

**HAMLET CITY COUNCIL REGULAR MONTHLY MEETING
HAMLET CITY HALL COUNCIL CHAMBERS
201 MAIN STREET, HAMLET, NC 28345
TUESDAY, MAY 13, 2014 – 7:00 PM**

MINUTES

Governing Body Present:

Mayor	William Bayless
Mayor Pro Tem	Johnathan Buie
Council Member	Tony Clewis
Council Member	Pat Preslar
Council Member	Jesse McQueen
Council Member	Eddie Martin

Staff Present:

ICM/City Clerk	Tammy Kirkley
City Attorney	TC Morphis
Police Chief	Amery Griffin
Fire Chief	David Knight
WTP Supt.	Robert Brown
Zoning	Gail Strickland
Public Works	Billy Stubbs
Museum Manager	Miranda Chavis
Human Resources	Edna Cumberland
Public Works Dir.	Billy Stubbs
IT	Zach Garner

Others Present: Approximately 55 attendees

1. **Call to Order.** Mayor Bayless called the meeting to order.
2. **Invocation.** Councilman Clewis offered the invocation.
3. **Adoption of Agenda.** Items 6 and 7 were removed from the agenda. Item 7 on the agenda was moved and welcomed during the *Comments from Attendees* section. Councilman Buie and McQueen motioned to adopt the agenda with the amendments. The motion passed with a 3-2 vote with Council Members Clewis and Preslar opposing.
4. **Approval of Minutes.**
Minutes from the April 4 & 5, 2014 Planning Session, and the April 8, 2014 Regular Monthly Meeting were approved with one error being corrected in the April 8th minutes, the vote to go back into Open Session was 5-0. Council members Buie and Preslar presented the motions and the vote passed 5-0.
5. **Comments from Attendees.**
 - **Abbie Covington** presented council and said she figured council would deliberately eliminate her from the agenda. She said on behalf of the previous city council they took action to reimburse the

victims of the crushing incident for the loss of their vehicles and to this day nothing has been done and these people have not been contacted nor given any information. Secondly, Mrs. Covington said she is here to express her concern that council has knowledge about the SBI investigations that they are not sharing with the public, and that a portion of the knowledge could begin the healing of this community. Mrs. Covington said the community has been torn apart since December; part of the reason is there are rumors still flourishing as to whether or not there was any wrong-doing as far as the police department was concerned. She spoke of a meeting that took place in January wherein the manager, Brent Garner, the Mayor, Steve Futrell and Amery Griffin met with the SBI in Fayetteville at which time the SBI told them they had resolved part of this investigation, that portion being the part of the money. Mrs. Covington said they established at this point that \$515 was missing from the crushing money and that \$9,000 was missing from the towing & storage money. She stated they also told at this point that the crushing money was held under the care, custody and control of Michael Veach and the towing & storage money was being held under the care, custody and control of John Haywood. She reported that they gave council the details of the investigation; they said the towing & storage money was held in Chief Haywood's office under lock and key, and they established at this point that \$9,000 of that money was missing. Mrs. Covington said the money in Michael Veach's office was held a little slackly.

Mrs. Covington said despite the rumors to the contrary, the SBI never said John Haywood had been exonerated of any responsibility for this situation. They simply said they were not in a position to file criminal charges. Responsibility and criminal charges don't rest but where the City of Hamlet is concerned, there are rumors being spread by members of the council and by people in the community saying that nothing was ever missing. She said the overtime issue has been sent to Charlotte to be reviewed at and the issue about the validation of the judge's orders is still under investigation. Mrs. Covington said the issue of the money has been completed and she knows that this is closed; she said she feels there is a responsibility to share what has been done to this point and said it would go a long way in healing this community.

Mrs. Covington asked the Mayor what has been done at this point about the payment for the vehicles and the Mayor replied that they have not done anything because the rest of the matter has not been cleared up. He said they haven't received the report from the District Attorney yet. She asked if council has received a report from the SBI, and the Mayor confirmed they have but they cannot release it without the District Attorney's approval. Mrs. Covington inquired if that has anything to do with whether the vehicles were wrongfully crushed and the Mayor replied that they have not discussed that at this point. She asked council if it's ok if vehicles are seized for something other than evidence in the commission of a felony and crushed. The Mayor replied that they didn't know enough about that to say. She asked if vehicles are towed by our police department in a manner contrary to the existing city policy for towing and eventually crushed and sold, if that money supposed to go to the School Board. Mayor Bayless informed Mrs. Covington that she is asking questions that he doesn't know the answers. She then directed the question to Councilman Martin and he respectfully noted that she needed to direct her comments or questions to the Mayor because the Mayor is the city's spokesman.

The Mayor said the matter will have to be discussed among council and Mrs. Covington noted that it has been six months and it should have already been discussed.

Councilman Buie stated to Mrs. Covington that she was a mayor for years and a council member and he respects her for some of the things she did; however, he asked how did she not know that some of these cars had been there twenty some odd years. She asked does that matter and he replied to

the affirmative. Mr. Buie said what matters is why the cars were there to begin with and why so long. Mrs. Covington noted what the state statutes say about the money going to the School Board. She then asked did this money go to the School Board and Mr. Buie said from his understanding the School Board turned it down. Mrs. Covington asked did the police department ever offer it to the School Board and Mr. Buie and the Mayor replied yes. Mrs. Covington said Mr. Haywood offered to reimburse the money and she said John Haywood never offered this money to the School Board. She said he sold the vehicles, the money was kept and spent and having receipts doesn't make it right.

Mr. Buie said council is not saying right or wrong, they're saying while the SBI is investigating it and the D.A.'s office has the right to all of that, until they send something to Hamlet saying it's clear or over, he doesn't feel this board needs to respond to anything. Mrs. Covington asked if the Mayor was at the meeting with the SBI in January and the Mayor replied that he was. She asked the Mayor if anything that she has said concerning the missing funds from the towing & storage money and the crushing funds has been inaccurate. The Mayor said he didn't think \$9,000 was involved but that he could be wrong and Mrs. Covington confirmed that there was; she said that is the figure she was given. The Mayor said council may release the information as soon as the D.A. says it's alright. Mrs. Covington asked the Mayor if he sent out any communication to council members about the meeting and did it discuss the amounts. Mr. McQueen said the Mayor did send out communication; however, he doesn't know or recall the amounts. She asked if her figures were inaccurate and Mr. McQueen said he doesn't know because he doesn't have the letter with him.

Councilman McQueen said he would try to answer Mrs. Covington's questions about the cars. He said not answering any specifics because there is a criminal investigation ongoing now and this board decided not to take any action with civil litigation until the due process was over with the totality concerning the criminal investigation. He said in response to her question about the School Board, it is not relevant to the investigation. Mr. McQueen said he knows that some money is supposed to go to the School Board for certain instances and if he's correct, the only time money is to go to the School Board is with DWI's involving people that are already suspended for DWI's. Mr. McQueen doesn't know how many of these cars were the result of the DWI's in relation to people being revoked for DWI.

Councilman Preslar stated any seizure taken in that a department doesn't request to come back to their agency for use or if it doesn't go to settle a tax debt, all of the funds have to be turned over to the School Board. Mr. Morphis said his understanding is somewhat with Mr. Preslar. Mr. Morphis said it is a little different when there is a civil towing ordinances that are an active part of the code of ordinances and aren't necessarily criminal. Mr. Morphis noted that he hasn't been asked to look at it so he doesn't have an opinion on the matter. Mr. McQueen noted there are certain instances where the School Board may not want the vehicle due to the value. Mrs. Covington said during her tenure she doesn't think the School Board had any knowledge about these vehicles. Mr. McQueen said this could be the part of what they are waiting on with the investigation to be completed; he said he knows there are certain parts they said have been completed. The Mayor stated the criminal portion of the situation with the police department is done and over with and it's closed, he said they found that they exonerated the police chief. Mrs. Covington said they did not exonerate the police chief, she stated the SBI said the police chief was responsible, but was not charged because of the lack of the care, custody and control, and they did say there was money missing.

It was noted that other people had access to the office as well. Mr. Martin said the SBI never said the words "money missing" they only used the words monies unaccounted for. Mrs. Covington questioned the money with the receipts, if that was the proper way to dispose of those funds once

they were received. Mr. McQueen said that's part of the investigation and he asked council if they are not waiting on another part of the investigation and it was confirmed that there is another part council is waiting on. The Mayor said they are waiting on the D.A. to say it's ok to release.

Mr. Preslar noted that he cannot answer any more questions about the matter and he has been advised by his work to back off. Mayor Bayless said it will be addressed. Mrs. Covington asked once established, could a civil litigation be used to pay the people whose cars are gone. Mr. McQueen said that's something that will have to be looked at after the due process.

Mr. McQueen asked the Police Chief and Mr. Morphis is it common practice to address criminal issues in terms of possible civil litigation until the criminal case is over and they both agreed it is not. Mrs. Covington said she is concerned about the people who need to be reimbursed for their vehicles. She said if it's a matter of if there is money in the budget, it seems recovery of some of this money from the individuals who are responsible for it would be one source of funds to do it.

Mr. McQueen said part of what needs to happen after a criminal investigation is an administrative investigation. He said the whole totality of the situation needs to be reviewed and council is asking to let the SBI finish the investigation and let the D.A. or prosecutor come in and talk with these people so we can go to the next level. Mr. McQueen said he doesn't think it's appropriate to answer any questions relating to an ongoing criminal investigation. Mrs. Covington said part of it has been released by the SBI and council will not turn release it. Mr. McQueen stated they are not going to discuss it until the totality of the situation has been concluded and they get written authorization from the SBI, the Attorney General and the D.A. to discuss it and move forward to the administrative side of the matter. Mayor Bayless said most of this was made available to the council and he will make sure Mrs. Covington gets a copy of it.

- **Doris Cox** who is on the Executive Board with the NAACP in Richmond County was in attendance to present to Miss Brianna David the Richmond County NAACP for the Humanitarian Award for her mother Marchell David. A round of applause was given and the Mayor congratulated Mrs. David.
- **Curtis Ingram** – presented council and said the city needs prayer and noted the room is full for a reason.
- 6. **Mayoral Proclamation** – Police Week and Peace Officer's Memorial Week. The Mayor read the Proclamation into the minutes.
- 7. **Tax Releases.** Council Members Clewis and McQueen motioned to accept the tax releases as presented per the County. All were in favor with a 5-0 vote.
- 8. **Set a Date for Public Hearing for Mobile Home Ordinance.** Mr. Morphis explained public hearing timing requirements. Council Members Preslar and Buie motioned to set the hearing for the June 10, 2014 council meeting. Mr. Morphis explained that the ordinance was drafted as a starting point for discussion. The age of the mobile homes has had to be removed; however, appearance has been included. It was explained that when a mobile home is replaced it has to meet the new standards. The matter will go to the Planning & Zoning Board. This is a revision of a policy already in-place. All were in favor to set the public hearing for June 10 at 7:00 pm at Hamlet City Hall. The vote passed with a 5-0 vote.

9. **Departmental Updates.**

Gail Strickland reported that the city has received an application for a Solar Farm and the Planning & Zoning Board will meet next Monday and the attendance is expected to be large. This will be a quasi-judicial board and they will make the final decision. Mrs. Strickland requested council's permission to request the city attorney be in attendance at the meeting so that an informed, legal decision may be reached. Council agreed to have the attorney in attendance.

Miranda Chavis presented council and noted the forthcoming development in the downtown district and said she is actively seeking the support of the community. A board will need to be formed for the Opera House and she recommended starting with 5 members; 4 citizens and 1 council member. Funding was discussed; Ms. Chavis said they are asking locals to become a committed partner. This will be a capital campaign of seven figures. Ms. Chavis gave a brief history of the building. She asked for interested people to reapply to confirm that they are still interested in serving on this board. The mayor noted that the roof is in excellent shape and that the city is looking forward to seeing the renovation. He said we need financial commitments and noted the city has made a commitment of \$50,000 towards this project.

Tammy Kirkley reported that the city will close in observance of Memorial Day on May 26 and that the closing will not affect the garbage schedule.

10. **Comments of Council.**

Johnathan Buie said staff did a good job of cutting the budget and council is trying to balance it within a budget that does not raise taxes. He commended staff for making cuts within the budget.

Tony Clewis thanked Miranda Chavis for her work in a successful recent National Train Day. He noted all of the volunteer family members of Ms. Chavis. Mr. Clewis said he understands the city council operates under Roberts Rules of Order. He said at the April meeting, Mr. Preslar suggested that Mr. McQueen should abstain from voting on the contract for the city manager. He said Mr. Preslar was told by the city attorney that Mr. McQueen could not abstain from voting because if he did, it would be counted as a yes. After reading over Robert's Rules of Order pertaining to voting, he asked for some clarification on the matter. Mr. Clewis noted in one section it states a general rule where no one can vote on a question in which he has a direct personal or pecuniary interest, and although Mr. McQueen does not have a pecuniary interest, he did have a direct personal interest in the contract of the city manager since he has filed a lawsuit against her personally in the past. In another section of the rules, it states an abstention will have the same effect as a No vote. He would like clarification of how this is, so he will know how to understand it in the future.

Mr. Morphis stated that he does not have a copy of the Code of Ordinances so he doesn't know if the city operates under Roberts Rules of Order. He said what McQueen was dealing with was a specific state statute. The voting statute says that you may be excused for matters involving your official conduct or your own direct financial interest, all other matters you must vote unless you are not physically present in the room and if you are there and you haven't been properly excused from voting, then your vote counts as an affirmative vote. Mr. McQueen's decision was under 160A-75, not Roberts Rules of Order. This is because of the General Statutes. The attorney explained when to use Roberts Rules of Order.

Mr. Clewis then referenced the April 8th council meeting when the majority of council voted to void city manager, Marchell David's contract on the grounds that there was no definite term; that the former city attorney didn't sign the contract; and there was no pre-audit certificate.

He said the city attorney has stated that many managers in North Carolina now have contracts, he then made the motion that council allow the city attorney to draw up a new contract for the city manager Marchell David addressing these issues previously stated. Mr. Preslar made a second to the motion.

Mr. Buie commented that he has researched the matter somewhat and has found that Richmond County's manager and the City of Rockingham's city manager does not have a contract. He said if they did, he would see where Hamlet should be on-board since these are the closest agencies to Hamlet; but again said they do not have contracts. The Mayor took a vote and the motion failed with a vote of 3-2. A raise of hands was signified. Councilman Clewis and Preslar were in favor and Council Members McQueen, Buie and Martin were opposed.

Jesse McQueen asked for it to be shown on record that he did not have a conflict in the vote Mr. Clewis was referencing. He then said that council has been working hard on a new budget and noted the number of hours that has been put into it. He said as part of the budget deliberation, other than the first day, he didn't hear anything about getting a new sound system and he asked that city staff look into the matter. Mr. McQueen then offered personal congratulations to Mr. Justin Jackson, former Richmond Raider player, who plays with Wake Forrest and who has signed a free agent contract with the Detroit Lions. He congratulated Mr. Jackson and his family.

Pat Preslar said there have been some conversations about a new county football program. He said Hamlet has been providing a great football program for the past ten years with a two man crew. Mr. Preslar stated that the city starts the season late in order to allow kids to play both soccer and football. He stated he went to the County and to the City of Rockingham to request money to help fund the program and he was denied. Mr. Preslar doesn't think it's fair to come along and someone request \$50,000 from the county to start their own program. He commended Hamlet's football program. Mr. Preslar said he thought the manager's contract issue was a good idea and the request to come back with an amendment.

Tony Clewis took a moment to congratulate Marchell David for the earlier mentioned award; he said it was well deserved. Mr. Preslar added that she is only the fourth person to receive the award in 36 years. He also congratulated Brianna David for her achievements.

11. **Mayor's Comments.** The Mayor mentioned the city manager has been missed. He said a few months back there was a moratorium placed on the White Goods Policy until such time as council can sit down and discuss it. He said this did not change the businesses that have large items and said they will have to pay for their items to be picked up. He then thanked all of the volunteers who worked on the National Train Day event. He also thanked the National Railroad Museum and Hall of Fame. Mr. Preslar thanked CSX for their cooperation and partnership. Mayor Bayless thanked all of council for their hard work on the budget, as well as, all city employees.

The Mayor then noted all of the extended efforts by the late Command Sergeant Major Ed O'Neal in getting the VA Clinic to come to Richmond County and Hamlet. He has talked with Congressman Hudson's office and they have agreed to look into the request of having the facility named after Mr. O'Neal. The Mayor asked for staff to prepare a resolution.

12. **Recess of Meeting.** At approximately 8:01 pm, the meeting was recessed until May 21 at 4:30 pm for the Budget Work Session. Council Members Clewis and Buie made the motions. The vote passed 5-0.

Respectfully submitted,



Tammy Kirkley, City Clerk/ICM

