

MONDAY-7:00 P.M.

SEPTEMBER 27, 2010

CITY COUNCIL

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

Mayor R. A. McLean established a quorum was present and called the meeting to order. He called upon Pastor Reggie Ponder for the invocation after which the Pledge of Allegiance to the Flag of the United States of America was given.

1} AGENDA APPROVAL:

Mayor McLean called for the Council's pleasure regarding the prepared agenda.

Mayor Pro Tem L. A. Hummer asked to ***add to the Regular Agenda, appointments to various Boards, Committee and Commissions; and add a Resolution regarding the Pearl Street Grant.***

Councilman J. A. Stimatz asked to ***remove Item 8-b-Authorization to Submit Funding Application to the TDA from the Consent Agenda and place it under the Regular Agenda for discussion.***

Councilman M. E. Brooks asked to ***add to the Regular Agenda discussion of Oxford Heights.***

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the prepared agenda to include the above noted items. Those voting in favor of the motion were: Hummer, Baker, Brooks, Hill-Lawrence, King, Meggs, Stimatz and Walton. Against: None. Motion carried.

2} COMMENTS FROM THE PUBLIC:

City Clerk D. S. Pierce-Tamplen stated no one signed up to speak under this section of the agenda.

3} PROCLAMATIONS/PRESENTATION:

a} Proclamation - Alpha Delta Kappa Month:

Mayor McLean presented a proclamation proclaiming October 2010 as Alpha Delta Kappa Month.

b} Certificate of Appreciation – Memory of Sheriff Davis M. Sawyer:

Mayor McLean presented a Certificate of Appreciation to the late Davis M. Sawyer family. Ms. Sawyer expressed her appreciation to the City for this honor being bestowed upon her late husband.

c} Presentation – Update on Washington, DC Summit:

Mr. Wayne Harris, Albemarle Economic Development Director presented an update along with photographs of the recent Washington, DC Summit the Mayor, Matt Wood, himself and others attended.

4} APPROVAL OF MINUTES:

a} Special Meeting – February 8, 2010:

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to approve the minutes of February 8, 2010 Special Meeting. Those voting in favor of the motion were: King, Hummer, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

b} Regular Meeting – February 8, 2010:

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to approve the minutes of February 8, 2010 Regular Meeting. Those voting in favor of the motion were: King, Hummer, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

c} Joint City/County Meeting – August 30, 2010:

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to approve the minutes of August 30, 2010 Joint City/County Meeting. Those voting in favor of the

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

d} Regular Meeting – September 13, 2010:

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to approve the minutes of September 13, 2010 Regular Meeting. Those voting in favor of the motion were: King, Hummer, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

5} CONSENT AGENDA:

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

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

CONSENT AGENDA:

a} Adopted the following Resolution approving the Financing for the purchase of three police vehicles in the amount of \$136,000 with SunTrust Equipment Finance & Leasing Corporation and approving the attached Budget Amendment.

**RESOLUTION # 1091
FINANCING PURCHASE OF THREE
POLICE VEHICLES
\$136,426.44**

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT IN THE AMOUNT OF \$136,000.00. EQUIPMENT SCHEDULE NO. 01 AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the governing body of City of Elizabeth City ("Lessee") desires to obtain certain equipment (the "Equipment") described in Equipment Schedule No. 01 to the Master Lease Agreement (collectively, the "Lease") with **SUNTRUST EQUIPMENT FINANCE & LEASING CORP.**, the form of which

has been available for review by the governing body of Lessee prior to this meeting; and

WHEREAS, the Equipment is essential for the Lessee to perform its governmental functions; and

WHEREAS, the funds made available under the Lease will be applied to the acquisition of the Equipment in accordance with such Lease; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment, and

WHEREAS, Lessee proposes to enter into the Lease with **SUNTRUST EQUIPMENT FINANCE & LEASING CORP.**, substantially in the form presented to this meeting.

NOW, THEREFORE, BE IT RESOLVED by the Government Body of Lessee as follows:

Section 1. It is hereby found and determined that the terms of the Lease in the form presented to this meeting and incorporated in this resolution are in the best interests of Lessee for the acquisition of the Equipment.

Section 2. The Lease and the acquisition and financing of the Equipment under the terms and conditions as described in the Lease are hereby approved. The Finance Director of Lessee and any other officer of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Lease with any changes, insertions and omissions therein as may be approved by the officers who execute the Lease, such approval to be conclusively evidenced by such execution and delivery of the Lease. The City Clerk of the Lessee and any other officer of Lessee who shall have power to do so be, and each of them hereby is authorized to affix the official seal of Lessee to the Lease and attest to same.

Section 3. The proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Lease.

Section 4. Pursuant to Section 26.5(b) of the Internal Revenue Code of 1986, as amended (the "Code"), Lessee hereby specifically designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b) (3) of the Code.

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the Lease executed on behalf of Lessee is the same as presented at such meeting of the governing body of Lessee, excepting only such changes, insertions and omissions as shall have been approved by the officers who executed the same.

ADOPTED, this 27th day of September 2010.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

**BUDGET AMENDMENT
NUMBER 2010-16
SEPTEMBER 27, 2010**

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

SECTION I. That the General Fund Balance Appropriated (103990.0000) and the Police Department Service (105100.8106) be increased by \$19,937.

(To record debt service for police vehicles.)

SECTION II. That the General Fund Reimbursement from Pasquotank County (103500.5100) be increased by \$79,000 and Other Financing Source (103980.0000) be decreased by \$79,000.

(To record County grant funds of \$79,000 for police vehicles.)

ADOPTED, this 27th day of September 2010.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Called for a public hearing for each of the following to be held on Monday, October 11, 2010 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building:

- 1} **Consideration – TA-01-10:** To amend the UDO- Section 2-4 definition of Internet Sweepstakes Cafés to delete accessory use
- 2} **Consideration – TA-02-10:** To amend UDO-Section 11-2 to exempt parking requirements in the Central Business District
- 3} **Consideration – RZ-04-10:** To rezone 1.1 acres from AD-Apartment District to O & I-Office and Institutional at 1221 Carolina Avenue

c} Accepted Petition for Voluntary Annexation for 17.76 acres owned by JOG Development, LLC and adopted the following resolution directing the City Clerk to investigate the sufficiency of the Petition of Voluntary Annexation.

**RESOLUTION #1092
DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G. S. 160A-58-1
NORTHSIDE PARK – JOG DEVELOPMENT, LLC
17.76 ACRES – US 17 NORTH**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on September 27, 2010 by the City Council; and

WHEREAS, G. S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Elizabeth City deems it advisable to proceed in response to this request for annexation;

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

THAT the City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of her investigation.

ADOPTED, this 27th day of September 2010.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

d} Approved the Historic Preservation Commission Annual Report

END OF CONSENT AGENDA

6} PUBLIC HEARINGS:

a} RZ-03-10 to rezone 33 acres from O & I Office & Institution to GB-General Business at the intersection of Halstead Boulevard and Mt. Everest South:

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

Ms. Brooks said that this item is a request to rezone 33 acres on the south side of Halstead Boulevard Extended at Mt. Everest South. SAT-DEV, LLC requested a rezoning from O&I to General Business. This is a portion of a larger development at Stockbridge which consists of 189 acres of property. At the time of the original annexation and rezoning in 2008 the applicant anticipated that there would be a demand for O&I zoning but this has not occurred instead the demand has been for commercial type development. The proposed rezoning is compatible with the existing uses on Halstead and is consistent with the draft land use plan. The Planning Commission reviewed this request at its August 3rd meeting and recommended approval.

Mayor McLean declared the meeting into Public Hearing.

Melissa Venable, 5887 Harbor View Boulevard said she was here representing SAT-DEV, LLC. In 2008 they were here before you as part of Tanglewood there were a lot of rumblings that much of the other General Business would be developing at that time. We all the economy made a change. At that time they thought the O&I made sense. We have had some activity but there is not a lot of need or demand for the O&I Zone. We feel we will make more progress with the parcel as General Business.

Since there was no one else that wished to speak for or against the proposed rezoning, Mayor McLean declared the public hearing closed.

Councilman Stimatz stated that one of the things that we have looked at in the past and in other zonings on this corridor in particular is the total amount of commercial zoning that we are creating. Are we creating too much? GB is mostly retail verses doctor offices.

Ms. Brooks said you can still have doctor offices and office type use in the General Business but it does open it up a little bit more for retail.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to approve rezoning request RZ-03-10 by SAT-DEV, LLC to rezone 33 acres from O & I Office and Institution to GB General Business at the intersection of Halstead Boulevard and Mt. Everest South. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, King, Meggs and Walton. Against: None. Motion carried.

b} Consideration - 1013 North Road Street to allow the operation of 2 internet sweepstakes machines:

Mayor McLean called upon Planning Director Brooks for comments.

Planning Director J. C. Brooks stated the applicant requests approval of two in-place internet sweepstakes machines as an accessory use. The applicant was cited as a zoning violation for failure to get a use permit prior to the installation of these machines. Staff reviewed this application under the design guidelines that are currently in the UDO. Staff is currently in the process of amending the definition of Internet Sweepstakes to delete these machines as an accessory use. This application was in the process prior to the initiation of the Code Amendment. This item has been reviewed by the Technical Review Committee and Planning Commission. Both recommended approval of this use permit. Should City Council choose to approve this application it is recommended that the conditional use permit be limited to two (2) machines; that the applicant

comply with the conditions of 11-4.441 of the UDO which are the design standards; the applicant record the permit with the Pasquotank County Register of Deeds and that this use permit expires on November 30, 2010 to be in compliance with the recently adopted State Statute Regulations.

Mayor McLean declared the meeting into public hearing. Since no one signed up to speak for or against the proposed CUP, Mayor Mclean declared the public hearing closed.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to deny CUP-04-10 for two internet sweepstakes machines at 1013 North Road Street as not being in compliance of two specific aspects of the UDO, that being the age limitation and the hours of operation.

Councilman J. B. Walton stated he doesn't understand why we are going against what we have been doing all along. He doesn't have a dog in this fight himself but from day one we have been approving everybody that comes up with a sweepstakes request. Now, it is going to be outlawed and all of a sudden we are going to stop allowing them. He doesn't understand it.

City Attorney Morgan said he would like to address that. He believes we have approved the ones in which the businesses were applying for internet sweepstakes cafés as a primary use or as the sole use in the buildings. This is the second scenario where an applicant has come before Council seeking permission to have these as an accessory use within a convenience store.

Mr. Walton asked how many have we denied?

Mr. Morgan said the only one that has come before Council prior to tonight was the one where the applicant withdrew the application during the meeting. Tonight the applicant apparently has chosen not to appear.

Councilman Stimatz said he would like to response to Councilman Walton. One of the actions that this Council took was specifically directed at doing away with this. We directed staff to come back with a change to the UDO to drop accessory uses because we didn't want this to happen.

Mr. Walton said he remembers you pushing that through.

Mr. Stimatz said this particular application cannot meet two of the conditions of use anyway. It is not that we are denying our own rules we are applying our rules. Our rules say, restricted to patrons and staff of 21 years of age and you have to restrict the hours of operation. Neither of these can they do. The point

being that if you look at the rules that are in place, everybody else had to comply with them and it required them to have patrons and staff over 18-years of age, no exceptions and required the hours of operation to be limited. That cannot be accomplished at this location. That is specifically why he is recommending that we deny it.

Mr. Walton said his point of reference was that everybody that has been up here we have approved them. The law is going to disband all of them within three months supposedly unless someone like you come up and pull another policy out. We have been allowing them all to have them all this time and all of a sudden you want to cut it all out. He doesn't know what the agenda is but there has to be another agenda.

Councilman King said the problem has been it hasn't been a convenience store. That is the issue. We approved the places where it had twelve terminals. We didn't want it but we had to go with it. This one here is in a convenience store. We are trying to stop them from going into a convenience store.

Mayor McLean said he wanted to ask the attorney a question. The Planning Board recommended approval of this. Are they using the same policies as we are using when they look at these types of items. If we have a rule from the City that states that we shouldn't do it then shouldn't they be operating by the same rules? What rules are they operating by?

Mr. Morgan said he didn't attend that meeting. He read the minutes as he presumes everyone did. Maybe Ms. Brooks can address that issue. He assumes they are not paying particular attention to those hours of operation and the limitations in the UDO that anyone less than 18 years of age is in the vicinity of these machines.

Mr. McLean said if you go into another city and by state law accessory use is legal and they can be installed in convenience stores as well as gas stations, etc.

Mr. Morgan said he is not sure what other cities have done, but he does know that most cities and counties that have reviewed the issues have approved these because litigation statewide has essentially forced them too. He is not personally familiar with whether cities and counties allow these as accessory uses.

Mr. McLean said this is his concern; we are not connecting the dots. We have a zoning board that has approved it. We have a Planning Commission that has approved it and yet we say no. That is what he has an issue with.

Ms. Brooks said that she would like to clarify that the Technical Review Committee and the Planning Commission recommendations are advisory.

Council has the final determination. She thinks both of those boards looked at the age restriction and based on the information the applicant gave staff reviewed the information that those two boards gave. They indicated that you would be buying time from the cashier and they would check id's and only sell time to individuals over the age of 18 and those would be the individuals that would be able to play those games. The Planning Commission and TRC basically looked at it differently than what she is hearing from Council's opinions tonight. It is just a difference of opinion or different way of looking at it than what you are considering.

Mr. Stimatz said his comment would be this: We made it clear that we did not want this. We made it clear when we directed staff to come up with a change to the UDO. It is clear when you read the conditions of use that the age prohibition is specific. It says employees or staff on the premises. It doesn't make exceptions for buying time. If they want to read the rules and they had better read them right. None of us want these. To back up what Johnnie is saying, none of us wanted these. The minimum we are going to allow is a large sweepstakes café that only has these and we are not going to put them in convenience stores. The Planning Commission isn't paying attention. If they weren't advised when then looked at this that Council's interpretation is very clear on age and very clear on our direction then maybe we need new people on the Planning Commission.

Mr. Brooks said he thought that we went through this scenario at the last meeting. We did go through this. Why are we back tracking? It was very clear at the last meeting. We went through it with the attorney giving his opinion and it made sense. Why is it an issue now? If we make a decision on something we can't keep revisiting it and making it an issue for discussion. It is very clear what we said.

Mr. Walton said he doesn't think it is all about that. This here is a public hearing and that is why we are talking about it. He is saying he didn't want it in the first place even if you want to take them out in the woods and have them. He didn't want them, but he remembers the comment that Mr. Stimatz said. He said it is illegal. Ms. Brooks is saying it is legal if they put them in those convenience stores. It is the same legality. He is saying put it out there for everybody. He means it is not going to be around but 90 more days. Why cut some people off and let whoever has it. His buddy may be the competition and it would not be fair to let him have it and not others have it. Let everybody have it for the next 90-days. Why make a policy when it will disappear in 90-days. Somebody has got to get something from it.

Mr. McLean said he has one final comment. Mr. Morgan, what recourse does this agency have if we deny them this request? Is there recourse for them?

Mr. Morgan said the applicant could file suit to the Superior Court of Pasquotank County. That would be the only recourse. He doesn't know what the chances would be that the applicant would do that. He doesn't think the chances would be good that the applicant would prevail if he chose to do that. It is interesting that the applicant did not appear tonight to put forth his request.

Mr. McLean said he has been in convenience stores in other cities and they are legal. We have just determined that they will not be legal here. He will support what the attorney was saying relative to the fact that we don't need to get into another lawsuit. We don't need any more lawsuits.

Mr. Morgan said no one wants that but we are bringing this issue back and we will revisit it at the next meeting because there is going to be a public hearing at the next meeting that will essentially close the loop hole in the existing ordinance that allows an applicant to come forward for the conditional use permit as an accessory use. We are closing that loop hole so that assuming Council does approve that change at the UDO at the next meeting only those businesses which have this use as its primary use can move forward.

Councilwoman Meggs asked if they were being fined.

Ms. Brooks replied what you have to do is once you cite them with a violation you have to give them the opportunity to take corrective action and in this case the applicant came forward and applied for a CUP and the violation stays until they get through the application process. They are being used but the violation stays until they can either get approved or either denied. Once Council takes action on the use permit application then we move forward with the rest of the violation.

Mr. Brooks said so what you are saying is they already have the machines inside the shop.

Ms. Brooks replied yes we cited them with a zoning violation. After today you can take them out. If Council chooses to deny their application we will notify them that they have been denied and they have to remove the machines.

Mr. Brooks asked if they knew by putting them in there that they would be going against procedure.

Ms. Brooks said from what we are hearing from the people that we have cited with the two and three machines the company that leased them the machines told them that they were exempt from the Internet Sweepstakes regulations and we had to inform them that was not correct.

Councilman King said last month we have an applicant to withdraw their application. How much time do they have to get the machines out of their building? Are they being cited while they are there?

Ms. Brooks said the machines at the SUNOCO have been unplugged. Council was told that they would be removed by the end of the month. They are not gone and we have talked with the owner twice. He has also been notified he needs to remove them out of customer's accessibility while he is waiting for the company to remove them. They have not been used since his application was denied last month. We can fine them up to \$50.00 a day until they get to the magistrate. They have a certain number of days which the City can fine them. If they choose not to pay the fine we take it to the magistrate and then it is in the magistrate hands how he wants to fine them. It is not whether the machines are there but rather if they are being used.

Mr. Stimatz asked if we could get a cease and desist order in the future. He goes back to Council's goals and objectives-better code enforcement, big issue for Council and has been for as long as he has been on Council, big issue for our constituents. That means people have to have consequences.

Mr. Morgan said that once the violation is discovered the UDO requires the notice go to the property owner or the occupant in this case. Then he or she is given the opportunity to cure the defaults so in his opinion only after Council were to disapprove the application or deny the application and the applicant continues to operate.

Mr. Stimatz said the fact that they are in violation of zoning is one thing but they are operating illegally to start with. They don't have the approval. It seems like there are no penalties for anything you do in this city. If you want to go out and change anything you want, go ahead and change it and guess what the City will never stop you. We are not going to tell you to quit. We are not going to take you to court. It takes four years to get siding on a house on Road Street that has been in code violation for five years. They can take a single dwelling and turn it into a duplex and have to get caught by their neighbor because they are in violation of the code. When we do find them it takes forever to make them stop if we ever do anything. That is the frustration. He is just expressing it.

Mayor McLean called for a vote on the motion.

Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer and Meggs. Against: Walton. Motion carried.

7} REGULAR AGENDA:

a} Authorization to Submit Funding Application to TDA for way finding sign project:

Mayor McLean called upon Councilman J. A. Stimatz for comments.

Mr. Stimatz stated he has a couple of concerns. One of the things that we have always talked about with TDA money is heads in beds. It is hard to make the distinction between way finding signs and heads in beds although he believes way finding signs are very important. His comment would be this is something that we should have been doing all along regardless of whether we had a TDA or anything else. This is a city function. His question is can we use Powell Bill monies for this?

Mr. Olson replied that he would have to check on that.

Mr. Stimatz said his other question is he sees where you are putting some of these and he thinks he understands why you are trying to do it. Were you planning to put all the same size signs everywhere at all these locations. At the corner of Church and Water Streets and Ehringhaus and McMorrine there are signs that direct you to the public parking. Why would you need a whole big sign to tell you within 100 feet that you found the city parking lot? Why couldn't you just have a smaller sign that says city parking lot and save one of the big signs for some place else. That is just a suggestion. If we are trying to bring people downtown he doesn't see any signs using Road, Main, and Church which are the three big ways of coming into the city. There isn't one at Water and Ehringhaus Streets which is another main entrance into the main downtown. He is not sure this is appropriate for TDA to start with and he would defer to Jean on that question. He hopes that we are doing this all the time. He thinks it is a great idea. He is just concerned that we can fund it better.

Mayor Pro Tem Hummer asked isn't there a line item for signs in the Public Works budget. Just signs in general.

Mr. Olson replied that yes there is and that is a possibility. He can't remember exactly how much is in that particular line item as he would have to check the budget and report back to the Council. These signs will demonstrate usually three different locations. This is something that was brought forward by the HAS Committee which involves the TDA, AOA and the Museum and that is their initiative that city staff has been working with them on. We have sent in a request to NCDOT for funding to pay for \$10,000 of the signs and we have a number of other agencies who have committed to pay part of the costs of putting these signs up. Our commitment is \$10,000 and we had recommended

TDA funding to use because when you get customers to Elizabeth City they need to know where to go. These signs will indicate how to get to the waterfront, Museum, courthouse and Arts of the Albemarle, etc. That is why the way finding sign system we thought was appropriate for TDA funding.

Councilwoman Baker said she thinks that everything that Tourism money goes back into does not specifically promote heads in beds but tourism development. Certainly we give money that doesn't always promote heads in beds like the fireworks. Can we say we had anybody stay overnight because of the fireworks? Can we say we had anybody specifically stay overnight because of many events. Largely this is promoting tourism and it is getting people to come to other venues to spend money and leave their dollars. She thinks that we can justify it. She would certainly rather see it come out of Powell Bill too if we can get it.

Mr. Olson said this particular project was chosen because of the work going on with Elizabeth Street here in the near future. We thought it was very important to get people to these locations off of Elizabeth Street especially with the detour routes and everything else. The Committee in general agreed that we do need the signs you suggested at these other points. However, the nature of these signs is designed for certain speed limit. The ones at certain other locations would have to be a larger type set.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to authorize the submission of an application of \$10,000 to the Tourism Development Authority for the purchase of way finding signs. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, King, Meggs and Walton. Against: None. Motion carried.

b} Report on Wastewater Treatment Plant Repairs:

Mayor McLean called upon Public Utilities Director P. A. Fredette for comments.

Mr. Fredette states that on September 14th, the City experienced a catastrophic failure at the wastewater treatment plant which resulted in a discharge of approximately 600,000 to 700,000 gallons of untreated waste water in the Pasquotank River. The cause was the failure in an underground piping that connected the aeration basins to the splitter box which feeds the clarifiers. The plant failure created a number of real challenges that we had to deal with. The first was to identify the source of the leak. After reviewing the construction plans and some exploratory digging the problem was identified as a leak in a 30" ductile iron pipe. One of the difficulties was we had to mobilize the equipment in tight quarters between the yard tanks and process equipment as well as having to keep the hole dry so we could excavate down to the pipe which was about 12

feet deep. There was also a grave concern about the supporting ground failing and the structure sliding into the hole. It was around 10:00 p. m. on the 15th that the hole on the bottom of the pipe was exposed.

Mr. Olson informed the Council that at this time it has cost the City approximately \$300,000. The sale of the property at the Wellfield was \$350,000 and we need to earmark those funds for this repair. Staff is asking that you approve the Budget Amendment for \$300,000.

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman R. E. King to approve the following Budget Amendment for the repairs for the waste treatment sewerage break. Those voting in favor of the motion were: Hummer, King, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

**BUDGET AMENDMENT
NUMBER 2010-17
SEPTEMBER 27, 2010**

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

SECTION I. That the Water and Sewer Retained Earnings (313990.0000) and the Wastewater Treatment Contracted Services (318200.4501) be increased by \$300,000.

(To record emergency expenditures to abate sewer spill.)

ADOPTED, this 27th day of September 2010.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Interlocal Agreements for Central Communication Services:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated at the last Council meeting city staff was directed to draft an Interlocal Agreement that would address issues with Central Communications. As Council is well aware, we have been working under a resolution that was adopted in July 1989. That resolution established a number of policies and procedures that affect the City. He would not call that resolution an Interlocal Agreement just because several items are lacking in what is now consideration a valid Interlocal Agreement. Back in 1989 the funding for the operation of Central Communication was divided the following way: 50% Pasquotank County, 33% Elizabeth City and 17% Camden County. The 1989 Resolution established a Central Communication Commission consisting of six members: three from Pasquotank County, two from Elizabeth City and one from Camden County. The 1989 Resolution was replaced in 1992 by a joint resolution for amendment purposes. The absence of an Interlocal Agreement for the provision of Central Communications services was recently discussed during the Joint City/County meeting. All Interlocal agreements are required to have a set term limit, therefore in the draft Interlocal agreement we have set the term limit to 10 years commencing January 1, 2011. If the City wishes to withdraw, we must give a 15 months notice. Three months prior to the upcoming budget and then one year after that. We have put service quality and conditions in there concerning level of service issues. Performance standards should be reviewed annually. We also incorporated from the 1992 resolution the DCI committee which consists of a number of individuals within the law enforcement community, the Sheriff, Chief of Police, Sheriff of Camden County and the Director of Central Communications. The membership of the Central Communication Commission has been modified to include the managers as non-voting ex officio members. We included in the financial budget section some changes that require the County Manager prepares a budget in conjunction with Central Communication and that budget needs to be presented to both the City of Elizabeth City and Camden County by April 1st of each year. Each respective body has to vote on it and officially approve that budget by June 1st. If you fail to approve the budget by June 1st then it is deemed approved defacto. The contribution percentages stayed the same. However, we specifically included in the Interlocal Agreement the amount paid shall be net of revenues which may be received from the operation of this system. There is 911 money available out there, maybe grant monies received from third parties. That would all be subtracted from the expenses and then those expenses would be divided up in the 50, 33, 17 percents ratio. The insurance provision that we included in here is fairly standard insurance provision of \$1 million per occurrence. That standard notice provision would be that you notify the City Manager or County Managers of the affected. Then we put a

section concerning general provision that covers a lot of the boiler plate stuff that the City Attorney wished to have incorporated into the Agreement.

Councilman Stimatz stated this was an issue that was discussed back in October 2008. Some of the things that were discussed then are still valid. Some he sees and some he doesn't. Under service quality and conditions one thing that wasn't clear is the role and responsibility of dispatcher, the role and responsibility of the responding agency and one of the issues for the dispatchers has been getting operating guidelines some responding agencies haven't provided them with good ones. We need to make it clear that it is the responsibility of the responding agency to provide it. If you want the dispatcher to do the dispatch you have to provide him with the template that you want him to follow. That is not spelled out as a requirement. He thinks it ought to be in the agreement. There are some other issues related to customer service and outreach and one had to do with creating a caller bill of rights. This came up because when this came up in October 2008 we were having a lot of problems. Complaints from citizens and crime watches that their calls weren't getting answered, that people weren't getting dispatched and information was being given out over the air, all the druggies knew who called the cops before the cops showed up, etc., etc. He hasn't heard those in a while but he knows it is still a concern. Those may not be for the agreement but at some time those concerns needs to be addressed. In Section 2 and other places you say in a timely manner. He is sorry, that is by whose yardstick. If it is the County Manager and he has to do it he may decide a timely manner is a year from now. He thinks you need to come up with a specific time frame. The other question has to do with six people on the Commission who vote so there is never a majority. How do they make a decision? What happens in a tie?

Councilman Walton stated that they haven't had a problem. There is no one in that group that is trying to control things.

Councilman King said when he served on the Commission that issue never came up.

Councilman Walton stated that we discuss things and get along pretty good.

Mr. Stimatz said then in the financial budget you say if the governing body fails to take official action the budget would be deemed approved thereafter. He would like to know what happens if we disapprove it? If we fail to act is one thing but if we let it go through without any comment that is shame on us but if we look at it and say we don't like it and we disapprove it then what happens. How is that arbitrated? He thinks that should be spelled out in the agreement.

Councilman Walton asked who is the lead agency in this.

Mr. Olson replied that Pasquotank County is. That was determined in 1989.

Mr. Walton asked wouldn't it be logical to ask them to provide us with an agreement instead of us taking them one.

Mr. Stimatz said they don't even want to talk with us about one. If they don't want to give us an agreement he will tell you right now and he has said this before we won't pay.

Mr. Walton said once again it is all you.

Mr. Stimatz said it is not him.

Mr. Walton said he is not a person to be controlled and he is not going to let him control him.

Mr. King stated that when it comes to dispatching they have a SOP. That is one thing that the Commission stands by. When he was there one thing that was done is they made sure that they have a SOP to go by. They have an Emergency SOP; they have a Medical SOP that they go by. Everything is done by a SOP. He doesn't know if you want to put that whole SOP in this document.

Mr. Stimatz stated he doesn't want to put the SOP in. What has happened in the past is certain responding groups haven't provided SOP's. He wants to add a line that says if you sign on for this service then you must provide your SOP to us. That is it. It is part of the contract. Or, before he will take your calls he needs your SOP. You tell me how you are going to handle it.

Mr. King said the Director brings the Advisory Board a budget and from there it goes to the County Manager. He doesn't think Rich has ever seen a budget from Central and that is one thing that we should be able to see. When he was there the County Manager got it and what he didn't like it was sliced. He thinks that we should put in the agreement that the City Manager has the opportunity to look at the budget as well as the County Manager.

Mr. Stimatz said that is in the agreement. It says they have to send us the budget by April 1st. The only thing he would say is if we don't agree with it, it doesn't say what happens. He doesn't care about anything else in this document but that is one thing he would like to know. If we say no, then what.

Mayor McLean stated that during our Joint City/County meeting the issue was brought up about this particular agreement and it was the consensus that we would put one together and get with the County to look at it and to have it

address by both bodies. He thinks based on our meeting it was the consensus from the County that they would take a look at it and get back with us and work to develop it. Once we agree on it we need to send it to the County to be reviewed by them.

Mr. Stimatz said the issue is if we don't approve the budget that they send over, then what happens. He wants to know what happens then. Is that it? Does it matter? Does it go back to conference like in the House and Senate or does the group have to come back with one? How do we resolve issues? If they say that they want to spend \$400,000 putting new radios in the Sheriff's cars and we say that we would like \$100,000 for radios in our cars and they say no. Then what?

Mayor McLean said why don't we just send them the agreement and let's look at the idea of negotiating if we get into something that they don't like. It is all about communications. He thinks we have accomplished one goal to get the agreement done.

Mr. Stimatz said the problem is that they don't want to talk about this. It has been over two years. They would just as soon not have an agreement. They haven't initiated one. When Rich has talked to them about it they say we don't care. When you say that there has been dialogue and consensus to look at it, he would disagree with you strongly. They don't care. They are getting our money and they are doing what they want with it and they don't care. So, when you say well we can negotiate that has not been our experience on this Council. That goes back long before he got on this Council. Ms. Baker and Ms. Hummer can attest to that fact. When it comes to negotiating with the County and they have the upper hand, they don't ever want to negotiate. They don't care what goes on. It is nice that you have that attitude and you would like to get along with them but that has not been the experience Council has had. If there is no action taken and we disapprove the budget then why are we even looking at it? It is a waste of time. If our vote means nothing then why are we even looking at it?

Mr. Walton asked the City Manager there was a short fall in our recreation budget and did we not get together and solve that problem.

Mr. Olson replied that we are working on solving the problem. We have provided a list of what the items are and last time we talked with them we were making about \$10-\$12,000 worth of cuts to the budget.

Mr. Walton said that we are close to solving that and we can't say that they aren't listening. Maybe we go there a little bit more arrogant than we should go there. He wouldn't listen to an arrogant person himself. But, if you come together and talk because there is more than one side of just talking. You have

got to listen sometime too. Until all of us get to the point that we can do that we will never solve many problems.

Mr. McLean said that we need to change how we are doing business. He thinks that we need to work more with the County and give them the opportunity to work with us. We are not going to accomplish our goals and objectives unless we try to work with the County because technically he is a member of the County too as well as the City. He gives credit to Councilman Stimatz for coming up with the idea because he too believes that if you are going to have an agreement between agencies it should be in writing. He thinks we are on the way of doing this. Let's not throw something out there to stop it from happening. He believes that by working together we will come up with something we all can live by.

Ms. Hill-Lawrence said she certainly agrees with the Mayor because every since she has been on Council all she has been hearing is agreements but agreements never work. That means they are nothing but a waste of time. An agreement ought to work.

Councilwoman Baker states she thinks it is important to know what will happen to not only the budget part but there is another section that we need to put time frames on it. She doesn't think we should give it to them like this because there are still questions that need answers. We need those in it and then it should come back to Council with the revisions in it. We should give it to them the way that we would like to see it and then have them come back to us if they disagree. We don't want to give it to them and let them finish writing it for us.

Mayor McLean said why don't we give it to Councilman Walton and have him present it to them.

Mr. Walton said he didn't want to go there and represent the City therefore he would invite Councilman Stimatz to go with him as he can represent us better.

Mr. Stimatz said he is more than willing to put this out there but they don't want to listen to us. There are only two aspects of this thing that he thinks we need to add. Fix "timely manner" and at least say what happens if either party disagrees with the budget. That has got to go over with the agreement. We need to close that loophole.

Councilwoman Meggs asked why we couldn't leave it up to the two attorneys to come together and write it up. Let the attorney's be the one to make those decisions.

Mr. Morgan stated that we will make these suggested changes in an add/delete format and bring it back to the next meeting for Council's approval and then submit it to the County.

It was the consensus of the Council to make the suggested changes and bring it back at the next meeting of Council for their review and approval before submitting it to the County.

d} Appointments to Recreation Advisory Board and other Boards:

Mayor McLean stated that he would like to present the names of Dr. David Kleinschuster, Myrtle Rivers and Johnnie Walton for confirmation as members to the Parks and Recreation Advisory Board. Ms. Rivers is a former member of City Council and a long time resident of Elizabeth City who is doing a good job in terms of serving the citizens as well as Dr. David Kleinschuster who has a doctorate in Clinical Psychology. Dr. Kleinschuster coaches two soccer teams.

A motion was made by Councilwoman J. M. Baker to table this item until our next meeting. Councilwoman B. S. Meggs seconded the motion.

Councilwoman Hill-Lawrence asked why do we need to table it.

Ms. Baker stated that we need more discussion and more information. There was a memo put out in August that went by a lot of people's minds. There were some recommendations made that were not considered. There are some things that just need to be resolved and she recommends that we table it until we can get our hands around it.

Mr. McLean said a lot of effort went into this. He did talk with members of Council and he talked with various people within the community. We have to have this appointment made by October 1, 2010. We have two qualified individuals that are willing to serve and he sees no need to table this matter. Here again we want to get this group started and it starts on October 1st. Ms. Hill-Lawrence said that she remembers distinctly that you asked us to bring in some names. Did anybody bring any names in?

Ms. Meggs said that she thought that she could do it tonight. She has already asked this person.

Mr. McLean said that he has been trying to get these names for over a month.

Mayor Pro Tem Hummer said her question is why the other names aren't being presented. It seems like you have chosen who you want to be on it and it is Council's call.

Mayor McLean said what names are being recommended?

Ms. Meggs said she wanted to recommend Phillip Hornthal.

Ms. Baker said that Pete Gilbert was recommended.

Mayor McLean said he asked for this information a month and half ago. Everybody had the chance to bring the names to him and he is hearing names tonight that he hasn't heard before. He picked two names that have done a great deal for this community. He called for the vote on the motion to table it.

Those voting in favor of the motion were: Baker, Meggs, King, Hummer and Stimatz. Against: Brooks, Hill-Lawrence and Walton. Motion carried.

Mr. McLean said that once he gets the recommendations he has the authority to bring the names to the Council. There are reasons why he didn't select certain names. He had one name that was given to him before tonight. Out of the names he received he picked the two that he felt would do the best job.

Mr. Brooks said that he thinks all of the people that were recommended are all good people and he would have like to have voted on them individually. He read the resume of Dr. Kleinschuster and he was so highly qualified that he thought he could walk on water and he also knows Ms. Rivers work. We voted to table it so therefore we need to move on.

Mayor McLean said he will be bringing the same two names back. He has gone through the process a month and half and he is bringing the same two names back to Council the next time. Like he said before it is alright for folks to sit here and talk about what names they have tonight but he didn't get those names before tonight and the names that he has he has talked with these individuals and they are willing to serve and they are qualified to serve. They are the same names that will come back at the next meeting.

Councilwoman Baker said the problem that she has is the process. It is not the names. The process is you asked for consideration you got. You got names and you discounted those names. You didn't ask for a recommendation on the Council person to serve. You asked for two members of the community and you got some recommendations and you discounted that and selected who you wanted.

Mayor McLean said that is not true. That is totally not true.

Councilwoman Baker said it is true. That is why she wanted it tabled.

Mayor McLean said when this thing came up he said to the Council that he was selecting Johnnie Walton because he is on the Youth Task Force. No one said one word about that for over a month and half. Nothing has been said. Then he got names and he looked at the names and he discussed these names with the individuals and he brings two names to this Council to be approved. That is the procedure that he followed. Now these folks walking in here tonight talking about they have got names that he didn't hear anything about until tonight. He takes exception to that.

Mayor Pro Tem Hummer said that you said that no one said anything it has to be brought to Council to vote on. You have already made your choices.

Mr. McLean said he is making recommendations for the Council to approve. That is what Mayor's do. He doesn't know what part about this you don't understand. What else can he do?

Ms. Hummer said she wonders what you don't understand.

Mr. McLean said one day when you get to be mayor you can find out. What he is saying is we have to understand that he is making a recommendation based on the fact that he is Mayor. It was brought to him and he is making a recommendation of two people. These people are qualified and we need to move on with this. He is really getting tire of petty stuff.

Ms. Hill-Lawrence said she will make a recommendation to go along with what the Mayor has recommended. It is just a committee and it is no big deal.

Councilwoman Meggs said yes it is.

Mr. Brooks said let's try this since a motion is on the floor to table it. We go ahead and vote on whether to table it or not. Then based on the outcome of that is we can go ahead and vote on the Mayor's recommendation.

Mayor McLean called for a vote on the motion.

Those voting in favor of the motion were: Baker, Meggs, Hummer, King and Stimatz. Against: Brooks, Hill-Lawrence and Walton. Motion carried.

d} Pearl Street Resolution:

Mayor McLean recognized Councilman Stimatz for comments as he was the one who pulled it from the Consent Agenda.

Mr. Stimatz said the question that he has was, in the language, he wanted to make sure he understood what it was saying before he signs off on this, in the last paragraph it says the City of Elizabeth City commits to providing certain funding to cover certain expenditures that are non CDBG related. If funding is not received from the North Carolina Department of Transportation in connection with the completion of Pearl Street, North Road Street Infrastructure Project. Does that mean that we are committing to \$950,000?

Mr. Olson said technically that would be correct. Let him explain. Because of the way the Elizabeth Street project is going forward, we cannot get a firm funding commitment letter from NCDOT. We have met with them, the project has been approved but he has no documents to present in his application to the State saying that they are going to pay for their share of the \$1.8 million project. He and Paul have met with them and we have been trying to get them to give us that funding letter but they have not provided it to us. This application is due and he is hand delivering it tomorrow. So, in lieu of getting the funding letter because that is a requirement of the grant application we are basically saying that the City will cover those costs. If we do get the funding and they don't come up with the money we turn the money back in to the State.

Mr. Stimatz said we are not committing to \$950,000 with no point of return.

Mr. Olson said that we can reject the money and turn it back to the State.

Mr. Stimatz said then we can just blame NCDOT for not giving us the money. We are not committing we are just committing if we have it.

Mr. Brooks said he remembers when you were talking about the CDBG grant that you reapplied for Pearl Street because you had done it before and it was \$550,000 as he recalls and you said you couldn't apply for a CDBG grant for any thing else because you had to do it specifically for Pearl Street. He noticed that Road Street is added in here.

Mr. Olson said what we have done is expanded the project boundaries to include North Road Street. It is contiguous to Pearl Street and based on the guidelines they gave us we believe that we can do that. The Council's well aware of the issues with Pearl Street and the DOT funding of Pearl Street which is highly probable; however there is no funding source for most of the work being done on North Road Street. What we did we expanded the scope of the project to

include North Road Street and Pearl Street in an effort to get the entire project funded and to take care of two projects with one grant? We have had two or three meetings with the State of make sure that they understand what the scope change was. We have designed the project to include North Road Street.

Mr. Brooks wanted to know when he could do this for Brooks Avenue.

Mr. Olson replied as soon as we identify the funding source.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem L. A. Hummer to adopt the following resolution authorizing funding for the 2010 CDBG-Economic Recovery Program Grant Application for Pearl Street-North Road Street Infrastructure project. Those voting in favor of the motion were: Stimatz, Hummer, Baker, Brooks, Hill-Lawrence, King, Meggs and Walton. Against: None. Motion carried.

**RESOLUTION #1093
AUTHORIZING FUNDING BY THE CITY OF ELIZABETH CITY
FOR THE 2010 CDBG-ECONOMIC RECOVERY PROGRAM GRANT
APPLICATION FOR THE PEARL STREET-NORTH ROAD STREET
INFRASTRUCTURE PROJECT**

WHEREAS, the North Carolina Department of Commerce, Division of Community Assistance is currently accepting grant applications for its Community Development Block Grant Economic Recovery Program; and

WHEREAS, the City of Elizabeth City is submitting an application in the amount of \$950,000 for the Pearl Street-North Road Street Infrastructure Project; and

WHEREAS, the total project cost is estimated to be \$1.8 million; and

WHEREAS, the City has received notice that NCDOT will participate in funding part of the project, but has not provided the City with a letter of funding commitment;

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

THAT authorization is hereby given by the City Council of Elizabeth City for the submission of a funding application to the North Carolina Division of Community Assistance in the amount of \$950,000 through the CDBG-ER Grant Program; and

BE IT ALSO FURTHER RESOLVED, that the City of Elizabeth City commits to providing the necessary funding to cover expenditures that are non-CDBG related if funding is not received from the North Carolina Department of Transportation in connection with the completion of the Pearl Street-North Road Street Infrastructure Project application, as submitted.

ADOPTED, this 27th day of September 2010.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

e} Appointments to various committees/boards/commissions:

Mayor McLean stated he would like to submit the names of appointments and/or reappointments to various committees/boards/commissioners:

1} Historic Preservation Commission:

Dr. Jim Calliotte – Reappointment

2} Board of Zoning Adjustments:

Oliver Etheridge – Reappointment

Carlton Etheridge – Reappointment

Jack Horton – Appointment

Kem Spence – Appointment

3} Library Board:

Joycelyn Robinson – Appointment

4} Senior Citizens Advisory Board:

Parris Sessoms – Appointment (3 year)

Catherine Turner – Appointment (2 year)

Councilman Stimatz said he has a question for the Attorney and the Manager and it concerns him that we have two members of the same household. One is on the Planning Commission and the other is on the Board of Zoning Adjustments. One reviews the action of the other. He has some serious question with a conflict of interest or undue influence.

Planning Director Brooks said they do not review each other.

Mr. Stimatz said but they do on certain occasions they do review the other. He has a question about that especially in a quasi judicial setting.

Mayor McLean said which one is related.

Ms. Brooks said that Oliver Etheridge is Linda Etheridge husband.

Mayor McLean asked were they appointed last year. If so, then it is nothing new. These are reappointments.

Mr. Stimatz said it doesn't make it right.

Ms. Hill-Lawrence why wasn't it done right the first time?

City Attorney Morgan stated the Planning Commission is strictly advisory. There would be situation though where the Board of Adjustments decision would be rendered following a Planning Commission advisory opinion. He is not sure it rises to the level of a conflict of interest but it doesn't pass the smell test in his opinion. That is really not a legal determination.

Mayor McLean asked how did it pass the smell test three years ago.

Mr. Stimatz said somebody didn't open the refrigerator and smelled the cheese but he did this year.

Mr. Morgan said that they were appointed at different times and he was not aware that they were man and wife.

Mr. Stimatz asked if we could move to adopt the slate and table that item until you can research it.

Mr. Morgan said that would be appropriate and he would at least like to make a phone call to the School of Government. There are situations where he would be reviewing decisions or an advisory opinion of his wife.

Mayor McLean said then you would recommend that we approve the other appointments and hold off on Mr. Oliver Etheridge's appointment.

Mr. Morgan said yes sir until he can render an opinion on that issue.

A motion was made by Councilwoman J. M. Baker to confirm the appointments presented (written above) by Mayor McLean with the exclusion of Mr. Oliver Etheridge's appointment pending a determination from the City Attorney. Councilman R. E. King seconded the motion.

Councilwoman Baker said she really doesn't want to be petty but she is going to be petty because she has a problem with the process again. We were all handed these five minutes ago except one council person who was handed it at the beginning of the meeting. She just has a problem with the process. She made the motion to approve them but we didn't get as much time as everybody. She doesn't want to table it.

Councilman Walton asked who put this together.

City Clerk D. S. Pierce-Tamplen replied that she put it together at the request of the Mayor.

Mayor McLean asked to say we have a very difficult time getting people to serve. We have to beg people to serve on these committees. When we get them to serve we try to take advantage of it. Ms. Tamplen worked with this. She brings the names to him and he listens to her and any council person that wants to bring forward someone. These are recommendations that he took from other folks to put here because these people are willing to serve.

Councilman Stimatz said that every since he first came on Council this has been an issue. He has suggested before that first of all that Council be notified when there are vacancies or reappointments. He was never notified of any of these vacancies. Therefore he can go out and ask people if they would like to serve. We have been denied that. That is all he is asking for, a chance to have some input. He doesn't get that because we are not told when the vacancies are occurring and that people are going to be appointed. He asked that on day one with Mayor Foster, God bless him. He didn't ask anybody he just did what he wanted to do. He didn't even ask us what we wanted to do and that was even more aggrieved. That was a big issue for the Council. Again, we are going to

look at the procedures manual and he hopes Ms. Hill-Lawrence will help us here and define a process. The process would be that at some point before the appointment ends, the Clerk has the duty and obligation to notify us that in X months this position is going to be empty and by such and such date we need somebody in it, therefore by this date she needs if any of you council people have people that you want to nominate you need to have your application in. If we don't get it in guess what our fault. To bad. Then the Mayor can do his magic and then we can vote. He hopes that we can put that down in the process but that has been an issue all along. We feel cut out of the whole thing.

Ms. Hill-Lawrence said why she said table it because if we table one it is not fair to table the others. We still haven't had a process. If we haven't had process for one, we haven't had process for two. Actually, she doesn't even see the applications for these. The applications are supposed to be completed. She only sees two applications.

Mr. King said that is because there are only two new appointments.

Ms. Pierce-Tamplen said that the problem is a lot of these, for example the Board of Zoning Adjustments, those terms have ended. The Library Board, the appointee has left the area so there is no representation from the City. The Senior Citizens Board two appointments are replacing two individuals that can not be reappointed.

Councilman Walton said you know Councilman Stimatz you said a few minutes ago that everybody needed to make a recommendation and give the people time frames. The Mayor did that on the previous discussion. He gave everybody a time frame and nobody submitted a name until tonight and he needed it done by October 1st. We always giving other people deadlines but we don't want to adhere to deadlines ourselves and then it becomes a problem when you don't become a part of the process. We expect more out of other people than we expect out of ourselves. We have got to start marching behind what we preach or stop preaching.

Councilman Stimatz said it begs the question why weren't these before Council in April or May. Why do we have to wait until five months after an expired term to have someone here? There are only two places that it can fall. He doesn't need an answer but there are only two places it could happen. The word is not getting out. All he is saying is he doesn't care what we do with these tonight as it doesn't matter to him. Getting people to serve is difficult. The Mayor is correct. If people want to serve then God bless them. The point is that he would hope in the procedure manual we iron this out in the future with clear deadlines and clear times for both notification and for us to get our information in and then we play by those rules. Right now who knows what they are?

Mayor McLean said he will say this. He thinks some of the comments that he has heard are good comments and he thinks what we will do is to make sure when there is a vacancy that occurs that the Council is immediately notified. If asked to give names you can do that. That was not done and he thinks that will be a good procedure to use from this point on and he thinks that is something that we can do. We need people to serve and he thinks Ms. Tamplen has been working day and night just trying to field phone calls and get people to serve. He called for a vote on the motion.

Those voting in favor of the motion were: Baker, Brooks, King, Hummer, Meggs, Stimatz and Walton. Against: Hill-Lawrence. Motion carried.

f} Oxford Heights:

Mayor McLean called upon Councilman Brooks for comments.

Mr. Brooks stated he has the letter that was written from Governor Perdue's office to the Mayor that talked about Oxford Heights. It says this is a response to your letter July 6, 2010 regarding the culverts on Main Street Extended at Knobbs Creek. As you know in Oxford Heights we have an unending flooding problem over there. They were talking about having a bridge put at Knobbs Creek. She said as a result these concerns the County hired Gregg Johnson to study this situation along with Jerry Lindsey of NC Department of Transportation to perform an analysis of the issue and review information provided by Mr. Johnson. As you continue to read on what he finds amazing is it says the flow appears limited by Knobbs Creek channel and by downstream water elevations during certain rainfall events. It says replacing the pipes with a bridge will have very little if any affect on water elevations at upstream subdivisions. Then it goes on to say that it will be necessary to make improvements to both the culvert crossing and the channel to have a significant impact on Oxford Heights. He didn't know exactly what that means. Can someone explain that statement to me?

Mr. Olson stated he thinks what they are referring to is what is called in a drainage water is called tail water issue associated with that. They need to re-establish the canal, do some dredging and some other works and that should alleviate some of the flooding.

Mr. Brooks said he went into that canal thing last time because they were talking about snagging and dragging and it didn't have any affect and they said they couldn't do the canal last time because of EPA thing. His concern was the people are being caught up in a word issue. Everybody is having a play on words. It is

not having any impact on the problem that they are facing over there. He doesn't know but it sounds like to him that they made this decision based more on the money part because based on these findings in this letter the Department cannot justify the placement of culverts with a bridge at this time. He knows that more water can pass under a bridge than it can through a pipe. He doesn't have to be an engineer to know that. He understands that. They are playing with a money issue here. The bridge needs to be done and you eliminate the culverts. He doesn't know who wrote this letter or who the engineers are but we all know this it sounds like a letter to save money or keep from spending money. In the mean time we have tax paying citizens that are suffering. It is probably flooded over there as we speak. We can do better than this. He tells the residents of Oxford Heights to keep writing the letters. To him this is just a bunch of words on paper and he hopes the residents of Oxford Heights fight for this. They need to continue to write letters. He is not saying a bridge will eliminate the problem but he thinks it will have an impact on some of the flooding that is going on over there.

Mr. Stimatz said in his letter he wrote he brought the point up if we are going to tap into Ecco Tourism and we are going to dredge out Knobbs Creek and a bridge would allow us to tap the creek for ecco tourism. That is the other thing. It is not just a drainage issue and that is another point to keep hammering on. It is not a single thing. It is two aspects.

8} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Mayor McLean stated he would go around the table for comments.

City Manager Olson stated he had one quick clarification; Powell Bill Funds cannot be used for way finding signs systems. We did find the ruling determination. We only have \$10,000 in the Street Department Budget for signs.

Councilwoman Baker said she has a question for the Manager. Is Pasquotank County eligible for scattered sites CDBG grants? Did you see the \$400,000 they receive every three years? They are having a public hearing on October 4th and she knows that half of that money should go within the City limits.

Mr. Olson replied that Vincent Mani is working with the County on that right now. He has raised a number of questions to the County Manager. We have asked for some accounting. He believes 65% was spent on County residents and the other remaining 35% was in the City. He believes those are the ratios.

Ms. Baker asked what part of the City is Vincent going to recommend. Is it a specific neighborhood?

Mr. Olson stated it is based on scattered sites. He thinks when he talked with Vincent last time he had already pre-qualified a number of individuals for this program. They will be put in a pool and it is his understanding that the Albemarle Commission or one of their subsidiaries is managing that program.

Ms. Baker said she would like to remind citizens of Ghostwalk this weekend. It is earlier in the year than it has been in twelve of the last fourteen years. It is October 1st and 2nd, a Friday and Saturday. One ticket is \$12.00 and that is for both nights. There are seven sites, a sock hop and lots of fun and interesting history. Elizabeth City Downtown has a wrap around dinner so you can enjoy the Ghostwalk and the barbeque chicken dinner. They are also doing lunch on Friday and dinner on Friday and Saturday.

Councilman Brooks said he has two things that he wants to mention. First of all we have a Youth Task Force and it has about 26 people on it. With the high incidents of crime that is being done by our youth he thinks it is detrimental that we really get involved. He read the update that says since school started up the Youth Task Force will start back up. That is a year round problem. It is a state of emergency with our youth and we need to do something about it. It isn't a part time thing but you have to keep the pedal to the metal full time. The PAL did a youth challenge and during the youth challenge out of all those 26 members of the Youth Task Force there wasn't anyone there. That was disturbing to him. He was there, Human Resource Director Felton was there and the Chief of Police but we should have someone from the Youth Task Force there. It was a two week program constructed in a quasi military style environment to promote education, confidence, self-esteem, discipline, leadership and life skills. He was very proud of them. They did very well. The instructors volunteered their time. Let's not just talk about our youth when they are doing bad but let's support them in something they are trying to do that is good. Secondly, Human Resource received a grant for prostate cancer luncheon. He learned a lot from the luncheon that he didn't know before. This is disturbing to him. There have been more incidents of prostate cancer in men, black men in the State of North Carolina than any other place in the world. He encourages all men to go get their prostates checked.

Mayor Pro Tem Hummer stated as Councilwoman Baker was trying to explain a process that she was concerned about well so is she. Mayor, your comment to her which caused people in the audience to laugh she thinks you should apologize to her as Mayor Pro Tem. Then you're added a comment that you would continue to do it.

Mayor McLean said let him take the time to apologize now. Mayor Pro Tem Hummer he does apologize for the comments.

Mayor Pro Tem Hummer said apologize accepted.

Councilman King said he has two things. He is going into the Fourth Ward. In the Fourth Ward when you are riding down Southern Avenue you have Witherspoon Street to B Street that the sidewalk is unbearable. The sidewalk is going up out of the ground. When you come out of Park Street you can see what he is talking about. Can we do something about that sidewalk? His next thing is he thinks it is important that our Mayor Pro Tem spoke regarding the flags. He thinks it is important that we put the flags up in Mariners Wharf. It is important because we have a lot of retirees here in the City and we need to show some type of support for them. We should also look at putting the three schools flags also. He thinks the park would look beautiful like that.

Councilwoman Hill-Lawrence said she has to tell you all that she was very disappointed in all of you today because ECSU had their open house for the pharmacy program and Mayor McLean asked the City Council to attend and she was the only one that did. When we have events like that in our city she hopes that we make a special effort to attend. It was a nice event. The other thing is she would like to announce that Dr. Sharpe has been appointed by Governor Perdue to serve on the Aeronautic Council as an at-large appointee. That is a big appointment.

Councilwoman Meggs said she has all these tickets to sell and wants everyone to buy a ticket. Another issue that you need to know about is the Chamber of Commerce is having a big to do; an auction and the tickets are \$40.00. Yesterday afternoon she had a good time at the Arts of the Albemarle picnic. It was a really nice time.

Councilman Stimatz said his only comment is he mentioned three items at the September 13th meeting that he wanted an update in the October meeting. One has to do with the Spaulding Park drainage issue out on Peartree Road, the second has to be with the drainage from Oak Grove underneath Peartree and the third had to do with accessing the code violation software listing without having to actually post the listing.

Councilman Walton said he would like to commend the Council for how they handled those two taxicab drivers. He thinks they both were handled right on target. You know if you have a job you need to try and keep it because jobs are hard to find. He does want to commend Elizabeth City for having such a good record. He has some data that says the growth of county government workforce from 2001 to 2009 and Elizabeth City has only picked up two employees. That is pretty good retention. It went from 318 to 320 whereby other counties are adding quite a few more jobs. The only other thing he wants to say is you keep

bringing up that graduation and he didn't make it there and he is the Chairman of that Youth ask Force because he had a previous engagement. He didn't see you there. It can happen.

Mr. Brooks said he was there and you didn't have to go but you have 26 other members on the Task Force. You didn't necessary have to be there.

Mr. Walton said they may have had other plans too. They still didn't see you there.

Mr. Brooks asked if they care about the youth. He was there. Don't attack him.

Mr. Walton said everywhere you go you may not see him because he has other things to do. He was in Raleigh. His was not in Elizabeth City. He continued by saying it is amazing how we do good things in one area and then we come right back and blow it off because those young men said their past is something they want to forget. He thinks all of us have something in our past that we want to forget. He thinks that we forgave those two young men tonight. It is also important to treat others as you want to be treated. Tonight there were many times that council members did not respect each other's opinions. We talk about creating image and then we come right back and talk about something somebody else did not do. All we can do is do the best that we can do ourselves and that will take care of ourselves. He is going to tell all of you he is glad that none of you are my judge. He is glad nobody is my judge around this area. God is his judge and that is who he tries to protect and tries to set my sights for. We need to stop judging one another and come here, work out problems and continue to do the right thing.

Mayor McLean said his final comments are he wants to say that he truly appreciates the support he receives from this Council. When it comes to being the Mayor, he is very passionate about what he does because he loves Elizabeth City and he works for Elizabeth City. He is not saying that he will always do it right but he does want to say to Mayor Pro Tem Hummer that he once again apologizes for the comment that he made. It was inappropriate and he takes responsibility for it. It was not done from his heart as sometimes you make mistakes from your head. During the last week or so in Elizabeth City, he went to the Crime Watch picnic in Hickory Village. He went to the National Association of University Women with Councilwoman Hill-Lawrence. He went to the ECSU Pharmacy Building dedication. He was at the ESCU Fund Golf Fundraiser. He took a trip to Washington, DC and he looked at parks all day. He was at the Mayor's meeting in Smithfield which was a good meeting. He thinks the mission of the meeting in Smithfield is for the Mayors to speak with one voice in an orderly way to bring about a solution to the high rate of electricity that we have to pay. Most of the citizens know that Dominion had asked for an increase in

their rates but had to end up giving a decrease in their rates. He thinks Progress Energy is in the process of trying to bring about a rate decrease for folks outside the 32 cities system. We feel that there is a way that we can get it done because most cities from what he heard that day have the same problems that we have. The people in those cities are suffering and we are going to have to come up with a better way to reduce rates but at the same time make sure our cities do not suffer. The rate that we are paying for utilities is just simply too high. He had the pleasure of being at the Daughters of the Revolutionary affair, the Betsy Dowdy Center Chapter. He learned so much. He also had to attend the banquet for Mr. Raymond Rivers on the amputees. That was a wonderful event. The United Way Kick Off was held at the Arts of the Albemarle was a good event also. He missed the prostrate luncheon but we need to take heed of that. It is true that we need to get checked often. He appreciates his Mayor Pro Tem because she helps him out a lot. She attends some of the affairs that he cannot attend. We do have some events that are coming up. Elizabeth City Police Department sixth annual citizen's academy is October 5th. The Pasquotank County Library Board of Trustees meeting is October 12th. The Council of Negro Women Banquet is October 2nd. The ALPHA KAPPA Debutante Ball is December 4th. As he said before as Mayor he is still learning this job. He knows that we have to work closely together. We have to work with the County and we have to work with individuals that are going to help us make it through the process. He had the pleasure of going to Smithfield and they have an aquatics center that cost \$11 million. It was a joint venture between the County and City. They have a splash park, a swimming pool, weight rooms and it was a fantastic facility. Little Washington has done the same thing. These cities in spite of all their problems they are moving to do something to help the youth and to bring about a better quality of life for the people of their cities. There is a whole lot more that he could say but we are going to stay focus. Like he has said before if you have an issue with him come to talk with him. He can talk with anyone and anyone can talk with him as Mayor or as Roger McLean. He was Roger McLean before he was Mayor and he will be Roger McLean after he is Mayor. You can call him and we will talk about issues. You don't have to wait until the council meeting. All he knows is that as we move we have to develop a council that is going to be friendly, advantageous and a Council that really cares about the citizens. We raised utility rates that really hurt our citizens and our businesses. We have got to come up with a strategic and work hard to make sure that we don't put additional burden on our citizens. That is what he wants you to help him accomplish. He knows he can't do all that without the support of this Council. He is working extremely hard to get that support and to insure that we are all on the same path and going in the same direction.

9} ADJOURNMENT:

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

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

Mayor McLean adjourned the meeting at 10:12 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Roger A. McLean
Mayor