

MONDAY – 7:00 P. M.

NOVEMBER 10, 2008

CITY COUNCIL

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

Mayor Atkinson opened the meeting by welcoming those in attendance. He called upon Pastor Lin Bennett for the invocation after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} APPROVAL OF THE AGENDA:

Mayor Atkinson called for action regarding the prepared agenda.

Mayor Pro Tem J. M. Baker asked to add to the agenda ***a proclamation for ECSU Lady Vikings Volleyball Team; a live burning at Corner of River Road and Weeksville Road, moratorium on subdivisions and a Closed Session for consultation with the City Attorney and the removal of Item #8-d-Execution of Agreement between electric suppliers.***

Councilmember L. A. Hummer asked to ***add policies and procedures.***

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

2} COMMENTS FROM THE PUBLIC:

There was no one present to speak.

3} PROCLAMATIONS:

a} Veterans Day:

Mayor Atkinson presented a proclamation proclaiming November 11, 2008 as Veterans Day and urged all Americans to observe November 9, 2008 through November 11, 2008 as National Veterans Awareness Week and remember these heroes for their valor, loyalty and dedication. Mr. Dan Serik received the proclamation and made brief remarks.

b} ECSU Lady Vikings Volleyball Team:

Mayor Atkinson presented a proclamation to the members of the ECSU Lady Vikings Volleyball Team honoring their CIAA Championship win. Coach Linda Bell made brief remarks.

4} APPROVAL OF THE MINUTES:

Mayor Atkinson called for the approval of previous meetings minutes.

Councilman Stimatz asked that the Joint City/County Meeting minutes be amended to show that the two managers were to get together and meet regarding the 911 Center and bring back a plan for further consideration.

A motion was made by Councilmember L. A. Hummer, seconded by Councilman R. E. King to approve the minutes of Special Meeting-July 18, 2008; Regular Meeting-August 25, 2008; Joint City/County Meeting-September 29, 2008 with addition wording regarding a plan from both managers; Work Session-October 27, 2008 and Regular Meeting-October 27, 2008. Those voting in favor of the motion were: Hummer, King, Baker, Evans, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

5} CONSENT AGENDA:

Mayor Atkinson called for action regarding the Consent Agenda.

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

Consent Agenda:

a} Approved the following Budget Amendment:

**BUDGET AMENDMENT
NUMBER 2008-11
NOVEMBER 10, 2008**

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, 2009:

SECTION I. That the General Fund Non-Departmental Contingency (106620-6000) be decreased by \$10,002, the Albemarle Foundation Donation (106620-5875) be increased by \$3,334, the Tabernacle of Faith Donation (106620-f5860) and the New Beginnings Donation (106620-5876) be increased by \$3,334.

(To record homeless appropriation.)

SECTION II. That the General Fund Rose Buddies Tourism Grant (103490-6250) and the Rose Buddies TDA Grant Expenditures (106200-7401) be increased by \$4,735.

(To record Tourism Grant for Rose Buddies monument.)

ADOPTED, this 10th day of November, 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen
City Clerk

b} Approved condemnation and demolition of 706 Riverside Avenue by adopting the following ordinance.

ORDINANCE #08111
DIRECTING THE BUILDING INSPECTOR TO REPAIR OR DEMOLISH
THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN
HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON
THAT THE SAME MAY NOT BE OCCUPIED UNTIL REPAIRED OR THAT
THE STRUCTURE BE DEMOLISHED.

WHEREAS, the City Council of the City of Elizabeth City finds that the property described herein is unfit for human habitation under the local and state codes, and that the provisions of said codes have been met as a condition of the adoption of this Ordinance; and

WHEREAS, said structure should be repaired to meet the requirements of the Code or demolished as directed by the Building Inspector, and should be placarded by placing thereon, a notice prohibiting use for human habitation; and

WHEREAS, the owner of said structure has been given a reasonable opportunity to bring the premises up to the standards of the subject codes in accordance and pursuant to an order issued by the Building Inspector on September 3, 2008; and the owner has failed to comply with said order;

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

SECTION 1. The Building Inspector is hereby authorized and directed to place on the building located a 706 Riverside Avenue a sign containing the legend:

“This building is unfit for human habitation; the use or occupancy of this building for human habitation is prohibited and unlawful.”

SECTION II. The Building Inspector is hereby authorized and directed to proceed to repair or demolish the above described structure in accordance with his order to the owner thereof dated the 3rd day of September, 2008 and with the Code; and

SECTION III. It shall be unlawful for any person to remove or cause to be removed said placard from any building to which it is affixed. It shall likewise

be unlawful for any person to occupy or permit the occupancy of any building herein declared to be unfit for human habitation.

SECTION IV. This Ordinance shall become effective upon its adoption.

ADOPTED, this 10th day of November 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen
City Clerk

c} Approved live burning for training of 1305 Riley Street and the structure located at the corner of River Road and Weeksville Highway.

d} Accepted low bid for the purchase of 19 laptop computers from "USAT" (Chapel Hill, NC) for a total cost of \$52,801. The Bid Tabulation list is as follows:

<u>Bidder</u>	<u>Total Cost</u>
Gately Communications	\$54,036
USAT	\$52,801
Mooring Tech	\$56,905
Computer Service Partners	\$56,487

End of Consent Agenda:

6} PUBLIC HEARINGS:

a} Petition for Voluntary Annexation – Perkins Lane, LLC:

Mayor Atkinson called upon City Manager R. C. Olson for comments

Mr. Olson advised that the Petition for Voluntary Annexation is for 7± acres and is owned by Perkins Lane, LLC and is located between Perkins Lane and Capital Trace Way. The property is contiguous to the existing city limits.

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

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilmember V. C. Watts to adopt the following ordinance incorporating the 7± acres owned by Perkins Lane, LLC into the Corporate Limits of the City of Elizabeth City with an effective date of December 1, 2008. Those voting in favor of the motion were: Baker, Watts, Evans, Hummer, King, Meggs, Rivers and Stimatz. Against: None. Motion carried.

**ORDINANCE #08112
TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF ELIZABETH CITY, NORTH CAROLINA
7± ACRES ADJACENT TO PERKINS LANE
BETWEEN CAPITAL TRACE WAY AND PERKINS LANE
PERKINS LANE, LLC**

WHEREAS, the City Council has been petitioned under G. S. 160A-31, to annex the area described herein; and

WHEREAS, the City Council has by resolution directed the City Clerk to cause to be 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 10th day of November, 2008 after due notice by publication on the October 31, 2008 and November 2, 2008 ; and

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

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

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

3.81 Acre and Parcel Pin 8922-177036:

Being a tract of land approximately 2.5 miles south of Elizabeth City, North Carolina that is further located approximately 975 feet North of N.C.S.R. 1133 (Perkins Lane) and 3600 feet East of N.C.S.R. 1101 (Peartree Road) in Nixonton Township, Pasquotank County, North Carolina and being more particularly described as follows. Commencing at a found

P.K. Nail at the centerline intersection of Perkins Lane (N.C.S.R. 1133) and Peartree Road (N.C.S.R. 1101): Thence S 81°33'39" E- 1,288.38 feet with and along the centerline of Perkins Lane to a found P.K. Nail at the centerline intersection of Perkins Lane and Fort Bragg Drive; Thence S 79°38'01" E-170.83 feet with and along the centerline of Perkins Lane to a found P.K. Nail in the centerline of Perkins Lane; Thence S 79°29'05" E- 1,035.81 feet with and along the centerline of Perkins Lane to a found P.K. Nail in the centerline of Perkins Lane; Thence S 79°07'10" E-166.52 feet with and along the centerline of Perkins Lane to a new set P.K. Nail in the centerline of Perkins Lane; Thence S 78°35'33" E-371.80 feet with and along the centerline of Perkins Lane to a point; Thence S 78°18'59" E-102.91 feet with and along the centerline of Perkins Lane to a found P.K. Nail; Thence S 78°18'59" E-209.33 feet with and along the centerline of Perkins Lane to a point; Thence leaving the centerline of Perkins Lane S 84° 38'41" E-251.03 feet to an existing found rebar at the Southwest corner of the property of James L. Cartwright and wife Ann S. Cartwright as described in Deed Book 411, Page 403 and also being the Southernmost corner of tract number one as shown at Deed Book 580, Page 817; Thence S 78°12'27" E-208.97 feet with and along the Southern line of the above mentioned Cartwright property to an existing found iron rebar at the Southwest corner of the property of Wesley R. Fleming and wife Beth O. Fleming as described in Deed book 580, Page 814; Thence S 77°10'21" E-169.79 feet with and along the Southern line of the above referenced Fleming property to an existing found iron pipe in the Northern Right of Way Line of N.C.S.R. 1133 (Perkins Lane), the True Point of Beginning for this description; Thence N 22°35'41" E-199.41 feet with and along the centerline of an existing ditch to an existing found iron rebar in the centerline of the ditch; Thence N 23°26'13" E-648.02 feet to an existing found iron rebar at the centerline intersection of two ditches, the Northeast corner of the property of Wesley R. Fleming and wife Beth O. Fleming, Tract 2 as shown at Deed Book 580, Page 816-817; Thence N 23°12'49" E-198.99 feet with and along and beyond the centerline of a ditch dividing the subject property shown on a plat recorded at Map Book 47, Page 14 to a found pinched top pipe, nine feet North of a ditch centerline and on the ditch bank, that is in the Southern line of the Phillip W. Harrington property as described in Deed Book 708, Page 148 and shown as Tract 3 on a plat recorded at Map Book 22, Page 27; Thence S 72°45'47" E-135.15 feet to a existing found iron rebar on the north ditch bank, four feet North of the ditch centerline; Thence S 20°30'27" W- 653.77 feet with and along the Western line of the property of Harlon Ansley Parchment, Jr. and wife Shan P. Parchment as described in Deed Book 760, Page 488 to a new iron rebar set in the Western line of the above referenced Parchment property; Thence continuing S 20°30'27" W- 170.79 feet with and along the Western line of the property of Harlon

Ansley Parchment, Jr. and wife Shan P. Parchment to an existing found iron rebar in the Western line of the above referenced Parchment property; Thence S 19°50'54" W-200.44 feet with and along the Western line of the property of Harlon Ansley Parchment, Jr. and wife Shan P. Parchment to an existing found iron rebar in the Northern Right of way of N.C.S.R. 1133 (Perkins Lane); Thence N 77°59'23" W-189.08 feet with and along the Northern Right of Way Line of Perkins Lane to an existing found iron pipe the True Point of Beginning, containing 3.81 acres ± by D.M.D. and being the area shown East of a ditch that divides the subject property as shown on a plat recorded at Map Book 47, Page 14.

4.04 Acre and Parcel Pin 8922-174502:

Being a tract of land approximately 2.5 miles south of Elizabeth City, North Carolina that is further located approximately 975 feet North of N.C.S.R. 1133 (Perkins Lane) and 3600 feet East of N.C.S.R. 1101 (Peartree Road) in Nixonton Township, Pasquotank County, North Carolina and being more particularly described as follows. Commencing at a found P.K. Nail at the centerline intersection of Perkins Lane (N.C.S.R. 1133) and Peartree Road (N.C.S.R. 1101): Thence S 81°33'39" E- 1,288.38 feet with and along the centerline of Perkins Lane to a found P.K. Nail at the centerline intersection of Perkins Lane and Fort Bragg Drive; Thence S 79°38'01" E-170.83 feet with and along the centerline of Perkins Lane to a found P.K. Nail in the centerline of Perkins Lane; Thence S 79°29'05" E- 1,035.81 feet with and along the centerline of Perkins Lane to a found P.K. Nail in the centerline of Perkins Lane; Thence S 79°07'10" E-166.52 feet with and along the centerline of Perkins Lane to a new set P.K. Nail in the centerline of Perkins Lane; Thence S 78°35'33" E-371.80 feet with and along the centerline of Perkins Lane to a point; Thence S 78°18'59" E-102.91 feet with and along the centerline of Perkins Lane to a found P.K. Nail; Thence S 78°18'59" E-209.33 feet with and along the centerline of Perkins Lane to a point; Thence leaving the centerline of Perkins Lane S 84° 38'41" E-251.03 feet to an existing found rebar at the Southwest corner of the property of James L. Cartwright and wife Ann S. Cartwright as described in Deed Book 411, Page 403 and also being the Southernmost corner of tract number one as shown at Deed Book 580, Page 817; Thence S 78°12'27" E-208.97 feet with and along the Southern line of the above mentioned Cartwright property to an existing found iron rebar at the Southwest corner of the property of Wesley R. Fleming and wife Beth O. Fleming as described in Deed book 580, Page 814; Thence S 77°10'21" E-169.79 feet with and along the Southern line of the above referenced Fleming property to an existing found iron pipe in the Northern Right of Way Line of N.C.S.R. 1133 (Perkins Lane); Thence N 22°35'41" E-199.41 feet with and along the centerline of an existing ditch

to an existing found iron rebar in the centerline of the ditch; Thence N 23°26'13" E-648.02 feet to an existing found iron rebar at the centerline intersection of two ditches, the Northeast corner of the property of Wesley R. Fleming and wife Beth O. Fleming, Tract 2 as shown at Deed Book 580, Page 816-817, the True Point of Beginning for this description; Thence N 80°15'42" W-360.00 feet with and along the centerline of a ditch and with and along the Northernmost line of the above referenced property of Wesley R. Fleming and wife Beth O. Fleming, Tract 2 as shown at Deed Book 580, Page 816-817, to a point; Thence N 81°03'16" W-63.19 feet with and along the center of a ditch and with and along the Northernmost line of the above referenced property of Wesley R. Fleming and wife Beth O. Fleming, Tract 2 as shown at Deed Book 580, Page 816-817 to a point in the center of the ditch, the Northernmost common corner of Tracts 1 and Tracts 2 as shown at Deed Book 580, Page 817; Thence N 80°37'16" W-89.06 feet with and along the center of a ditch and with and along the Northernmost line of Carey W. McNeill, Jr. and wife Jennifer O. McNeill, Tract 1 as shown at Deed Book 580, Page 807-808 to a point; Thence N 80°16'14" W-185.11 feet with and along the center of a ditch and with and along the Northernmost line of Carey W. McNeill, Jr. and wife Jennifer O. McNeill, Tract 1 as shown at Deed Book 580, Page 807-808 to a found existing iron rebar in the centerline of the ditch; Thence leaving the ditch N 11°55'21" E-295.32 feet with and along the Eastern line of the property of Earl E. Boyd as described in Deed Book 750, page 456 and shown as the Eastern line of Tract "C" on a plat recorded at Map Book 25, Page 22 to an existing found iron pipe in the Southern line of the property of Phillip W. Harrington as described in Deed Book 708, Page 148 and shown as Tract 3 on a plat recorded at Map Book 22, Page 27; Thence S 86°34'27" E-1.90 feet with and along the Southern line of the above mentioned Tract 3 to an existing found iron rebar; Thence S 72°28'39" E-739.28 feet with and along the Southern line of the above mentioned Tract 3 to an existing found pinched top pipe, nine feet North of a ditch centerline, on the top of the ditch bank; Thence S 23°12'49" W-198.99 feet with the centerline of a ditch to the True Point of Beginning, containing 4.04 Acres ± by D.M.D. and being all of the subject property as shown on a plat recorded at Map Book 47, Page 14 that is west of the ditch dividing the subject property.

SECTION 2. Upon and after the 1st day of December, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Elizabeth City and shall be entitled to the same privileges and benefits as other parts of the City of Elizabeth City. Said territory shall be subject to municipal taxes according to G. S. 160A-58.10.

SECTION 3. The Mayor of the City of Elizabeth City shall cause to be recorded in the office of the Register of Deeds of Pasquotank County, and in the office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections as required by G. S. 163-288.1.

ADOPTED this 10th day of November, 2008.

Stephen S. Atkinson
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Application RZ-08-08:

Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks advised that this application is from Elizabeth City Boys Club, Inc and they are requesting to rezone 1.5 acres of a 4.79 acre tract located at 711 West Ehringhaus Street from Residential-R-6 to General Business-GB. This property has a split zoning designation. The owners will be selling the property for commercial development on the front and a new boys club will be constructed on the rear. The Planning Commission has recommended approval of this request.

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

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to approve the rezoning of 1.5 acres of a 4.79 acre tract at 711 West Ehringhaus Street from Residential-R-6 to General Business-GB. Those voting in favor of the motion were: Baker, King, Evans, Hummer, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried

c} Tree Ordinance:

Mayor Atkinson called upon Randall Lyons for comments.

Mr. Lyons presented a brief power point showing trees in Elizabeth City that will be affected if we have a tree ordinance. Becoming a tree city will add value to property and increase the aesthetic beauty of the area. The Tree City USA designation is something that could increase the image of Elizabeth City both in the short term and the long term if the designation continues. It will allow us to become a Green City. The Tree Commission would be a seven member commission with staggered three year terms. He went over some of the issues that will be placed in the ordinance such as unsafe trees, trimming, pruning, planting and removal of trees and shrubbery, inspection of sites and enforcement of the ordinance. If there is an appeal it would first go to the Board of Zoning Adjustments and then to the Superior Court.

Mayor Atkinson asked Mr. Lyons if we meet the criteria to become a Tree City and Mr. Lyons replied yes we did. Mayor Atkinson then asked if we could adopt the ordinance and then found out that we might need to amend it would we be allowed to do that. Mr. Lyons replied that yes we could do that.

Mayor Atkinson declared the meeting into public hearing for comments from the public on the adoption of a Tree Ordinance. Since on one wished to speak for or against the proposed Ordinance, Mayor Atkinson declared the public hearing closed.

Councilman Rivers stated that in view of all the changes that have been made or suggested here tonight that he would prefer the staff to make all the changes and bring back to Council a clean copy and we consider the clean copy at our next meeting and take action at that time.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman V. C. Watts to table action on the Tree Ordinance tonight and have staff make the revisions and bring it back for consideration at our November 24th meeting. Those voting in favor of the motion were: Stimatz, Watts, Baker, Evans, Hummer, King, Meggs and Rivers. Against: None. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. A. Hummer to bring a proposed list of proposed members for the Tree Commission and bring it back for consideration at our November 24, 2008 meeting. Those voting in favor of the motion were: Stimatz, Hummer, Baker, Evans, King, Meggs, Rivers and Watts. Against: None. Motion carried.

7} **REGULAR AGENDA:**

Mayor Atkinson called upon Marc Finaysen, Director of the Highway 17 Association for comments.

Mr. Finaysen presented an update on the progress of the Highway 17 Association. He stated that the mission of the Highway 17 Association is to assure through collective action and constancy of purpose that the inclusion and funding of all unfunded portions of the US Highway 17 corridor shall be part of the NC Department of Transportation's 2009 Transportation Improvement Program or as soon thereafter as possible. Their primary role is advocacy to insure that Federal and State funding is available to four-lane US 17. He went over the status of what the Highway 17 Association has been doing during 2008.

b} Authorization to execute Contract 2006-2007-021 Department of Commerce:

Mayor Atkinson called upon City Manager Olson for comments.

Mr. Olson advised in May 2007, the City executed a grant agreement with the NC Department of Commerce for \$3.5 million which was used to purchase the property for the Aviation Park. There was a provision in the grant that the City would be required to deed to ECSU Foundation approximately 20 acres. The City had negotiated a separate agreement with the Foundation where the City would deed the property to them and they would give the City \$750,000 to pay the Foundation's share of the site improvements. The City would donate back to the Foundation \$250,000 which would be utilized as an endowment for the Aviation Science program. Due to how the money was earmarked, the City will need to deed the property directly over to ECSU thereby requiring the City to amend the grant agreement with the Department of Commerce. On October 31, 2008 he discussed this issue with Chancellor Gilchrist and he informed me that his staff has reviewed the cost allocation plan for infrastructure with the Park and he believes that the \$500,000 is a fair value for the site improvements. ECSU's legal department is drafting an agreement which will incorporate the North Carolina State Property Office rules on the conveyance of property to the State. Until this addendum is executed, no property may be conveyed to ECSU.

Councilwoman Hummer expressed her concern that ECSU did not fully understand this arrangement. It is her understanding that they are not in agreement with this and they look at this \$500,000 as a gift and you do not charge for a gift. She questioned if all parties were in agreement with this. Have all parties agreed to this yet?

Councilman Rivers also expressed his concern over this issue. He feels that the City should set down with the University's officials and work out all of these issues before this addendum is signed off. He asked that if we sign off on this

amendment, then it has nothing to do with the \$500,000, infrastructure or anything except deeding the property to ECSU instead of the Foundation.

Mr. Olson replied that is correct. We will need to come back with another agreement, in fact there are two more agreements that will need to be authorized, but this one is to only deed the property to ECSU instead of the Foundation.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman J. A. Stimatz to authorize the Mayor to execute the Contract 2006-2007-021 with the Department of Commerce. Those voting in favor of the motion were: Baker, Stimatz, Evans, King, Meggs, Rivers and Watts. Against: Hummer. Motion carried.

Councilman Rivers asked if we can set up a meeting with Elizabeth City State University officials to discuss the \$500,000.

c} Closing of City Streets:

Mayor Atkinson recognized Mr. Olson for comments.

Mr. Olson advised that the authority to close city streets is indirectly addressed in Section 74-5 of the City Code. It requires that an individual desiring to close a street first obtain a permit from the City Manager. Closing of a street is usually for a very short period of time. The street closing application requires residents living on the affected block sign the street closing application. Staff has not been verifying the signatures on the application as valid since we do not know who resides at a given address. Once the application is received, it is forwarded to the Chief of Police for his review and approval/denial. Once the Chief approves the application, it is forwarded to Public Works to coordinate the placement of barricades to effectuate the closure. From staff's perception, the important element is whether or not the affected residents are notified prior to the closing and if arrangements have been made to allow limited access to residents in the block which is being closed.

Councilman Stimatz said that our current policies on closing a street are not being followed. All he is asking in the future that we follow our own rules.

Mayor Pro Tem Baker stated she is all for following policy but she feels that we should allow staff to make the decision to close a street based on past history. They should have the ability to make snap decisions instead of asking each resident. The residents are usually notified in advance that a street is going to

be closed. She has never been made aware of any complaints from Ghostwalk. We need to allow our staff to make the decision.

Mr. Stimatz said that 95% of the street closing is in areas zoned Central Business or O & I and this one was in a residential area. How about those residents' rights that don't want their rights stomped on. Residents want to be involved and for someone to presume that they wouldn't mind is not right.

Mr. Rivers said as he reads the code, he feels that the City Manager has the right to make that decision. He has the discretion to deny it or approve it. He likes giving our Manager the flexibility to do what he feels is the right thing to do. Every situation is different. He is in favor of leaving it as it is.

8} MORATORIUM ON SUBDIVISIONS:

Mayor Atkinson called upon Councilman Rivers for comments.

Mr. Rivers said that he feels that we need to put a moratorium on new subdivisions in order that we can work out a plan whereby new annexations will not allow water to flow onto residential sections of our city. We have to show our residents that we too are concerned about the flooding problems. He is not asking that the moratorium be put on for one or two years but just until we get a plan in place.

Mr. Olson said that Paul Fredette is planning to be able to present to Council a joint drainage plan in January 2009. He along with the County representative has been working on this plan for some time now. He spoke with the Attorney today about a moratorium and if we would be in a direct violation because of our agreement with Tanglewood, LLC. We are presently on a moratorium because the State has placed one on us because of our inability to meet the water needs. It should be on for another four months. We have 2000-2800 lots available now that are in the various stages of the process. He does not believe that a subdivision moratorium is needed right now. Before we can issue a moratorium you have to have a public hearing to hear the citizens input on the issue.

Mr. Rivers said that the ones that are in the queue are ok. He is pro developer and if we can stop them before they come in then we can look at something to protect them. We are going to put more water on them if we continue with more growth. He wants to make sure that we implement all that we can to help protect those suffering from flooding.

Mr. Olson said that we have approximately 800-900 in the queue already.

Mr. Stimatz stated that he feels that we do not need a moratorium as we put a process in place three years ago that these items come to Council and we as a body consider each and every new subdivision. We make sure that we look at where the run off is and will it flood on any other areas before we give the go ahead.

Mr. Rivers said all he is asking is that we put a moratorium on new subdivisions until we get the model in place. He is not asking that it be placed on there indefinitely. He is not knocking the theory as he is only asking to delay any new subdivision until the model is put in place. He understands that there is an exception to every rule. For the people who are flooding we can tell them that we are doing something.

A motion was made by Councilman E. K. Rivers, seconded by Councilman R. E. King to place this item on the next work session for discussion and after that meeting call for a public hearing to be held on Monday, December 8th, 2008 at 7:30 p.m. in the City Council Chambers in the Municipal Administration Building in order to receive citizens input on if there is a need for a moratorium on subdivisions. Those voting in favor of the motion were: Rivers, King, Evans, Hummer, Stimatz and Watts. Against: Baker and Meggs. Motion carried.

Mr. Olson advised that he will place this item on your Work Session Agenda for November 24, 2008 as there are a lot of other items that need to be discussed.

9} POLICIES AND PROCEDURES:

Mayor Atkinson called upon Council Member Hummer for comments.

Ms. Hummer stated she asked that this item be placed on the agenda. She would like to reaffirm that City Council sets policies and the Manager and City Staff carry out those policies. Last week in Dare County, a hearing was held regarding the OIC matter. Just prior to start of the meeting a stipulation was filed in Pasquotank County Superior Court. There were two members of Council that was subpoenaed to appear in that hearing and she for one did not know anything about those documents that were filed that morning. She would like to point out especially in litigation and all legal matters every issue whether it is a change or a motion or stipulation or answer should be brought to the full Council during a closed session for a vote or by a telephone poll to each member of Council prior to that document being filed in Court. She can only speak for herself but she knew nothing about it. The City Manager does not have the authority to make any decisions in a law suit unless it is first approved by the majority of Council. Mr. Hornthal did not have authorization from the full Council

to go forward with that stipulation. A telephone poll from each one of us should have taken place before he went forward with that document. If this had been done maybe the City could have avoided some financial costs.

The next thing is the Hornthal Law Firm represents all eight members of this Council and the Mayor. For Mr. Hornthal to advise six members of this Council to appear in the courtroom for this hearing "To show the six councilors voting against OIC." I think was unprofessional. It appeared that was done to cast a shadow on those that were subpoenaed to testify. The citizens are paying that law firm to represent all of us. You may not like what some of us may say but he was still there to represent all members of council and the mayor. She felt that behavior was very much out of order for a law firm.

Mr. Rivers asked if a law firm could take care of the issue the way that it was handled.

Mr. Olson replied that in his opinion Mr. Hornthal was acting in good faith as this Council had instructed him to take care of this matter for Council. He did that to the best of his ability. He personally had sent out at least three memos advising what was taking place and he has met with almost all members of council to discuss the litigation issues.

Mr. Rivers said he had not met with him and all he wants to do is to make sure that the attorney contacts all nine members of Council and not a select few. It doesn't matter if I agree or disagree with what is taking place we are all members of Council and should have the same privilege given to all nine members. He would like to have the same common courtesy given to him.

10} CLOSED SESSION:

Mayor Atkinson stated that City Council needed to retire into Closed Session as per NCGS 143-318.11 (a) (5), Position to be taken on acquisition of land. He entertained a motion to retire into Closed Session.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman V. C. Watts to retire into Closed Session for discussion of possible acquisition of land as per NCGS 143-318.11 a) (4). Those voting in favor of the motion were: Baker, Watts, Evans, Hummer, King, Meggs, Rivers and Stimatz. Against: None. Motion carried.

Upon the end of Closed Session.

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

9} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Atkinson adjourned the meeting at 9:30 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Stephen S. Atkinson
Mayor