MONDAY-7:00 P.M. NOVEMBER 23, 2009 CITY COUNCIL

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

Mayor S. S. Atkinson established a quorum was present and opened the meeting by welcoming those attending. He called upon Pastor Max Edwards for the invocation after which the Pledge of Allegiance to the Flag of the United States of America was given.

1} APPROVAL OF THE AGENDA:

Mayor Atkinson called for the pleasure of Council regarding the prepared agenda.

Mayor Pro Tem J. M. Baker asked to remove ***Item # 10-d – Report on Hayes Iron and Metal.***

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

2} COMMENTS FROM THE PUBLIC:

Mayor Atkinson called upon City Clerk D. S. Pierce-Tamplen for those wishing to speak.

Ms. Pierce-Tamplen called Denise Richards, 103 Spencer's Avenue, South Mills to the podium.

Ms. Richards thanked the Mayor and City Council for supporting the Farmer's Market. It was a great success again this year.

Mr. Darrell McKinley, 1216 Providence Road, Elizabeth City expressed his concerns over the recent flooding in Oxford Heights. He encouraged Council to put a halt to building permits until the drainage problem throughout the City is addressed.

Mr. Bill Warburton, 410 N. Road Street also expressed his concerns over the recent flooding along North Road Street. He encouraged Council to do something about all the system failures.

Mr. John J. Snowden, III, P. O. Box 752, Maple, North Carolina expressed his appreciation for City Council supporting the Farmer's Market.

3} APPROVAL OF THE MINUTES:

Mayor Atkinson called for approval of the November 9th Regular Meeting minutes.

A motion was made by Councilman R. E. King, seconded by Councilman J. A. Stimatz to approve the minutes of the November 9th Regular Council Meeting. Those voting in favor of the motion were: King, Stimatz, Baker, Hummer, Meggs, Rivers and Watts. Against: None. Motion carried.

4} PRESENTATION:

Mayor Atkinson presented a Certificate of Recognition to Kathryn Elizabeth Klein and Mary Lynn Chamber for their recent act of heroism.

5} CONSENT AGENDA:

Mayor Atkinson called upon City Manager R. C. Olson to read the items on the Consent Agenda. After the reading Mayor Atkinson called for a motion of approval.

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

Consent Agenda:

a} Accepted the results of the Municipal Election Run Off on November 3, 2009.

b} Accepted the Agreement in Albemarle Teen Challenge v. City of Elizabeth City Civil Action No. 2:09-CV-10-BO.

c} Approved the Contract for Underground Electric.

d} Approved and adopted the following resolution to acquire certain property of Alice M. Redding.

RESOLUTION #09112
AUTHORIZING CONDEMNATION TO
ACQUIRE CERTAIN PROPERTY OF
ALICE M. REDDING, UNMARRIED

WHEREAS, the governing body of the City of Elizabeth City hereby determines that it is necessary in the public interest to acquire certain property owned by Alice M. Redding, unmarried, for the following public purpose:

Charles Creek Bridge Replacement Project
which has been deemed a structurally deficient bridge
by the North Carolina Department of Transportation

WHEREAS, the proper officials or representatives of the City of Elizabeth City have been unable to acquire the needed interest in this property by negotiated conveyance.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Elizabeth City that:

1} The City of Elizabeth City shall acquire by condemnation, for the purposes stated above, the property and interest described as follows:

Fee Simple:

Beginning at a point 25.00' north of and normal to SS 15 + 45.00, Survey Line –L-; thence a southerly direction a straight line to a point in the existing north right of way of Riverside Avenue, said point being 20.00' north of and normal to SS 15 + 45.00, Survey Line –L-; thence a westerly direction along and with the existing north right of way line of Riverside Avenue to a point in the grantors southwest property corner; thence a northeasterly direction along and with the grantors west property line to a

point 25.00' north of normal to Survey Line –L-; thence an easterly direction along a line at all points 25.00' north of and normal to Survey Line –L- to the point of beginning.

Temporary Easement:

Area I

Beginning at a point 25.00' north of and normal to Survey Station 15 + 45.00', Survey Line –L-; thence a westerly direction along a line at all points 25.00' north of and normal to Survey Line –L- to a point in the grantors west property line located 25.00' north of and normal to Survey Line –L-; thence a northeasterly direction along and with the grantors west property line to a point said point being the point of intersection of the property line with a straight line drawn between a point 60.00' north of and normal to Survey Station 14 + 80.00, Survey Line –L- and a point 50.00' north of and normal to Survey Station 15 + 00, Survey Line –L-; thence a southeasterly direction a straight line to the a point 30.00' north of the normal Survey Station 15 + 10.00, survey Line –L-; thence a southeasterly direction a straight line to the point of beginning.

Area II

Beginning at a point 20.00' north of and normal to Survey Station 15 + 45.00', Survey Line –L-; thence a northerly direction a straight line to a point 25.00' north of and normal to Survey Station 15 + 45.00, Survey Line –L-; thence an easterly direction along a line at all point 25.00' north of and normal to Survey Line –L-; to a point in the grantors east property line located 25.00' north of and normal to Survey Line –L-; thence a southerly direction along and with the aforesaid property line to the grantors east property corner; thence a westerly direction along and with the existing north right of way of Riverside Avenue to the point of the beginning.

2. The Attorney representing the City of Elizabeth City is directed to institute the necessary proceedings under Chapter 40A of the North Carolina General Statutes to acquire the property herein described.

ADOPTED, this 23rd day of November 2009.

_____
Stephen S. Atkinson
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

e} Authorized the submission of an application to the Tourism Development Authority requesting on behalf of the ECDI for $1,000 to be used for the Marnier's Wharf 2010 Film Festival.

End of Consent Agenda

6} PUBLIC HEARINGS:

a} Text Amendment to UDO, TA-04-09 to amend UDO to allow Internet Sweepstakes Cafés.

Mayor Atkinson called upon Planning Director Brooks for comments.

Ms. Brooks stated the Code Amendment before you is to add Internet Sweepstakes Cafés to the UDO. Internet Sweepstakes Cafés differ than that of an individual because they can purchase internet time and play specific games and win money or prizes. These types of uses have become prevalent across North Carolina and as of date, the General Assembly has not deemed them as gambling. These types of usages are compared to games such as McDonald's Monopoly Sweepstakes games. Staff has provided an opinion from the Institute of Government and a brief history. The proposed text includes establishing a definition in Article 2-4.84 of the UDO; adding this use to the Use Table in the General Business and Highway Business zoning district with a Conditional Use Permit; establishing parking requirement in Table 11-2-1 of one and a half parking spaces per two terminals or one space per 100 square feet of gross floor area. Staff is of the opinion that additional standards should be met for these establishments. They include that if food or beverages are served they must meet the requirements of the Albemarle Health Department Services; the gaming operation shall be visible and open on the inside; that the distance separation of 1000 feet be met between Internet Sweepstakes Cafés and that each establishment be limited to a maximum of 20-player terminals; that no poker

style/slot machine be allowed; hours of operation be limited between 8:00 a.m. to midnight and as discussed in work session that the age be restricted to 18-years of age. During staff's research we found that some jurisdictions allow these usages by right and do not set hours of operation or restrictions on these usages.

Chief Crudup stated that in discussions, Lt. Young had a chance to do some research on these business and we would like to make some recommendations tonight.

Lt. Young said the three recommendations that they have are: there be posted some type of signage that prohibits firearms within the establishment; if there was a store front that it be clearly visible to see inside just as we recommend convenience stores for security sake and if there is window tinting that it be 35% or less and alcoholic sales that they must abide by ALE regulations.

Ms. Brooks continued by saying that this item went before Planning Commission at their October meeting and Planning Commission recommends approval.

Mr. Stimatz said in the definition it says "any business enterprise whether as a principle or an accessory use". He thought that we were only dealing with principle use until he read that. This would infer that an existing business that is doing something else can come in and say they would like to have one of these. Is that where we are going or do we want it to be a stand alone use?

Ms. Brooks said by definition they would still need to come in and get a use permit for that portion of another business if they were going to do the Internet Sweepstakes.

Mr. Stimatz asked if we could deny them if we didn't think it was appropriate with the business that already existed.

Ms. Brooks said being a conditional use permit she would think so.

Mr. Stimatz said given the language that is written in the definition it concerns him that we would not have that ability. Whether as a principle or accessory use it doesn't say with certain restrictions or as determined by Council or does the Conditional Use process give you the ability to say, no I don't think your business is compatible with the Internet Café and the answer is no and not get sued.

City Attorney Morgan said as long as you have objective criteria for doing that and you apply it across the board, you should be ok. He thinks what Ms. Brooks is saying is that Planning Staff wants the City to be able to regulate these businesses that have an Internet Café either as its primary purpose or some

accessory purpose if an existing business wants to add these machines then the Conditional Use Permit would be required. You would apply the same criteria in determining whether you would grant that permit or not.

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

> ***A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman V. C. Watts to approve the text amendment TA-04-09 to include Item F. under Age Restrictions would be changed to age 18; we would add a new addition to prohibit firearms and include the addition the front should be clearly visible with a maximum 35% tint on the windows to amend the UDO to allow Internet Sweepstakes Cafés. Those voting in favor of the motion were: Baker, Watts, Hummer, King, Meggs, Rivers and Stimatz. Against: None. Motion carried.***

b} Amendments to Code of Ordinances, Article I. In General, Sections 86-1 – 96-18. Article II. Taxicabs:

Mayor Atkinson called upon Chief Crudup for comments.

Chief Crudup said Mayor Atkinson formed a Task Force Committee to review the current taxicab ordinance and address concerns involving the appearance of the taxicabs, number of taxicabs and the quality of our current fleet. After completing their review they made recommendations to the City Council at the November 2nd meeting. Changes were further discussed at the Council meeting held on November 9th, 2009. After a final review by the Attorney the final version of our City Ordinance Article II. Section 86 "Vehicles for Hire" has been completed. City staff is requesting to hold a public hearing to receive public comments regarding the finalized revisions of this City Ordinance. At the conclusion of the public hearing, staff is recommending adopting the proposed City Ordinance.

Mayor Atkinson declared the meeting into public hearing. The following individuals spoke in opposition to the proposed amendment to the City Ordinance: Dennis Stallings, 305 Roanoke Avenue; Hiawatha Sylvester, 128 Red Cedar Run; Darryl Stallings, Sr., 305 Roanoke Avenue and Tony Sawyer, 2715 West Main Street and ask Council to vote against the proposed changes. There being no one else who wished to speak for or against the proposed amendment, Mayor Atkinson declared the public hearing closed.

A motion was made by Councilwoman B. S. Meggs, seconded by Councilman J. A. Stimatz to adopt the Taxicab Ordinance as presented.

Councilman King asked for a copy of the taxi rate. He doesn't see one in his package tonight.

Mr. Olson said city staff when this item was brought before you before provided you a rate schedule. We can have one brought to you.

Mr. Stimatz said it was his understanding that we are not here to discuss the rates tonight. We are just discussing the ordinance. The rate setting is a separate issue and it has to go through a separate process. The question of what the meters are going to do is still out there for discussion in terms of what the impact is going to be. In his mind he has always saw it as a separate issue to be decided once we put the meters in. The only change that we need to make is the effective date of the ordinance as January 1, 2010. We can amend the motion that the ordinance becomes effective the first of January and the meter portion become effective when Council sets the rates. He would offer that as a friendly amendment to the original motion.

Councilman J. A. Stimatz made a friendly amendment to the original motion that we make the effective date of the ordinance as January 1, 2010. Councilwoman B. S. Meggs accepted the friendly amendment.

Councilman Rivers said if the rates and you are not talking about going into a meter, he thinks those two needs to go hand in hand because of the fact that we have heard from the cab drivers and cab owners and they are asking about the rates. How can he affectively say go to the meters and then when we get to the rates from Edgewood to Social Security or dialysis set at $7.00 when right now it is $5.00. He would be saying why are we pushing it through. He would love to see the rates effective with this change so that way we would be able to know whether or not to move forward with the amended changes. Anytime you go to something new you should have the new rates. Council has always set the rate. Why are you going to do without the other? Let's just wait until January and that way it gives the Chief time to come back and we can study it and make it all at one time. The second question is for the Chief. Will vans be permitted?

Chief Crudup replied yes.

Mr. Rivers said as he was reading this and it says vans should have four doors two leading into the passenger compartment and two leading into the driver's compartment, so constructed that they can be opened from the inside and the

outside. Many vans have three doors plus the backdoor which would not be fitted. It says you have to have it inside and outside. His question would be if you have a three door van how would that factor into that rule. In the requirements it specifically says vehicle equipment, Section 86-54 says four doors, two leading into the passenger compartment and two leading into the driver's compartment. That will eliminate mini vans.

Mr. Morgan said that he has never seen a mini van with only three doors. The ones that he has seen have two in front and then two on the back.

Mr. Rivers said on some mini vans you have two on the front and one on the side that allows you into the back area. The fourth door is the hatch door that goes up in the back. By definition it says, it has to be able to open two doors in the driver's compartment and two in the passenger compartment. That is four doors. That eliminates vans. He is just reading what is in the ordinance. It specifically says having four doors.

Chief Crudup said that is a part that the Task Force did not change. That was already in the ordinance.

Mr. Rivers asked what do we need to do to make that van friendly.

Mr. Stimatz said if he could point out, it is van friendly. He has a 1998 Dodge Caravan that has four doors and a tailgate and he has a 2005 Dodge Caravan that has four doors and a tailgate. You can have a mini van it just has to have four doors and a tailgate. You can't have a van that only has two doors and a tailgate. That is all that we are saying, so mini vans are not excluded by this ordinance. There are many vans out there that you can buy.

Mr. Rivers said he is not knocking your van but what he is saying is he knows some vans have three doors. All he is saying is he is not trying to get into a technical point. He is just reading what the ordinance says. If the ordinance says four doors then it says four doors. He went out today to specifically see some vans that have three doors. You can look at a sixteen passengers van that would not effectively be a taxicab because that only has one side door. We need to look at this point to see if it allows mini vans. Also, he was looking where it says a receipt will be given in 86-72. It says the driver of any taxicab upon the request of any passenger render to such a passenger receipt upon which shall be the name of the owner, the amount of the charges, mileage traveled and the date of transaction. Right now, if that was a receipt then it would be the owner of the cab and not the name of the cab company.

Chief Crudup said once the meters are installed it will have all that information on it. They will provide a receipt.

Mr. Rivers said it would give the name of the owner. We have two dispatching companies. Instead of saying Winslow Taxi it will say Chief Crudup, the time because if you own a cab as it is right now, the receipt will come out with your name. It says the owner so the question is, should we make it the cab company or at least have the cab company name on the receipt somewhere. If we are redoing the ordinance then these are the type of things that we need to put in there. We have heard from the drivers tonight and they said the rates could have an effect on them on short trips and at the same time it will have harm on them if it is a long distance for our citizens. We need to give them the information so that they can make contacts with other cities to make sure it is going to be feasible for them. He asked last time that Council be very considerate for the small businesses. When you make these changes there will be cost incurred by the cab owners and that is just what we need to take into consideration. You are going from 40 franchises to a possible 75-80.

Mr. Stimatz said he has a number of corrections that he would like to see adopted. Some of them are grammatical or administrative and he has given a copy to members of Council. There is a couple that he feels that we should really look at. An issue was brought to his attention that there is no language regulating the pickup and discharge of passengers in the ordinance. He suggested deleting Section 86-20. He also had a little problem with 86-30. There were three sections that confused him, section 4, 7 and 8. One of them appears to be an objective standard, one appears to be a subjective standard and the third one appears to be redundant. He asked to make a friendly amendment to the standing motion.

Councilman J. A. Stimatz made a friendly amendment to the original motion to delete the definition in 86-20 and move the definition of driver to the front and make it clear. Councilwoman B. S. Meggs accepted the friendly amendment.

Mr. Morgan said that there is one other item that he wanted to ask Council to consider including. That has to do with Section 86-33. We have other ordinances dealing with horse drawn carriages which spell out specifically which items are needed for an application for a license to be approved in that instance. He realizes he is waffling on this because he initially said that he did not think that we needed to include those sections of 86-85(b) (2) (Sub A, B, C & D). We need to be consistent in all of our vehicles for hire so he believes it should be included as well. The application for a business license shall be in writing and shall be filed with the taxicab inspector. A separate application shall be filed for every vehicle for hire and a license obtained for each such vehicle. The application shall include such information deemed reasonably necessary by the taxicab inspector to determine whether the license shall be issued in accordance

with the criteria set forth in this article. All such information shall include but not be limited to the following. a} the name of the person having any beneficial interest in the business operating the vehicle for hire; b} copies of certificates or other evidence of title for the vehicles to be operated or copies of leases for any lease vehicles; c} copies of articles of incorporation, partnership agreements, assumed name certificates or other documents indicating the legal status of the applicant and d} certificate of insurance to comply with the requirements of this section. We already handle certificates of insurance and he thinks that may be somewhat redundant but this will track verbatim the language from the other sections and he thinks it should be included.

Councilman J. A. Stimatz moved to accept the Attorney's suggestions as a friendly amendment. Councilwoman B. S. Meggs seconded the motion.

Ms. Hummer said she has a problem with the way we are going about this. We have held the public hearing. We have heard the concerns on behalf of the customers as well as the taxi cab owners and drivers. We have heard that the meters can be a hardship yet we are telling them that we are going to go ahead and adopt these changes in this ordinance tonight, but we will talk about the meters at a later date. There is a new council coming on and they haven't heard the public hearing and she just doesn't like the way we are doing this. This should all be done at one time.

Mr. Rivers questioned 86-47. We don't have a problem with making friendly amendments. When he reads and sees something that needs the attorney's attention or to ask the Chief and Taxicab Inspector to explain something, he would like to have the same courtesy that is yield to you. You might be in a rush but this is his last meeting and you are coming back for the next meeting. So if anything he should be the one that is trying to rush it through but he wants things to be at least thought about. When you start rushing something we are dealing with people's livelihood. When he brings up 86-47, it says that no taxicab shall be used other than as a vehicle for hire unless the driver is off duty. No individual except the owner or driver shall be allowed to ride in the taxicab which is in service unless such individual is a fare paying passenger. That means that at night only the driver can be in the cab.

Sgt. Perez said that was something that has always been in the ordinance.

Mr. Rivers said we are making changes so let's talk about possible changes now. That way we won't have to come back in six months. A wife can't ride with the driver at night or another one for safety sake. He thinks that should be allowed. He doesn't know why this can't take place at the next meeting. We have a scheduled meeting. We have some concerns and he would definitely like before

you are going to tell the cab owners one dollar and fifty cents or seven dollars and fifty cents. He feels the people should know. One thing he feels good about when he rides in the City cab is when he gets in and if he has five dollars in his pocket he can make it from Edgewood or anywhere within the city it is only five dollars. He doesn't have to worry about the fare going over ten dollars. He would like to see what the police department will bring forth and see how it fares out with five dollars verses seven fifty. We need to see if they are going to be losing money. At this time he would urge Council to not vote in favor of it until we get a full schedule of the rates and all the changes that have been made tonight have been addressed.

Councilwoman Watts said she wanted to say that these prices are kind of steep but getting back to what one of the cabers came up here and told us is that the insurance is going to increase. If their cars are like her car the insurance has already increased and now we are going to if we accept this and not make those thoughts of how we are impacting our taxicabs. We are going to hurt them. Insurance is very expensive already. It increases by the month. If we put meters in the cars which are a wonderful thing, but as she has said all along since we started this right now is not the time. It is a very bad time. She thinks that we should consider that when we think about accepting this. She hopes that we will definitely put this off until a later time or just not do it at all.

Mr. King said that he is with amendments and everything. He has a problem with not having the rates in front of him tonight. He wanted everything done at one time. Here we are talking about doing a raise one time and the rate he is looking at is like he is hearing from these guys. When will the true rates be out with the meters?

Sgt. Pureza said that the Council sets the rates. It states in the ordinance that Council sets the rates. Some of the taxicab owners have been told to bring him some suggestions for rates. Actually the rates that you are looking at do hurt them on short rides because quite frankly out of their own mouth some of them take passengers around the block and they get $5.00 for it. Yes, it is going to hurt them on the short runs. The medium runs they say are about the same. The long runs are a little bit cheaper. What is the happy medium he doesn't know? Once we get the meters we will need to set a rate schedule and bring it back to Council for consideration.

Mayor Pro Tem Baker said we have a committee and the Mayor appointed a committee and they met and spent a lot of time putting this thing together. She thinks we need to pass it and then when we come up with the fair schedule in concept with the meters. That is going to be run by them too again she is sure for their approval or their input. She thinks it is time that we get these changes on the books. We have been talking about them almost as long as she has been

on Council. She thinks it is the right time to do the right thing for our fare paying passengers, our visitors and people that may have never taken a cab but would like too.

Mayor Atkinson called for a vote on the friendly amendment to accept the City Attorney's suggested wording.

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

Mr. Stimatz said the only other item that he wanted to talk about was there is a section 86-70 that is redundant to 86-44 and it has been pointed out three times. They are exactly the same. There is no need to have both. In 86-51, again this has been mentioned a couple of times. All lettering has to be three inches high. The way it is the letters in the back can be one inch and the whole point of this is to make the visible on all three sides.

Councilman J. A. Stimatz made a friendly amendment to the original motion to change the lettering and say that all lettering has to be three inches high in a high contrast color as approved by the Chief of Police. Councilwoman B. S. Meggs accepted the friendly amendment to the original motion.

Mayor Atkinson called upon City Clerk Pierce-Tamplen to read the first friendly amendment.

Ms. Pierce-Tamplen replied the first friendly amendment was to delete 86-20 and move the definition of driver to Section B, the definitions.

Those in favor of the third friendly amendment were: Baker, Meggs, and Stimatz. Against: Hummer, King, Rivers and Watts. Motion failed.

Ms. Pierce-Tamplen stated the second friendly amendment was to withhold the meter rates until they are set by Council at a future meeting.

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

Ms. Pierce Tamplen stated the first friendly amendment was to make the effective date of this ordinance as January 1, 2010.

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

Mayor Atkinson called for the vote on the original motion to adopt the ordinance as presented.

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

Mr. Rivers said that is the reason that he asked for this ordinance to be brought back in a delete or add format because some of these are ordinances changes. With an ordinance change, our rules specifically say that is when it doesn't go by the 50-50 tie. That is when you have to have the two thirds majority. It is a change in an ordinance. Some of these that we just passed are ordinances changes and some are new. The question would be with her motion that was made, we have lumped everything together because of the fact you don't know what is change or new.

Ms. Pierce-Tamplen said it is her understanding that if you don't get a two thirds or three fourth, she can't remember which, but if you don't get it then you have to have a second reading before you can adopt the ordinance.

Mr. Morgan said that is correct.

Mr. Rivers asked the City Attorney to check this now.

Mr. Morgan stated that the vote on the motion was not a two thirds majority so we do have to have a second reading of the ordinance or a second consideration of the ordinance by the next council meeting and that it would then require a simple majority to pass the motion. He supposes you can do this at your December 14th meeting if you chose to do so or in January but it would require a second reading.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to have the second reading of the Taxicab Ordinance at the December 14th meeting. Those voting in favor of the motion were: Stimatz, Baker, Hummer, King, Meggs and Watts. Against: Rivers. Motion carried.

7} REGULAR AGENDA:

a} Appointments to various committees, Boards and Commissions:

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman L. A. Hummer to confirm the following appointments or reappointments as presented by Mayor Atkinson. Those voting in favor of the motion were: Baker, Hummer, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

Pasquotank County Alcoholic Beverage Control
William Allen

Elizabeth City Historic Preservation Commission
Marian W. (Cookie) Stokes

Human Relations Commission
Ernest Sutton
Tyrone Smith
Keith Jarvis
Dr. Anthony Sharp
Dr. Kurt Hunsberger
Richard Boyd
Dr. Helen Caldwell
Jan Lauten

Library Board
Jody Cheek

b} Roanoke Avenue Drainage Contracts – Phase II:

Mayor Atkinson called Paul Fredette, Public Utilities Director to the podium for comments.

Mr. Fredette advised Phase I of the Roanoke Avenue Drainage project was completed in 2008. During the last year the design of Phase II of the project was completed. This week construction bids for the Phase II project were opened. We received six bids and the low bidder was RPC Constructors, Inc. In the design of Phase II we became aware of a number of issues with the sanitary sewer system that had to be addressed simply to build the retention ponds that are the central feature of this project. Further investigation of the existing sanitary sewer showed that much of the sewer system in this area had been constructed with a positive slope; that is the sewerage had to flow uphill to get to the Dawson Street Pump Station. In the bid documents we made a decision to include the relocation of the sewer pipes that had to be moved as a part of the base bid, and asked the contractors to provide an alternate bid to fix the

sewer projects that we are aware of that exist in this area. The total of the base bid and the alternate bids that were asked for totaled $499,970 for the low bidder RPC Constructors, Inc. The engineer's opinion of construction cost for the total project was $725,000. Hence again we can see that this is a very favorable financial environment to bid and construct projects of this nature. He believes the Council voted the budget amendment that put $140,000 additional dollars into the project budget subject to there being a loan being made from the Water and Sewer to the Stormwater Fund to get the $140,000. That gave us enough money to construct the project as bid. He interrupted the Council only because we also needed a motion to authorize the Manager to execute the contract. We are at the point where we are simply looking for a motion to execute the contract. We know where the money is coming from.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilman R. E. King to authorize the City Manager to enter into a contract with RPC Constructors which includes the base bid and alternates one, two and three in the amount of $449,971.20 for Phase II of the Roanoke Avenue Drainage Project. Those voting in favor of the motion were: Baker, Hummer, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

c} Oak Grove:

Mayor Atkinson called upon Mr. Fredette for comments.

Mr. Fredette stated if you want to take advantage of the Municipal Agreement and have the State participate to the tune of $120,000 we have to re-solicit bids for the project with some provisions for disadvantage enterprises. What we are asking is that you authorize the City Manager to re-solicit bids for the Oak Grove Drainage Project. He believes we should be able to do that before the next regular council meeting in January. This delay was caused by the State.

A motion was made Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. M. Baker to authorize the City Manager to re-solicit bids for the Oak Grove Drainage Project.

Mr. Stimatz asked to say to the residents of Oak Grove, "we are not against you we are for you." He knows Ms. Watts is going to be leaving and Mr. Rivers is going to be leaving. He will tell you regardless of what Mr. Walton and Ms. Lawrence do he will champion this bid in getting the money to get this project underway. He will give you his promise to do that. He can't guarantee he will get all the votes but you have got his.

Ms. Watts said she would like to ask Mr. Stimatz if he would consider this friendly amendment.

> ***Councilwoman V. C. Watts asked to add as a friendly amendment in that if by the time January 11th that he would consider that if no one bids because she believes the City Manager presented us something like to not too often long ago and we had to resubmit a bid for those very reasons. Nevertheless if the bid is not bid out in that appropriate amount of time, if he would allow the bid that has been submitted, the $330,000 + which is 25% less than what was predicted over $60,000. If that be the case would you accept the bid from Parks Land Development at that time?***

Mr. Stimatz stated he could not accept the friendly amendment as we are rejecting those bids presented tonight so therefore they are off the table.

Mr. Olson asked to say for the record that if we decide not to take the bid that may happen at the January 11th meeting and we have already rejected these bids, then what you are doing if we re-negotiate with Parks Land we will not be able to use the $120,000 of NCDOT money in the project.

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

8} <u>CLOSED SESSION:</u>

Mayor Atkinson called for a motion to retire into Closed Session.

> ***A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman B. S. Meggs to retire into Closed Session for discussion of Personnel as per NCGS 143-318.11 (a) (6). Those voting in favor of the motion were: Baker, Meggs, Hummer, King, Rivers, Stimatz and Watts. Against: None. Motion carried.***

Upon the end of the Closed Session:

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

Mayor Atkinson declared the meeting back into full session.

9} **CLOSED SESSION ITEM:**

Mayor Atkinson called for a motion on the item discussed in Closed Session.

A motion was made by Mayor Pro Tem J. M. Baker, seconded by Councilwoman L. A. Hummer to appoint Bobbie V. White as the new Parks and Recreation Director for the City of Elizabeth City. Those voting in favor of the motion were: Baker, Hummer, King, Meggs, Rivers, Stimatz and Watts. Against: None. Motion carried.

10} **ADJOURNMENT:**

There being no further business to come before the Council at this time, Mayor Atkinson adjourned the meeting at 9:20 p.m.

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Dianne S. Pierce-Tamplen, MMC
City Clerk

_____
Stephen S. Atkinson
Mayor