you are talking about service types of industries, and it is more of a lighter type of use.

Mr. Stimatz said industrial.

Ms. Brooks said no industrial.

Mr. Stimatz said software development company.

Ms. Brooks said maybe if it is more like an office front type of thing with maybe a small repair shop with kinds of things like computer repair.

Mr. Stimatz said that you said retail. Could the Mattress Factory go there?

Ms. Brooks said no. That is too heavy of commercial use.

Mr. Stimatz said so what kinds of commercial things.

Ms. Brooks said maybe gift shops and boutiques.

Mr. Stimatz said bars, alcoholic beverages places.

Ms. Brooks said that she can't answer that without her book.

Mr. Stimatz said that is a question for him. If you want to pull it up on line and bring it back to us. That is another thing that he doesn't know right now is what are the permitted uses. Suddenly the people on the other side of the street are looking at a honky-tonk. That is not good. No offense to these people but again if you do O & I, tomorrow they sell it for $8 million, get their money and they run. Two weeks later somebody comes back and says they want to put a three story Butler Building and it is going to be Brother's Joe Barbequing and Baked Goods Place. He wants to know if that is possible.

Ms. Brooks said that if you could give her a couple of minute's maybe she can get Mr. Olson's UDO and give you an answer to that.

Mayor Atkinson said Mr. Stimatz what you said is a good point that you made and that is the very reason that when he was on the Planning Commission along with the current commissioners we worked on a Waterfront Overlay to determine what was family friendly, what sorts of things that we wanted and also what sorts of things that we didn't want not only from the downtown area but all the way down to Knobbs Creek. Of course that lost momentum as time went on. He thinks that you made a valid point and he thinks it is a lot of issues to be concerned with on this property. He knows that he is just thinking back when the City, before his time, the City had a developer on the other end of town by the Camden Bridge that had envisioned 6-8 condos down where the gas station was. As time went on and the engineering study was done he found out that because of the piling costs that were going to go from regular piling to concrete piling that the costs were prohibited. The City was fortunate to obtain that property. So there are a lot of costs and a lot of hidden costs here. It is absolutely as you said Mr. Stimatz there is absolutely no guarantees about the ownership of the property as we move forward. We do not have Conditional Zoning and we cannot be guaranteed anything other than once we give the O & I they can certainly come back as Mr. Rivers said and talk about parking and that sort of thing. It is up to Council to make that decisions but everybody up here is certainly aware of what went on with the church not long ago and we are still dealing with that and the Council trying to make everything work. We have got a UDO in place and unless it changes it is the guide that we use. We use it for density and parking and it was developed for a particular reason. It is in place as we speak. He thinks that you ought to consider long and hard before you start talking about rezoning a piece of property without Conditional Zoning in place to protect that property.

Mr. Rivers said that he knows that we always throw alcohol bars in to just frighten people. But don't forget that Council voted to allow alcohol to be served in our public parks. In order to get an alcohol beverage there are a lot of conditions to meet such as you can't be a certain amount of feet from a church or school. In order to get an alcohol beverage license you have to go through a strenuous search. You have to make sure you are a certain amount of feet from schools, etc. He sets here and listens and he recognizes that our youth do wear pants below wherever the belt should be but he stops and looks at it and says now if we are trying to say that this is the area, the developer has to make the decision to go into that area. He doesn't want to think that development will not go into areas whereas it is only where certain people live. He hopes that when he sees developers are coming into an area and they know, they have identified from standing in front of us the area. We identified it when we asked for a five year Hugh Cale Revitalization Grant and now we have some commercial and residential lots that are looking to go into this particular site. He is excited and that is why he keeps saying Shepherd Street back this way. He is excited for

people to have the opportunity. The lots across the street if those lots have the ability to go up in value because someone is doing a residential site such as this. You know he looks at potential and whereas if it was on Riverside—he doesn't know if it were the shipyard we would be talking about what type of people would be walking down the street. He is not going to accept that because like he said earlier if there is a boardwalk and he knows the people that play at the Fish Court as he plays at the Fish Court and if he wants to walk to Waterfront Park there is a boardwalk for him to walk and he will have a choice. If they don't give it, it still gives value to the community that it is in. It raises the value of the homes in that area. When everyone saw what the Museum of the Albemarle when it went there, their property value went up. Sometimes you luck up if you own property and a nice development goes near you. He hasn't seen anyone come up that is in the area that is against this project. He has seen other times when people come up who live right beside it or in front of it, they are the ones that normally would have a hard time or would fight against it because they might be worried about water access. He doesn't know Councilwoman Baker they might have a problem but he hasn't heard and he has talked with three people on the opposite side, not you Councilman King because he knew he would hear you tonight, but they were for it. He can give the names. They were for the project because they were like great development coming and then $180,000, that is cheap in today's market. He can't believe that is the number they are talking about. That is on them. That is totally on the developer if they can get it for $180,000. The last time he was out in Peartree a three bedroom on slab and that is called affordable homes. If he can get $180,000 and look at the creek and have his best chance of waterfront he will take it. He might not be able to put a boat out there because Charles Creek is not going to allow the big boats to go through. For $180,000 he is for the plans and so that we can keep things going he would like to make a motion.

A motion was made by Councilman E. K. Rivers, seconded by Councilwoman L. A. Hummer to move forward without giving the parking and density but to rezone it to O & I.

Mr. Stimatz said if this is going to take a while he has another motion.

A motion was made by Councilman J. A. Stimatz to table this item until the next meeting. Councilwoman V. C. Watts seconded the motion. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, King and Meggs. Against: Hummer and Rivers. Motion carried.

b} Ordinance amending Chapter 3 Section 303.1 of the Minimum Housing Code:

Mayor Atkinson called upon Inspection Director S. E. Ward for comments.

Mr. Ward stated that at the June 9th meeting City Council amended the existing United Development Ordinance by adding demolition by neglect for the Historic Districts. During that review and discussions Councilman Stimatz suggested and that Council fully supported that we take some of that language and add it to the existing Housing Code in hopes of strengthen it. Per that request that is what we have done. We have taken portions of that text, streamlined it and hopefully improved it. We made it more specific and we have it before you tonight for consideration.

Ms. Watts asked what were the changes made. Would you go over it again?

Mr. Ward said basically there were some exterior changes proposed to the Minimum Housing Code. To be more specific it was basically a paragraph and four sections, A, B, C, and D. We were basically trying to be more specific on the maintenance of exterior features of all buildings.

Ms. Hummer asked that on a house that is partially burned and it is boarded up and deemed structurally safe, does that house have to sit there and take away from that neighborhood. There is a house of Broad Street and she is sure that you are familiar with. She gets a complaint every month on that. Isn't there something that we can do about that? Also the house that has just tar paper on it. The house that has the horrible siding that has never been painted. We need to include those in any changes that we make. These are the things that bring a neighborhood down and invite crime as well as bringing property value down.

City Attorney Morgan said that he is meeting with the owners of the tar paper house tomorrow morning to address that issue.

Mr. Ward said that if he may he believes there is an ordinance that already covers these issues. As far as the burned house, to be honest we are waiting for the CDBG project upcoming in that side of town. If not, we can, we the City can deal with it through condemnation, but hopefully with these proposed changes it will only strengthen what we already have.

Ms. Hummer said also there is a house on Church Street that the porch was closed in and there is not a front door but a doorway and there are no trespassing signs in the First Ward. She is the one that gets phone calls all the time on it.

Ms. Baker said that you are not alone by the way.

Ms. Hummer continued by saying the siding that is put on some of the homes. They even cover the windows. There is a house on her street where the windows are covered with it. Where is the escape route? At least we can require them to paint it. Can these things be added and still be within the Minimum Housing Code.

Mr. Ward said that he thinks overall they are covered under this proposal but as far as getting into specific material, colors, and types of material that is not covered.

Ms. Hummer said that she realizes that you can't tell people what color but the siding that isn't painted is the same as putting up plywood and it ages and that is what you have got.

Mr. Ward said that is covered and if it is wood that is already covered as maintenance. He thinks the intent behind this proposal is to strengthen that.

Mr. Stimatz said that Stanley did a great job. What we are really talking about here is the things that were in the earlier amendment to just the historic houses were some very particular descriptions of deteriorated behavior. Rather than having it only apply to historic homes we have moved that in to this section. The question of exterior maintenance is already covered. Protected Maintenance: "all exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition." Prior to that it says the exterior surface of the structure shall be maintained in good repair, structurally sound and sanitary. He would offer that we already have the ordinances it is a question of enforcing our own ordinances. That is the issue here. The one thing that he did reference and he had asked the attorney for this and he will ask him again. The problem with the house with the tar paper was we did not think there was authority to require them to have a protective covering other than tar paper. He went back and looked again and lo and behold, God bless the North Carolina Building Code 2006 version or 2008 version. There is a section called 1405.2 Weather Protection. In particular the table in there states the minimum thickness of weather coverings has to be according to the tables. And guess what? Tar paper is not an acceptable covering. So the authority to require them to have one of these protective coverings is already in the State Code and we need to enforce that. The only other question that he has is what happens here is what we are basically putting in here is a list of descriptions that tells me that your house is not in good shape. He asked the attorney on this questions and he will ask him to comment on it now. Should we indicate in this change that these aren't all inclusive but are considered probable cause for further inspection of the entire building?

Mr. Morgan said that in his opinion you can legally do so. From a practical point of view, Mr. Ward should address that but he thinks it is certainly legal.

Mr. Stimatz said whether they use it is up to them but the point is this goes back to this rental ordinance change proposed by the State where they are going to take away our ability to inspect homes on the inside. If we say these exterior conditions are considered probable cause and Rickey knows what he is talking about because he was a cop. You know if your taillights are busted it is probable cause to pull you over. In this case if your cornice is hanging down it gives me probable cause to go in and see if you have some problem inside your house. He thinks we have what is already in the Code and it is pretty detailed. There is a lot in here and our problem has been enforcement of the Code. That may require more bodies. We have a lot to do out there. That is his other question to you. Should we put it in there or can we argue that case later. Do we have to put the wording in or can we argue that when we did it that was our intent.

Mr. Morgan said that he thinks if we include it, it is going to make it even more airtight. You wouldn't want to leave to conjecture or argument what you can handle by good draftsmanship now.

Mr. Stimatz said that we need some language like probably the beginning that section of 303.1 General. Exterior structure shall be maintained and this is where you can insert this one, and then say something about the conditions noted below are considered probable cause for further interior and exterior inspections or if you want to come up with some words, Bill. Then he thinks that it gets really strong because now it is very clear if your porch is hanging off or your chimney is falling off or everything is crumbling and falling and the cornices are hanging. Guess what these are clear signs to us that you have a problem with your building. We have the right then, if we choose to exercise it, to come in and inspect your entire building, inside and out because it may have been an interior structure issue that is causing the exterior manifestation.

Mr. Morgan said that he would suggest that language would go at the end of Paragraph 4. You are listing conditions there that are substandard. He would just make it a separate statement at the end of that 4th listed item. The existence of the above conditions constitutes probable cause for the City to further inspect the premises including its interior to determine compliance with the State and local law.

Mayor Atkinson declared the meeting into public hearing. He asked Ms. Pierce-Tamplen if there was anyone who had signed up to speak. Upon a reply of no, Mayor Atkinson declared the public hearing closed.

Ms. Baker said that while we are talking buildings that have burned down there is one on Riverside, that one by the Ideal Repair Shop, the two story one.

Mr. Ward stated that it is in condemnation proceedings right now.

Ms. Baker said that the other thing that she would like to bring out is on Thursday she has every other month we have a Legislative Affairs Committee meeting and she went to that this past Thursday on the way to Myrtle Beach. We talked about a non-residential structural code for the very same thing to enforce Minimum Standards and they presented us with a copy of an ordinance that Greenville has establish and a lot of communities were waiting for something like this. She brought that back and gave it to the City Manager and the Mayor. But just so you will know it is the first one that has been written for non-residential demolition by neglect buildings. So we now have a copy of that. We had a really good meeting and a lot of input. That committee really got a lot out of our rental housing ordinance. In fact that may be the reason they are fighting so hard to get rid of that. It went around the state by the way of that meeting.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. A. Hummer to adopt the following ordinance that will adopt this section with two corrections. One being the additional of probable cause clause. It is Section 5 provided by City Attorney Morgan and a change to the language to Section 303.1 General to read "the exterior weather covering of a structure as required by North Carolina Building Code Section 1405.2, as amended shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. Those voting favor of the motion were: Stimatz, Hummer, Baker, Evans, King, Meggs, Rivers and Watts. Against: None. Motion carried.

ORDINANCE #08-08-01
AMENDMENT TO CHAPTER 3, SECTION 303.1
OF THE CITY OF ELIZABEATH MINIMUM HOUSING CODE

WHEREAS, the City Council directed staff to develop an amendment for consideration to the City's Minimum Housing Code with regard to defining a deteriorated structure; and

WHEREAS, the City Council considered the proposed amendment during its meeting held on July 14, 2008; and

WHEREAS, the City Council held a public hearing on the proposed amendment during its meeting held on August 11, 2008;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following amendment to Chapter 3, Section 303.1, "General" of the City's Minimum Housing Code is hereby added:

Any feature of a structure that is found to be deteriorated or may be contributing to the decay or deterioration of a structure is considered to be a substandard condition and a violation of this ordinance. Substandard conditions include, but are not limited to:

a} Deterioration of any foundation, flooring or floor supports, walls, or other vertical supports, ceilings or other horizontal supports, roofs and/or chimneys that may cause leaning, listing, sagging, buckling, splitting, cracking, blistering or peeling.

b} Deterioration or crumbling of exterior plaster or mortar, ineffective weatherproofing or exterior walls, windows, doors or roofs.

c} Deterioration of exterior steps, stairs, porches, handrails, guardrails, sidewalks, fences, gates or accessory structures.

d} Deterioration of any feature that may threaten the structural integrity of a structure or create or permit the creation of any potential hazardous or unsafe conditions to life, health or other property. The existence of the above conditions constitutes probable cause for the City to further inspect the premises including its interior to determine compliance with the State and local law.

ADOPTED, this 11th day of August 2008.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Voluntary Annexation Ordinance – Lot # 7, South Park Subdivision:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised that this is a request for voluntary annexation of 1.00 acre located in the South Park Subdivision, Phase One and owned by the Albemarle Food Bank.

Mayor Atkinson declared the meeting into public hearing for consideration of the voluntary annexation request. He asked City Clerk Pierce-Tamplen if anyone had signed up to speak for or against the proposed annexation. Upon a reply of no, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman D. B. Evans to adopt the following ordinance incorporating Lot #7 of the South Park Subdivision, Phase One, owned by Albemarle Food Band and contains 1.00 acre into the corporate limits of the City of Elizabeth City with an effective date of September 1, 2008. Those voting in favor of the motion were: Baker, Evans, Hummer, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

ORDINANCE #08-08-02
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
FOOD BANK OF THE ALBEMARLE
1.00 ACRE

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 11th day of August, 2008 after due notice by publication on the Wednesday, July 30, 2008; and

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

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

SECTION 1. By virtue of the authority granted by G. S. 160A-31, as amended, the following described territory, is hereby annexed and made part of the City of Elizabeth City as of the September 1, 2008.

BEGINNING at a point situate on the southeastern margin of Capital Trace, which beginning point further marks the westernmost corner of Lot 8, Phase I, South Park Subdivision, as delineated on plat thereof recorded in Map Book 23, at Pages 18 & 19, of the Pasquotank County Registry; thence, from said point of beginning, South 51° 12′ 56″ West 201.97 feet to a point situate on the Norfolk-Southern Railroad Right- of-Way, a corner; thence, along said Railroad Right-of-Way, South 43° 02′ 30″ East 225.62 feet to a point, a corner; thence North 51° 12′ 56″ East 185.23 feet to a point, a corner; thence North 38° 47′ 04″ West 225.00 feet to **THE POINT AND PLACE OF BEGINNING.** And being all of Lot No. 7, of Phase I, South Park Subdivision, as delineated on plat recorded in Map Book 23, at Pages 18 &19, of the Pasquotank County Registry, said tract of land having Parcel No. of 8922 285370, and being assigned Map No. P123-203 in the Office of the Tax Supervisor of Pasquotank County.

SECTION 2. Upon and after the 1st day of September, 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 11th day of August 2008.

_____
Stephen S. Atkinson
Mayor

_____

Dianne S. Pierce-Tamplen, MMC
City Clerk

d} Voluntary Annexation Ordinance – Lot #8, South Park Subdivision:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised that this is a request for voluntary annexation of 1.00 acre located in the South Park Subdivision, Phase One and owned by Northeastern CDC.

Mayor Atkinson declared the meeting into public hearing for consideration of the voluntary annexation request. He asked City Clerk Pierce-Tamplen if anyone had signed up to speak for or against the proposed annexation. Upon a reply of no, Mayor Atkinson declared the public hearing closed.

Councilwoman Watts stated she would like to withdraw herself from this as you know in the NCDC is a very good friend of hers.

Mayor Atkinson asked if there were any financial gain for her.

Ms. Watts said no there was no financial gain but of course you know we are very good friends in this matter.

Mayor Atkinson said we have a request by Councilwoman Watts to be recused from this item.

Mr. Rivers said that the law says that she can't recuse herself.

A motion was made by Councilman J. A. Stimatz not to recuse Councilwoman Watts. Councilwoman B. S. Meggs seconded the motion. Those voting in favor of the motion were: Stimatz, Meggs, Baker, Evans, Hummer, King and Rivers. Against: None. Abstention: Watts. Motion carried.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to adopt the following ordinance incorporating Lot #8 of the South Park Subdivision, Phase One, owned by Northeastern CDC and contains 1.00 acre into the corporate limits of the City of Elizabeth City with an effective date of September 1, 2008. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried

ORDINANCE #08-08-3
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
NORTHEASTERN COMMUNITY DEVELOPMENT CORPORATION
1.00 ACRE

WHEREAS, the City Council has been petitioned under G. S. 160A-31, 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 11th day of August, 2008 after due notice by publication on the 30th day of July, 2008; and

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

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

SECTION 1. By virtue of the authority granted by G. S. 160A-31, the following described territory is hereby annexed and made part of the City of Elizabeth City, North Carolina as of September 1, 2008.

BEGINNING at a point situate on the western margin of Tidewater Way, which beginning point further marks the northeastern corner of Lot 9, Phase I, South Park Subdivision, as delineated on plat thereof recorded in Map Book 23, at Pages 18 & 19, of the Pasquotank County Registry; thence, from said point of beginning, along a curve having radius of 320.00 feet, length of 81.71 feet, tangent of 41.08 feet, chord of 81.48 feet, delta of 14° 37′ 46″, bearing North 31° 28′ 11″ West to a point; thence North 38° 47′ 04″ West 105.00 feet to a point; thence, along a curve having radius of 25.00 feet, length of 39.27 feet, tangent of 25.00 feet, chord of 35.36 feet, delta of 90° 00′ 00″, bearing North 83° 47′ 04″ West to a point situate on the southeastern margin of Capital Trace, a corner; thence South 51° 12′ 56″ West 243.85 feet to a point which marks a corner for this lot and Lot 7, South Park Subdivision, Phase I; thence South 38° 47′ 04″ East 112.50 feet to a point, a corner; thence North 72° 02′ 32″ East 276.54 feet to **THE POINT AND PLACE OF BEGINNING**. And being all of Lot No. 8, of Phase I, South Park Subdivision, as delineated on plat recorded in Map Book 23, at Pages 18 & 19, of the Pasquotank County Registry, said tract of land

having Parcel No. of 8922 287520, and being assigned Map No. P123-204 in the Office of the Tax Supervisor of Pasquotank County.

SECTION 2. Upon and after the 1st day of September, 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 11th day of August 2008.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

e} Voluntary Annexation Ordinance – Lot #9 South Park Subdivision:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised that this is a request for voluntary annexation of 1.19 acre located in the South Park Subdivision, Phase One and owned by Albemarle Food Bank/Food Pantry.

Mayor Atkinson declared the meeting into public hearing for consideration of the voluntary annexation request. He asked City Clerk Pierce-Tamplen if anyone had signed up to speak for or against the proposed annexation. Upon a reply of no, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to adopt the following ordinance incorporating Lot #9 of the South Park Subdivision, Phase One, owned by Albemarle Food Bank/Food Pantry and contains 1.19

acre into the corporate limits of the City of Elizabeth City with an effective date of September 1, 2008. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

ORDINANCE #08-08-4
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
ALBEMARLE FOOD BANK/FOOD PANTRY
1.19 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 11th day of August, 2008, after due notice by publication on the 30th day of July, 2009
and

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

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

SECTION 1. By virtue of the authority granted by G. S. 160A-31, as amended, the following described territory, is hereby annexed and made part of the City of Elizabeth City as of the 1st day of September, 2008.

Beginning at a point situate on the southwestern margin of Tidewater Way, which beginning point further marks the easternmost corner of Lot 8, Phase I, South Park Subdivision, as delineated on plat thereof recorded in Map Book 23, at Pages 18 & 19, of the Pasquotank County Registry; thence, from said point of beginning, along a curve having radius of 320.00 feet, length of 337.43 feet, tangent of 186.30 feet, chord of 322.01 feet, delta of 60° 24′ 57″, bearing South 06° 03′ 10″ West to a point, a corner; thence North 47° 07′ 55″ West 216.45 feet to a point; thence North 38° 47′ 04″ West 112.50 feet to a point, a corner; thence North 72° 02′ 32″ East 276.54 feet to **THE POINT AND PLACE OF BEGINNING**. And being all of Lot No. 9, of Phase I, South Park

Subdivision, as delineated on plat recorded in Map Book 23, at Pages 18 & 19, of the Pasquotank County Registry, said tract of land having Parcel No. 8922 288355, and being assigned Map No. P123-205 in the Office of the Tax Supervisor of Pasquotank County.

SECTION 2. Upon and after the 1st day of September, 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 11th day of August 2008.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

f} Voluntary Annexation Ordinance – Lot #10, South Park Subdivision:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised that this is a request for voluntary annexation of 1.00 acre located in the South Park Subdivision, Phase One and owned by Albemarle Food Bank/Food Pantry.

Mayor Atkinson declared the meeting into public hearing for consideration of the voluntary annexation request. He asked City Clerk Pierce-Tamplen if anyone had

signed up to speak for or against the proposed annexation. Upon a reply of no, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to adopt the following ordinance incorporating Lot #9 of the South Park Subdivision, Phase One, owned by Albemarle Food Bank/Food Pantry and contains 1.00 acre into the corporate limits of the City of Elizabeth City with an effective date of September 1, 2008. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

ORDINANCE #08-08-5
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
ALBEMARLE FOOD BANK/FOOD PANTRY
1.00 ACRE

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 11th day of August, 2008 after due notice by publication on the 30th day of July 2008; and

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

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

SECTION 1. By virtue of the authority granted by G. S. 160A-31, as amended, the following described territory, is hereby annexed and made part of the City of Elizabeth City as of the September 1, 2008.

BEGINNING at a point situate on the northwestern margin of Tidewater Way, which beginning point further marks the southernmost corner of Lot No. 9, Phase I, South Park Subdivision, as delineated on plat thereof recorded in Map Book 23, at Pages 18 &19, of the Pasquotank County Registry; thence, from said point of beginning, along a curve having radius of 320.00 feet, length of 83.52 feet,

tangent of 42.00 feet, chord of 83.29 feet, delta of 14° 57′ 17″, bearing South 43° 44′ 17″ West to a point; thence South 51° 12′ 56″ West 120.70 feet to a point situate on the northeastern margin of the Norfolk-Southern Railroad Right-of-Way, a corner; thence, along said Railroad Right-of-Way, North 42° 08′ 03″ West to 225.40 feet to a point, a corner; thence North 51° 12′ 56″ East 185.23 feet to a point, a corner; thence South 47° 07′ 55″ East 216.45 feet to **THE POINT AND PLACE OF BEGINNING**. And being all of Lot No. 10, of Phase I, South Park Subdivision, as delineated on plat recorded in Map Book 23, at Pages 18 & 19, of the Pasquotank County Registry, said tract of land having Parcel No. of 8922 287157, and being assigned Map No. P123-206 in the Office of the Tax Supervisor of Pasquotank County

SECTION 2. Upon and after the 1st day of September, 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 11th day of August 2008.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

g} Voluntary Annexation Ordinance – 106.86 Acres and owned by Steven S. Berry.

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised that this is a request for voluntary annexation of 106.86 acres and located in adjacent to US Highway 17 Business and Norfolk and Southern Railroad and owned by Steven S. Berry.

Mayor Atkinson declared the meeting into public hearing for consideration of the voluntary annexation request. He asked City Clerk Pierce-Tamplen if anyone had signed up to speak for or against the proposed annexation. Upon a reply of no, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to adopt the following ordinance incorporating 106.86 acres owned by Steven S. Berry into the corporate limits of the City of Elizabeth City with an effective date of September 1, 2008. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

ORDINANCE #08-08-6
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
STEVEN S. BERRY
106.86± 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 11th day of August, 2008 after due notice by publication on the July 30, 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 September 1, 2008.

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 49º 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 2. Upon and after the 1st day of September 1, 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 11th day of August 2008.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

h} Public Input regarding financing part of the Aviation Park:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson said that what you have in front of you tonight is something that we discussed in the work session earlier today which discusses the City's requesting permission to file an application with the LGC to issue $1.5 million of installment purchase debt to pay for the improvements to the Aviation Park which consists of taxiways, streets, water, sewer and drainage within the Aviation Park.

Mayor Atkinson declared the meeting into public hearing. He asked City Clerk Pierce-Tamplen is anyone had signed up to speak. Upon a reply of no, Mayor Atkinson declared the public hearing closed.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to adopt the following resolution authorizing the filing of the application for approval of the financing agreement by the LGC, Local Government Commission.

Councilman Rivers said why the $1.5 million and why are we going to the LGC.

Mr. Olson said the project is fully funded with grant funds but unfortunately the NCDOT, Department of Aviation, has made a commitment or the Avionics Council for the $1.5 million of grant funding. The Legislature took some action this year that affected their General Operating Budget and that is going to require us to go out and get what the staff calls a Bridge Loan in amount of $1.5 million. It will be secured by the lease payments that are in the DRS lease agreement which we generate roughly $200,899 worth of revenue for that.

Mr. Rivers asked where are we coming with the funding.

Mr. Olson said that we are going to ask the LGC to allow us to do installment purchase and we will go out as we would any other type of paper issue and get quotes from a number of different banks and determine what the best rate is. Then we will come back to the City Council for the awarding of that money after the LGC approves our application for debt financing.

Mr. Rivers said then we are financing the Aviation Park.

Mr. Olson replied that is correct.

Mr. Rivers asked what happens if DRS doesn't pay us back what happens.

Mr. Olson said that DRS has a lease with us and if they fail to pay it back then they are in violation of the lease and then we have to hold them in default and take them off the property.

Mr. Rivers said that he thought that we had that covered. He thought we were even with that.

Mr. Olson said that we are and as a matter of fact we show a little bit of surplus but unfortunately the NCDOT, Department of Aviation cannot give us the amount of money that we needed. This fiscal year they have made the commitment to

fund $750,000, next year and the year following that but because of the way they are financing is and because that is what happened this year we are looking collateralizing it in two different ways. One is with the NCDOT Aviation money and/or the Tamsco or DRS lease payments.

Mr. Rivers said it won't cost the City any money.

Mr. Olson replied that is correct it will not cost the City any money.

Ms. Hummer said that she expressed some concerns in the Special Meeting to discuss this financing and the meeting wasn't televised. She has had a lot of questions asked of her about all the grants, if everything was in place and what the City has to pay. She would like to ask the Finance Director about this Bridge Loan. As she said in the previous meeting we were told that we this year during the budget sessions we were told that we had only freed up $500,000 worth of debt. We couldn't do anything with our internal infrastructure. This is a concern. Applying for this Bridge Loan does it go on our Credit Record, our Debt Service Record, does it inhibit us there?

Finance Director Blanchard replied that it reduces our Fund Balance until it is repaid.

Mr. Olson said that you may want to restate that.

Ms. Blanchard said no it will reduce our Fund Balance until we get the grant funding in.

Mr. Olson but, what he believes she is saying is that what we are doing we are going to the LGC requesting $1.5 million. Once we get the $1.5 million it will basically replenishes our Fund Balance.

Ms. Blanchard said the debt payment will reduce our Fund Balance.

Mr. Stimatz said but we will have the revenue.

Mr. Olson said that is correct.

Mr. Stimatz said so the Fund Balance would be zero.

Ms. Blanchard said no.

Mr. Stimatz said that the impact overall will be zero.

Ms. Blanchard said it will not. It will decrease our Fund Balance.

Mr. Stimatz said un-obligated Fund Balance. It would become an obligation against the Fund Balance.

Ms. Blanchard replied that is correct.

Mr. Stimatz said but we will have the revenue coming in that will replenish it.

Ms. Blanchard said in future years, yes.

Mr. Stimatz said on paper it is a debit but in reality it is a wash in turn of real money.

Ms. Blanchard replied in future years, yes.

Ms. Hummer said it will be years before it is paid back. She is glad she asked you that question because she has some concerns. It is like she said we thought that all the grants were in place and there was nothing to worry about. Another thing that has been a concern for her is she knows we were told that it will create jobs and it will but for the first few years and she doesn't know how many years because Elizabeth City State and COA have to get their aviation school up and running and train people. They have to get their training programs, their educational courses up and running and that will take years and in the mean time DRS and anybody else that comes here will have to bring people who are qualified in these jobs so it is not going to create any local jobs and she is sorry she has to say this but there is a great deal of concern in the community that we don't spend any money on infrastructure and we can't incur any debt but we can incur this Bridge Loan which will bring our Fund Balance down. She is sorry but she can't support that. There has to be another way.

Mr. Evans said Mr. Olson he would like to ask a question since we are kind of talking about Bridge Loans and everything and this is kind of his specialty. It is much like owning a home, living in the house that he is living in now, but then deciding that he would like to build another house. When he goes to build his house but he rents the house that he currently lives in. He is renting it out with the intent on selling it after he moves into his new house. The house is still paying for itself but he is moving into his new house. That debt that he has is really not there because it is being paid for. Is this where we are?

Mr. Olson replied that the debt is there but you are right it ends up being a wash to a certain degree but the debt is there until it is basically paid off.

Ms. Hummer asked if she could continue now. In answer to his question she is very familiar with construction loans and Bridge Loans as she has built a house

before. You are talking about your money verses taxpayers money so that is the difference and that is the concern. You have to be able to explain it fully to the taxpayers because you are going to put their money up as security and it is going to reduce your Fund Balance and we just reduced our Electric Fund Balance and she is not going to go there.

Mr. Rivers asked if we had asked the County to join in this. We have been doing everything. He knows that they made a Bridge Loan with the Airport Authority. That Bridge Loan that was originally given by the County wasn't it like for one year and it ended up being four or five years.

Mr. Olson replied that it was anticipated to be $525,000 for a short period of time up to one-year and subsequently it ended up being ten-years as it was redone as a ten-year note.

Mr. Rivers said that did happen to the County. They said that they were going to pay it back in one-year and it ended up being a ten-year note. That goes with anything could happen.

Mr. Olson said but, remember, this is a completely different situation. This takes LGC approval and basically we have to go out and get Commercial Paper for this. What you had there is an internal governmental loan among entities which subsequently caused a problem.

Mr. Rivers asked if that would help our debt liability if they signed on with us.

Mr. Olson said that the debt is being issued by the City. All the grants are in the City's name and everything else. That is the problem. The Aviation Grants are in the City's name and it is not the City and the County's name nor the Airport Authority's name.

Mr. Rivers asked if the Authority could go out and borrow it.

Mr. Olson replied that the Authority can go out and borrow $1.5 million but you have to remember that they have to come to us and the County before they are authorized to issue any debt. Then they become issues with the collateral and whether or not the Airport Authority has the right to collateralize taxiways and other projects that the LGC mention to him.

Mr. Rivers said but isn't DRS paying their lease. Who draws up the lease for DRS?

Mr. Olson replied that there is a draft copy of the lease right now on DRS's desk waiting for their General Manager to sign it.

Mr. Rivers asked who did the draft.

Mr. Olson replied that we did. The City Council has reviewed it and authorized him to submit it to DRS.

Ms. Hummer said that she would like to say that in the beginning when we signed on as the Agent, the Financial Agent we knew we could have a shortfall. Here we are, we have a shortfall and it is on our backs because we can't ask the County even though it is a joint venture, the City is the Financial Agent. She doesn't think that this is a good business decision. She thinks that we need to think about this, we have been thinking about everything else tonight and she knows the Aviation Park is important and she knows the City Manager is very dedicated to this but this is a risk. She doesn't feel like voting to take our Fund Balance down not when our Electric Fund Balance is down and we have to support that with money from the General Fund.

Mr. King asked if we were talking about the $1.5 million that we were discussing earlier. He thought that we had two options to pay that. He also thought that it would be no money to the City but would be a wash.

Mr. Olson said what Sarah, I think and Sarah can come up here and clarify that, our fist year's payment is what would be affected by our Fund Balance, correct.

Ms. Blanchard said that the first year would probably be $525,000.

Mr. Olson said that it depends on how long a period we go.

Ms. Blanchard said that if we go three years it would be about a half million dollars. That would drop our General Fund Undesignated Fund Balance from like 21% to 19%. Then of course the money would be replenished the following years, 2009-2010. You would see one fiscal year where the Fund Balance would drop because of this.

Mr. Olson said then it would be brought back up to where it would be.

Ms. Baker said that she just has one comment. She can't believe and Ms. Hummer you are on the Economic Development Commission and you know how important the whole Aviation Park is and how many jobs it will bring to this community. Five hundred good paying jobs at least what $40,000 about average annual rate of pay. Not immediately, but in the future and we do have to look to the future. We are going to train these people. We are going to train our local graduates, our people through COA and ECSU and for a million and a half dollars on one that we have already gotten $11 million funding on. She can't believe

that you won't support that. She means granted we are not having these jobs today but we are not going to have these condos tomorrow either. It makes no sense in the world to her.

Ms. Hummer replied that she can't believe Ms. Baker that you attack her in every meeting. She has the right to vote her conscious and the constituents. Just so we are clear on that.

Mayor Atkinson said that he thinks that we have pretty well covered most of this territory tonight so he will call for the vote on the motion as stated.

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

RESOLUTION #08-08-01
AUTHORIZING THE FILING OF AN APPLICATON
FOR
APROVAL OF A FINANCING AGREEMENT AUTHORIZED BY
NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the City of Elizabeth City, North Carolina desires to construct an Aviation Research and Development Commerce Park to better serve the citizens of Elizabeth City, and desires to borrow $1,500,000.00 for the project; and

WHEREAS, the City of Elizabeth City desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160 A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED, that the City of Elizabeth City, North Carolina, meeting in regular session on the 11th day of August, 2008, make the following findings of fact:

1} The proposed contract is necessary to provide a taxiway, streets, water, sewer and drainage within the Elizabeth City Aviation Research and Development Commerce Park.

2} The proposed contract is preferable to a bond issue for the same purpose because the cost to issue general obligation bonds would be greater.

3} The sums to fall due under the contract are adequate and not excessive for the proposed purpose based on estimates received by the engineering firms: Hyman and Robey and Delta Airport Consultants.

4} The City of Elizabeth City's debt management procedures and policies are sufficient because policies are carried out in strict compliance with the law and adequate debt management will continue to be provided as directed by the Local Government Commission.

5} The installment purchase debt will be paid through ground lease revenue and State and Federal Grants.

6} The City of Elizabeth City is not in default in any of its debt service obligations.

7} The attorney for the City of Elizabeth City has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to act on behalf of the City of Elizabeth City in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

ADOPTED AND EFFECTIVE, this 11th day of August 2008.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

7} <u>CONSENT AGENDA:</u>

Mayor Atkinson called upon City Manager Olson to read the Consent Agenda after which he called for action from the Council.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve the following Consent Agenda as presented by the City Manager. Those voting in favor of the motion were: Stimatz, King, Baker, Evans, Hummer, Meggs, Rivers and Watts. Against: None. Motion carried.

Consent Agenda

a} Authorized Mayor Stephen Atkinson to execute 1} the Commerce Grant Agreement, 2} the Funding Approval Form; and 3} the signatory and certification form authorizing the Mayor, the City Manager, the Finance Director and the Chief Accountant to sign requisitions for CDBG founds.

b} Called for a public hearing to be held on Monday, August 25, 2008 beginning at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for each of the following:

1} Consideration to amend the City Code of Ordinances, Section 18.2 Registration of Burial;

2} Consideration of rezoning request RZ-06-08 to rezone an 18± acre tract on the east side of Knobbs Creek Drive.

c} Changed the City Council Meeting schedule for the October 13, 2008 Regular Meeting to October 6, 2008 at 7:00 p.m.

d} Referred back to the Planning Commission for public comment and review Text Amendment TA-01-07.

e} Authorized Mayor Stephen Atkinson to execute the IDF Grant Agreement and the Grant Funding Approval Form and authorized the Mayor, City Manager, Finance Director and the Chief Accountant to sign the requisition form for IDF funding.

f} Approved granting an easement agreement with Embarq.

8} REGULAR AGENDA:

a} Appointment to the Historic Preservation Commission:

Mayor Atkinson presented for confirmation the name of Jennifer Stewart as a member of the Historic Preservation Commission. She would be filling the unexpired term of Mr. Jimmy Anderson who resigned due to moving out of the city limits. Ms. Stewart's term would end November 2010.

A motion was made by Councilwoman B. S. Meggs, seconded by Councilman R. E. King to confirm the appointment of Ms. Jennifer Steward to the Historic Preservation Commission with her term ending November, 2010. Those voting in favor of the motion were: Meggs, King, Baker, Evans, Hummer, Rivers, Stimatz and Watts. Against: None. Motion carried.

b} Procedure for donating cameras to the City:

Mayor Atkinson called upon Chief Crudup for comments.

Chief Crudup said after the cameras were installed in Sawyertown and Pennsylvania Avenue areas several inquiries have been make from local citizens and organizations in reference to donating cameras to the City. At your July 14th meeting you asked that a procedure be established and you assigned that to the Elisabeth City Police Department. The ECPD Policy Section 41.9 establishes those guidelines in regards to the donation of surveillance cameras by local citizens and organizations. The procedure outlines the process of accepting monetary donations in part or full for surveillance cameras. Under the new procedures prior approval must be given by the City Council before accepting a partial monetary donation can be received. The procedure also outlines the number of cameras must be reviewed as to see if there is an opening on our camera system for additional cameras. Also the proposed location of the cameras must be evaluated to see if the camera actually lines up with the site and signal of our tower to the location of where that camera is actually going to be located. Also the funds will be earmarked specifically for the purchase of surveillance cameras through the Finance Department.

Ms. Hummer asked in the case of an individual as we have something before us where an individual wants to donate a certain amount for a camera in a certain area. Should we have a clause in here like if this person donates money for the Pennsylvania area we don't want to put it in some other area? Don't you think we need some type of clarification for something like that? This is coming from a church. If some other churches want cameras and rather than leaving it to you and she is not saying that you should not be in charge of it but if they want a camera at the church for instance and they are donating the money for it.

Chief Crudup said that is why a study needs to be done to see if it actually lines up with our signal from our tower so the camera could be put in that location.

Ms. Hummer said in a general location as she realizes that you have to line it up, just to make sure that they get a camera near where they are having the problem.

Mr. Stimatz said in Paragraph Three he would suggest that you add the following words on the sixth line right after camera insert the words, "in the proposed location." That would cover it because if they don't agree to the proposed location they don't give us the money. The other one is and this is two parts. One is change out removal or replacement, we don't address that. He puts in $5000 to buy a camera and he sets one on the front of his house and you agree that is a good location and you are going to keep monitoring it. The expectations are that we will monitor that location. Do we then six years from now and the camera breaks are we under an obligation as the City to replace it or do we go back to the person and say if you would like to have that camera back you are going to have to pay for it. There is the question of upkeep and if it is a 50/50 and we as the City pay half and the person pays half then who has control of where that camera goes. Does it become the property of the City and we can move it where we want or at what point do they have veto power.

Chief Crudup said the policy states that once the camera is donated or the funds or actually donated to the City and once those funds are donated to the City it becomes the property of the City.

Mr. Stimatz said here is the thing. A group gets together and they come up with $2500 and that is all that they can afford but they want a camera. Are we going to match that? That is a question for the Council. Don't shake your head no yet Rickey. We put up a $9000 fence on a piece of property because people wanted it and they didn't put up a nickel for that fence. His point is the citizens come to us and say that they would like to have a camera but we can only pay $2500 then we may be faced with the question of are we going to give them the other $2500. Once we do that does that mean that we have to leave the camera there? Is there some point at which we say, ok you brought in far enough that we won't move it without talking to you or whatever. This is going to be a nasty issue. Ms. Hummer and he both know that. This is going to be a big question. You put that camera out there and they put $2500 into it and three weeks from now you move it and you don't want to be standing anywhere near that place. You don't want to be standing there. That's the fly in the ointment. How are we going to deal with that issue? He thinks the rest of this is fine but Ms. Hummer and he both know that these people are very territorial and they believe very strongly about it. If you tried to take those six cameras that you have over there now they are going to beat you up and they don't even own those much less one that they put money into. He thinks that we need to come up with something that addresses that issue and this goes back to the question for the manager too. Are we going to do matching or are we going to allow matching? We talked about that.

Mr. Olson said that is why the chief put the wording in 3 that he did that basically if it is like $1000 he is eligible or he can authorize us doing that. If it is $5000 the City Council is going to have to approve a purchase like that. He would agree with you that if an individual puts a camera or cost shares in a camera then there needs to be most likely wording in there that it can't be moved without prior approval of the donating party.

Mr. Stimatz said that there are two aspects. Somebody can say that they just want to give money to the camera fund. They just want to donate $5000. Then it just goes anywhere. Suppose somebody says that they want to give money for a camera at First Methodist. Betty wants one at First Methodist. So, how do we handle that? He thinks that you pretty well covered it but it goes back to the question of to what extent do we give them some sense of ownership. If you give half do we have to come to you first or if you only give a quarter too bad so sad but thank you very much. That is ok if we tell them upfront. If they know you only give a quarter of it you have no control over it and they give the money anyway then they donated it. If we tell them up front what their expectation is and it could be they don't have any expectation unless you give us the whole banana.

Mayor Atkinson asked to comment. It seems to him like this could have come up when we got the donation for the dog. Is the neighborhood going to tell us where to put the dog and the officer with it? It seems to me like the simple way to do this is if somebody makes a donation to the police department for a camera take the money and try to put a camera in that vicinity of who donated it, but as far as any equity in the plan after that it is up to the Chief and the City to handle the maintenance on it. Put the camera near where it was donated, you can do that but ends the obligation to the community. He thinks our intent would be to give them surveillance where they want it. That is the overall intent and if it breaks down it is our responsibility to fix it. We can't go back to them. He thinks that we are just beating this thing to death and we need to move forward with it.

Mr. Rivers said that he has to agree. He is not micro-managing the police department. We do not need to give sense of ownership to no person. If it works within the scheme of things and he doesn't think that it needs to come where they are strategically looking or telling us where to put the camera. He doesn't even think City Council should be out there telling people where to put the camera. He thinks that the Chief and his staff should be placing the camera. If someone makes a donation we don't need to give them any ownership. We just need to say that if they donate the camera, we appreciate it, thank you and let's move on. The more we put into this the more it is going to be so complicated. Two years from now all of us are not here and the next Council sitting here and the Chief decides he has a hot drug area that's moved over and

he wants to go move a camera, and you have to contact five individuals who live in New York but have rental houses, two churches to get their permission to move three cameras it becomes a nightmare. He thinks that we need to just accept it, just like you do the dog. We do the same thing with cars. If someone donates a car to the police department they can't tell you who is going to drive it. He thinks that we should accept the donation, we appreciate it and you get a nice letter from City Council and the Mayor and let's move on. He understands that people want ownership but the Chief has the responsibility for the whole City and he needs to move it wherever he needs to move it. We need to do what we do with the canines. We don't need to let City Council get involved in where to move it. Cut all of that and say we thank you for your donation, we appreciate it, etc. Don't make it more difficult than it really is.

Ms. Hummer said that she suggests that you go to the next Sawyertown meeting and the next Pennsylvania Avenue Crime Watch meeting where they have had three shootings in those areas and tell them this. He thinks that they have worked very hard for the five cameras that are over there and if you try to move those you will have a riot she can assure you. What you do with the ones that have come since then she thinks that is up to the Chief. We had a ceremony for the Pilot Program for these cameras. She thinks it would be a good idea to perhaps put in this how many years they remain in a high crime area.

Chief Crudup said that we are adding this to our current policy and our current policy already states that the area will be evaluated every 90-days. Unless something is really improving in the area we do not move them. We constantly evaluate the cameras and their effectiveness in those areas. So in our current policy we already have that in it.

Ms. Hummer said that sounds like to good way to go, Mr. Rivers but when you have somebody who is having prostitutes sit on the church steps and gunshots with bullet holes in the side of church where there is a daycare center, you wouldn't want to put the camera that they raise the money for some place else. You have to look at the human element also.

Ms. Baker said that she is just going to agree with him and she was also going to ask about moving the other camera but the Chief has addressed that. We have never had one on Hunter Street or anywhere else and we have problems, drugs and all that stuff too. She just wanted to agree that if someone is only donated a part of the camera they don't get to say anything about it except here is the money and put it where it will do the most good.

Mr. Stimatz said then you need to add this to your policy. If someone buys a camera and it could be anybody and they want to net it in or other words, the mall let's say they want eight cameras and say we would like to have you have

our picture but they are our cameras. You need a policy for that and offer the same thing to anyone else. If he wants to put a camera in front of his house and he comes to you Chief and say, look, chief it is my camera but I will let you net data in there so it helps you. Then he thinks that you ought to allow that. That answers that question. If he owns the camera and you will net it then that is fine. It is his camera, you can't move it but you get the use of his data. Other than that if you want to make the policy, it is just a donation and too bad so sad that is fine. All he is saying is make sure that you manage the expectation up front of what they are getting for what they are giving. He doesn't have a problem either way. But he thinks that you need to add the section about the purchase of one of these cameras. He has got it setting up here and he bought the RF transmitter and everything else and he says, Chief he would like to net his. If the County comes in as tells us they would like to put cameras in all the schools but they aren't going to let you move them. They are their cameras. He thinks that you need to address that as well.

Mayor Atkinson asked who was going to repair it Mr. Stimatz.

Mr. Stimatz said the person that owns it.

Ms. Hummer said that was a $5000 donation from Blackwell so that should be ownership.

Chief Crudup said that he doesn't think right now we will allow private cameras to be netted into our system. Right now we are not allowing it. The only way they can get a camera in our system they have to donate the funds for the camera. They donate those funds to the City and we purchase the camera on the network.

Mr. Rivers said that we can't promise where it is going to be placed. In response to what Ms Hummer said he doesn't think when people come and make a donation like Blackwell he doesn't think that we are going to ask for it to come to my neighborhood and that is a drug infested area. But, if that area changes in five years which we are all hoping that it will and it will be moved to another area. The police should have the ability to move it without having to contact people. He thinks that the Chief has a sense of being in the community just like when you and Councilman Stimatz talks about when you go to the meetings. He doesn't think he is talking about moving it right off but he doesn't think we should put so much red tape so that they can't move it when the crime ceases from that area and moves to another area.

A motion was made by Councilman E. K. Rivers, seconded by Councilman D. B. Evans to adopt the procedures for the donations from a private citizen or organization wishing to make

a donation towards a surveillance camera with the funds coming directly to the City. Those voting in favor of the motion were: Rivers, Evans, Baker, Hummer, King, Meggs, Stimatz and Watts. Against: None. Motion carried

Mr. Stimatz said one comment. Chief can I ask you to come back and consider this idea of netting other cameras in. He is not talking again, do we have a policy if the Mall wants to give us their information, a bank or the County. He thinks you should have something in your book about that. We shouldn't turn it down. If somebody wants to buy 20 cameras and they can cover half the city for you why should we the City spend $100,000 when someone else wants too? Like the County.

c} Bid Awards:

1} Construction Contract for Hughes Boulevard Water/Sewer Upgrade:

Mayor Atkinson called upon Public Utilities Director Fredette for comments on this item.

Mr. Fredette stated that for the past two years the City has been in the design and permitting process for a new sewer force main that extends from Rum Quarter Sewer Pump Station to the proposed Knobbs Creek Pump Station. The project includes an upgrade of the Rum Quarter Sewer Pumping Station. Bids were open on July 29th for the construction of this project. The Bid List is as follows:

Bidder	**Bid Total**
Seaside Environmental Constructors	$2,189,709.00
George Raper & Sons, Inc.	$2,640,840.76
Precon Construction	$2,879,168.50
T. A. Loving Company	$2,886,680.00
Herring-Riverbark, Inc.	$3,059,350.00
Inner-View. LTD	$4,185,064.00
JCB Construction Company	$4,274,507.00

The Consulting Engineers for this project , Hobbs Upchurch & Associates, P.A. have reviewed the bids and based on the low bid and prior working experience with the low bidder have recommended that the construction of this project be awarded to Seaside Environmental Constructors.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to authorize the City Manager to enter

into a construction contract with Seaside Environmental Constructors' from Raleigh, NC for the construction of the Hughes Boulevard Sewer Force Main and related sewer pump station and water main extension work for a total of $2,189,709.00, subject to all permits being obtained and all financing being secured and in place. Those voting in favor of the motion were: Stimatz, Baker, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried.

2} Award of Bid for Aviation Park Taxiway:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson stated that bids were opened for the construction of the taxiway for the Elizabeth City-Pasquotank Aviation Research and Development Commerce Park ("the Park"). The following bids were received:

Bidder	**Bid Total**
Mainline Contracting	$4,671,048
Sargent Corporation	$4,524,443
RPC Contracting Company	$4,519,924
Barnhill Contracting Company	$4,134,696

The construction of the taxiway in an efficient and cost effective manner is crucial to the Park. The apparent low bidder was Barnhill Contracting Company.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman D. B. Evans to award the contract to Barnhill Contracting Company in the amount of $4,134,696.00 for the construction of the taxiway, subject to the following conditions: approval of all grant agreements and special conditions associated and contingent of the City receiving all necessary financing and permits. Those voting in favor of the motion were: Baker, Evans, Hummer, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

3} Water and Sewer Infrastructure:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson stated that on August 6th of this year bids were opened on the Aviation Park infrastructure which included roadways, drainage, utility improvements. We did receive the following bids:

Bidder	**Bid Total**
Parks Land Development, Inc.	$2,961,209.05
George Raper & Sons, Inc.	3,435,325.51
RPC Contracting Company	3,336,531.70
Barnhill Contracting Company	3,112,330.00

The apparent low bidder was Parks Land Development, Inc with a bid of $2,961,209.05.

During the bid opening for the infrastructure improvements, there was a minor bid irregularity which staff is requesting City Council to waive. Parks Land Development, Inc. provided the City with a cashier's check for $148,060.20. The bid was $2,961,209.05. The cashier's check should have been issued in the amount of $148,060.45, a difference of $.25. We did check with the Institute of Government David Lawrence and Eileen Youens as well as City Attorney Bill Morgan, who determined that his is an informality that the contract documents reserves the City the right to waive.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman J. A. Stimatz to waive the $.25 bid bond informality and award the bid for the construction of Aviation Park infrastructure improvements to Parks Land Development, Inc. in the amount of $2,961,209.05, subject to the following conditions: approval of all grant agreements and special conditions associated and contingent on the City receiving all necessary financing and permits. Those voting in favor of the motion were: Baker, Stimatz, Evans, Hummer, King, Meggs, Rivers and Watts. Against: None. Motion carried

d} CDBG Appeal Procedure:

Mayor Atkinson called upon City Attorney Morgan for comments.

Mr. Morgan said during our July meeting Council instructed him to prepare a procedure under which a sub-recipient can appeal an adverse City decision as it related to the City's administration of CDBG funds. He prepared a procedure and gave copies to you earlier. It is his understanding that the procedures that he prepared are acceptable to Council. He read the following into the record:

CITY OF ELIZABETH CITY
CDBG SUB-RECIPIENT APPEAL PROCEDURE

A sub-recipient under any grant administered by the City which utilizes CDBG funds may appeal an adverse City decision which effectively removes the sub-recipient from grant-related activities by filing with the City Manager's Office in writing a notice of its appeal of the adverse City decision. The appeal must be filed within 14 days of the adverse City decision and it must state with specificity the reasons the sub-recipient feels the adverse City decision should be overturned. Any supporting documents which justify or substantiate the appeal must be included.

Under receipt of an appeal, City staff shall evaluate the merits of the sub-recipient's arguments for reinstatement and may schedule a meeting with the sub-recipient and its legal representatives, if any, at which time the sub-recipient and City staff may attempt to resolve the issue. If City staff and the sub-recipient are unable to resolve the issue informally, an appeal hearing shall be scheduled before City Council as soon as is practicable. The City may establish from time to time rules and procedures for conducting any such hearing. As an initial guideline, the format of any such hearing shall include the sub-recipient's having up to 30 minutes to present its case for reinstatement. City staff shall then have up to 30 minutes to rebut the sub-recipient argument(s) and/or present its case for upholding the prior City action. Members of City Council or their designee(s) will then be able to ask questions of the sub-recipient's representatives and/or the City's representatives. After the hearing, the City Council shall deliberate and shall issue its decision, which shall be final and determinative of the matter.

Mr. Olson said as a point of clarification and the City Attorney can hop in here if he so desires. That this appeal process is only towards the sub-recipient agreement that we have with any sub-recipient agreement we have right now. It does not affect any contractual or other type of lease agreement we have, is that correct.

Mr. Morgan replied that is correct.

Mr. Rivers asked how many sub-recipients we have at the present time.

Mr. Olson replied that at the present time we have none.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman B. S. Meggs to accept the proposed CDBG Sub-Recipient Appeal Procedure. Those voting in favor of the motion were: Baker, Meggs, Evans, Hummer, King and Rivers. Against: Stimatz and Watts. Motion carried.

9} COMMENTS AND INQUIRES ON NON-AGENDA ITEMS:

Mayor Atkinson called upon City Manager Olson for any comments.

Mr. Olson said for those that were in attendance at the Work Session it is his privilege to introduce Randall Lyons. Randall is the Administrative Intern who will be working with me for a while. He was involved with some of the Aviation Park stuff that you saw tonight. He provided most of the presentation. He is doing a real good job and he would like to welcome him to his management team.

Mayor Atkinson said we will go around the dais for comments from the City Council.

Councilman Stimatz said that he had no further comments.

Councilwoman Meggs said that she had to say this for the record. Thank you so much for those of you who went and served as well as the 40+ that helped for the Coast Guard's Birthday. Also thank you for those that were willing to be dunked at the National Night Out. Also the Youth Director at Corinth Baptist Church.

Councilman Rivers said that he had no further comments.

Mayor Pro Tem Baker said that she just wanted to mention the petition that we received regarding the cobblestone block behind the old library and the homeless people that are sleeping in the park over there. She just wanted to put it on the record and make sure the Police Chief has a copy of it.

Councilwoman Hummer said that she would like to mention the fact that we had four shootings in about two weeks. There people in her ward and Tony's ward who are very much afraid. Three of those have occurred over there. She knows that the police are doing a good job and they can't be everywhere and maybe it is time for one of these agencies to come back in here as they did offer their help such as Alcohol, Tobacco and Firearms. There are so many guns on the streets. Someone walked into one of our restaurants with a gun a few nights ago. It is really very scary and she would like to put that suggestion to the City Manager that we call on these agencies once again. She is sure that the Chief can use some help as they are just cropping up several nights a week and even in the daytime.

Councilman King said that he had no further comments.

Councilwoman Watts asked the City Manager if we ever got a light at Edgewood.

Mr. Olson replied no but June is still working on that. All the approvals have been received and we are just waiting on the contractor to do it.

Ms. Watts said also Oak Grove. She guesses we are moving steadily on improving that.

Mr. Olson said you received a memo on that issue one day last week. We have had a little hiccup and the project is going to be delayed about 30-days because of that hiccup. We should still be able to go to bid mid September.

Ms. Watts said finally she never did get a chance to thank Blackwater for our nice tour of their facility. She wants to thank Blackwater itself and also for Ted who she believes was our guide, she wants to thank you so much for taking the opportunity to show the Council who was able to attend the facilities.

Councilman Evans said that he would like to make a brief comment about his experience in Myrtle Beach at the ElectriCities Conference. It was a great experience and he took home a lot of information, not just by ElectriCities but we did have lengthy discussions on ElectriCities. We had discussions on education and we had discussions on the environment, economic development and customer service and how they all interact with each other. It was a great experience and he was glad that he had the chance to go. He was glad that everybody else was able to go. He wished that there were a couple of others would have went. But, it was a very good experience and he was glad that he was able to go.

Mayor Atkinson said that he had a couple of things. One is the Gala Event out at Bayside Manor was a great success. He knows that a lot of people worked diligently and very hard to get that done. It is still going on and if you have the opportunity to go you should try to do that. Also, he had the opportunity to go out to the Fire Station which was the old Teen Center which is now the tae kwondo Center. He went out there Saturday a week ago and it is just fantastic what Parks and Rec have been able to do in that facility. He was very impressed. They had 35-40 young people out there and probably 70 adults that were supporting that issue. Also, the Committee of 100 he wants to recognize them for having George Jackson to talk about the economic forecast in the City and surrounding counties. The National Night Out was a big hit. He thanked Chief Crudup and his department for all they did.

Finally, he read a letter from Captain Bennett out at the Coast Guard Base that is addressed to him that thanked everyone for the most generous contribution of $1000 to their Morale, Well Being and Recreation Fund in support of Coast Guard Day 2008.

10} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Atkinson adjourned the meeting at 10:42 p.m.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk