

The City Council of the City of Elizabeth City held its first regular meeting of the month on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. H. Bell, Jr. presiding. Council Members C. C. Austin, J. M. Baker, L. A. Hummer, R. E. King, W. A. Lehmann, E. K. Rivers, D. K. Stallings and J. B. Walton were in attendance. Also present were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Public Utilities Director E. T. Weatherly, Inspections Director S. E. Ward, Parks and Recreation Director J. D. Overman, Fire Chief W. C. Pritchard, Police Chief W. J. Anderson, Electric Superintendent K. F. Clow, Finance Director S. E. Blanchard and Human Resource Director K. W. Felton.

Mayor Bell opened the meeting and welcomed those attending. He called upon Pastor Arnold Sykes to give the invocation. Following the invocation Mayor Bell led the Pledge of Allegiance to the Flag of the United States of America.

1} **APPROVAL OF THE AGENDA:**

Mayor Bell called for action regarding the prepared agenda.

Mayor Pro Tem E. K. Rivers as to remove *Item 8-c. Request for a street party with alcoholic beverages* from the Consent Agenda. Mayor Bell stated ***that this item would become Item 10-f-Request for a street party with alcoholic beverages.*** And, requested to add re-consideration of Streetscape. Mayor Bell stated that this item would become ***Item 10-g-Re-consideration of Streetscape.*** Further, he asked to *remove Item 6-b-Certificate of Appreciation.*

Councilwoman L. A. Hummer asked to remove *Item 8-f-Request to call a public hearing* from the Consent Agenda. Mayor Bell advised that this item would become ***Item 10-h-Request to call for a public hearing.***

Councilman D. K. Stallings asked to add discussion of the gun buy back program. Mayor Bell advised that this item would become ***Item 10-i-Buy-Back Gun Amnesty Week.***

Mayor Bell asked to add a National Day of Prayer Proclamation and it would become ***Item 6-d-National Day of Prayer Proclamation.***

A motion was made by Councilman W. A. Lehmann, seconded by Councilman D. K. Stallings to approve the prepared agenda with the above noted changes. Those voting in favor of the motion were: Lehmann, Stallings, Austin, Baker, Hummer, King, Rivers and Walton. Against: None. Motion carried.

2} **APPROVAL OF MINUTES:**

Mayor Bell called for action regarding the prepared minutes of the Joint City/County Meeting held on January 31, 2005.

A motion was made by Councilman W. A. Lehmann, seconded by Councilman R. E. King to approve the minutes of the Joint City and County Meeting held on January 31, 2005 as written. Those voting in favor of the motion were: Lehmann, King, Austin, Baker, Hummer, Rivers, Stallings and Walton. Against: None. Motion carried unanimously.

Mayor Bell called for action regarding the prepared minutes of the Work Session held on August 22, 2005.

A motion was made by Councilwoman J. M. Baker, seconded by Mayor Pro Tem E. K. Rivers to approve the minutes of the Work Session of City Council held on August 22, 2005. Those voting in favor of the motion were: Baker, Rivers, Austin, Hummer, King, Lehmann, Stallings and Walton. Against: None. Motion carried.

Mayor Bell called for action regarding the prepared minutes of the Regular Council Meeting held on August 22, 2005.

A motion was made by Councilman W. L. Lehmann, seconded by Councilman R. E. King to approve the minutes of August 22, 2005 Regular Meeting as written. Those voting in favor of the motion were: Lehmann, King, Austin, Baker, Hummer, Rivers, Stallings and Walton. Against: None. Motion carried.

Mayor Bell called for action regarding the prepared minutes of the Joint City/County Meeting held on August 29, 2005.

A motion was made by Mayor Pro Tem E. K. Rivers, seconded by Councilman W. A. Lehmann to approve the minutes of the Joint City and County Meeting held on August 29, 2005 as written. Those voting in favor of the motion were: Rivers, Lehmann, Austin, Baker, Hummer, King, Stallings and Walton. Against: None. Motion carried.

Mayor Bell called for action regarding the prepared minutes of the Special City Council Meeting held on September 6, 2005.

A motion was made by Mayor Pro Tem E. K. Rivers, seconded by Councilman R. E. King to approve the minutes of the Special City Council Meeting held on September 6, 2005 as written. Those voting in favor of the motion were: Rivers, King, Austin, Baker, Hummer, Lehmann, Stallings and Walton. Against: None. Motion carried.

3} PRESENTATIONS OR PROCLAMATIONS:

Mayor Bell presented a proclamation proclaiming the week of September 17-23, 2005 as “Constitution Week” in Elizabeth City. He presented the proclamation to Ms. Shirley Spaeth.

Mayor Bell presented a proclamation proclaiming September 16, 2005 as “Day of Prayer” in Elizabeth City. He presented the proclamation to Pastor Phil Dowdy.

Mayor Pro Tem E. K. Rivers presented to Latisha Coston a \$300 2005 Leadership Scholarship award.

4} COMMENTS FROM THE PUBLIC:

Mayor Bell asked City Clerk D. S. Pierce-Tamplen the number of speakers signed up to speak under this section of the Agenda.

City Clerk D. S. Pierce-Tamplen replied that there were twelve speakers who have signed up to speak.

Mayor Bell advised that each speaker would have three minutes of time to speak.

City Clerk Pierce-Tamplen called the following to the podium:

Tony Stimatz spoke his concerns and feelings regarding the proposed rental housing ordinance, the proposed signs moratorium and agenda/minutes not being on the City’s web page.

Holly Koerber spoke regarding her feelings and concerns regarding the proposed rental housing ordinance and the proposed sign moratorium.

Don McCabe thanked those who served on the Task Force that created the proposed Rental Housing Ordinance.

Mr. Michael Dennis spoke regarding his concerns regarding the proposed rental housing ordinance.

Anthony Meads spoke in opposition to the proposed rental housing ordinance.

Linda Knight stated that she feels that landlords by just knowing that the Council is looking at the proposed rental housing ordinance have already started to improve some of the conditions that the proposed ordinance will address. She also expressed her concern regarding the election signs on public rights of way.

Judy Tripp spoke in opposition to the proposed rental housing ordinance.

Frankie Meads spoke in opposition to the proposed rental housing ordinance.

Ramona Gilbert spoke giving thanks to the Coast Guard men and women in our area for all that they do for this community.

Alice Redding requested that City Council look into the possibility of keeping the bridge slated for destruction that passes over the Pasquotank River traveling on Riverside Avenue for the purpose of foot traffic. She also spoke regarding the rental housing ordinance.

5} CONSENT AGENDA:

Mayor Bell called for action regarding the Consent Agenda.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman W. A. Lehmann to approve the following Consent Agenda. Those voting in favor of the motion were: Baker, Lehmann, Austin, Hummer, King, Rivers, Stallings and Walton. Against: None. Motion carried.

Consent Agenda

- a} Approve contract with Hobbs, Upchurch & Associates for engineering services related to drainage improvement in the Oak Grove Subdivision in the amount of \$29,920.00.
- b} Awarded taxicab franchises to Tinach Lister, Floyd Spence, Timothy Stallings and Sharon Riddick and selected Darrell Stallings and Keith Rivers as alternatives.
- c} Clarification of previous UDO Text Amendment Scribner error.

Motor Vehicles Sales

- (A) Where Required**
CB
- (B) Use Separation**
No Motor Vehicles Sales Business shall be located within 5—feet of any other Motor Vehicles Sales Business.
- (C) Landscaping**
Landscaping within vehicular surface areas shall comply with the requirements of Section 11-2.1(E) et. Seq.
- (D) Operation**
The property was previously used for Motor Vehicles Sales.
- (E) Permit Renewal**

The conditional use permit authorizing such use shall be renewed annually (every 12 months) by the City Council. Failure to apply for renewal within the specified time period shall render the conditional use permit null and void. The conditional use permit may be revoked by the City Council at any time for just cause.

(F) General Requirements

The use will not be detrimental to adjoining properties.

9-3-1 Elizabeth City UDO Table of Permitted Uses

RETAIL TRADE	SIC	R-6	R-8	R-10	R-15	AD	RMH	CB	GB	O&I	HB	NB	CMU	I-1	i-2	PDR	PDM
Motor Vehicle Sales (new and used)	5511								Z		Z			Z			

d} Clarification of previous UDO Text Amendment Scribner error. Text change Section 9-13 to reflect:

9-1.3 Business Districts

(A) CB Central Business District

The CB Central Business District is primarily intended to accommodate a wide variety of commercial activities, particularly those that are pedestrian-oriented, in an intensive development pattern in the city’s central business district (CBD). The regulations of this district are intended to preserve the general character and integrity of the current development in the CBD; encourage land uses which provide for a multi-purpose CBD including retail, offices, services, entertainment, institutional uses, and living space; encourage land uses which do not require large amounts of outdoor use areas; encourage common or shared off-street parking; and encourage the continued use of land for governmental activities.

End of Consent Agenda:

6} PUBLIC HEARINGS:

a} Amendment to Code of Ordinances – Chapter 19-Taxicab:

Councilman D. K. Stallings asked to be excused from the discussion and voting on this item.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman W. A. Lehmann to excuse Councilman D. K. Stallings from discussion and vote on this item. Those voting in favor of the motion were: Baker, Lehmann,

Austin, Hummer, King, Rivers and Walton. Against: None. Abstain: Stallings. Motion carried.

Mayor Bell declared the meeting into Public Hearing for consideration of amending Chapter 19-Taxicab to create a formula for the selection process of awarding vacant taxi franchises. Since no one was present to speak for or against the proposed amendment, Mayor Bell declared the public hearing closed. He called upon Police Chief W. J. Anderson for comments.

Chief W. J. Anderson advised that on August 8, 2005, City Council amended Chapter 19 of the City Ordinances pertaining to the operations of taxicabs. The Police Department was directed to formulate a selection process in the form of a lottery to award vacant taxi franchises in the future.

A motion was made by Councilwoman C. C. Austin, seconded by Councilwoman J. M. Baker to adopt the following ordinance approving the amendment to Chapter 19 of the City of Elizabeth City Code of Ordinance by adding Section 19.55-Selection Process for Award of Franchise. Those voting in favor of the motion were: Austin, Baker, Hummer, King, Lehmann, Rivers and Walton. Against: None. Abstention: Stallings. Motion carried.

**ORDINANCE #05091
AMEND
CHAPTER 19-TAXICAB
CITY OF ELIZABETH CITY CODE OF ORDINANCES**

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

Section 1:

Amend Chapter 19-Taxicab by adding the following:

***SECTION: 19.55 SELECTION PROCESS FOR AWARDING TAXICAB
FRANCHISE***

To ensure the equitable distribution of taxicab franchises is fair and impartial, when a taxicab franchise becomes available, the Chief of Police shall conduct a lottery of all qualified applicants. Applicant's names will be drawn for each available franchise. The lottery shall be open to the public and each applicant shall be notified of the date, time and location of the lottery. Applicants for taxicab franchises will be kept on file by the taxicab inspector for a year, beginning September 1 and ending August 31 of each year.

Section 11 All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section III. This ordinance shall be effective upon its adoption.

ADOPTED, this 12th day of September 2005.

John H. Bell, Jr.
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Water and Sewer Impact Fees:

Mayor Bell declared the meeting into public hearing for consideration of proposed increase in the water and sewer impact fees. Since no one wished to speak for or against the proposed increase, Mayor Bell declared the public hearing closed.

Mayor Bell recognized Public Utilities Director E. T. Weatherly for comments.

Mr. Weatherly stated that on August 22, 2005 Council heard a presentation on the need for water and sewer impact fees to cover the costs associated with needed capital projects resulting from growth. Council was presented a power point presentation and the following is an analysis of the presentation.

- description of water and sewer fees
- the existing water and sewer indebtedness and the inability to borrow more money
- a review of the City's current water and sewer rates, tap fees and the existing \$950 sewer impact fee
- a discussion of projected growth
- a 5-year water and sewer capital plan outlining over \$9 million in needed improvements resulting from growth
- an analysis of various impact fee amounts and a recommendation of a change in the residential sewer impact fee from \$950 to \$3000 and a new residential water impact fee of \$3000 to be assessed for a new building permits

It was the consensus of Council to forward this item to public hearing.

A motion was made by Mayor Pro Tem E. K. Rivers, seconded by Councilman R. E. King to adopt the following impact fee schedule for water and sewer service. Those voting in favor of the motion were: Rivers, King, Austin, Baker, Hummer, Lehmann, Stallings and Walton. Against: None. Motion carried.

IMPACT FEE SCHEDULE FOR WATER AND SEWER SERVICE

The City Council of the City of Elizabeth City hereby adopts this fee schedule effective September 12, 2005 for all commercial and residential construction, which may request both a building permit and city water and sewer service connections from the City on or after effective date. This fee schedule shall be charged after water and sewer distribution lines are installed and available for service. Payment shall be made at the time of purchasing a building permit.

SECTION I.

Water Impact Fees

Residential single family and multi-family fees

\$3000 each dwelling unit

Commercial, Industrial and Institutional fees:

<u>Tap Size</u>	<u>Fee</u>
<i>3/4 inch</i>	<i>\$7,500</i>
<i>1 inch</i>	<i>\$10,500</i>
<i>2 inch</i>	<i>\$15,000</i>
<i>3 inch</i>	<i>\$24,000</i>
<i>4 inch</i>	<i>\$36,000</i>
<i>6 inch</i>	<i>\$42,000</i>
<i>8 inch</i>	<i>\$48,000</i>
<i>10 inch</i>	<i>\$54,000</i>
<i>12 inch</i>	<i>\$60,000</i>

Resort Hotel/Motel Fee.

All hotels/motels shall pay a fee of \$1,250 per room

Sewer Services or Impact fees

Residential single family and multi-family fees

\$3000 each dwelling unit

Commercial, industrial and institutional fees

<u>Tap Size</u>	<u>Fee</u>
<i>¾ inch</i>	<i>\$7,500</i>
<i>1 inch</i>	<i>\$10,500</i>
<i>2 inch</i>	<i>\$15,000</i>
<i>3 inch</i>	<i>\$24,000</i>
<i>4 inch</i>	<i>\$36,000</i>
<i>6 inch</i>	<i>\$42,000</i>
<i>8 inch</i>	<i>\$48,000</i>
<i>10 inch</i>	<i>\$54,000</i>

Resort Hotel/Motel Fee

All hotels/motels shall pay a fee of \$1,250 per room

SECTION II

This fee shall be in addition to other fee schedules in effect, including but not limited to any tap fee, security deposit or monthly minimum.

SECTION III

This fee shall not apply if there presently exists a sewer tap to a sanitary sewer or a water tap to the City's distribution system, allowed by City code in combination where there is no change to the existing water tap size or type of service to serve the new construction. However, if a service is converted from residential to commercial, industrial or institutional, the individual requesting service shall be credited for the impact fee for residential use, but shall pay the established impact fee for commercial, industrial or institutional fee.

SECTION IV

By adoption of this fee schedule, Council recognizes that in the future it may enter into agreements with persons to share in the costs to extend sewer lines to land proposed for construction. Nothing in this fee schedule shall preclude the completion of those agreements.

SECTION V

There is hereby created a Water and Sewer Capital Improvement Fund where all impact fees shall be deposited. Said fund shall be used to pay for major capital improvements throughout the City. Prior to the creation of the Water and Sewer Capital Improvement Fund, all impact fees were deposited in the Water and Sewer Operating Budget. To insure adequate funding in the operating budget, the Finance Director is hereby authorized to transfer \$150,000 from the Water and Sewer Capital Improvement Fund to the Water and Sewer Operating Fund, which represents occurring capital needs, which are not considered major capital improvements projects.

ADOPTED, this 12th day of September 2005.

John H. Bell, Jr.
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

7} **REGULAR AGENDA**

- a} Amendment to Code of Ordinance and Minimum Housing Code-2001-Edition – Rental Housing Ordinance

A motion was made by Councilwoman C. C. Austin, seconded by Councilwoman J. M. Baker to remove the above stated item from the table. Those voting in favor of the motion to remove from the table the above item were: Austin, Baker, Hummer, King, Lehmann, Rivers, Stallings and Walton. Against: None. Motion carried.

Councilman J. B. Walton stated that the last time he voted to not go along with the ordinance and he did that because to him this task force has just recently put this together and it is not like the same ordinance that deals with the signs. He believes in following ordinances because you have a code enforcement person and you need to follow the code. He also expressed his views that he didn't think the Task Force was correctly done. That is beyond the fact now. When we come in with something new and everybody is not satisfied as he hears a lot of public comments about the ordinance. A lot have been good. The only thing that he has a problem with is the makeup of it. Generally you excuse yourself from the voting process because you have a conflict. If we did that with this one then we would only have two or three people to vote. That is not going to be fair either. What we have got to do is when we make an ordinance then we need to follow it. He would hate to be the Code Enforcement Officer because any time a problem comes up all you have to do is set a moratorium and deal with it later or next year. That is not right. If we pass one, we need to stick by it.

Councilman Lehmann said that we have had a lot of discussion on this item over the last couple of months. It is not an easy issue. We have had a lot of input from the public. The Fair Housing Task Force has done an admiral job in how they have approached this. Basically, he is against having greater government. He thinks that is just wrong to do

that. However, in this instance he thinks because Elizabeth City is in a situation where 62% of our housing is rental housing and we have a definite problem. And, there has been a lot of discussion about how the State ordinance provides for the issue. But, we were told by both the staff and the Fair Housing Task Force it doesn't address the issues where they should be addressed to accomplish what we are trying to accomplish. We asked for some items to be changed in this ordinance at our last meeting. One of those was in regard to who is responsible for insects and actually that was in part of our current ordinance as to how that is handled. He is happy that has been addressed. Is this a perfect ordinance, no it is not, but he thinks that it is a workable solution to a huge problem that we have in our City. And, he is going to support it.

Councilman Baker said that it is not perfect ordinance. In fact, our UDO is not a perfect ordinance because after ten years we are still tweaking it. We had a couple of items tonight. She put before Council tonight a copy of the City's Business License Application. There are 254 different categories that require you to have a privilege license. She thinks that will surprise a lot of people on who is required to have a business license. Our job was to get an ordinance together that would help our renters that can't speak up for themselves. She thinks that they have done that. As she said it is not perfect. She was invited today to come and see the condition of the apartment that one of his tenants had left. She didn't go because she has seen the condition of some of the apartments that tenants leave. She was a landlord when she lived in Florida and she lost her shirt twice. Her entire savings once and about everything the second time. This was because she was redoing her house. Was it because she had bad tenants or because she was too lenient as a landlord? She doesn't know which it was, but she has a lot of rental experience and certainly felt good about sitting on that task force. She just thinks that it is important that we get something on the books and start helping our people that can't stand up for themselves, Goodness knows, we have a lot of good landlords out there and she appreciates them. If all our landlords were bad who knows where we would be. She hopes that Council will support this ordinance.

Councilwoman Austin said that she certainly agrees with both Lehmann and Baker. She thinks that this is a situation where it is for the greater good of those 4000 that live in rental units. Yes, there is going to be some good landlords that will be punished. She is aware that some tenants move out in the night and leave the place in shambles and she wishes that there was something that we could do about them. We must do something for 65% of people that rent because they can't afford to buy.

Councilwoman Hummer said that she would like to clarify again that the \$25 that is in this ordinance is really a moot point because Council has already placed in the budget this fee. Having said that she does have problem with the positions being filled before Council adopts this ordinance. If you would take a walk through the Second Ward you will see those that have to live in squatter. She knows there are bad tenants as well as bad landlords and she hopes that this ordinance will address all of it. She has taken the heat and she accepts it for dragging her feet. The people that have to live next door to these problem houses also have to suffer. She had a landlord that rents property near her that hasn't even cleaned up or repaired the damaged done by Hurricane Isobel. She thinks it

is something that is needed. She also feels that this should be a pilot program so maybe next year if these two inspectors have worked out then we can feel it was worth it. Council does have the right to go back and look at it again if it doesn't work out.

Mayor Pro Tem Rivers said that he appreciates the task force work. We have had discussions pros and cons. From listening all the people that support this are after good housing. There are problems and no one is against the ordinance. There are already ordinances on the books that are not being enforced. The State has a minimum standard housing code, but we are not enforcing it. So, there is already a set of guidelines already out there that provides for most of the problems that have been addressed. If the State did not have those laws then we should take and give standards, but the State has already set that in place. It just needs to be enforced. We have a lot of laws on the books that we do not enforce. A prime example is the sign ordinance. The Code Enforcement Office just started getting around to it. We have issues that we need to step forward and start enforcing what we already have on the books. There are mechanisms that will address the landlord's negligence. We have the Health Department and we have the State. We have guidelines already set. Let's utilize their guidelines and it is not costing the City anything. Now, in two or three years when we give employees a cola and gas prices go up, the \$25 fee will go to \$35 or \$50. Well you say that is not true. Then he hears that it is only \$2.08 a month. Let's look at how many fees we have increased in the last year and has only costs \$2.50. With all the fees that have been enacted you have to put all of them together. Taxes went up and electric bills went up and now we are imposing a fee on water and sewer and now if you bring all of the fees together collectively you are over the \$25 a month. He does not judge the family on what he can do. There are people that have come before this Council and say that they are on a fixed income and they don't have anything but \$7 left after they pay their electric bill. He is speaking on what has come before us. Let's think about all the fees that we have already enacted and this is not going against the ordinance because of the fee but we as government are putting something that has already been enacted and if they started to enforce the ordinance then it wouldn't cost our citizens anything. If the State did not have that then he would agree and say lets start something but the State already has it. The City wants to intervene on something that the State already has in place and it is costing the citizens of Elizabeth City. If there is a complaint then lets address it.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. E. King to adopt the following ordinance approving amending the Code of Ordinances and Minimum Housing Code-2001 Edition by adding a Rental Housing Ordinance. Those voting in favor of the motion were: Baker, King, Austin, Hummer and Lehmann. Against: Rivers, Stallings and Walton. Motion carried.

ORDINANCE #05092
AMENDMENT TO CITY’S CODE OF ORDINANCES
Chapter 4 – Building and Building Regulations
Article II – Codes

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

Section I.

- A} Amend Chapter 4-Building and Building Regulations, Article II-Codes; Section 4-30 – Housing Code Adopted by inserting the following; and further
- B} Add as Chapter 7- Elizabeth City Minimum Housing Code, 2001 Edition

RENTAL HOUSING CODE

Section 701 - Purpose.

The purpose of this code is to establish minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the use, occupancy, and maintenance of all residential dwellings and structures or portions thereof within the incorporated limits of The City of Elizabeth City that are income/producing residential properties or properties or portions thereof for which payment of any kind is received for the use or occupancy of the property or portion thereof.

Section 702 - Scope.

(a) The provisions of this Ordinance shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation, except owner occupied dwellings. For purposes of this Ordinance, “owner” shall include the record titleholder of the property in question or his/her child, parent, grandchild, heirs, successors, assigns, or any spouse of those individuals.

(b) Dwellings, Dwelling Units, Rooming Houses and Rooming Units shall comply with all the requirements of this Ordinance.

(c) This Ordinance is designed to apply in situations where an owner (as defined in Section 4.80 of the Ordinance) receives some financial benefit of one kind or another as a result of his/her allowing another individual or individuals to use or occupy real property, or a portion of that real property, for residential purposes.

Section 703 - Definitions.

For the purpose of this Ordinance, certain terms, phrases, words and their derivatives shall be construed as specified in either this section or as specified in the

Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Words in the singular include the plural and the plural the singular. Words in the masculine gender include the feminine and the feminine the masculine. Whenever the terms “dwelling,” “dwelling unit,” “rooming house,” “rooming unit,” or “premises,” are used in this Ordinance, they shall be construed as though they were followed by the words “or any part thereof.”

(a) “Approved” means acceptable to the authority having jurisdiction (AHJ)

(b) “Building Code” means the applicable North Carolina State Building Code, or the Elizabeth City Minimum Housing and/or Rental Housing Code, as the same may be amended from time to time.

(c) “Building Official” means the official or other designated authority charged with the administration and enforcement of the Elizabeth City Minimum Housing Code or Rental Housing Code, or that official’s designee(s).

(d) “Dwelling,” means any building, which is wholly, or partly used or intended to be used for living or sleeping by human occupants that is not occupied by the owner thereof. This term shall include Dwelling Units, Rooming Houses, and Rooming Units, as defined herein.

(e) “Dwelling Unit” means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities, which are used, or intended to be used for living, sleeping, cooking and eating.

(f) “Hot Water” means hot water supplied to plumbing fixtures at a temperature of not less than 110 degrees Fahrenheit.

(g) “Occupant” means any person, with permission from the landlord, who is living, sleeping, cooking, or eating in, or having actual possession of, a dwelling, dwelling unit or rooming unit, or a legal dependent of that person.

(h) “Owner” means any individual, person, firm, corporation or legal entity, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee, guardian, or fiduciary of the estate or person of the title holder.

(i) “Person” means any individual, firm, corporation, association, legal entity or partnership.

(j) “Plumbing” means and includes all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.

(k) “Rooming House” means any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner and/or owner-occupant to any person who is not the husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator, or a person who is married to one of those individuals.

(l) “Rooming Unit” means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(m) “Tenant” means one who rents or leases from a landlord.

Section 704 – Refuse.

Every owner of a building containing five or more dwelling units shall supply facilities or refuse containers (dumpsters) as approved by the City for the sanitary and safe storage or disposal of refuse. In the case of a building with less than five dwelling units, it shall be the responsibility of the tenant(s) and/or occupant(s) to provide an approved trash can, if not already provided by the owner. The City may require additional trashcans in any instance in which City officials deems it necessary to do so.

Section 705 – Insects, rodents and vermin.

Exterior windows and doors of a dwelling or rooming unit shall be reasonably weather-tight, lockable, rodent-proof and shall be kept in good working condition and good repair. Exterior windows adjoining kitchens, bathrooms and habitable rooms shall be provided with screens. Exterior exit doors shall also be provided with screens. If central air conditioning is provided in the dwelling unit, then said doors are exempt from the screen requirements.

Section 706 - Sanitary facilities.

- (a) Dwellings. Dwelling units shall be provided with a kitchen sink, and an interior bathroom or lavatory equipped with facilities consisting of a flush toilet, sink and either a bathtub or shower. Toilets and bathtubs or showers shall be located within a room, which affords privacy by means of a standard doorframe and door.
- (b) Fixtures. All plumbing drainage fixtures shall be connected to the City's sanitary sewer or an approved private sewage disposal system, if the City's sewer was not available at the time of installation. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation. Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory washbowl or basin, and bathtub or shower. All plumbing fixtures and sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with applicable requirements of the Building Code.

Section 707 - Mechanical Requirements.

- (a) Heating. Every dwelling and every dwelling unit shall be provided with primary heating facilities, so that under normal, average weather conditions is capable of maintaining a minimum room temperature of 70 degrees Fahrenheit in all habitable rooms, kitchens and toilet rooms

measured three feet (3') above the floor near the center of the room and two feet (2') inward from the center of each exterior wall. Unvented fuel-burning heaters and portable heaters are not permitted as the primary heating source. Heating devices, appliances or equipment shall be of an approved type. All chimneys, vents, heating facilities and equipment shall be installed and maintained in a safe working condition and in accordance with the North Carolina State Building Code.

- (b) Smoke Detectors. Every dwelling, dwelling unit, rooming house, and rooming unit shall have an Underwriters Laboratory, Inc. (UL) listed smoke detector installed on every habitable floor level and outside each bedroom area. Detectors shall sound an alarm, audible from all sleeping areas. Detectors may be battery operated or may receive their primary source of power from the building electrical system (with battery back-up), and shall be installed in accordance with the approved manufacturer's installation instructions.
- (c) Carbon Monoxide Detectors. Every dwelling, dwelling unit, rooming house, and rooming unit with solid fuel burning heating facilities, equipment or appliances with an intended source of fuel being natural gas, LP gas, oil or wood shall have an Underwriters Laboratory, Inc. (UL) listed carbon monoxide detector installed. Detectors shall sound an alarm, audible from all sleeping areas. Detectors may be battery operated or may receive their primary source of power from the building electrical system (with battery back-up), and be installed in accordance with the approved manufacturer's installation instructions.

Section 708 - Substandard dwellings.

- (a) General. Any dwelling, dwelling unit, rooming house, or rooming unit, or the premises on which the same is located, that contains inadequate sanitation, structural hazards, hazardous electrical wiring or equipment, or inadequate heating equipment, all as defined in this section, or that otherwise endangers life, limb, health, property, safety or the welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard dwellings for purposes of this Ordinance. In determining whether a dwelling is substandard as provided in this Section, references shall be made to other appropriate sections of this Ordinance, other Ordinances and/or articles of the general Building Code of The City of Elizabeth City.
- (b) Inadequate Sanitation. Dwellings, or portions thereof, shall be deemed substandard when they have inadequate sanitation, including but not limited to the following:
 - (1) Lack of, or inadequate garbage and rubbish storage and removal facilities, failure to maintain the property in a clean, sanitary condition, and/or any violation of Section 4.81.
 - (2) Infestation of insects, vermin or rodents, and/or any violation of Section 4.82.

- (3) Lack of, or inadequate bathroom, lavatory, flush toilet, washbowl or basin, bathtub or shower, or kitchen sink, and/or any violation of Section 4.83 (a).
 - (4) Lack of, or inadequate plumbing fixtures, or lack of connection to required sewage disposal system, and/or any violation of Section 4.83
- (c) Structural Hazards. Dwellings, or portions thereof, shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include but not be limited to the following:
 - (1) Deteriorated or inadequate foundation.
 - (2) Defective or deteriorated flooring or floor supports.
 - (3) Flooring or floor supports of insufficient size to carry imposed loads with safety.
 - (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective materials or deterioration.
 - (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
 - (6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that leak, sag, split or buckle due to defective materials or deterioration.
 - (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
 - (8) Fireplaces or chimneys that list, bulge, leak gases or smoke, or settle due to defective material or deterioration.
 - (9) Fireplaces or chimneys that are of insufficient size or strength to carry imposed loads with safety.
 - (10) Fireplaces or chimneys that, as a result of inadequate or faulty flashing, permit leaks or seepage.
- d) Hazardous Electrical Wiring or Equipment. Dwellings, or portions thereof, shall be deemed substandard when they contain hazardous electrical wiring or equipment, including any electrical equipment, wiring or appliances that are not installed and/or maintained in good condition or a safe manner in accordance with the Building Code, and all applicable laws.
- (e) Inadequate Mechanical Equipment. Dwellings, or portions thereof, shall be deemed substandard when they have inadequate mechanical equipment, including any violation of Section 4.84.
- (f) Inadequate Insulation. Dwellings, or portions thereof, shall be deemed substandard when they have inadequate insulation, meaning that they have less than R-19 or equivalent insulation in all attic areas above heated or cooled areas.
- (g) Violation. It shall be unlawful for any person, firm, corporation or other entity to knowingly allow another person to occupy any dwelling, dwelling unit, rooming house, rooming unit, or portion thereof, that is a substandard dwelling as defined by this section. A violation of this section is a misdemeanor and is punishable as set forth herein below.

Section 709 - Enforcement.

- (a) Authority. The City Manager or his/her designee is hereby authorized and directed to enforce all of the provisions of this Ordinance.
- (b) Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official has reasonable cause to believe that there exists in a dwelling a condition which is contrary to or in violation of this code which makes the dwelling substandard, the building official may enter the dwelling at reasonable times to inspect or to perform the duties imposed by this code, provided that if said dwelling is occupied that credentials be presented to the occupant if requested. If said dwelling is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the dwelling and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.
- (c) Enforcement Procedures. Enforcement procedures under this Ordinance shall be as specified in the City's Minimum Housing Code.
- (d) Responsibilities Defined. Owners remain liable for violations of duties imposed by this code even though an owner may have, by agreement or otherwise, imposed on the occupant or tenant or any other individual or entity the duty of furnishing required equipment or of complying with this Ordinance.

Section 710 - Other remedies unaffected.

Nothing in this Ordinance shall be construed to limit or forbid the City of Elizabeth City or any other person or entity from pursuing any other remedies available at law or in equity to enforce the provisions of this Ordinance.

Section 711 - Inspections; duty of owners and occupants.

For the purpose of making inspections, the City Manager or any of his/her designees is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the inspecting person free access to such dwelling, dwelling unit, or rooming unit, and its premises at all reasonable times for the purposes of such inspection, examination, and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Ordinance or with any lawful order issued pursuant to the provisions of this Ordinance or any related ordinance. If any owner or occupant of any dwelling, or portion thereof, refuses

to permit the inspecting person reasonable access, the inspecting person shall have the right to enforce the terms of this Ordinance in any lawful manner, including the right to obtain an administrative search warrant pursuant to N.C.G.S. Section 15-27.2.

Section 712 - License required for Leased Residential Properties.

- (a) The owner of every dwelling, dwelling unit, or rooming unit leased for consideration shall pay an application fee in accordance with the schedule of fees adopted by the City Council for the City of Elizabeth City for each fiscal year, based on the criteria established in that schedule, to obtain a license to comply with the duties imposed pursuant to this Ordinance and other related ordinances, and each person so license shall provide the following information to the City Manager or his/her appropriate designee(s):
 - (1) The identification of the dwelling unit by location;
 - (2) The name, address, and telephone number where the owner, agent and/or owner/operator who has charge, care or control of a building or part thereof in which the dwelling units are leased for consideration can be contacted;
 - (3) An acknowledgment by the licensee that he has complied with the terms of this Ordinance and other related ordinances to the best of their knowledge and belief;

Section 713 - Violations; penalty.

- (a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter or improve the same, or fail to vacate and close and remove or demolish the same, upon order of the City Manager or his designee(s) duly made and served as herein provided, within the time specified in such order, and each day that such failure, neglect, or refusal to comply with such order continues and shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling unit, with respect to which an order has been issued pursuant to this Ordinance, to occupy or permit the occupancy of same after the time prescribed in such order for its repair, alteration, or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (b) It shall be unlawful for an owner of any dwelling unit, dwelling, or rooming unit leased for consideration to fail to obtain a license as required in this Ordinance.
- (c) The violation of any provision of this Ordinance shall constitute a misdemeanor, as provided by N.C.G.S. Section 14-4 and shall subject the violator to a minimum fine of two hundred fifty dollars (\$250.00) and a maximum fine of five hundred dollars (\$500.00), or imprisonment for not more than thirty (30) days; provided, however, that the owner/operator of any dwelling unit, dwelling, or rooming unit whose dwelling, dwelling unit, or

rooming unit is subject to its initial inspection following the adoption of this Ordinance who may be in violation of any provision in this Ordinance shall not be liable for the fine referenced above for any such violation so long as he or she, within 30 days of notice of violation of this Ordinance, obtains the required license(s) and pays a fee equivalent to twice the otherwise applicable fee for the license(s), and he or she shall not be subject to additional penalties for failure to obtain the required license(s). However, if the required license(s) is/are not obtained before the expiration of this 30 day time period, an owner/operator shall be subject to the other penalties and fines as provided by this Ordinance.

- (d) The violation of any provision of this Ordinance shall also subject the offender to a civil penalty of fifty dollars (\$50.00). Each day that any violation continues shall constitute a separate violation and a separate offense for the purposes of imposition of penalties. In addition to the penalties and other remedies provided, the City Manager may institute any appropriate action or proceedings to prevent, restrain, correct or abate a violation of this Ordinance.

Section 714 – Methods of service of complaints or orders.

Service of complaints and orders shall be made in the manner required by N.C.G.S. 160(a)-445 and shall be deemed sufficient when one of the methods allowed by that statute has been followed.

Section 715 – Conflict with other provisions.

In the event any provision, standard, or requirement of this Ordinance is found to be in conflict with any provision of any other ordinance or code of the City, or with any provision of State or federal law, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the City shall prevail.

Section 716 – Unconstitutionality of part of Ordinance.

Should a court of competent jurisdiction determine that any portion of this Ordinance is unconstitutional; the remaining portions of the Ordinance shall remain in full force and effect and shall be fully enforceable.

Section 717 – Exemption from Ordinance.

Properties owned by local, state and federal governmental entities shall be exempt from the provisions of this ordinance.

SECTION II. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION III. This ordinance shall be effective, beginning on October 1, 2005.

ADOPTED, this 12th day of September 2005.

John H. Bell, Jr.
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

B) Request for funding – Pasquotank-Camden Library

Mayor Bell called upon City Manager Olson for comments.

Mr. Olson advised that he had received a request from the Library Board in the amount of \$7,217.00 for the purchase of a number of reference materials. During the Council's discussion concerning the funding of non-profits, several Councilors expounded on their desire to only fund "hard construction costs" such as the Pasquotank Arts Council building. The items submitted by the Library would not, in staff's opinion, fall into this category. The purchase of reference materials would be operating supplies. There are no discretionary funds which could be used for this purpose. The Council would need to adjust existing funds or budgets to pay for this request.

Following discussion, it was the consensus of Council that this request is denied due to the lack of funds.

C) Adoption of Resolution giving preliminary approval to the issuance of Revenue Bonds for the purchase and rehabilitation of Elizabeth Manor I and II.

Mayor Bell called upon City Manager Olson for comments.

Mr. Olson stated that the City has received a request from Integra Development Partners, to be the financing conduit for the issuing of tax-exempt bonds in order that they can purchase and rehabilitate Elizabeth Manor I and II. Integra Development Partners is a group that focuses on providing affordable housing throughout the eastern United States. They presently have a similar project in Edenton, NC. The total value of the Elizabeth Manor project is \$7,609,614. Integra Partners plans on issuing \$4,600,000 in tax exempt bonds, \$2,206,761 in Federal LIHTC, \$202,853 deferred developer fees and \$600,000 residual receipts. The City would issue its multifamily housing bonds under the applicable provisions of Section 160A-456, Chapter 157 of the NCGS and Section 142 of the Internal Revenue Code of 1986 as amended. All of the proceeds of the bonds would

be used to make a loan to the Developer for the purpose of acquiring and rehabilitating the project and for issuance expenses. The developer will be obligated to repay the loan at the times and in the amounts due as debt service on the bonds. The bonds would be a limited obligation of the City payable by the City only from amounts paid to it by the Developer. The bondholders will have no claim against any other assets of the City.

Representatives from the Integra Development Partners briefly went over the proposed project.

A motion was made by Mayor Pro Tem E. K. Rivers, seconded by Councilman R. E. King to adopt the following resolution indicating that if the Developer is able to obtain all of the approvals required to issue the Bonds, including the volume cap and tax credits from the North Carolina Housing Finance Agency and approval of the financing from the North Carolina Local Government Commission then the City is willing to issue its tax-exempt bonds and lend the proceeds to the Developer; and further to authorize the City Manager to execute an engagement letter with Mary Nash K. Rusher of the law firm, Hunton & Williams to provide legal services for the issuance of the bonds.. Those voting in favor of the motion were: Rivers, King, Austin, Baker, Hummer, Lehmann, Stallings and Walton. Against: None. Motion carried.

**RESOLUTION #05091
GIVING PRELIMINARY APPROVAL TO ISSUANCE OF REVENUE BONDS
(ELIZABETH MANOR APARTMENTS)**

WHEREAS, the City Council of the City of Elizabeth City, North Carolina (the “City”) met in City Council Chambers in Elizabeth City, North Carolina at 7:00 a.m. on the 12th day of September, 2005; and

WHEREAS, pursuant to N.C.G.S. § 160A-456, the City is granted the power to exercise directly the powers of a housing authority organized pursuant to the North Carolina Housing Authorities Law, Article 1 of Chapter 157 of the General Statutes of North Carolina, as amended (the “Act”); and

WHEREAS, Integra Development Partners, LLC, a North Carolina limited liability company, or a related entity (the “Borrower”), has requested that the City assist in financing the acquisition and rehabilitation of a multifamily residential rental project presently known as Elizabeth Manor Apartments, consisting of approximately 155 units and located at 1003 Walker Avenue in the City (the “Development”); and

WHEREAS, the Borrower has described to the City the benefits of the Development to the City and the State of North Carolina and has requested the City to agree to issue its revenue bonds in an amount of up to \$4,750,000 to finance a portion of the costs of acquiring and rehabilitating the Development; and

WHEREAS, such principal and interest on the Bonds will be payable solely from funds provided by the Borrower and revenues from the Development, and the City will have no liability whatsoever for the payment of principal and interest on the Bonds or the rehabilitation, maintenance or management of the Development; and

WHEREAS, the City is of the opinion that the Development is a facility which can be financed under the Act and that the financing of the same will be in furtherance of the purposes of the Act;

NOW, THEREFORE BE IT RESOLVED BY THE CITY OF ELIZABETH CITY, NORTH CAROLINA:

1} It is hereby found and determined that the Development will involve the acquisition and rehabilitation of a multifamily residential rental facility to serve persons of low and moderate income, and that therefore, pursuant to the terms and subject to the conditions hereinafter stated and the Act, the City agrees to assist the Borrower in every reasonable way to issue bonds and to lend the proceeds thereof to the Borrower in order to finance a portion of the costs of the acquisition and rehabilitation of the Development, and, in particular, to undertake the issuance of the City's multifamily housing revenue bonds (the "Bonds") in one or more series in an aggregate amount now estimated not to exceed Four Million Seven Hundred Fifty Thousand Dollars (\$4,750,000) to provide a portion of the cost of the Development.

2. The City intends that the adoption of this resolution be considered as "official action" toward the issuance of the Bonds within the meaning of the regulations issued by the Internal Revenue Service pursuant to Section 141 of the Internal Revenue Code of 1986, as amended (the "Code").

3. The Bonds shall be issued in such series and amounts and upon such terms and conditions as are mutually agreed upon between the City and the Borrower. The City and the Borrower shall enter into a "financing agreement" pursuant to the Act for a term and upon payments sufficient to pay the principal of, premium, if any, and interest on the Bonds and to pay all of the expenses of the City in connection with the Bonds and the Development. The Bonds will be issued pursuant to an indenture or trust agreement between the City and a trustee (the "Trustee") or the bondholder which will set forth the form and terms of the Bonds and will assign to the Trustee for the benefit of the holders of the Bonds, or directly to the bondholder, the City's rights to payments under the financing agreement. The Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit of the State of North Carolina or any political subdivision or agency thereof, including the City, but shall be payable solely from the revenues and other funds provided under the proposed agreements with the Borrower.

4. The City will proceed, upon the prior advice, consent and approval of the Borrower, bond counsel and the City's counsel, to obtain approvals in connection with the issuance and sale of the Bonds, including, without limitation, from the North Carolina Local Government Commission.

5. It having been represented to the City that it is desirable to proceed with the acquisition and rehabilitation of the Development, the City agrees that the Borrower may proceed with plans for such acquisition and rehabilitation, enter into contracts for the same, and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Borrower to obligate the City without its written consent in each instance to the payment of any monies or the performance of any act in connection with the Development and no such consent shall be implied from the City's adoption of this resolution. The City agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all qualifying costs so incurred by it as permitted by Internal Revenue Service Regulations Section 1.150-2.

6. All obligations hereunder of the City are subject to the further agreement of the City and the Borrower to terms for the issuance, sale, and delivery of the Bonds, including the execution of a financing agreement, indenture, or trust agreement and other documents and agreements necessary or desirable for the issuance of the Bonds. The City has not authorized and does not authorize the expenditure of any funds or monies of the City from any source other than the proceeds of the issuance of the Bonds. All costs and expenses in connection with the financing and the acquisition and rehabilitation of the Development, including the reasonable fees and expenses of the City's counsel, bond counsel, and the placement agent or underwriter for the sale of the Bonds, shall be paid from the proceeds of the Bonds or by the Borrower, but if for any reason the Bonds are not issued, all such expenses shall be paid by the Borrower and the City shall have no responsibility therefore. It is understood and agreed by the City and the Borrower that nothing contained in this resolution shall be construed or interpreted to create any personal liability of the officers or commissioners from time to time of the City.

7. The officers of the City are hereby authorized and directed to take all actions in furtherance of the issuance of the Bonds, including calling for a public hearing with respect to the financing of the Development through the issuance of the Bonds.

8. The City hereby approves Hunton & Williams LLP, Raleigh, North Carolina, to act as bond counsel to the City with respect to the Bonds.

9. This resolution shall take effect immediately.

ADOPTED, this the 12th day of September 2005.

John H. Bell, Jr.
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

D} Request for an Extension Letter to DCA

Mayor Bell called upon City Manager Olson for comments.

Mr. Olson stated that as Council is aware one of the obligations that we have in the Year Three funding of the Hugh Cale Revitalization Grant is the construction of roughly the first stage of a 3500 foot training center. In the recent past the City did a partnership with River City CDC to basically building this center. Unfortunately, on August 18th the RCCDC withdrew as the sub recipient. Since that time, the Elizabeth City Housing Authority Executive Director has stepped forward to express an interest in replacing River City CDC. However, Mr. Person's interest is contingent upon the approval of the ECHA Board of Directors. Therefore, a request to send a letter to the North Carolina Department of Commerce, Division of Community Assistance, if approved is granted by the ECHA Board of Directors requesting consideration of an extension date to fully expend Year Three funds from November 18, 2005 to March 1, 2006. This extension will give the City and ECHA time to negotiate a sub recipient agreement and complete the first phase of the Community Resource Center/Training Center. It is noted that if this extension is granted, then all Year Three activities must be completed and the program year closed out before Year Four activities may begin.

Interim Community Development Officer S. Anderson stated that she will be getting with the ECHA to verify the location and financing, etc., before we enter into a contract. The reason that we are asking for this extension now is because if you approve it, the Housing Authority would like to have the opportunity to utilize Year Three funds. In order to do that you must act now to request that be done.

Mayor Pro Tem E. K. Rivers stated that we have also received a letter from the Elizabeth City Neighborhood Association asking for the same funds.

Ms. Anderson stated that a couple of weeks ago she had the opportunity to speak with Mr. Branch about whether we would be allowed to create a new activity and he informed her that we could not do that.

A motion was made by Mayor Pro E. K. Rivers, seconded by Councilman R. E. King to grant the following:

1} If the ECHA Board of Directors approves their Executive Director's proposal to become a sub-recipient, approve City Staff to begin negotiations with the Elizabeth City Housing Authority as sub-recipient organization to complete the Community Resource Center Activity of the Hugh Cale Revitalization Strategies Grant; and

2} If the ECHA Board of Directors approves their Executive Director's proposal to become a sub-recipient, approve sending a letter to the North Carolina Department of Commerce, Division of Community Assistance requesting an extension of the November 18, 2005 date to fully expend Year Three funds to March 1, 2006.

Those voting in favor of the motion were: Rivers, King, Austin, Baker, Hummer, Lehmann, Stallings and Walton. Against: None. Motion carried.

E} Amendment to Albemarle Economic Development Commission:

Mayor Bell called upon City Manager Olson for comments.

Mr. Olson stated that the City and Pasquotank County entered into an Interlocal Agreement in 1976 that created the Elizabeth City-Pasquotank County Economic Development Commission. This Agreement has been amended three times. The AEDC Board has requested that the By-Laws be revised to reflect giving Camden County a voting membership. The City Council, on July 11, 2005 rejected this change. Camden County has reaffirmed their interest in being a part of the AEDC. They feel it is important for Camden to get involved with the AEDC. They feel it is important for Camden to participate at whatever level with or without a vote. Therefore, staff would like to suggest that City Council request the Board of AEDC to consider the following changes to its By-Laws. "Article V. Membership". The Commission's membership would be expanded from fifteen (15) members to eighteen (18) members. Voting membership will remain at eight (8) members. The number of non-voting, ex-officio members includes the Chancellor of Elizabeth City State University, the President of the College of the Albemarle and a member of the Board of Commissioners for Camden County. If the Council approves the change, the proposal would then be sent to the AEDC Board for consideration and then come back to the Council for official action.

Councilman W. A. Lehmann stated that he has spent a lot of time talking with individuals from Camden and also discussing this with different members of the EDC. He has a change of heart on this and how he personally feels. Economic development is a regional effort and the physical border really means nothing. An example of that is Charlotte and Rock Hill, South Carolina. In fact, a few years back when the Tidewater area was looking at how they could better promote economic development in the Tidewater area, they used Charlotte and Rock Hill. Take the borders out because business people when they relocated don't really care about the borders as long as the numbers work. Having said that, he thinks that the initial proposal was Camden wanted to be a voting member at a rate of only \$2,000 per year. Which is just a token amount compared to what Pasquotank County and Elizabeth City pays. However, in an effort of regionalism and to get us to work together and partner with our friends across the river, he would like to see this By-Law change be proposed so that there would be nine voting members and Camden be a voting member at that initial rate but after the first year is up it would be increased.

Councilwoman Baker said that she does not agree with this for a couple of reasons. Camden use to contribute \$36-\$38,000 year. A couple of years ago they went down to \$2,000 and then cut it out entirely. She does not think whether they are in or not in as an active member is going to persuade any decision by the Board or a new developer. If it is right to go to Camden then they will go to Camden. She said that they are willing to be a member with or without a vote. She thinks given the wide range of their formal contribution and their current willingness to participate that it does not warrant a vote. She thinks that they will still be considered and she thinks that we would still put a business there that wants to be there. But she does not think that \$2000 warrants a voting position.

A motion was made by Councilman W. A. Lehmann to request the AEDC Board to consider the above noted By-Laws change with Camden County and after the first year is up, the \$2,000 rate would be increased and further, the proposal would be sent to the AEDC Board for consideration and then come back to the Council for official action. Councilwoman L. A. Hummer seconded the motion. Those voting in favor of the motion were: Lehmann, Hummer, Austin, King, Rivers, Stallings and Walton. Against: Baker. Motion carried.

F} Moratorium of Election Signs:

Mayor Bell called for discussion on this item.

Councilwoman L. A. Hummer stated that she participated in calling for the Special Meeting because she thought that we needed clarification on this item. She feels that we got that at that meeting. But, after sitting back and looking at this it is such a long time in between the public hearing and the time for the election. We heard tonight that everybody wants a public hearing and it is worthwhile that we do that. Having said that, she does not feel comfortable being in violation of our ordinances. She will not put her signs out in violation. Others can do what they so desire but she feels that all of us should bring our signs in compliance until we have the public hearing. She would also like to request that since real estate signs are exempt but there are also some real estate signs that hang over in the street. The County also has signs all over the place that are also in violation. But, she does think that the real estate signs should not be right on the edge of the streets. She does not feel she is above the law and she will only be putting her signs where she has permission to do so.

Councilwoman J. M. Baker said that she agrees with Councilwoman Hummer. She does not have her signs anywhere that she does not have permission to put them. She is not opposed to bringing this ordinance back for further study but she is opposed to the timing of it. She thinks that we should do it in an off election year when it is not affecting anyone. She certainly does not want it to appear that we are above the law and she does not want it to be such a big issue. It looks like we are giving ourselves more of an advantage. Let's bring it up next year and send it to public hearing then.

Councilman J. B. Walton said that he is in agreement with the two counselors that have spoke before him. We have passed this ordinance and if we don't abide by it, then why do we pass it. If you give yourself permission to do the wrong thing then you will continue to do things that are just wrong.

Councilman W. A. Lehmann said that we have heard from a lot of different people as to how they feel about this. And, he spoke at the last meeting saying that he was very concerned about the risk that this puts our city with how we enforce this. We don't have an adequate code enforcement staff to enforce it in an equitable manner. If it is not enforced in an equitable manner then he thinks that it puts our city at risk. He would like to ask our City Attorney does this not put our City at risk.

City Attorney W. H. Morgan stated that to have an ordinance on the books which is not being enforced certainly puts our City at risk.

Mr. Lehmann continued by saying that if we have a staff that cannot enforce it equitably and we are going to enforce it without having adequate staff does that not put our City at risk.

Mr. Morgan said certainly for the ordinance to be enforced in certain areas of the city and not in others is risky from a legal point of view just as enforcing it on certain candidates and signs and not enforcing it on other candidate's signs.

Mr. Lehmann said that his point is if it is going to put our City at risk this is to him no different than the rental housing ordinance. Initially we had an ordinance that was determined that it didn't go far enough so then we have the Fair Housing Task Force that wrote an ordinance, we had a public hearing and we heard the public comments and the ordinance has been changed. Now, the ordinance has been passed. Why can't we do the same? He thinks that it is perfectly logical that we do the same thing with this ordinance particularly when we know that it can't be enforced equitably. Why would we want to put the city at further risk. So, he thinks that a public hearing is called for and we need to get input from the public and let this ordinance be fully vetted and then take action.

A motion was made by Mayor Pro Tem E. K. Rivers, seconded by Councilman W. A. Lehmann to call for a public hearing to be held on Monday, September 26, 2005 beginning at 7:30 p.m. to consider imposing a moratorium on the placement of election signs on public rights-of way. Those voting in favor of the motion were: Rivers, Lehmann, Hummer, King, Stallings and Walton. Against: Austin, Baker and Walton. Motion carried.

G} Request for a street party with alcoholic beverages.

Mayor Bell called for discussion.

City Manager Olson stated that this is a request from the Pasquotank Arts Council to serve alcoholic beverages on public rights of way to celebrate the successful fund-raising drive to restore the historic Lowry-Chesson building.

Mayor Pro Tem E. K. Rivers stated the reason that he removed this item from the Consent Agenda is that he would like to see the Manager to come back with an ordinance that requests such as this that has already been set forth in our ordinances that the City Manager would be authorized to approve it or disapprove the request.

Councilwoman Hummer asked why is it any different to change this ordinance and not change the sign ordinance.

A motion was made by Councilman W. A. Lehmann, seconded by Councilwoman C. C. Austin to authorize the Arts Council to serve alcoholic beverages on a public right of way, identified as one block of Main Street from Poindexter Street to McMorrine Street on October 15, 2005 between the hours of 5:00 p.m., and 11:00 p.m. in conjunction with the completion of their "Chesson-Lowry Building Capital Campaign". It is further directed that all guidelines regarding the serving of alcohol on City property pursuant to Ordinance \$100511 and its accompanying policy guidelines shall be adhered to. Those voting in favor of the motion were: Lehmann, Austin, Baker, King, Stallings and Walton. Against: Hummer and Rivers. Motion carried.

City Manager Olson stated that because of the threat of Hurricane Ophelia that a previous approval to serve alcoholic beverage on public right of way he would like to have official flexibility to change the date of the previous function.

A motion was made by Councilwoman C. C. Austin, seconded by Councilman W. A. Lehmann to give the staff the flexibility to change the date of a previous approved function. Those voting in favor of the motion were: Austin, Lehmann, Baker, Hummer, King, Stallings and Walton. Against: Rivers. Motion carried.

H} Streetscape:

Mayor Bell stated that he asked that this item be placed back on the agenda for re-consideration. On DOT's agenda for its October meeting is an additional \$250,000 to be used to fund Streetscape. Based on the availability of having \$500,000 in DOT funding, staff has reduced the scope of the project. Staff estimates that we can mill and overlay Main Street and install decorative street lighting for \$449,808.00. This would be the base bid for the project. A number of alternatives could be included to maximize the \$500,000 in State funding. Staff believes that this would address several concerns that members of the Council have expressed. This agreement would only use the money as allocated by NCDOT.

Councilman Lehmann said that he has been a proponent of Streetscape all along. And, if this in fact can happen he is fully supportive of it because it appears that we are going to get almost all of what we wanted on those couple of blocks with the exception of the pavers without spending any City funds at all. So, if we can get the milling done, if we can get the street lights and if we can get the street signs with the half a million dollars designated by the State then to him that is tremendous for the City and he wants to congratulate the City Manager and the Mayor for being able to put this together. He has a couple of questions though. Could we have done this on the first two phases of Streetscape? He thought that it was a matching type of situation, so is this different now.

Mr. Olson said that he doesn't know if it is different now because he was not here for the original phase that was approved by the Council. You have to realize that it will be somewhat different than the first two phases. There is no obligation for the City to put any money into this particular project.

Councilwoman Hummer said that it says in the agreement that the City will be responsible for preparing and securing all environmental permits, acquiring all rights of way, relocating all utilities which may conflict with the project, providing engineering construction for the project and designing the project to NCDOT standards. How can you say that there is not going to be any cost to the City?

Mr. Olson said that there are no utilities that need to be relocated, there may be some engineering design costs and that is something that we have to look into. There may be some costs associated with this.

Ms. Hummer said that she would like to see it in writing why this money cannot be routed to Water Street as that street is our drawing card. If our representatives in Raleigh can't revert this money to Water Street then they are losing their touch. They reverted the original money from Water Street to Main Street. She just has a problem with the whole thing. It is just too shady in the details.

Mayor Pro Tem E. K. Rivers stated that he has never had any problem with the Streetscape project if we had the money and he has no problem with free money. If they are going to put up the \$500,000 and we will not know for sure until October but this gives us the opportunity and as long as we don't have to take funds out of our electric funds or our general fund, he has no problem asking the State for the \$500,000. It will not be costing the City any money.

A motion was made by Mayor Pro Tem E. K. Rivers to adopt the following resolution formally requesting from NCDOT \$500,000 to move this project forward as long as it continues that we do not have to go into the City's coffers for any funds. Councilman W. A. Lehmann seconded the motion. Those voting in favor of the motion were: Rivers, Lehmann, Austin, Baker, King, Stallings and Walton. Against: Hummer. Motion carried.

**RESOLUTION #05092
APPROVING PHASE III
MAIN STREET STREETScape PROJECT**

WHEREAS, the North Carolina Department of Transportation and the Municipality desire improvements within the Municipality under Project 39822, Pasquotank County, said plans consist of Phase III of the streetscape and beautification project along Main Street from Martin Luther King, Jr. Drive to Road Street in Elizabeth City; and,

WHEREAS, the agreement further provides for the Municipality to prepare the environmental and/or planning document, including any environmental permits, a state approved erosion and sedimentation control plan, construction plans, contractor specifications and estimates (PS&E package), acquire any needed right of way, change, adjust and relocate utilities, award the construction contract and supervise project construction.

WHEREAS, the Department agrees to participate in the actual construction costs of the project in an amount not to exceed \$250,000.00

NOW, THEREFORE, BE IT RESOLVED that said project is hereby formally approved by the City Council of the City of Elizabeth City and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the agreement with the Department of Transportation.

ADOPTED, this the 12th day of September 2005.

*John H. Bell, Jr.
Mayor*

*Dianne S. Pierce-Tamplen, MMC
City Clerk*

I} Gun Buy Back Amnesty:

Mayor Bell called on Chief Anderson for comments.

Chief Anderson said that his department is in the process of implementing a gun buy back program. It has been in the newspaper recently. The program will be administered by our volunteer police chaplains. We met with the chaplains last week and right now

they are getting their schedules together on when they can actually implement the program. We anticipate that it will be within the next couple of weeks.

8} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A} City Manager:

Mayor Bell called upon the City Manager for comments.

Mr. Olson stated that he would not be at the next City Council meeting due to the fact that he would be at the ICMA Annual meeting.

B} City Council:

Mayor Bell called upon Mayor Pro Tem E. K. Rivers.

Mr. Rivers reported that on Thursday the Hurricane Relief raised \$10,000 and there are other activities being planned. He would like for Council to put on their calendars, Saturday, October 8, 2005 a breakfast that will benefit those in New Orleans. He will let everyone know the location at later time.

Councilman Walton said that he attended the same function that Councilman Rivers was talking about. He asked if there was some money that we could find somewhere to purchase some of the kits that Reverend Dowdy was putting together to help those affected by Hurricane Katrina.

Mr. Olson said that he would see what he could do but there were state laws that prohibit municipalities from doing things of this nature.

Councilwoman Baker said that she would like echo Kirk's appreciation to those people that attended that fund raiser. It was put together rather quickly for such a huge event like that. It just showed what people can do when others are in need. She would also like to say for those that didn't get to attend that there is always the Red Cross. She would also like to say that no one has been hired for the inspector position. The City has accepted applications and done interviews but no one has been offered the position.

Councilwoman Austin said that again her constituents are asking when the blue curtains will come down from the fence surrounding the shipyard.

Councilwoman Hummer stated that she has had several citizens complain to her about the audio of the meetings. Also, the mosquitos are really bad again and hopefully something can be done about them.

Councilman R. E. King express his concern about those that were hit by Hurricane Katrina and questioned if there were some vacant homes in our area that could be used to house some of those victims.

Councilman Lehmann stated that he wanted to make a brief statement. He wants to commend both Mayor Pro Tem Rivers and Councilwoman Baker for their part in the fund raiser. They sponsored it and additionally Mayor Pro Tem Rivers tirelessly flip burgers and hotdogs for four straight hours. That was a very nice event along with great fellowship and great music. A very worthy cause and he wants to commend them for that. That brings up the other question. The shoe could be on the other foot here. We have Ophelia down to the south of us. Hurricanes are unpredictable and we don't know what it could be. If it were to develop into a category three or four or something that required evacuation of the City, his question to the City Manager is are we prepared? That is the first question. Do you feel like we are prepared if that was to happen? If we were to evacuate, how can we guarantee that we don't have a situation that occurred in New Orleans where those who are unable to evacuate are left behind. Do we have a means of identifying them? Is there a data base?

Mr. Olson said that we had a meeting this morning and discussed standard operating procedures. We will continue having meetings. We have a number that persons can call for assistance.

Councilman Stallings stated that he has three items. He would like to thank the Chief and his department for jumping right on board with the amnesty for the guns. He thinks that is going to be a plus for our community. Some of you don't realize the number of guns and knives that are here in our city. The Coast Guard Base did an outstanding job in representing our City well. Nationally, every time you turn on the TV it was saying Elizabeth City Coast Guard this and that. He would like for us to draft a letter and send it to the Coast Guard. Maybe have them come to our Council meeting. The only other thing that he would like to bring to Council is we had a grant that came up asking for an extension. He knows that Elizabeth City Neighborhood asked to be removed from the grant but is it possible that someone from ECNA could not participate since they already have some prospects of some land.

3} Mayor's Comments:

Mayor Bell said that his comments are brief. He thanked Council for their votes on some very important issues.

9} **CLOSED SESSION:**

Mayor Bell entertained a motion to retire into Closed Session.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman W. A. Lehmann to retire into Closed Session for discussion of personnel as per NCGS 143-318-11 (a) (6) and consideration of Closed Session Minutes as per NCGS 143-318.10 (e). Those voting in favor of the motion were: Hummer, Lehmann, Austin, Baker, King, Rivers, Stallings and Walton. Against: None. Motion carried.

Upon the end of Closed Session.

A motion was made by Councilman D. K. Stallings, seconded by Councilwoman C. C. Austin to return to regular session of Council. Those voting in favor of the motion were: Stallings, Austin, Baker, Hummer, King, Lehmann, Rivers and Walton. Against: None. Motion carried.

Mayor Bell declared the meeting back into full session.

A motion was made by Councilman W. A. Lehmann, seconded by Councilwoman J. M. Baker to hire June Carter Brooks as the Planning Director with a salary of \$72,000. Those voting in favor of the motion were: Lehmann, Baker, Austin, Hummer, King, Rivers, Stallings and Walton. Against: None. Motion carried.

A motion was made by Councilman R. E. King, seconded by Councilwoman J. M. Baker to approve the Closed Session Minutes of May 23, 2005 and August 22, 2005 as written. Those voting in favor of the motion were: King, Baker, Austin, Hummer, Lehmann, Rivers, Stallings and Walton. Against: None. Motion carried.

10} **ADJOURNMENT:**

There being no further business to come before the Council at this time, Mayor Bell entertained a motion to adjourn.

A motion was made by Councilman W. A. Lehmann, seconded by Councilman D. K. Stallings to adjourn. Those voting in favor of the motion were: Lehmann, Stallings, Austin, Baker, Hummer, King, Rivers and Walton. Against: None. Motion carried.

Mayor Bell adjourned the meeting at 9:30 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

John H. Bell, Jr.
Mayor