

**HAMLET CITY COUNCIL REGULAR MONTHLY MEETING  
CITY COUNCIL CHAMBERS  
201 MAIN STREET, HAMLET, NC 28345  
TUESDAY, OCTOBER 8, 2013  
7:00 PM**

**MINUTES**

***Governing Body Present:***

Mayor Jeff Smart	Jeff Smart
Mayor Pro Tem	Tony Clewis
Council Member	Pat Preslar
Council Member	Abbie Covington
Council Member	Johnathan Buie
Council Member	Dewey Brower

***Staff Present:***

City Manager	Marchell Adams-David
City Attorney	Steve Futrell
City Clerk	Tammy Kirkley
Finance Officer	Jill Dickens
Police Chief	Amery Griffin
Fire Chief	David Knight
Sr. Center Director	Donna McMillan-Aiken
WTP Supt.	Robert Brown
WWTP Supt.	EG Dunn
Downtown Coord	Miranda Chavis
Human Resources	Edna Cumberland
Public Works Dir.	Billy Stubbs
P&R Director	Mitch Bowman

**Others Present:** RCDJ Representative, Robert Pemberton, Barbara Cato, Jimmy Stricklin, Billy & Linda Bayless, Jimmy Williams, Don & Kathy Norton, Rev. Tony W. Hornes, Sr., Terance Hornes, Terri Clewis, Peggy Payne, Van & Melissa Billingsley, Darshema Townsend, Darlene Townsend, Wendy Massagee, Sara Ellen Wicke, Bert & Barbara Unger, David & Kim Lindsey, Billy Stubbs, Joy Smart, Shannon Brigman, Steve Crews, Ronald Nicholson, Charles Payne, Vide & Nancy Kirkley, Jesse McQueen, Danny Hayes, Gloria Maske, Richard Sylvain, Several members of the police department. Approximately 20 other attendees not signed in.

**Call to Order.**

Mayor Smart called the meeting to order.

**Invocation.**

Reverend Steve Crews of the Hamlet Church of God of Prophecy offered the invocation.

**Adoption of Agenda.**

The agenda was adopted as presented by motions of Council Members Preslar and Covington. The vote passed 5-0.

### **Adoption of Minutes.**

The Minutes from the September 10, 2013, Regular Monthly Meeting was approved by council with motions by Council Members Preslar and Brower. Vote passed 5-0.

### **Comments from Attendees.**

- **John Haywood** former police chief for the City of Hamlet presented council and the audience. John Haywood's comments: He stated he has received numerous calls to attend the meeting tonight to speak on the clearance of his SBI investigation. Mr. Haywood said he wanted to give his side of the story and said he never had the opportunity to speak to any of council for the past 13 months except for Councilman Buie. He said a lengthy investigation was conducted by the SBI and he presented to city staff with all of the documents he obtained during his tenure as the chief of police. During the investigation he personally requested to take a polygraph to prove to everyone involved that he is a man of integrity. The SBI administered a lie detector test on him and he noted the specific questions he was asked during the test; he passed the polygraph 100% and no deception was detected. The SBI submitted their findings to the Attorney General's Office who then determined after a complete and thorough investigation on John that he was cleared and the case was closed. John said his main thing is his honor and integrity.

**Mr. Haywood** continued saying there wasn't a person in the room that he wouldn't help if they needed it. John stated his main goal tonight is to say it could have been handled differently and he never got to give his side of the situation other than with Mr. Buie at the beginning. He noted a number of the rumors that are running rampant in town but said that he could come back tomorrow and work in Hamlet with the current city manager with no problems and that people will always have differences. He said he feels like they can come to a resolution. Mr. Haywood noted that people are here tonight for different agendas and for their own side and he doesn't think there should be sides here tonight. Mr. Haywood feels like there should be a resolution to the whole thing because this will just tear down the city or county. He was interviewed in March and received clearance on Thursday of last week when he called about it. He said they didn't give the letter to him, they read it to him over the phone. John added that he can work with anyone.

- **Bert Unger** thanked John Haywood for coming forward and giving his side of the story and said this will hopefully help get rid of the rumors and if nothing else bring closure to the matter.
- **John Haywood** stated he simply wants to resolve the matter. He then stated that he went up against the best SBI agent out there and that this agent looked at the case thoroughly to get to the bottom of the matter, which John appreciated. Mr. Haywood said he has been through a lot over the past year in this matter and noted financial hardships as a result. He said to the public that he is the same man today that he was 20 years ago when he was hired and said he does not want any racism involved.
- **Council Member Abbie Covington** said John is right in that he has served Hamlet for 20 years. She said she didn't want to ask this of John but he has put them in a position that she has to; she asked him why he was discharged from the City of Hamlet. John noted there were several different things given. Mrs. Covington noted that Mr. Haywood's discharge did not say he was being discharged for criminal conduct and Mr. Haywood agreed. She then said the SBI investigation had nothing to do with his discharge. John said it had a lot to do with it because he was under an investigation of criminal conduct. Mrs. Covington said the City of Hamlet never in the discharge letter said he was being discharged for criminal conduct. She said the SBI is not an issue here, but what is an issue here is he has chosen to make the SBI's findings that there was no criminal activity a leverage against the city council. They had nothing to do with the SBI and they nor the attorney have not even seen a letter. Council Member Covington then noted the findings of an appeal's hearing before the Employment Security Commission, which finds Mr. Haywood ineligible to draw unemployment because they found he was in fact guilty of everything he was discharged for; she added that she doesn't mean criminally guilty. She said she doesn't say this to put John down but she cannot have him laying this matter at the feet of the manager or city council.

Mrs. Covington noted this is all public record. She said fair is fair and rumors are running rampant and all should know that this form states specifically the findings and she read them aloud from the form where he was found ineligible for unemployment. Mrs. Covington reiterated John was never discharged for criminal conduct and the SBI investigation had nothing to do with why John is no longer the police chief. She also reminded John of his earlier comment that he didn't talk to anyone but Mr. Buie about the matter and said she spoke with him twice on the telephone.

- **John Haywood** said regarding the paperwork just read, what was just said was correct on paper however; there were a bunch of inconsistencies from the beginning of the tape to the end that will challenge that easily. He said one of the reasons he didn't get to finish his statements was because his attorney did not respond in time and it forfeited his chance to appeal or go further and it's proven through some other means. He said he is not going into some things because he has someone doing some things right now that he doesn't want to let out. Mr. Haywood said his main goal here tonight was not to disrespect anyone but to let everyone know he is not a criminal. John said there is a guy on the board right now saying that he stole \$18,000. John says he has statements from different people as far back as the Seaboard Festival up to today who confirm the rumors. John stated the guy is going to pay and he (John) is not trying to be smart.
- **Abbie Covington** said the findings of the SBI are not why John was discharged. She then noted previous conversations she had with John about making bad judgments, learning lessons and moving on.
- **John** said he didn't say that was the reason and Abbie noted the way he expressed the findings it would have made people think the SBI exonerating him that he was wrongfully discharged.
- **John** said all he wanted was for the people here to know that he's not a thief because the way one of the Hamlet council members has told numerous in high professions that he stole \$18,000 repeatedly. He said the sheets he received were for different things and the conduct on the paperwork he was given was something separate from the other at another time. He said to discharge him was fine. He thinks that was the right thing.
- **Abbie** explained what is in writing was gross negligence in the discharge of his administrative duties, meaning he failed to supervise the operations of his department in such a manner as to expose the city to serious consequences.
- **John** gave an example saying what if he sends various ones in his department to take care of a situation and none get in trouble but him and another. He asked what about the stuff that he knows that he has in the paperwork that would disprove some of the stuff Ms. Covington was talking about that was never shared with council.
- **Abbie** said he was given an opportunity to produce documentation. They have statements from the person John is referring to who indicated that John knew every move that was taken on a daily basis. She then noted specifically the documents they are in possession of, which include disposition orders with a police officer's name and a personal address on them. She said this money should have gone to the Board of Education and so many of these vehicles were wrongfully seized and noted a few. She said the cars were crushed and the owners never had an opportunity to get them back. She added that they have copies of letters he sent telling them they owe \$18,300 storage attached to the disposition orders and he offered them a one-time offer of \$3,620 if they would come get it right now. Abbie said the city's back is against the wall because they owe the School Board all of the money and said whether the cars were crushed legally or illegally, the money should have come back to the city and then gone to the Board of Education as required by state statute. She said council didn't even know it happened. Mrs. Covington said John got a letter from the school board six months after the cars were crushed. She said the cars were crushed in January of 2012 and Mr. Haywood got the letter in July of 2012, which means they didn't release the money until after the fact. She noted the School Board's statement was that it was so convoluted that they were afraid to ask for the money because they would have to assume the liability because of the misconduct. She said this is the public's money and if the city did such a sloppy job of managing it, the public would have a reason

to be standing room only. Mrs. Covington said they are charged with the responsibility of protecting city assets and no property of the city is supposed to be disposed of unless it is declared surplus by council.

- **Abbie** stated 25 cars were crushed with no knowledge of council or the city manager, 10 of the cases had no probable cause or voluntary dismissal. Quality Salvage wrote checks to police officers, not to the City of Hamlet. She said that is gross negligence.
- **Council Member Preslar** asked the manager if the original scope of the request of the SBI said anything criminal or did it say the whole issue was with the towing policy, crushing cars, charging exorbitant amounts and then trying to settle with people.
- **Mrs. David** stated said they entered the investigation hoping there were no criminal charges against anyone. The original investigation started because out of the 25 vehicles crushed one of them is on the road today being driven. It was not crushed despite the fact that the city was told that it was, that vehicle was sold to a private business person here who in turn, sold it to someone in Laurel Hill and is in operation today. Out of the other 24 vehicles, one ended up in the possession of one of our city employees. That's what the SBI investigation started about; it was whether or not the car was legally obtained. She further explained through the process of appeals and the hearing of that employee, he said he got the car because John gave him permission to get it and he gave three other officers permission to get vehicles too. Mrs. David said she cannot implement an SBI investigation. She said she contacted her board when she was made aware of the situation and she asked them and the attorney could she have a local law enforcement agency to look at this because we were too close to it. She did not want to do that and was told that was not the proper chain of command. There is nothing personal. She said she has always had John's back in bad times. The SBI investigation was implemented with no criminal intent intended.
- **John** said there are two sides to every story and there are things that the city acts like they never knew about and it was fine for 6 years and all of the sudden it became personal and it's not fine.
- **Marchell** said the city didn't know because it wasn't run through the proper administrative channels. She said they would have known if he would have run the money through the finance department because everything else in the police department was run through the proper channels. She noted incidences of local business owners complaining that the city was towing vehicles. Marchell said she asked John about it and he told her no, they don't do that and she informed council that the police department does not tow, but later found out they did.
- **John** said over a six year period there are incident OCA and vehicle storage reports where two of them knew what they were doing. He confirmed the manager's inquiry that none of the money was turned in like the rest of the money that came through the Hamlet Police Department.
- **Marchell** noted that we have 24 hrs to turn in money to finance and collections and that we do not keep cash money in desk drawers.
- **John** asked if it would matter if she, the manager, and the mayor knew that they were taking money in, and if it could be proven, if that would be a different story.
- **Marchell** said it would matter because every dime of money that was collected through the police department was supposed to be deposited in the finance and collections.
- **Mayor Smart** said he was not aware of John having any of the money up until the first time that they discussed it and asked John not to make accusations about the mayor that are not true, because they are not true. Mr. Smart said he didn't know anything about any of this until that day. He asked if John has something that proves he, the mayor, knew about it, to show it because it's a lie. He and Marchell confirmed if they would have known about it, then it would have gone through the finance department.

- **Abbie** noted that Hamlet has an exception with the audit because of the activity in the police department and said this is the first exception we had on our audit in her 40 years with the city. She read aloud the exception noted on the city's audit conducted by the auditor.
- **Council Member Preslar** recalled a conversation that took place where he spoke with Mr. Haywood and gave him the opportunity to call the SBI and ask for the investigation himself. John said he remembered an emergency meeting that was called that day and that's when they all showed up here. The manager reminded Mr. Haywood that Mr. Preslar asked John to call the SBI to make the request and Mr. Haywood said not on his watch. John said that didn't happen.
- The mayor thanked John for coming in and speaking tonight.
- **Ronnie Mayo, Jr.** presented council and first thanked Mr. Haywood for having the testicular fortitude to say his piece in front of God and everybody. He said there is a monument in the city that doesn't have any information about Iraqi Freedom or Operation Enduring Freedom. He would like to see that fixed. The mayor said we will research that request.
- **Carolyn Blue** came tonight to find out some information on some grants from 2004-2006. She has reason to think that some of this money that was given to the city was used for family members' homes. She asked to look at the grants on Friday and was put off until Wednesday. Mr. Preslar asked if Ms. Blue could scale the inquiry down to specifics; it would help in locating the records she is looking for as there are two file cabinets of CDBG documents. Marchell explained the 5 yr CDBG contract. Ms. Blue gave her understanding of the car crushing business and she asked if council could help John Haywood and his family to get his unemployment because he was cleared.

No other comments were presented during this portion of the meeting.

**Legal Aid of North Carolina.** David Richardson managing attorney for Legal Aid of North Carolina in Pittsboro and the new branch office in Richmond County presented council. He introduced Emma Smiley and Jason Singes who will be working in Richmond County over the next year helping low income residents with civil legal matters and gave examples. He gave the local office's address and phone number.

**Appointment to the Hamlet ABC Board.** Council reappointed Mr. Jerry Thomas to serve on the Hamlet ABC Board for another 3 year term. The motions were made by Council Members Brower and Buie. The vote passed 5-0.

**Reappointment to the Hamlet Planning & Zoning.** Council reappointed Mr. Frank Legrand to serve on the Hamlet Planning and Zoning Board as an ETJ member for another 5 year term. The motions were made by Council Members Buie and Covington. The vote passed 5-0.

**Request to Surplus Additional Property.** Additional items have been located to be included as an add-on to Resolution No. 13-12 adopted by council last month. These are items from the Depot Board and they are asking that the funds from the sale to go back into the museum's operational budget. The manager stated that a number of the items to be sold at auction will be sold as a lot or grouped together and some items that are not sold may have to be destroyed because they are inoperable and unusable. There will be a record on file of the items sold and all will go through the finance department. There are items that will be sold through private sale and some through public auction. The clerk has contacted an auctioneer to schedule a public auction. Councilman Clewis confirmed the various methods of sale.

Motions were made by Council Members Clewis and Covington to accept the additions to the sale of surplus property. The vote passed 5-0. Regarding surplus property, Mrs. Covington asked when the previously discussed vehicles were disposed of and the proceeds and the towing and storage did not go to the Board of Education, is there any liability from council or the city. The manager said she and the mayor addressed this matter last week, and from their understanding of the law, the BOE has properly and technically waived their right to the funds due to the potential liability.

Mr. Preslar confirmed that most of the funds from this matter are gone. Abbie inquired about the liability for the vehicles that were improperly seized and crushed.

Pat Preslar presented a power point presentation showing the number of vehicles that were seized and where the charges were dismissed. As a law enforcement officer he is concerned that the PD seized cars, in the court proceedings the people were found not guilty, no probable charge found, and the charges were dismissed. There is no record of these people being notified that their cars should be turned over to them. Of the 24 cars the chief of police and his designees had these cars seized. In checking criminal files on the cars that were seized, which is all public record, he showed a list of cars that were wrongfully crushed and a few that are out on the road today. The city police department was taking cars and charging people storage, and if they didn't come get them, we were destroying the cars and taking the money. This is not right. Cases were dismissed and there are no files, letters, forms, no due diligence where the PD attempted to tell the owners that they could get their cars back; he said this is larceny of a motor vehicle. Mr. Preslar pointed out several of the charges in these cases and specified that the people were never convicted in the matters.

Mr. Preslar noted there are Destruction Orders from a judge on seven cars with no file whatsoever; it didn't tell what it was for. Mr. Preslar noted there were blank judge's orders with nothing but a judge's signature; he said it is a photo copy that was turned in to council. He added that they have 3-4 years of receipts showing where \$14,000 was brought in from storage and clarified that the city has never been in the storage business; saying there is no policy, procedures, or fee list.

Mr. Preslar motioned for the chief and his designees try to find these people, make amends and get them their money back for the cars' book value at the time it was seized. The people who paid storage, if they were seized for questionable reasons, the city pay will them back for the money they paid in to us. The motion was seconded by Council Member Covington. Mr. Buie asked if Mr. Preslar would put the list on letterhead so that it is official.

Council Member Buie confirmed that Mr. Preslar's motion was to further investigate, locate people, make sure information is true and accurate and if so, make it right with these people. The vote passed 5-0.

**Petition for Voluntary Annexation.** Mayor Smart reported that the city has received a petition requesting for property to be annexed into the city limits by property owners Mr. and Mrs. Molina. The two lots are located off of Hwy. 74 East on this side of the old bread store. Maps, the deed and tax cards for property were provided.

**Adoption of Resolution No. 12-13.** This resolution directs the clerk to investigate the sufficiency of the annexation petition per NCGS 160A-31. Councilman Clewis inquired about the road to the landfill that goes through the two lots and wanted to make sure the property owners could not close that road. The clerk confirmed she was not aware of any specific plans for the property with the exception that the owners need water and sewer. The mayor noted that council is not voting to approve the request tonight but simply allowing the matter to be checked out and to set a public hearing. Motions were made by Council Members Clewis and Buie to adopt Resolution No. 12-13. All were in favor with a vote of 5-0.

**Clerk's Certificate of Sufficiency.** The clerk has checked the sufficiency of the property owners and provided the certificate to council.

**Adoption of Resolution No. 12-14.** Council unanimously adopted Resolution No. 12-14 whereby affixing the date of a public hearing in reference to the voluntary annexation request. Motions were made by Council Members Covington and Preslar. The hearing was scheduled for Tuesday, November 12, 2013 at 7:00 pm, at Hamlet City Hall.

**Mayoral Proclamation for a Purple Heart City.** The mayor read aloud the proclamation and presented it to Veteran William Caulder. Mr. Caulder noted they are trying to get every city designated as a Purple Heart City.

**Request to Approve Tax Releases.** Council Members Buie and Brower motioned to approve the tax releases submitted by the tax collector. The vote passed 5-0.

## ***Departmental Reports.***

**Billy Stubbs** reported that the November 11 holiday will not affect the yard debris pickup. He said they are having issues with garbage trucks. The Thanksgiving schedule was discussed. Mayor Smart thanked Billy Stubbs for his efforts in cleaning up the town and said he is making a difference. Billy then recognized his employees for their efforts. Pat Preslar asked about the White Goods Policy, which council implemented. Billy explained that it got to a point where renters would dump large amounts of items out by the curb for the city to pick up. Mr. Stubbs stated are a small department and we do not have the manpower to pick up. The renter's houses are the main problem. Without the policy, the city would have to absorb the cost to dispose of building material, remodeling, bathrooms, tubs, toilets, etc. when picked up by the city. The city has to try and streamline what is being put out by the road to be picked up and the homeowners should have some accountability. Marchell noted that when it is noticed or reported that items are left out for a longer length of time, the city sends out a letter to the homeowners and fines them as the policy allows.

**Miranda Chavis** reported council and boosted the fall membership drive that is currently underway. She reminded the public about the Seaboard Trail on Saturday at 1 pm for a \$3 donation and ended with reminding everyone about the Seaboard Festival on October 26. The Amtrak Exhibit Train will be open and available from 9 am-5 pm on the 26th.

## **City Manager's Report.**

Marchell reminded the public about the upcoming Seaboard Festival and she thanked local Angie Averiette with CSX for all of her efforts into making her hometown a wonderful place. Mrs. David reported that the city recently helped sponsor a Color Run and is looking into hosting a Glow Run event next year. She went on to say that every year the city has a community clean-up day and three Saturdays ago a Meet Me Downtown was hosted by the city. At the volunteer event, ten young men from the high school came out to help and she recognized them individually. She thanked city employee Ernie Billingsley and his wife, Arlinda, for bringing these young people out to assist. The manager noted that the city clerk wrote up an article recognizing the young men for their community efforts and sent it to the paper but nothing has been published yet.

## **Comments of Council.**

**Dewey Brower** thanked everyone for coming to the meeting this month and encouraged them to come every month to help offer ideas to help make Hamlet a better place. He reported the Richmond County Agriculture Fair started tonight and encouraged all to support the event.

**Johnathan Buie** recognized the big turnout at the meeting tonight and he encouraged all to participate.

**Pat Preslar** reminded all about the upcoming festival and asked all to be careful while out trick or treating. He gave his thoughts on the curbside dumping and the policy.

**Abbie Covington** noted a few of her concerns as she will be stepping down after the next two meetings; she said there have been recent accusations on the basis of how we award construction contracts in the city within the last several. She reported that she has a list of every contract in the city and without exception, the low bid was awarded. She added that if the project is not over \$500,000, the city is not committed to bid it, but said that we do. Mrs. Covington pointed out that the city had one for \$75,000 that was put out to bid. She stated she wanted to offer the information to the public.

**Tony Clewis** reported that he doesn't take any decisions lightly; he does his very best to make the right decision. He said at a recent political forum there were things said that he feels were addressed to him. He then reminded the public about the upcoming Norman Festival on November 5<sup>th</sup>. Also he asked everyone to keep Bill Williams' family in their prayers.

**Mayor's Comments.** Mayor Smart thanked everyone for being in attendance tonight and thanked everyone for all that they do for Hamlet. He then addressed comments to the Editor of the Richmond County Daily Journal for his recent

controversial articles in the paper concerning Hamlet, which have no merit; he said as Mayor he would appreciate the opportunity to give comments on his city. The Mayor noted the short amount of time the editor has been in the county and specifically in Hamlet. He suggested if the editor wants to sell papers on controversy, then to do it on somebody else. He asked for a phone call for the next story so that he may add a positive twist to the article. All in attendance gave a hand clap to the mayor's comments.

**Motion to go into Closed Session per NCGS Section 143.318.11 (a) (5).** Motions were made by Council Members Preslar and Covington to go into closed session at 8:56 pm. The vote passed 5-0.

At approximately 10:18 pm open session reconvened.

The mayor began with noting that council discussed and reviewed the annual performance evaluation of the city manager. Council Members Preslar and Covington motioned to give the city manager a 5% pay increase to be effective the next payroll based on the results of the manager's annual evaluation. The vote passed 5-0.

Mayor Smart also reported that council discussed offering an Employee Agreement to the city manager. He said council has an agreement to offer as discussed and said he will review the agreement with the manager after the meeting. Motions were made by Council Members Covington and Brower to accept and offer the Employment Agreement and that it is to be effective upon the mayor and the manager signing. The vote passed 4-1, with Council Member Buie not in favor. The mayor reported if the manager refuses to agree with the Agreement, then he will bring the matter back to the public.

**Motion to Adjourn.** Council Members Clewis and Preslar motioned to adjourn the meeting at 10:21 pm. The vote passed 5-0.

Respectfully submitted,

  
Tammy Kirkley, City Clerk

