

MONDAY-7:00 P.M.

NOVEMBER 14, 2011

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 City Council Chambers of the Municipal Administration Building with Mayor R. A. McLean presiding and members: L. A. Hummer, J. M. Baker, M. E. Brooks, L. M. Hill-Lawrence, R. E. King, B. S. Meggs, J. A. Stimatz and J. B. Walton in attendance. Others attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Deputy City Clerk V. D. White, Finance Director S. E. Blanchard, Planning Director J. D. Brooks, Human Resource Director K. W. Felton, Inspections Director S. E. Ward, Fire Chief L. M. Mackey, Police Chief C. E. Crudup, Parks and Recreation Director B. V. White, Electric Director K. F. Clow, ECDI Director R. Cross, Public Utilities Director P. A. Fredette and Mayor Elect J. W. Peel.

Mayor R. A. McLean established a quorum was present and called the meeting to order at 7:00 p.m. He welcomed those attending and called upon Pastor Nancy King for the invocation after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} APPROVAL OF THE AGENDA:

Mayor McLean called for approval of the prepared agenda.

Councilman J. A. Stimatz asked to ***remove Items #8-a-Budget Amendments and #8-f-Lease of Property from the Consent Agenda to the Regular Agenda; and to add Hayes Iron and Metal to the Regular Agenda for discussion.***

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

2} PRESENTATION:

Mayor Pro Tem L. A. Hummer read a proclamation proclaiming November 19, 2011 as "Sudan Shriners Day" in Elizabeth City. Mayor McLean presented the proclamation to Ralph Duncan and Sid Hill who made brief remarks. Mr. Duncan

noted that there will be approximately 2000 Shriners in Elizabeth City participating in the Fall Ceremonial and parade.

3} PUBLIC COMMENTS:

Ms. Susan N. Matousik, 703 Princess Ann Circle, Elizabeth City spoke regarding a claim of discrimination against her because of her disability. She asked that someone look into her claim.

4} APPROVAL OF THE MINUTES:

a} Work Session – October 26, 2011:

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilwoman B. S. Meggs to approve the minutes of the Work Session held on October 26, 2011. Those voting in favor of the motion were: Hummer, Meggs, Baker, Brooks, Hill-Lawrence, King, Stimatz and Walton. Against: None. Motion carried.

b} Regular Meeting – October 26, 2011:

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman R. E. King to approve the minutes of the Regular Meeting held on October 26, 2011. Those voting in favor of the motion were: Hummer, King, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

c} Joint City County Meeting – October 31, 2011:

A motion was made by Mayor Pro Tem L. A. Hummer, seconded by Councilman R. E. King to approve the minutes of the Joint City/County Meeting held on October 31, 2011. Those voting in favor of the motion were: Hummer, King, Baker, Brooks, Hill-Lawrence, Meggs, Stimatz and Walton. Against: None. Motion carried.

5} CONSENT AGENDA:

Mayor McLean called upon City Manager Olson to read the items on the Consent Agenda. Following the reading, Mayor McLean entertained a motion of approval.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. E. King to approve the following Consent Agenda as presented. Those voting in favor of the motion were: Baker,

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

Consent Agenda:

a} Approved the funding source for the Fish Courts Park Improvements. The expenses will be charged for the Fish Courts Parks to the P & R Grounds Maintenance line item.

b} Called for a public hearing to be held on Monday, November 28, 2011 beginning at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for each of the following:

1} Consideration – Land Use Plan

2} Consideration – Three State Ordinances regarding speed limit concurrence on the affected sections of the old NC 34 and the new NC 344 and the repeal of four ordinances as a housekeeping matter.

c} Approved the Asset Management Plan with Southern Corrosion, Inc., subject to review and approval of the City Attorney and authorized the City Manager to execute same.

d} Authorized staff to submit an application for funding to the TDA in the amount of \$9,900 for "Today in America with Terry Bradshaw" for a five minute segment that would air one time nationally on Fox Business Network; and if funded, authorize the City Manager to execute the Participation Agreement once the remaining funds have been secured.

End of Consent Agenda

6} PUBLIC HEARINGS:

a} CUP-02-09A for James Southerland to increase the number of internet sweepstakes terminals to 40 at Triple S Sweepstakes at 1871 West Ehringhaus Street.

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

Ms. Brooks advised the three public hearing items that you have on the agenda tonight is for the increase in the number of terminals for all three of our Internet Sweepstakes Cafés. CUP-02-09A is a request by Triple S Sweepstakes owned by James Southerland to increase the number of terminals from 20 to 40. Triple S is located in the Port Elizabeth Shopping Center located on Ehringhaus Street.

The site is zoned General Business. Additional parking can be accommodated on the site. There have been no complaints filed and the original CUP terms and conditions have been adhered to. The Planning Commission heard this request at their October meeting and they recommended increasing the number of terminals to 40 and keeping all the other conditions of the original use permit. It is also requested that the increase in fees be paid to the City prior to the change in the Conditional Use Permit.

Mayor McLean declared the meeting into public hearing. Since there was no one who wished to speak for or against the proposed increase in the number of terminals, Mayor McLean declared the public hearing closed.

City Manager Olson stated that you have a companion item which is the next item on the Regular Agenda which is a request to reconsider the amount of privilege license fee we charge this particular set of businesses. Based on the existing fees in place at this time the \$500 per machine the additional business license fee would be \$10,000 for this vendor because he is going from 20 terminals to 40 terminals.

City Attorney Morgan advised to handle this issue if a motion is made to approve this item and the other two companion items which follow that the motion include rather than spelling out the \$10,000 amount or specific dollar amount that the motion be approved indicating that the additional fee will be as determined by Council at tonight's meeting. We are either going to keep the fee as it is or modify that to some degree.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve CUP-02-09A to increase the number of terminals from 20 to 40 and all previously approved conditions are to remain in effect. The Conditional Use Permit will be issued once the applicant has paid the additional business license fees. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

2} CUP-04-09A – for Robert Luther of Sweepstakes I to increase the number of internet sweepstakes terminals to 32 at 1016 West Ehringhaus Street.

Mayor McLean called upon Planning Director Brooks for comments.

Ms. Brooks stated CUP-04-09A is a request of Sweepstakes I owned by Robert Luther to increase his number of terminals from 20 to 32. Sweepstakes I is located in the McPherson Shopping Center located on Ehringhaus Street. The site is zoned General Business. Additional parking can be accommodated on an

adjacent site as per a shared parking agreement. There have been no complaints filed and the original CUP terms and conditions have been adhered too. The Planning Commission heard this request at their October meeting. They recommended increasing the number of terminals from 20 to 32 and keeping all other conditions of the original Use Permit. It is also requested that the increase in fees be paid to the City once you have determined what the fees will be.

Mayor McLean declared the meeting into Public Hearing.

Mr. Bill Winslow, 1204 Carolina Avenue, Elizabeth City spoke in favor of the increase in the number of terminals at Sweepstakes I. Our colleagues have asked the City to review the fees and we also feel the proposed fee of \$500 per terminal is too high for this area.

Since there was no one else who wished to speak regarding the increase in the number of terminals at Sweepstakes I, Mayor McLean declared the public hearing closed.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve CUP-04-09A to increase the number of terminals from 20 to 32 and all previously approved conditions are to remain in effect. The Conditional Use Permit will be issued once the applicant has paid the additional business license fees to the City. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

3} CUP-05-09A for Richard Chapman to increase the number of internet sweepstakes terminals to 40 at Past Times Sweepstakes located at 1501 West Ehringhaus Street.

Mayor McLean called upon Planning Director Brooks for comments.

Ms. Brooks stated CUP-05-09A is a request for Past Times Sweepstakes owned by Richard Chapman to increase the number of terminals from 20 to 40. Past Times Sweepstakes is located in the Sears/Food Lion Shopping Center on Ehringhaus Street. The site is zoned General Business. Additional parking can be accommodated through shared parking agreements. The original CUP terms and conditions have been adhered too. The Planning Commission heard this request also at its October meeting. They recommended increasing the number of terminals to 40 and keeping all other conditions of the original use permit. It is also requested that the fees be paid prior to the Conditional Use Permit taking affect.

Mayor McLean declared the meeting into public hearing. Since there was no one who wished to speak for or against the proposed increase in number of terminals, Mayor McLean declared the public hearing closed.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to approve CUP-05-09A to increase the number of terminals from 20 to 40 and all previously approved conditions are to remain in affect. The Conditional Use Permit will be issued once the applicant has paid the additional business license fees to the City. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

7} REGULAR AGENDA:

a} Budget Amendment:

Mayor McLean called upon Councilman Stimatz for comments.

Councilman Stimatz stated he wasn't sure what the money for the accident was for.

Mr. Olson stated it was funds we received from the insurance company when the Crime Scene Van was totaled. We received a check from the insurance company in the amount of \$14,314. It is just a way to record the receipts into the General Fund. It was a reimbursement from the insurance company. Now we have to go out and purchase another Crime Scene Van.

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

**BUDGET AMENDMENT
NUMBER 2011-17
NOVEMBER 14, 2011**

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, 2012:

SECTION I. That the General Fund Insurance Proceeds (303350.8330) and the Police Department Capital Outlay (105100.7400) be increased by \$14,314.

(To record insurance for police accident.)

SECTION II. That the Senior Center Grant Revenue (103490.6301) be increased by \$4,938, the General Fund Balance Appropriated (103990.0000) be increased by \$1,453, the Senior Center Grant Instructors (106300.0320) be increased by \$628, the Senior Center Grant Operating Expenditures (106300.3301) be increased by \$1,138, and the Senior Center Capital Outlay (106300.7401) be increased by \$4,625.

(To record Senior Center Grant.)

ADOPTED, this the 14th day of November 2011.

Roger A. McLean
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Lease of Property located at 822 Price Street:

Mayor McLean called upon Councilman Stimatz for comments.

Councilman Stimatz stated his question is we ran into this before when we were going to rent something out or let someone lease something. Do we have to put this up in public notice?

Mr. Olson said no you do not. If a lease exceeds more than ten years then you have to follow the upset bid process as if you were going to be selling the land. Since the lease is under ten years we can just do it without giving notice on it.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to authorize the lease of the property

located at 822 Price Street for \$500 per year to Ms. Deborah Beasley and authorize the City Attorney to draft the appropriate agreement. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

c} Appointments to various Committees:

1} **Alcoholic Beverage Control Board:**

Mayor McLean asked for confirmation of Dr. Andrea R. Williams to fill the unexpired term ending June 30, 2012.

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to confirm the appointment of Dr. Andrea R. Williams on the Alcoholic Beverage Control Board to fill the unexpired term ending June 30, 2012.

Roll Call Vote:

Hill-Lawrence	Yes
King	Yes
Baker	Yes
Walton	Yes
Hummer	Yes
Meggs	Yes
Stimatz	Yes
Brooks	Yes

Motion carried with 8-yes and 0-no votes.

2} **Elizabeth City Urban Forestry Commission:**

Mayor McLean asked for confirmation of Betty S. Meggs as a member of the Elizabeth City Urban Forestry Commission for a three-year term ending 12/31/2014.

a} Betty S. Meggs

A motion was made by Councilman R. E. King, seconded by Mayor Pro Tem L. A. Hummer to confirm the appointment of Betty S. Meggs as a member of the Elizabeth City Urban Forestry Commission with a three-year term ending December 31, 2014.

Roll Call Vote:

Hill-Lawrence	Yes
King	Yes
Baker	Yes
Walton	Yes
Hummer	Yes
Meggs	Yes
Stimatz	Yes
Brooks	Yes

Motion carried with 8-yes and 0-no votes.

c} Herbert W. Crase:

Mayor McLean asked for confirmation of reappointing Herbert W. Crase to serve a one year term on the Elizabeth City Urban Forestry Commission ending December 31, 2012.

A motion was made by Councilman R. E. King, seconded by Councilman J. A. Stimatz to reappoint Herbert W. Crase to a one year term on the Elizabeth City Urban Forestry Commission ending December 31, 2012.

Roll Call Vote:

Hill-Lawrence	Yes
King	Yes
Baker	Yes
Walton	Yes
Hummer	Yes
Meggs	Yes
Stimatz	Yes
Brooks	Yes

Motion carried with 8-yes and 0-no votes.

d} Heather Griffin:

Mayor McLean asked for confirmation of reappointing Heather Griffin to serve a one year term on the Elizabeth City Urban Forestry Commission ending December 31, 2012.

A motion was made by Councilman R. E. King, seconded by Councilman J. A. Stimatz to reappoint Heather Griffin to a one year term on the Elizabeth City Urban Forestry Commission ending December 31, 2012.

Roll Call Vote:

<i>Hill-Lawrence</i>	<i>Yes</i>
<i>King</i>	<i>Yes</i>
<i>Baker</i>	<i>Yes</i>
<i>Walton</i>	<i>Yes</i>
<i>Hummer</i>	<i>Yes</i>
<i>Meggs</i>	<i>Yes</i>
<i>Stimatz</i>	<i>Yes</i>
<i>Brooks</i>	<i>Yes</i>

Motion carried with 8-yes and 0-no votes.

e} Susan Willoughby:

Mayor McLean asked for confirmation of reappointing Susan Willoughby to serve a one year term on the Elizabeth City Urban Forestry Commission ending December 31, 2012.

A motion was made by Councilman R. E. King, seconded by Councilman J. A. Stimatz to reappoint Susan Willoughby to a one year term on the Elizabeth City Urban Forestry Commission ending December 31, 2012.

Roll Call Vote:

<i>Hill-Lawrence</i>	<i>Yes</i>
<i>King</i>	<i>Yes</i>
<i>Baker</i>	<i>Yes</i>
<i>Walton</i>	<i>Yes</i>
<i>Hummer</i>	<i>Yes</i>
<i>Meggs</i>	<i>Yes</i>
<i>Stimatz</i>	<i>Yes</i>
<i>Brooks</i>	<i>Yes</i>

Motion carried with 8-yes and 0-no votes.

3} **Community Relations Commission:**

Mayor McLean asked for confirmation of appointing Rubenia Williams to fill the unexpired term on the Community Relations Commission ending May 2013.

A motion was made by Councilman R. E. King, seconded by Councilman J. A. Stimatz to appoint Rubenia Williams to fill the unexpired term on Community Relations Commission ending May, 2013.

Roll Call Vote:

<i>Hill-Lawrence</i>	<i>Yes</i>
<i>King</i>	<i>Yes</i>
<i>Baker</i>	<i>Yes</i>
<i>Walton</i>	<i>Yes</i>
<i>Hummer</i>	<i>Yes</i>
<i>Meggs</i>	<i>Yes</i>
<i>Stimatz</i>	<i>Yes</i>
<i>Brooks</i>	<i>Yes</i>

Motion carried with 8-yes and 0-no votes.

c} Internet Sweepstakes Café Fees:

Mayor McLean called upon City Manager Olson for comments.

Mr. Olson stated in February of this year, the City Council established a fee per machine per internet sweepstakes cafés of \$100. Subsequently on May 16, 2011, Council raised that fee to \$500 per machine and \$2,000 per location which staff had provided the Council with a comparable analysis of the different municipalities and what they currently charge. City staff was able to survey 53 different vendors and 40 of those vendors have at least \$500 per machine plus a location fee. Staff is recommending that you keep the fee at \$500 per year. The City budgeted \$36,000 for the CUPs and if the fee remains at \$500 as indicated the amount of money received will be \$62,000 per year.

A motion was made by Councilman M. E. Brooks to reduce the \$500 per machine fee to \$200 per machine. Councilman J. B. Walton seconded the motion.

Mr. Brooks said someone just opened one and they only paid \$500 for the non refundable fee. They are right down the road. We still are at the point where we are trying to drain small businesses. We are not trying to help them. We can't keep going through the phase where we see dollar signs and then try to figure out how to dig into somebody's pocket to keep those that are trying to

hold the community down. We can't keep doing that and thrive as a City. We know better than that. Most of them do a good job in giving back to the community.

Councilman Stimatz asked what was the average price that is charged. How do you charge your time on those terminals?

Mr. Winslow answered that actually our people come in and they purchase telephone minutes. For that they get a chance to operate the games so they can put in what they want to put in. We don't charge them anything. One dollar gives you 25 minutes of calls to anywhere in the United States.

Mr. Stimatz said that is \$.04 a minute. When you look at the \$500 fee it works out to be \$1.37 a day. If he remembers correctly the average number of hours these stores are open is over 12 hours a day. This means that is about \$.01 every five minutes or .2 cents every minute which is a pretty small price to pay if you are charging \$.04 a minute. He doesn't think \$500 is egregious. He remembers when this Council first had to deal with this issue; most of you didn't even want it at all. Didn't want them here and it was thought of as gambling. He knows it has had an impact on the Bingo parlors that we had around town who were making money for charities. A lot of them have closed up because they can no longer compete. He has a real problem dropping the fee to something that we will lose revenue and not even make the revenue we are now making. He has a real problem with that. He can't vote for \$200 and he just as soon leave it where it was. He doesn't see the \$500 as egregious amount when you figure out over the time all the time involved when the machines are there and available and open. He would also like to say if they weren't making money they wouldn't be asking to double their size. Obviously the competition is not hurting them as they have more people than they can keep in the place.

Councilwoman Baker said she agrees with Councilman Stimatz. She has a problem with where are we going to get the money that we have budgeted in the General Fund if we reduce this cost. You can always find someone that is not charging anything for a machine and you can always find somebody that is charging less but 40 out of the 53 cities that provided a response charge \$500 or more per machine. She thought at our last meeting that we were sending this to Finance. Did she miss something? Did it come back from Finance?

Mr. Olson said it went to Finance and Finance had no recommendation so it came back with no recommendation from Finance.

Ms. Baker said she will support keeping the fee where it is now.

Councilman Brooks said we are still trying to find a way to hold our City down instead of taking our City forward. If he had a grocery store and he decided to put five more bags of chips on the shelf the City wouldn't get a part of that. You are punishing people for being successful in a business. You are trying to take away from them because you are trying to capitulate how much money they are making. You are trying to get into their pockets for that. It doesn't make any sense. It doesn't matter who you vote for when you vote well. This is not about council people against each other it is about doing something for the community. That is all we are trying to do. We didn't have a problem with this when we gave \$30,000 additional dollars to the non-profits. You are concerned about how much money they are making and you don't do that with Wal Mart or any of the big stores. Why all of a sudden you are going to take the little man and try to stomp him in the ground. If it was your business would you want someone to treat you like that? He doesn't think so. Our job is not to dictate to people how much we can get in their pockets but it is to help the community and serve. We are missing that somewhere. It is about trying to do the right thing for our citizens.

Mayor Pro Tem Hummer said the question about going to the Finance Committee. There was still some misunderstanding about how we originally arrived at the \$500 fee so we felt it needed more clarification tonight and we decided to send it back to the full Council. She is looking at the issue of the legality of these enterprises was recently discussed by the NC Legislature regarding the legalizing these businesses. If the State enacts legislation to legalize Internet Sweepstakes Cafés they will most likely impose a fee structure for State licensing and at the same time limit what local jurisdictions can charge. It may not matter what we do here. It can all be changed if it goes to legislation.

Councilman Walton said he thinks it will matter what we do right now because it will be a consensus from this Council. He is in agreement with Mr. Brooks. During the election time we always talk about helping businesses. The same ones that make the great speeches are the ones that try to put the most demands on businesses. If he were looking from the outside he would look at this Council and some of the people on this Council as being just like ElectriCities. You want to overprice somebody. If he had a choice to go with ElectriCities or Albemarle Electric he would go with Albemarle Electric and he lives right here in Elizabeth City. We are always trying to drain someone as much as we can and then when election time comes around we need to bring in new businesses and we need to do this. We are the same ones that overtaxed businesses three years ago. We want to dig as deep as we can on people and not even give people a chance.

Following discussion of the lost of revenue the following friendly amendment to the original motion was offered by Councilman J. B. Walton.

Councilman J. B. Walton made a friendly amendment to the original motion to raise the suggested fee to \$300 per terminal.

City Manager Olson stated that in order to propose a change in the fee, a public hearing will have to be held.

A motion was made by Councilman R. E. King, seconded by Councilman J. B. Stimatz to call for a public hearing to be held on Monday, November 28, 2011 beginning at 7:30 p.m. in the City Council Chambers to consider an increase in the Internet Sweepstakes Café per terminal fee to \$300. Those voting in favor of the motion were: King, Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

d} Storm water Task Force Final Report:

Mayor McLean called upon Councilman Stimatz for comments.

Councilman Stimatz stated this is just a housekeeping discussion. You have seen the report earlier. We fine tuned the recommendations and this is just a chance to adopt the actual report. He asked to read the recommendations.

*Complete and submit the City's application for the Phase II NDES for a small MS4 municipality and to work with DENER to develop reasonable permit conditions and implementation schedules for Elizabeth City.

*Complete the mapping and inventory work on the Storm Water System (SWS) for inclusion in the City GIS data base.

*Develop and fund an aggressive public education and outreach program to include:

- Educating people about the environmental impacts of Stormwater, related policies and procedures, and their roles and responsibilities
- Engaging citizens in identifying, reporting and correcting SWS problem
- Creating project signage to educate and inform affected citizens.

*Revise the existing Stormwater design manual and city ordinances that are part of the Unified Development Ordinance. Prepare revisions for City Council action.

*Develop/review a policy to address the maintenance responsibilities for the Stormwater systems to include storm sewer systems, culverts, ditches, swales, retention and detention features and BMP's in the City. The maintenance policies will also address the frequency of maintenance activities, inspections and possible enforcement procedures.

*Complete work this fiscal year on the following priority projects:

- Old Fairgrounds drainage repairs
- Water Street/Southern Avenue Intersection Improvement Project
- Roanoke Avenue Engineering Design

*Develop a Storm Water System project prioritization rubric for future budget years.

*Develop a Storm Water System flow obstruction model to identify blockages at an early stage

*Establish a Storm Water Advisory Board to meet quarterly to monitor completion of the Storm Water Task Force action items, report on progress to completion, liaise with the County SW board, oversee the education and outreach efforts, and make recommendations to Council on further action.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. E. King to adopt the Stormwater Advisory Task Force's Report and the recommendations contain therein. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

d} Hayes Iron and Metal:

Mayor McLean called upon Councilman Stimatz for comments.

Mr. Stimatz stated in October 2010 after he informed staff about a potential problem with Hayes Metal illegally using residential lots staff sent a letter to Hayes on the 13th of October 2010 telling them they were in violation, to cease and desist operations on these lots, and that they had until 30th October to clear the residential lots and remove their fence. On the 1st of November of that same year, Hayes was informed that they were in violation and subject to \$50 per day fine. One question he has is when did they come into compliance with that order on the 13th?

Mr. Olson said he does not have a chronological sequence. Do you mean the lots on the southern part of the property?

Mr. Stimatz said when did they cleared out of that and take the fence down. Based on that how much in fines did they pay?

Mr. Olson replied they have paid no fines to his knowledge.

Mr. Stimatz said they should at least pay one day's fine. They were in violation on the 1st of November. The other question is when we told them to take that fence down on the residential properties, why didn't we direct them to reinstall it around the two industrial zoned lots?

Mr. Olson replied it is a little bit more complex than that. The residential lots perse' there is a question in staff's mind whether or not those are residential lots or industrial lots based on the Zoning Map. They did not have the permission of the landlord, Mr. Bill Owens, to encroach on those lots. He is the one that basically told them that they had to remove that stuff. Since he is the property owner, he is the one that would be paying the fine. The fence has been taken down. City staff has met with Hayes Iron and Metal and we have showed them the exact location where the fence has to be installed. It is his understanding that they have engaged someone to go ahead and install the fence. We have cited exactly where that fence needs to go. It is his understanding that they will be putting that fence up shortly.

Mr. Stimatz asked why did it take a year to get to that point. November of last year was when they had to move their fence line. We didn't address that issue until September of this year.

Mr. Olson stated if we want to discuss this issue much further we need to go into Closed Session.

Mr. Stimatz said he thinks it would be a pretty simple answer. Why didn't we follow through? Then after he brought the issue of a lack of fencing back to staff's attention, a letter dated 15 September 2011 advising Hayes to reinstall fencing around the area that they lease was sent. It didn't have a specific deadline. In a follow up email from the Planning Department Administrator they are advised that a fence must be erected within the next month. The question is what does that mean? Does that mean by the end of November or by the 15th?

Mr. Olson advised Councilman Stimatz that if he wanted to persist with this we need to go into closed session so we can discuss a bunch of legal issues associated with this.

Mr. Stimatz said it is an email that says you have to have the fence up by the end of next month. It was sent in October and he is just asking for clarification. Does that mean the end of November? That is a very simple question.

Mr. Olson said it is an item that needs to be discussed in Closed Session.

Mr. Morgan said if all Mr. Stimatz is asking is to interpret the email he would interpret that to mean within a month from the date of the email. That is how he would interpret that statement to mean within 30 days of the date of the email. He could see why a person could see that as meaning by the end of the following month which would be the end of November.

Mr. Stimatz said he would offer that has not happened.

Mr. Olson stated that city staff has met with them and also the fence installer and they wanted the exact location of where they were to put the fence so they don't have to move it again.

Mr. Stimatz said this issue has been going on for two years and what happens is the public and he has had a lot of calls from the public that keep coming to him saying why this, why this and why this. We come to staff and say how come nothing has happened. What are we supposed to expect. This starts from the beginning. The incomplete application, the failure to research the actual properties in use to finding the lack of a certified zoning map to this most recent need to get a fence back up after a year. We have gotten tips and complaints from the public which when he researched he found mistakes in our processes, staff work and references. This is the kind of stuff that turns people off. Both the citizens and as businesses that want to work in the City when they see these things happening. It is a fairly straight forward simple system. It is rule based and there shouldn't be any surprises and we should be dotting the I's and crossing the T's. We haven't been doing that. He just wanted to make that separate point. He hopes somehow the next Council will get a grip on this thing because he has been dealing with code violations for six years and hasn't had a lot of success. He would just like an answer to his question of when did they come into compliance and what fines were paid. Then when do we expect that fence to be up.

8} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

City Manager Olson stated he had no further comments.

Councilman King stated he had no further comments.

Councilwoman Baker stated she hopes that our citizens will bring out their children to see the parade on Saturday. This is going to be an awesome parade with all Shriners. She hopes everybody will put the flyers in their car windows or something so that the Shriners driving around will know they are welcome in the Harbor of Hospitality.

Mayor Pro Tem Hummer stated our Veterans Day Ceremony was very nice. She was proud of all of it. She would like to thank staff for helping put it together. It was a bitterly cold day and we really didn't have the attendance that we had last year but it was still very nice. The other two ceremonies were also very nice. It was really a nice day. Elizabeth City is a very patriotic City.

Councilman Brooks stated he had no further comments.

Councilwoman Hill-Lawrence stated this weekend on Saturday she went to where they do the feeding at the Junior High School. She just made an appearance and it was a wonderful experience being there with those people and letting them know that we, the City Council, do care about them and stand ready to assist them in whatever way that we can. The other thing is about the Fish Courts. She was talking to community residents a few days ago and she knows we were having a problem determining who the ownership of the land was. She thinks it has been verified that it was owned by some African-American Women in that Community. Some has suggested that the park should be named after some African/American woman who has done outstanding work in the community. She thinks that would be a credit to the women in the community since it was owned by women.

Councilwoman Meggs stated she wanted to thank Ms. Hummer for getting the Veterans Day program together on Friday morning. We went to all three of the celebrations that day. Our wreath looked nice. She thanked staff for all their help.

Councilman Stimatz stated as a veteran the ceremony was very meaningful to him and very emotional. It was important that we celebrate our veterans. The VA Center was really nice. He thought the Master Chief that spoke was very good. It is a wonderful facility and he looks forward to being able to use that. We have a lot going on. If you haven't seen it yet, Red, White and Tuna is playing at the Museum of the Albemarle, Thursday, Friday and Saturday. It is really a funny show. We have some good players and it is worth going to see. Enjoy what we have in the City.

Councilman Walton stated he apologizes for Veterans Day. He could not be there because he had to have emergency laser surgery on one of his eyes.

Mayor McLean stated everybody is being very nice to each other tonight. He wanted to thank Mayor Pro Tem Hummer for her part in the Veteran Day celebration. She does an extremely good job. He had a family emergency and could not be there. The VA Clinic is going to mean a lot to our City. These types of facilities are very important. He wants to say congratulations to the ECSU football team. They didn't win this past weekend but they have a lot of good talent. They are going to be playing in the playoffs in California, Pennsylvania. The Police Academy graduation ceremony is tomorrow night at the Parks and Recreation Center. We had an open house at Wells Fargo last week. We have a trip to Raleigh on Wednesday. We have a rural meeting to talk about youth and he will bring back a report on that. Please put January 10th on your calendars for the Joint Municipal Power Agency Relief Subcommittee meeting from 1:30 pm to 4:30 p.m. in Raleigh.

8} 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 J. A. Stimatz, seconded by Councilman R. E. King to adjourn the meeting. Those voting in favor of the motion were: Stimatz, King, Baker, Brooks, Hill-Lawrence, Hummer, Meggs and Walton. Against: None. Motion carried.

Mayor McLean adjourned the meeting at 8:33 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Roger A. McLean
Mayor