

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

**SEPTEMBER 28, 2009**

**CITY COUNCIL**

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 S. S. Atkinson presiding. Those Council members present were: D. B. Evans, L. A. Hummer, R. E. King, B. S. Meggs, E. K. Rivers, J. A. Stimatz and V. C. Watts. J. M. Baker was absent. City staff members attending were: City Manager R. C. Olson, City Manager Intern R. A. Lyons, Deputy City Clerk V. D. White, Public Utilities Director P. A. Fredette, Human Resource Director K. W. Felton, Parks and Recreation Director J. D. Overman, Planning Director J. C. Brooks, Finance Director S. E. Blanchard, Police Chief C. E. Crudup and Inspections Director S. E. Ward.

Mayor Atkinson established a quorum was present and called the meeting to order. He called upon Pastor Leigh Gillis for the invocation after which the Pledge of Allegiance to the Flag of the United States of American was given.

**1} APPROVAL OF THE AGENDA:**

Mayor Atkinson called for the pleasure of Council regarding the prepared agenda. He asked that Council ***remove Item #12-Closed Session (b) Discussion of Personnel.***

Councilman E. K. Rivers ask to ***add to the agenda, discussion of 517 South Road Street-Hattie Spellman Property.***

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilman D. B. Evans to approve the agenda as presented to include the above noted items. Those voting in favor of the motion were: Hummer, Evans, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.***

**2} COMMENTS FROM THE PUBLIC:**

Deputy City Clerk V. D. White advised no one had signed up to speak under this section of the agenda.

**3} PRESENTATION – PUBLIC POWER AWARD OF EXCELLENCE FOR ENERGY EFFICIENCY:**

Mayor Atkinson called Mr. Dennis Gordon to the podium. He presented Mr. Gordon the Public Power Award of Excellence.

**4} APPROVAL OF THE MINUTES:**

Mayor Atkinson called for action regarding the minutes of August 25, 2009 and September 14 2009.

***A motion was made by Councilwoman J. A. Stimatz, seconded by Councilman R. E. King to approve the minutes of August 25, 2009 Joint City/County Meeting and the minutes of the September 14, 2009 Regular Meeting. Those voting favor of the motion were: Stimatz, King, Evans, Hummer, Meggs, Rivers and Watts. Against: None. Motion carried.***

**5} CONSENT AGENDA:**

Mayor Atkinson called upon City Manager R. C. Olson to read the Consent Agenda. Following the reading Mayor Atkinson called for a motion to approve the following Consent Agenda as presented.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilman J. A. Stimatz to approve the following Consent Agenda. Those voting in favor of the motion were: Hummer, Stimatz, Evans, King, Meggs, Rivers and Watts. Against: None. Motion carried.***

Consent Agenda

a} Approved the following budget amendments:

**BUDGET AMENDMENTS  
NUMBER 2009-10  
SEPTEMBER 28, 2009**

**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, 2010:

**SECTION I.** That the General Fund Contingency (106620.6000) be decreased by \$750 and Northeastern High School Parade Donation (106620.5872) be increased by \$750.

(To record donation for NHS's participation in the Veteran's Day Parade provided all funding is secured.)

**SECTION II.** That the DOT Water Street Reimbursement (103500.5600) and Street Department Contracted Services (105600.4500) be increased by \$55,000.

(To record Water Street Improvements to be reimbursed by NC DOT.)

**ADOPTED,** this 28<sup>th</sup> day of September 2009.

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Stephen S. Atkinson  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

b} Approved the execution of an agreement for the Weatherization Assistance Programs Contractor Services with Martin County Community Action, Inc.

End of Consent Agenda

**6} PUBLIC HEARINGS:**

a} Text Amendment TA-01-09 to amend Article XI, 11-1.5 (J) development standard sign ordinance sandwich board signs.

Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks stated this code amendment was initiated at the request of City Council when several members realized that the 2008 sign ordinance text amendment adopting language to regulate sandwich board signs in the Central Business District did not preclude applicants from receiving a Certificate of Appropriateness from the Historic Preservation Commission. This proposal would

exempt sandwich board signs located in the Central Business Board Signs in the Central Business Historic District. This proposal was presented before the Elizabeth City Historic Preservation Commission and the Planning Commission. The HPC follows the recommendations and guidelines provided by the National Park Service. The National Park Service brief speaks to the importance of signage, storefront preservation, rehabilitation and visual character in historic districts. The HPC was of the opinion that the proposed code amendment would be a direct infraction of the powers vested in the HPC. The Planning Commission was of the opinion that the Historic Preservation Commission is charged with protecting the integrity of the districts and that signage plays an important role in the districts. Both Planning Commission and the HPC voted to deny the proposed amendment to exempt sandwich board signs from receiving a Certificate of Appropriateness.

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

***A motion was made by Councilman E. K. Rivers, seconded by Councilwoman V. C. Watts that sandwich board signs to be located in the Central Business District that are also within the local Historic District do not require a Certificate of Appropriateness. Those voting in favor of the motion were: Rivers, Watts, Evans, Hummer, King, Meggs and Stimatz. Against: None. Motion carried.***

b} Annexation of 1:00 acre parcel located adjacent to Tidewater Way and owned by the City of Elizabeth City:

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson stated that tonight's public hearing is dealing with the annexation of a one acre tract which is presently owned by the City of Elizabeth in the South Park Subdivision. We acquired this property as part of the South Park recreational project. Lot 18 is presently a Stormwater retention pond that basically provides drainage for the subdivision and also part of our property which is part of the South Park project. Staff is recommending approval of this annexation.

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

***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to adopt the following ordinance incorporating the one acre parcel owned by the City of Elizabeth City and is located in South Park-Phase I as Lot #18 into the Corporate Limits of the City of Elizabeth City with an effective date of November 1, 2009. Those voting in favor of the motion were: Stimatz, Watts, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.***

**ORDINANCE #0991  
TO EXTEND THE CORPORATE LIMITS OF  
THE CITY OF ELIZABETH CITY, NORTH CAROLINA  
CITY OF ELIZABETH CITY – 1.00 ACRE  
TIDEWATER WAY**

**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 28<sup>th</sup> day of September, 2009 after due notice by publication on the 18<sup>th</sup> and 20<sup>th</sup> days of September 2009; 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 November 1, 2009:

All of that certain tract or parcel of land designated as "AREA TO BE RETAINED BY PROPERTY OWNERS ASSOCIATION" and all those certain rights-of-way designated as "TIDEWATER WAY – 60' R/W" and "CAPITAL TRACE – 60' Right-of-Way", as shown and delineated on that certain plat entitled in part "FINAL PLAT FOR SOUTH PARK PHASE I", said plat being prepared by Patrick J. Thompson, Registered Surveyor, dated October 10, 1997, which plat is recorded in Map Book 23, at Pages 18 and 19, of the

Pasquotank County Registry, and incorporated herein by reference for a more particular description of the property herein described.

**SECTION 2.** Upon and after the 1<sup>st</sup> day of November, 2009, 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 28<sup>th</sup> day of September, 2009.

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Stephen S. Atkinson  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

c} Annexation of 34.58 acres of property owned by the City of Elizabeth City and located off of Wellfield Road:

Mayor Atkinson recognized Mr. Olson for comments.

Mr. Olson stated this public hearing regards the annexation of 34.68 acres of property owned by the City of Elizabeth City which is located off of Wellfield Road. This particular site is the location of five production wells we are going to be putting in for our water treatment plant. We have owned this property for roughly four years and we believe it is in the best interest to have it within the

Corporate Limits of the City. All city codes apply to this parcel which is presently farm land.

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

***A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to adopt the following ordinance incorporating the 34.68 acres owned by the City of Elizabeth City and located off of Wellfield Road into the Corporate Limits of the City of Elizabeth City with an effective date of November 1, 2009. Those voting in favor of the motion were: Stimatz, King, Evans, Hummer, Meggs, Rivers and Watts. Against: None. Motion carried.***

**ORDINANCE #0992  
TO EXTEND THE CORPORATE LIMITS OF  
THE CITY OF ELIZABETH CITY, NORTH CAROLINA  
CITY OF ELIZABETH CITY  
34.68 ACRES LOCATED  
OFF WELLFIELD ROAD**

**WHEREAS**, the City Council has been petitioned under G. S. 160A-58.7 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 28<sup>th</sup> day of September 2009 after due notice by publication on the 18<sup>th</sup> and 20<sup>th</sup> days of September, 2009; and

**WHEREAS**, the City Council does hereby find as a fact that said petition meets the requirements of G. S. 160A-58.1 9b), to wit;

a} The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the City of Elizabeth City;

b} No point on the proposed satellite corporate limits is closer to another municipality than to the City of Elizabeth City;

c} The area described is so situated that the City of Elizabeth City will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;

d} No subdivision, as defined in G.S. 160A-376 will be fragmented by this proposed annexation.

**WHEREAS**, the City Council further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

**WHEREAS**, the City Council further finds that the petition is otherwise valid and that the public health, safety and welfare of the City of Elizabeth City and of the area proposed for annexation will be best served by annexing the area described;

**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-58.7, the following described non-contiguous territory, is hereby annexed and made part of the City of Elizabeth City as of the 1<sup>st</sup> day of November, 2009.

**BEGINNING AT A POINT** marked by an existing iron rod, which existing iron rod marks the northeast corner of that property, now or formerly, owned by Ema (sic) Jennings (Deed Book 606, Page 420) (Tax map Number P-87-2) in the Pasquotank County Public Registry); thence from said existing iron rod and **POINT OF BEGINNING** and running North  $71^{\circ} 27' 45''$  West 465.32 feet to an existing iron rod; thence cornering and running North  $11^{\circ} 49' 45''$  West 849.92 feet to an existing iron rod; thence running North  $11^{\circ} 31' 53''$  West 583.45 feet to a calculated point; thence cornering and running North  $78^{\circ} 26' 58''$  East 245.37 feet to a calculated point; thence cornering and running North  $11^{\circ} 33' 02''$  West 1,112.15 feet to a set iron rod set in the center of a ditch; thence cornering and running along the center of said ditch South  $57^{\circ} 05' 49''$  East 1,312.91 feet to a set iron rod; thence continuing along the center of said ditch South  $52^{\circ} 26' 37''$  East 176.59 feet to a set iron rod set in the center of a ditch, which set iron rod is located North  $26^{\circ} 05' 52''$  West 11,310.14 feet from NCGS Monument "MUSEUM" (N – 934280-5429) and E – 2804027.9120"); thence cornering and running along the center of another ditch South  $39^{\circ} 49' 43''$  West 1, 148.91 feet to a set iron rod set in the center of said ditch; thence cornering and running along the center of another ditch South  $11^{\circ} 53' 37''$  East 1,008.74 feet to the existing iron rod and **POINT OF BEGINNING**, containing 34.68 acres, and which property is described and delineated on that survey entitled in part,



"Exempt Subdivision of Property to be Conveyed to City of Elizabeth City," dated May 8, 2007, prepared by Paul J. Toti, professional land surveyor, which survey is attached hereto and incorporated herein by reference.

There is also conveyed with this tract a non-exclusive access and easement approximately 27' wide to and from the tract above described and Wellfield Road (16' gravel, unimproved road) and a non-exclusive, access easement to and from the improved, State-maintained portion of Wellfield Road (NC State Road #1309) and the southern terminus of the first easement over and across the 16' gravel road extended off of the said State-maintained portion of Wellfield Road (NC State Road #1309) at a point measuring approximately 2 miles in a westwardly direction along Wellfield Road from its point of intersection with NC State Road #1307.

The first easement is more particularly described as follows:

**BEGINNING AT A POINT** marked by a set iron rod and marking the southwest corner of that property, now or formerly, owned by Calvary Satellite (Deed Book 787, Page 120, in the Pasquotank County Public Registry); thence from said **BEGINNING POINT** and set iron rod North  $06^{\circ} 53' 16''$  West 45.21 feet to a point marked by a set iron rod; thence from said point and set iron rod North  $87^{\circ} 49' 45''$  West 28.12 feet to a point marked by a set iron rod in the west margin of a 5' drainage ditch; thence from said point and set iron rod South  $06^{\circ} 53' 59''$  East 1,574.24 feet along the west margin of the 5' drainage ditch to a point in the centerline of the unimproved portion of Wellfield Road; thence from said point and along the centerline of the unimproved portion of Wellfield Road North  $84^{\circ} 19' 00''$  East 27.55 feet to a point; thence from said point and leaving the centerline of the unimproved portion of Wellfield Road North  $06^{\circ} 53' 30''$  West 1,525.18 feet along the west line of the said Jennings et al property and the west line of the property now or formerly conveyed to United States Cellular Corporation (Deed Book 521, Page 449, in the Pasquotank County Public Registry) to the **POINT AND PLACE OF BEGINNING**. Said easement includes the 5' ditch and the 9' gravel road located therein. See the Plat and Survey recorded in Map Book 33, Page 48, in the Pasquotank County Registry, for more particular location of the easement for access as herein described and for the location of the second easement and unimproved 16' gravel road portion of Wellfield Road which leads to the State-maintained portion of Wellfield Road or NC State Road #1309 over which a non-exclusive easement is also conveyed herewith for access to the first easement and tract herein conveyed. See also the plat of United States Cellular Corp. of record in Map Book 16, Page 15 of the Pasquotank County Public Registry for further location and description of the second easement and unimproved, 16' gravel road portion of Wellfield Road (formerly part of the Suffolk & Carolina Railroad

right-of-way) leading from the southern terminus of the first easement to NC State Road #1309 or the Wellfield Road.

There is further conveyed with this tract a 60' non-exclusive access and drainage easement across the property, now or formerly, owned by Calvary Satellite (Deed Book 787, Page 120 in the Pasquotank County Public Registry). Said easement runs along the south line of the Calvary Satellite tract for purposes of ingress and egress to and from the property herein conveyed, and for the purposes of drainage.

**SECTION 2.** Upon and after the 1<sup>st</sup> day of November 2009, 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 28<sup>th</sup> day of September 2009.

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Stephen S. Atkinson  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

**7} REGULAR AGENDA:**

- a} Request to appeal denial of application to drive a taxicab.

Mayor Atkinson called Chief Crudup to make comments.

Chief Crudup advised on July 23, 2009, Ms. Anita Figgs completed an application for a permit to drive a taxicab. Ms. Figgs' permit was denied because she had a misdemeanor record which carries more than two years conviction. On August 5<sup>th</sup> she was sent a letter of explanation which also advised her of her due process rights. In addition our taxicab inspector personally spoke with Ms. Figgs who did not dispute her criminal background. Ms. Figgs was placed on the agenda to appeal the denial of her application. Upon further review of Ms. Figgs' criminal record it was determined that Ms. Figgs had been convicted of possession of marijuana on July 15, 1999, possession of drug paraphernalia and resisting a public officer on January 4, 2007. According to our ordinance, Article II, Section 86-38(a) issuance or denial by inspector and term – "The taxicab inspector shall be given the authority to deny a permit to drive if the applicant has been convicted of a two-year misdemeanor and if the applicant has been involved in drugs and drug paraphernalia. After sending Ms. Figgs a letter of denial which also explained her appeal rights on August 5, 2009 Sgt Pureza spoke with Ms. Figgs and she stated the charges and convictions were in fact true. It is staff's recommendation to not overturn the denial of Ms. Figgs' application to drive a taxicab based on the direction that is given in our City Ordinance.

Ms. Watts asked if there was anybody right now that has been allowed a taxicab franchise that has a misdemeanor in their past.

Chief Crudup replied not a taxicab franchise but we do have some drivers who have some misdemeanor convictions but not the extent of Ms. Figgs record.

Mr. Olson said that he believes this issue came before the Council in 2007. It was the previous Council that allowed it. Under the taxicab ordinance if we deny a taxicab franchise or revoke a franchise there is a due process hearing associated with this. We do not have anything in the ordinance that he can remember that requires the due process hearing for an individual who we have denied a driver's permit. However, when we had our discussions back in 2007 concerning Mr. Melson the City Attorney relayed to the Council that in the absence of caution that we should go ahead and allow a due process hearing for anyone who we deny a driver's permit. You have received a letter from Ms. Figgs. She is not here tonight. Usually at a due process hearing, the individual gets up and gives testimony. He believes what the Council needs to decide if you are going to afford her a due process hearing. It was denied based on what is in our ordinance.

Mr. Rivers said that she has followed the correct procedures by submitting a letter asking for an appeal. The Police Department is recommending denial.

Mr. Stimatz said in looking at what he sees from what has been presented, you do not present a case for revocation. The three items was in her file before she got her permit in 2007 and you gave it to her. As far as we know there is no documentation.

Chief Crudup said he would like to correct the statement as he did not give her the permit as he was not here at that time.

Mr. Stimatz said the idea is that she was issued a permit based on the same documentation that you are now denying. He finds that hard to do especially if she has nothing in her record since then. You don't present anything since January 2007. Tonight you are saying that she has numerous traffic violations. He doesn't see those. You haven't presented your case. The package that you presented tonight does not contain any new information any newer than January 2007 to deny her. The department did not deny her then.

Chief Crudup said that Council has the right to overrule the recommendation of the Police Department and you can give her a permit.

Mr. Evans said that he is with the Chief on this as she had the opportunity to be here tonight but she didn't come and she could have done the exact same thing.

***A motion was made by Councilman E. K. Rivers, seconded by Councilman R. E. King to send Ms. Figgs a letter advising her if she would like to appear before Council at the next work session. Those voting in favor of the motion were: Rivers, King, Hummer, Meggs, Stimatz and Watts. Against: Evans. Motion carried.***

b} Amend Attic Insulation Rebate Policy:

Mayor Atkinson called upon Mr. Olson for comments.

Mr. Olson stated in November 2005, Council adopted an Attic Insulation Rebate Policy in conjunction with the City's weatherization program. The policy was enacted in order to assist residential customers with improving energy efficiency in existing residences. In fiscal year 2009-2010 budget, the Council budgeted \$3,500 for this item. The policy that was adopted only applies to customers within the corporate limits of the City. The revenue derived that pays for this particular line item comes from the Electrical Fund which individuals from inside and outside the city limits contribute. Staff is requesting the insulation policy be amended to allow anyone on the City of Elizabeth City electrical system to have the rebate applied to them.

***A motion was made by Councilwoman V. C. Watts, seconded by Councilman R. E. King to amend the Attic Insulation Rebate policy as requested. Those voting in favor of the motion were: Watts, King, Evans, Hummer, Meggs, Rivers and Stimatz. Against: None. Motion carried.***

c} 517 South Road Street – Hattie Spellman Property:

Mayor Atkinson recognized Councilman Rivers for comments.

Mr. Rivers stated he was very sensitive about this issue concerning a piece of property that was formerly a vacant lot on the corner of Speed and Road Street. He would like to make sure when we talk about actions or anything, would that constitute Closed Session. He doesn't know if the information concerning what was received by the property owner would be Closed Session or public knowledge?

Mr. Olson said the information we distributed to the City Council today is a public record. We can discuss those items as far as he is concern in public session. He asked to give a little history. The individual that contacted a number of council people today has been before this City Council at least three times that he can remember during the six years he has been here. This issue deals directly with action taken by a City Council in 1999 where they condemned a structure as an unsafe structure. We tore it down and assessed the property owner for the cost of the demolition expense. Also, if he is not mistaken, there has been at least two, possible three, code enforcement actions over the last few years that are added on to the amount of assessment that the individual owes the City through the property tax process. The last time this lady was in front of you was roughly three years ago. At that particular time, Council decided not to take any action concerning it.

Mr. Stimatz asked if he was correct that what was happening here is that they haven't paid the taxes and the County is proceeding with foreclosure. He doesn't know what the role of a councilman is at this time.

Mr. Olson said that is correct. He believes the lady would like to have the City Council abate the demolition and code abatement fees she has on the property.

Mr. Rivers said a lot of times when we go before the County we need to see if the property is worth that amount. He is not of the opinion to foreclose. He believes a lien should be placed so that way anything that we have expended money because there should be no forgiveness of what she owes. He is not familiar with it as he just wanted to make sure. It was explained to him that she was making payments on it.

Mr. Olson said those payments would be made not to the City but the County. He has no idea what is being paid. You have a record presented by the Tax Office that there is still a substantial amount of money owe on the property. As far as the City is concerned this is an issue between the heirs of Ms. Spellman and Cynthia White and the County's Tax Office and not the City.

Mr. Rivers said when this happen there was a very interesting process on how the house was torn down. He believes Ms. Hummer was on Council at that time. He remembers that and he says that because he doesn't think Rich was here at that time. It was a very heated discussion and a very painful experience for the family and the City of Elizabeth City. Action has been taken. Is there anyway to stop foreclosure? That is his first immediate questions. He is asking so that way it would give them the opportunity in a time like this because we don't need the property. We lose out if we end up with the property. He is asking if we can set up a payment plan.

Mr. Olson said we tore down the property and provided notice to the property owner how much that was and that individual failed to pay that dollar amount. Then we had to make an assessment on the tax rolls. That was done in 2000 or nine years ago. He is really surprised that it hasn't gone to a tax sale before now. The only thing Council can do is forgive the tax lien that we have on the property and take official action to do that. Absent that we have no other recourse because it is in the process of foreclosure and that is determined by the County and not the City. The foreclosure process is defined by State Statute.

Mr. King said what he understands is the young lady is paying or making payments on the property right now. He doesn't understand what the County is doing. She has a payment plan now with the County so what more can we do.

Ms. Watts said she probably didn't make the payments when you tore her house down because she didn't think that it was done justly based on what Mr. Rivers just said. She really doesn't feel that we have or we should do any other recourse but to forgive her of that. Many times and she has gone to Rich on several occasions for other people also like that who have their Mother's house torn down several years ago and they didn't feel like it was right. So, just thinking of that logically you wouldn't pay the money back to the City if you didn't feel it was necessary to tear your Mother's house down. Nevertheless, she thinks that is something that we should consider and just forgive that. She has a lot on her anyway as her property is going to be foreclosed as it is. We are not going to get our money.

Mr. Olson said the issue that staff has is that in 1999 the City Council sitting at that particular time determined that the house was unfit and ordered it to be

torn down. The only thing that happened was that staff followed the direction of City Council. It does not appear that there have been regular payments made on this property by the individual who contacted members of the City Council.

Mr. Stimatz said he would like to table this item until we have a chance to talk with our Attorney. We have a pending lawsuit that would impinge upon this and put us at great risk. He doesn't want to go here.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilman E. K. Rivers to table any action on this item until Rich has the opportunity to have a discussion with the City Attorney and then get back with Council. Those voting in favor of the motion were: Stimatz, Rivers, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.***

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

Mayor Atkinson stated he would go around the table for this item.

City Manager

Mr. Olson stated he had no further comments.

Councilman Evans

Councilman Evans stated he had no further comments.

Councilman Stimatz

Councilman Stimatz stated he had no further comments.

Councilwoman Watts

Councilwoman Watts said she wants to know what happened to Mr. River's request to have Oak Grove put back on the agenda and it was to set a specific date for the work to get started. She thinks she made the motion about the driveways to be extended a little bit bigger and she was wondering when that is going to be done. You didn't have it up there this time so if you can put it on the agenda for next time unless you can give her some type of answer tonight.

Mr. Olson said the Public Works Director basically handled that during the work session. If he was wrong then he would be happy to place that on the next agenda. He gave an update on the project, what work is included and how the

project would be bid and the bid dates and when it will be coming back to us. We should get that information within two or three days.

Ms. Watts said she wants to be sure that we get it. She has been told lots of stuff, lots of times about Oak Grove and we are still waiting.

#### Councilwoman Meggs

Councilwoman Meggs stated she had no further comments.

#### Councilman King

Councilman King asked about the sidewalk from Providence Road to Applebee's.

Mr. Olson said we have had some recent discussions with Sterling Baker of NCDOT and it is his understanding he is in the process of drafting a reimbursement agreement for us to consider.

#### Councilman Rivers

Councilman Rivers said he needs Public Works to check on the intersection of Southern Avenue and Hemlock Street. The road is too large and could be possibly a storm drain.

#### Councilwoman Hummer

Councilwoman Hummer said she would like to thank the Chief of Police for stepping up patrol in the areas of the Second Ward that were experiencing a lot of vandalism and breaking and entering. The officers came out to the Community and got out of their cars and walked several blocks, knocked on doors and spoke to a lot of people and it made them feel a lot safer. She appreciates that and the residents do also.

#### Mayor Atkinson

Mayor Atkinson said he wanted to thank Mr. Overman for placing out at Mariner's Wharf the doggy bags that are out there to help keep the park clean. He also wanted to say again how important it is that you obey the State Law that you must stop or yield to pedestrian crossing in the crosswalks.

#### **9} CLOSED SESSION:**

Mayor Atkinson entertained a motion to retire into Closed Session.



***A motion was made by Councilman J. A. Stimatz to retire into Closed Session for consideration and acquisition of real property in accordance with NCGS 143-318.11(a) (5). Councilwoman V. C. Watts seconded the motion. Those voting in favor of the motion were: Stimatz, Watts, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.***

Upon the end of Closed Session:

***A motion was made by Councilman E. K. Rivers, seconded by Councilman J. A. Stimatz to return to regular session. Those voting in favor of the motion were: Rivers, Stimatz, Evans, Hummer, King, Meggs and Watts. Against: None. Motion carried.***

**10} ADJOURNMENT:**

There being no further business to come before the City Council at this time, Mayor Atkinson adjourned the meeting at 9:15 p.m.

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Dianne S Pierce-Tamplen, MMC  
City Clerk

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Stephen S. Atkinson  
Mayor