

MONDAY-7:00 P.M.

JANUARY 14, 2013

CITY COUNCIL

The City Council of the City of Elizabeth City held its first meeting of the year on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. W. Peel presiding. Members in attendance were: J. M. Baker, M. E. Brooks, R. T. Donnelly, L. M. Hill-Lawrence, L. A. Hummer, J. A. Stimatz and J. B. Walton. Councilman K. K. Spence arriving at 7:42 p.m. City Staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Jr., Deputy City Clerk V. D. White, Planning Director J. C. Brooks, Human Resource Director K. W. Felton, Parks and Recreation Director B. V. White, Finance Director S. E. Blanchard, Public Utilities Director P. A. Fredette, Fire Chief L. M. Mackey, Police Chief E. Buffaloe, Inspections Director S. E. Ward, Electric Director K. F. Clow and ECDI Director R. Cross.

Mayor Peel established a quorum was present and called the meeting to order at 7:00 p.m. He called for a moment of silent reflection after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} AGENDA ADJUSTMENTS AND APPROVAL:

Mayor Peel called for any adjustments to the prepared agenda and approval of same.

Councilwoman L. A. Hummer asked to ***add to the regular agenda consideration of a resolution in support of construction of the mid-Currituck Bridge; and consideration to call for a public hearing to be held on Monday, January 28, 2013 to gather input on CDBG eligible projects.***

Mayor Pro Tem J. B. Walton asked to ***remove from the Consent Agenda, Item 8-a (4) to move storm water funds from contingency to specific projects and place on the Regular Agenda for discussion.***

Councilman J. A. Stimatz asked to ***remove from the Consent Agenda, Items 8-a-e removal of "No Parking" signs on Bell Street; and Item 8-a-g acceptance of Firehouse Subs Public Safety Foundation Grant*** for rescue boat and place these items on the Regular Agenda for discussion.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the agenda to include

the above noted items. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.

2} PRESENTATION:

a} River City CDC YouthBuild Students:

Participants from the River City CDC YouthBuild Program gave a brief presentation and thanked the City for the support given to the YouthBuild Program.

3} PUBLIC COMMENTS:

Mayor Peel called upon the City Clerk for the number of citizens signed up to speak.

Upon a reply of two, Mr. Kaleen Shahid, 304 Shepard Street, Elizabeth City spoke about his concerns regarding crime in Elizabeth City. He asked for a following up on a program he submitted to Council a few months ago.

Ms. Jacqueline S. Latson, 1305 S. Williams Circle, Elizabeth City spoke regarding her concern on crime within Elizabeth City and expressed her belief in the good of community policing.

4} APPROVAL OF MINUTES:

a} Joint City/County meeting – October 30, 2012:

Mayor Peel called for approval of the minutes of the Joint City/County meeting that was held on October 30, 2012.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the Joint Cit/County meeting that was held on Monday, October 30, 2012. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.

b} Regular City Council meeting – December 10, 2012:

Mayor Peel called for approval of the minutes of the December 10, 2012 Regular Meeting.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the December 10, 2012 meeting as presented. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.

5} CONSENT AGENDA:

Mayor Peel called upon the City Manager to read the items listed on the Consent Agenda.

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

Consent Agenda:

a} Adopted the following Resolution authorizing financing with BB&T for the purchase of two police vehicles:

**RESOLUTION #2013-01
APPROVING FINANCING TERMS
TWO POLICE VEHICLES
\$88,498.00**

WHEREAS, the City of Elizabeth City, North Carolina (the "City") has previously determined to undertake a project for the purchase of two Police Dodge Chargers, (The "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1} The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated January 4, 2013. The amount financed shall not exceed \$88,498.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.19%, and the financing term shall not exceed 5 years from closing.

2} All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further

action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3} The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4} The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payments obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of such officer's final approval of the Document final form.

5} The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's general fund or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.

6} All prior actions of the City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

APPROVED, this 14th day of January 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Adopted the following Resolution declaring 405 Broad Street surplus:

**RESOLUTION #2013-02
DECLARING SURPLUS AND AUTHORIZING SALE
405 EAST BROAD STREET**

WHEREAS, the City of Elizabeth City is the owner of real property identified on the Pasquotank County Registry as PIN 891420918644 and having a physical address of 405 East Broad Street; and

WHEREAS, the City of Elizabeth City has no current or future need of said property for public use; and

WHEREAS, the City Council is desirous of selling said parcel;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City that the parcel of property located at 405 East Broad Street is hereby declared surplus property of the City of Elizabeth City; and

FURTHER RESOLVED, the sale of said property is authorized and shall be conducted pursuant to the upset bid process required by North Carolina General Statutes §45-21.27.

ADOPTED, this 14th day of January 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Authorized the execution of an Agreement for Professional Engineering and Survey Services for South Road Street to Human and Robey for a total of \$104,000.

- d} Authorized the submission of a grant application to the NC Rural Center for a Building Reuse and Restoration Grant in the amount of \$70,000 for Waters Edge Grill.
- e} Adopted the following Resolution declaring Ladder Truck #1 as surplus:

**RESOLUTION #2013-03
DECLARING SURPLUS PROPERTY AND AUTHORIZING SALE
1988 GRUMMAN LADDER TRUCK**

WHEREAS, the City of Elizabeth City is the owner of a 1988 Grumman Ladder Truck with a 102 foot platform estimated to be between \$7,500 and \$15,000 in value; and

WHEREAS, this 1988 ladder truck is no longer suitable and needed for public use; and

WHEREAS, the City Council is desirous of selling said ladder truck through GovDeals.com in an "as is – where is" condition without express or implied warranties;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City that the 1988 Grumman Ladder Truck with 102 foot platform is hereby declared surplus property of the City of Elizabeth City; and

FURTHER RESOLVED, the sale of said property is authorized and shall be conducted online using GovDeals.com pursuant to the terms and conditions of the City's GovDeal Agreement.

ADOPTED, this 14th day of January 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

- f} Called for a public hearing to be held on Monday, January 28, 2013 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for each of the following:
 - 1} Rescission of Conditional Use Permit CUP-05-09 to Venders USA for the operation of an Internet Sweepstakes Café at 1501 West Ehringhaus Street:
 - 2} Rescission of Conditional Use Permit CUP-04-09 to Luther's Inc. for the operation of an Internet Sweepstakes Café at 1016 West Ehringhaus Street:
 - 3} Rescission of Conditional Use Permit CUP-02-09 to James Sutherland for the operation of an Internet Sweepstakes Café at 1871 West Ehringhaus Street:
 - 4} Rescission of Conditional Use Permit CUP-01-12 to Cyberworld for the operation of an Internet Sweepstakes Café at 900 West Ehringhaus Street:
 - 5} Rescission of Conditional Use Permit CUP-02-12 to Sweepstakes Café at 101 Capital Trace:

End of Consent Agenda

6} PUBLIC HEARING:

- a} Modify City's Rate and Fee Schedule:

Mayor Peel declared the meeting into Public Hearing for consideration of modifying the City's Rate and Fee Schedule to increase the Water Treatment Plant Lab Fees effective January 15, 2013. There was no one to speak for or against the proposed modification of the City's Rate and Fee Schedule. Since there was no one to speak for or against the proposed modifications, Mayor Peel declared the public hearing closed. Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised that the Water Treatment Plant does several tests for private citizens and also the County Water Treatment Plant. The two tests that we get the most requests for are the bacteriological Analysis and the HPC Analysis. The City has been doing these tests for 30-40 years because these particular tests are hard to have done by an outside vendor. Currently our cost per sample is about \$17.00. It takes staff about one hour to perform the analysis and analyze and record the results. The Water Treatment Plant do about 25-30 samples per

month. We are proposing to increase the fee we charge others to do these analyses to \$40.00 per sample. The Finance Committee discussed this request and recommends approval.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. T. Donnelly to adopt the following ordinance to change the City's Rate and Fee Schedule to allow the Water Treatment Plant to charge \$40.00 per sample for Bacteriological Analysis and HPC Analysis effective January 15, 2013. Those voting in favor of the motion were: Baker, Donnelly, Brooks, Hill-Lawrence, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.

**ORDINANCE #2013-01
INCREASING THE CITY OF ELIZABETH CITY
RATE AND FEE SCHEDULE
FOR
WATER TREATMENT PLANT LAB FEES**

WHEREAS, The City of Elizabeth City provides Bacteriological Analysis and HPC Analysis as a fee service to others at the City's Water Treatment Plant; and

WHEREAS, the City's current rate schedule for lab fees is \$25 per sample for Bacteriological Analysis and \$30 per sample for HPC Analysis; and

WHEREAS, the cost of reagents and other supplies required to perform these tests have gone up to the point that it costs the City to perform analysis for customers;

NOW, THEREFORE, BE IT ORDAINED, that the City of Elizabeth City Council hereby modifies the City's Rate and Fee Schedule to allow the Water Treatment Plant to charge \$40 per sample for Bacteriological Analysis and HPC Analysis effective January 15, 2013.

ADOPTED, this 14th day of January 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

7} REGULAR AGENDA:

a} Budget Amendments:

Mayor Peel called upon City Manager Olson for comments on Section IV of the Budget Amendment.

City Manager Olson stated that this budget amendment deals with the Stormwater Utility Fund Contingency. It was to be decreased by \$152,750.00. The money has been allocated for the Stormwater Fund Tiber Creek Study. It was to be increased by \$65,000 and the Inventory Conditional Assessment be increased by \$75,000 and the Knobbs Creek Study be increased by \$12,750. When we budgeted the Stormwater Fund we had a large amount in the contingency but we did not have specific dollar amounts. Now what we are doing is moving funds from the Contingency line item in the Stormwater Fund into the specific projects that the money was to be spent on.

Mayor Pro Tem Walton asked if it was approved to use that amount of monies in that Utility Fund. He also wanted to know what the Tiber Creek Study is all about.

Public Utilities Director Fredette answered he believes those four items were included in the discussion of the budget as it was prepared. The four items were approved as Contingency Funds. All of those were at least discussed and approved to justify the Contingency Fund. The second question you asked is Tiber Creek is the drainage way that ends at the Stormwater pump station between the Daily Advance and the Museum. That drainage area extends all the way up crossing all the side streets until we get to Pritchard Street near his office. It takes drainage from Ehringhaus Street all the way over to Main Street. This is the area that we have been studying.

Mayor Pro Tem Walton said he has a memo that is talking about the Knobbs Creek Study.

Mr. Fredette stated that the Knobbs Creek Study is a study being done by the Corp of Engineers under the direction of the County. This Council approved that study and the \$12,000 is simply our portion of the cost.

Mr. Walton stated he still doesn't remember us talking in the budget sessions about Tiber Creek.

Mr. Fredette stated that Tiber Creek was discussed in the budget session. It was brought forward by the Stormwater Advisory Board.

Councilman Stimatz said as Chairman of SWAB in fact these items were discussed at the SWAB and he wrote a memo advising Council and that memo was presented here and a copy was given to Mr. Walton. These were the specific items that went into building that budget. We plan to meet late this month or early next month for an update on where we are with some other projects and where we are going next.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. T. Donnelly to adopt the following Budget Amendments to include Section IV. Those voting in favor of the motion were: Stimatz, Donnelly, Baker, Brooks, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

**BUDGET AMENDMENT
NUMBER 2013-01
JANUARY 14, 2013**

BE IT ORDIANED, by the City Council of the City of Elizabeth City that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2013:

SECTION I. That the CAMA Waterfront Grant (103490.6252) be increased by \$102,000, Tourism Development Authority Revenue-Sawyer Property (103190.0011) be increased by \$38,000, and the Sawyer Property Acquisition (106600.7312) be increased by \$140,000.

(To record CAMA Waterfront Grant.)

SECTION II. That the Department of Justice Forfeiture Funds (103220.0030) and Police Capital Outlay (105100.7400) be increased by \$19,939.

(To record purchase of surveillance equipment with forfeiture funds.)

SECTION III. That the Police Reimbursement (103220.0023) and Police Salaries and Wages (105100.0200) be increased by \$16,236.

(City of Charlotte's reimbursement for officers who worked at the Democratic National Convention.)

SECTION IV. That the Stormwater Fund Contingency (348500.6000) be decreased by \$152,750 and the Stormwater Fund Tiber Creek Study (348500.7305) be increased by \$65,000, the Inventory and Condition

Assessment (348500.7306) be increased by \$75,000, and the Knobbs Creek Study (348500.7307) be increased by \$12,750.

(To move Stormwater funds from contingency to specific projects.)

SECTION V. That the Water and Sewer Transfer to South Road Street Project Fund (318200.9100) be increased by \$7,500 and the Wastewater Professional Services (318200.0400) be decreased by \$7,500.

That the Transfer from Water and Sewer Funds (623970.1000) and the South Road Street Engineering-Non-Grant (629012.0401) be increased by \$7,500.

(To record transfer non-grant eligible expenses from Water and Sewer Fund to South Road Street Project.)

ADOPTED, this 14th day of January 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} "No Parking" Signs located on Bell Street in front of the Pentecostal Church:

Mayor Peel called upon Councilman Stimatz for comments.

Mr. Stimatz said his only question was the cease function as the church now and if it starts up again up again as a church will they want to come back and say we don't want people parking at the front door; are we going to then put the parking signs back up?

Mr. Olson stated that whatever we do we would have to come back to this governing body based on direction that we have gotten earlier concerning the posting of "no parking" areas. The signs are up and we are simply asking to take them down. If they do come back requesting the "no parking" then we will bring back to Council a recommendation whether or not it should be so designated.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. M. Hill-Lawrence to remove the two "No Parking" signs on Bell Street that are located in front of the Pentecostal Church. Those voting in favor of the motion were: Stimatz, Hill-Lawrence, Baker, Brooks, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.

c} Acceptance of Firehouse Subs Public Safety Foundation Grant:

Mayor Peel called upon Chief Mackey and Assistant Chief Cartwright to address this item.

Assistant Chief Cartwright stated the Fire Department was made aware of a grant through Firehouse Subs Public Safety Foundation. Through that Foundation we were able to acquire a boat which is an eighteen foot 2013 Carolina Skiff and an outboard motor plus a trailer. When we first talked about getting this boat we looked at different things that we needed that the Public Safety Foundation would support. We looked at the fact that it is not only something that we could put into the river but something that we could also put into the flood areas of the City if we should have a flooding event. There have been times that we send our firefighters or emergency personnel into water waist deep and sometimes even deeper to check into vehicles to see if anybody is inside of them and to help people out of vehicles and to help bring people out of houses where flood waters were rising. Our fire fighters have actually chased down LP Gas Tanks that were floating and copper tubing had broken and was leaking gas. When we done this in the past we have always talked about how it would be nice to have something that would actually make it safer for our personnel to do this. A boat was always part of that discussion. We were able to put in for this grant and we were lucky to acquire approval.

Chief Mackey stated the biggest issue here is fire fighter safety. Over the years we have put fire fighters in flood waters. You need to realize that flood waters are a hazardous material spill. When you put people in that water you don't know what is in that water. A lot of time it is human waste because sewers overflow. You have all kinds of stuff in the water when you are putting your people in it aside from the fact that water hydraulics doesn't take but a little water overflowing to move things.

Councilman Stimatz stated he is all for fire fighter safety but the first thing we have to remember is we are here for public safety. The question is in his mind was, he is looking at this boat and it is on the river he has a Coast Guard Small Boat Station two miles away. They are paid. They are trained. They can respond on the river so he does not need a river response. He has a Coast Guard Air Station two miles away which will launch in 30 minutes. The same

thing with the boat. It will show up and go where he needs it to go. There is no documentation for this need. How many times have we responded in the last ten years since he has been here to a situation? He used to do this for a living. He is having a hard time justifying why you need a boat. If it is on the river you have the Coast Guard Station. You have a boat on the way in 30-minutes. What is your response time?

Chief Mackey stated as we develop our policies we will determine that. It is hard to develop policies for something when you don't have the resources to work with. Now that we have the resources we will develop our policies and put them in place. When it comes to the Coast Guard, with all due respect, when you call the Coast Guard, they have to call Virginia as you well know before they can deploy. So in all that time we are waiting for a response and as Mike was trying to say just now, we don't have any history for deploying a boat because we have not had a boat to deploy.

Mr. Stimatz said the way that city governments are supposed to work is Council sets the policy and then we respond to that. You don't get a resource and then build the need around it. The problem he is having is on the water whether it is Knobbs Creek or Pasquotank River we have a response agency and they do not have to call Virginia to get under way. They can launch on their own. They have launched on him. He has had it happen himself. They do not have to ask permission. At worst they could go to the group down in Fort Macon. That is a quick radio or telephone call. If there is an emergency they can respond to it and then call in later. When you take this on and say you are going to respond then the City takes on a liability and assume the risk. In doing so they have to make sure that their people are trained beyond some base level. Your people are going to have to be trained and your vessel is going to have to be equipped to certain standards. You are going to have to meet whatever state requirements there are. Are you going to have guys in each station house who are ready and able to go when they are on watch? That is training time and training diversion time. Those costs and the maintenance costs are not included in this. You are going to have some kind of routine evolution operational training when they get underway and they practice what they are going to be doing in order to be certified. There is a costs associated with that. This freebie turns into a rather large expense. You are asking us to take a vote and it is not clear there is any need for a boat this big. This is overkill. He has a real problem accepting money for this particular boat.

Councilwoman Hummer said she can think of one instant in particular and a very important one where something like this could have been used and she is not an expert and she wasn't in the Coast Guard but Chief would you agree with her that this could have been used when Oxford Heights was flooded and the people couldn't even get out.

Chief Mackey responded absolutely.

Ms. Hummer asked if you had to go in some place like Oxford Heights when it was flooded would you want to put your staff in that kind of water.

Chief Mackey stated you rely on historical analysis to plan for the future. Sometime you have to be like a Boy Scout and you have to be prepared for things that come down the road that you have not experienced in the past. We have to prepare for other things other than what you have done in the past. This is part of the growth that this Fire Department is going through.

Mayor Pro Tem Walton asked what was the cost to the City for this boat, motor and trailer.

Chief Mackey answered none. This is 100% funded by Firehouse Subs Safety Foundation.

Councilman Spence said he heard that a boat smaller would be sufficient but not that one. His whole question is it takes the same amount of training for a smaller boat as it would for the larger boat. It is 100% free to the City.

Councilwoman Baker asked how fast would this boat go.

Chief Cartwright stated the top speed would be 40 mph.

A motion was made by Mayor Pro Tem J. B. Walton, seconded by Councilwoman L. A. Hummer to accept the award of the rescue boat from Firehouse Subs Safety Foundation. Those voting in favor of the motion were: Walton, Hummer, Baker, Brooks, Donnelly, Hill-Lawrence and Spence. Against: Stimatz. Motion carried.

d} Rejection of Taxicab Application:

Mayor Peel called upon Chief Buffaloe for comments.

Chief Buffaloe stated he would like to bring to your attention that Daryl Keith Wood applied for a Taxicab Inspection for the City to own and operate a taxicab within the jurisdiction of the City. However, in Section 86.38 it states that if the Inspector finds that the applicant has been convicted of a felony then we cannot issue that permit if that felony carried at least two years. In running his criminal history it was found that on August 1, 2005 he was convicted of obtaining property by false pretense which is a Class H felony which carries a maximum of

30 months in the Pasquotank County Detention Center; and Mr. Wood was charged on August 25, 2004 and convicted on August 1, 2005. Therefore, we ask that you deny this particular application.

It was noted that Mr. Wood was not present to speak on his behalf.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to uphold the Taxicab Inspector's decision to deny Mr. Daryl Keith Wood's application to drive a taxicab pursuant to Section 86-38 of the City Ordinance. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

e} Appointment of Voting Delegate for the NCLM Advocacy Goals Conference:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson stated we have been asked by the League to have someone at the Advocacy Goals Conference declared as the voting delegate for the City. At this particular time we only have one individual to sign up to attend this conference and it is the Mayor.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. T. Donnelly to appoint Mayor J. W. Peel as the voting delegate on behalf of the City of Elizabeth City at the NCLM Advocacy Goals Conference. Those voting in favor of the motion were: Stimatz, Donnelly, Baker, Hill-Lawrence, Hummer, Spence and Walton. Against: Brooks. Motion carried.

f} Privilege License Refund to Internet Sweepstakes Café operators:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson stated the City has received a request from one of the operators of the Internet Sweepstakes Cafés wanting to know if the City is going to prorate and/or refund the privilege license amount they have spent. To give the Council some background information as you are well aware on December 14th the NC Supreme Court ruled that Internet Sweepstakes gaming does violate State Law Section 14-306.4 and basically the Supreme Court ruling took affect January 3, 2013. All Internet Sweepstakes Cafés have been shut down voluntarily as of that date. The privilege license fee the applicants have to pay is due September 1st of each year. They have been in operation now for three to four months. The

City has never refunded or prorated any privilege license fees that we have to date. We did anticipate \$74,550.00 in revenue and that is built in the General Fund Budget so if any type of prorated or refund is given to the Internet Sweepstakes providers then we will have to make the appropriate cuts to the General Fund because of that shortage of funds.

Councilman Donnelly asked if we would be collecting from Past Times.

Mr. Olson stated we would try to collect from them.

Mr. Walton stated he thinks this is one of the biggest discussion items that we have had and it never came back to Council. He guessed you are getting back to Council now. In some parts of North Carolina they have not even closed them down as of yet.

Mr. Olson said he believes that is correct but from the City's perspective after consulting with the District Attorney there are not to his knowledge any Internet Sweepstakes Cafés operating within the First Judicial District.

Mr. Morgan said the enforcement of the Supreme Court decision is sporadic across the State. Just based on the limited reading he has done it appears to him that perhaps somewhere in excess of 25% of the cities and counties that have these businesses are shutting them down. It is clear that the Legislation does not want these types of businesses to operate within the state. The business operators are trying to develop software that stays a step ahead of enforcement ban. It is his belief that we should not refund or prorate any of the privilege license fees. It is also the recommendation of the School of Government that these privilege taxes not be prorated or refunded by the cities and counties that have collected them.

Mr. Walton said this is just like the rule to disallow prayer in our meetings. We honor things and it has been our policy to bend it to fit our own agendas. He thinks the Council should have been given the opportunity to speak on that issue before it was put into effect.

Ms. Baker said the balance due from Past Times, \$13,700, what time span does that encompass.

Mr. Olson replied that is from September 1st to until now. It is our understanding that Past Times thought that the fees would be lowered when that item came before Council in October and that is why he reframed from paying the fees. He is now paying on a monthly basis.

Mr. Spence asked when they opened these businesses were they not advised that this was in the Supreme Court hands and could be shut down.

Mr. Olson replied they were well aware of the decision that was coming down at some time.

Mr. Donnelly said he thinks these are the only businesses that have been shut down by state order. His personal feeling is that they did gamble about staying open but the Courts decided to shut them down. This is a new precedent for someone that was forced to close. He feels that in fairness that we should consider a rebate in some way in order to make it a level playing field.

Ms. Hummer stated that based on the legal opinion that we received from the School of Government as well as the fact it would leave a large hole in our budget in which we would have to cut critical items, she would like to make the following motion.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to deny the request from the Internet Sweepstakes operators to refund or rebate a portion of their 2012-2013 Privilege License Fees.

Councilman Brooks said they have paid for something and they are being shut down. They have paid for something they are not receiving.

Mr. Walton said he feels like we should send it to the Finance Committee and let them come up with some type of suggestion of how we are going to handle this but he does feel like we should give them a refund.

Mr. Olson replied the Finance Committee did hear this at their Finance Meeting and this is their recommendation.

Mr. Walton said this is the problem he has been talking about. We do things the backward way. This Council needs to speak on things before we send it to the Finance Committee. You don't send it to the Committee first and then bring us an answer. We haven't asked you for an answer yet. We change policy to self serve ourselves. We don't do it the way it is supposed to be done.

Councilwoman Hill-Lawrence said we did our job and we recommended that this request be denied. You can now vote the way you wish.

Mr. Walton said the Council did not ask you to take it there. We are doing it the wrong way.

Mr. Spence if we don't prorate them or reimburse them, legally can they take us to court.

Mr. Morgan replied, no, they can not. The opinion from those who make these decisions on the State level is that the Cities and Counties are under absolutely no obligation to refund or rebate these monies. He then read #5 of the opinion from the School of Government.

Ms. Baker stated that when they signed on they knew what the risks were. We all know since they doubled the number of terminals that they had we know that they were making substantial profits which you hope any business will. It was their choice to take that risk. We are a city doing business. We can't just because something doesn't work out for someone we can't just refund their money. If someone opens a hair salon and they don't get enough customers that is not our problem as they still have the same privilege tax to pay. We are a business and we cannot just listen to everybody that thinks we should give money back. We are not a bottomless pit. She would ask those that don't agree where are we going to get the money to replace the lost of these funds in the budget.

Mr. Brooks said that Bullitt #5 is just an opinion of someone. The money that they are paying is in our budget and on our next budget because they have been shut down we will not have that money. If we are going to be the Harbor of Hospitality, just being fair, they are taxpayers just like we all are. He thinks we should prorate it as we have to think about the businesses.

Ms. Hummer said that based on this legal opinion and Council votes against this opinion, could Council be held personally liable.

Mr. Morgan replied he did not think so as it is not in the nature of a property tax. This opinion was given in response to a question posed to the tax official. You can decide what you want to do.

Ms. Hummer said for businesses that are out there watching tonight who may be in danger of having to close their door can they come forward and asked that theirs be refunded or prorated.

Mr. Morgan said they can certainly ask but these are businesses that for whatever reason closed down because they were not making a profit but here we have a court ordered closing.

Those voting in favor of the motion were: Hummer, Baker, Hill-Lawrence and Stimatz. Against: Brooks, Donnelly, Spence and Walton. Mayor Peel voting in the affirmative to carry the motion.

g} Resolution in support of the construction of the mid-Currituck Bridge:

Mayor Peel advised that he had spoken with Mr. Paul O'Neal and he requested that we consider a resolution in support of the construction of the Mid-Currituck Bridge. In 2004, the City Council adopted a resolution of support for this project.

A motion was made by Councilwoman J. M. Baker, seconded by Councilwoman L. A. Hummer to adopt the following resolution supporting the construction of the Mid-Currituck Bridge. Those voting in favor of the motion were: Baker, Hummer, Brooks, Donnelly, Hill-Lawrence, Spence, Stimatz and Walton. Against: None. Motion carried.

**RESOLUTION #2013-04
SUPPORTING THE CONSTRUCTION OF THE
MID-CURRITUCK BRIDGE**

WHEREAS, the Mid-Currituck Bridge Project (MCB) has been in the development process for over twenty years; and

WHEREAS, the North Carolina Turnpike Authority (NCTA), a division of the North Carolina Department of Transportation (NCDOT) in cooperation with the Federal Highway Administration (FHWA) has evaluated proposed transportation improvements in the Currituck Sound area, and has recommended the construction of a Mid-Currituck Bridge, specifically, the MCB4 Recommended Alternative of the Draft Environmental Impact Statement (DEIS); and

WHEREAS, the purpose of the proposed project is to substantially improve traffic flow on the project area's thoroughfares, i.e. NC 12 and US 158, substantially reduce travel time for persons traveling between the Currituck County mainland and the Currituck County Outer Banks and to substantially reduce the hurricane clearance time for residents and visitors who use US 158 and NC 168 during coastal evacuation; and

WHEREAS, MCB4 is characterized by the construction of two-lane toll bridge across the Currituck County with approach roads in Currituck County, a third outbound evacuation lane or using the existing center turn lane as a third outbound evacuation lane adding for evacuation use only, a third outbound evacuation lane on US 158 between the Wright Memorial Bridge and NC 12 as a hurricane evacuation improvement or using the existing center turn lane as a

third outbound evacuation lane and widening NC 12 to four lanes and a median in the Currituck Outer Banks from Seashell Lane to the intersection of NC 12 and Mid-Currituck Bridge; and

WHEREAS, MCB4 would not require additional improvements to NC 12 within the Town of Duck including the widening of NC 12 within the Town limits, thus being less costly than other alternatives and not creating adverse impacts to the Duck Communities; and

WHEREAS, concerns have been raised about the MCB by the Joint Legislative Transportation Oversight Committee (JLTOC) particularly in regards to the financing of the project primarily through toll revenues as detailed in the MCB P3 agreement between the North Carolina Department of Transportation Turnpike Authority and the Currituck Development Group, LLC (CDG); and

WHEREAS, the MCB P3 agreement represents a fiscally sound approach to the funding of the MCB with little risk to the State of North Carolina in terms of construction costs, operation and maintenance of the project; and

WHEREAS, the Outer Banks of North Carolina generates substantial revenue for the State of North Carolina, particularly through tourism and also serves a role as an ambassador area for the State by introducing hundreds of thousands of visitors from all over the United States and the world to the wonders of North Carolina; and

WHEREAS, this revenue and the goodwill that visitors feel towards the Outer Banks and North Carolina is tested annually through frustrations attributed directly to traffic congestion; and

WHEREAS, this traffic congestion would be mitigated greatly by the construction of the Mid-Currituck Bridge;

NOW, THEREFORE, BE IT RESOLVED, this 14th day of January 2013 that the City Council of the City of Elizabeth City strongly supports the construction of the Mid-Currituck Bridge; and

BE IT FURTHER RESOLVED, that the City Council respectfully requests the State of North Carolina, through the North Carolina Department of Transportation, to place the highest priority on the funding and completion of the Mid-Currituck Bridge.

ADOPTED, this 14th day of January 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

h} Call for a public hearing to gather input on CDBG eligible projects:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised that the City received notice today that CI has an additional \$2.7 million available to fund NC Catalyst Grants. City staff has identified several projects for which the funds could be spent. Before any CDBG funds can be applied for, two public hearings must be held. The first public hearing is non-project specific. The second public hearing is project specific. CDBG guidelines require the City to hold a public hearing to inform the citizens regarding projects for which we intend to apply.

A motion was made by Councilman R. T. Donnelly, seconded by Councilwoman L. M. Hill-Lawrence to call for a public hearing to be held on Monday, January 28, 2013 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building to gather input on CDBG eligible projects. Those voting in favor of the motion were: Donnelly, Hill-Lawrence, Baker, Brooks, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.

8} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Councilman Brooks stated he is of the impression just like we disband the Personnel Committee he is almost of the impression that we need to disband the Finance Committee also. Before an item can come before full Council the Finance Committee must have a unanimous vote. He stands corrected as they don't. Who put the items on the agenda that goes to the Finance Committee? Let him straighten this out right now. He has set here Tony and hardly said anything. He was talking to our City Manager and you butt in. Don't do that. Go ahead City Manager.

Mr. Olson stated the direction City Council gave himself was that any financial items or anything with financial consequences need to go to the Finance Committee prior to going to the City Council. A recommendation is forward from the Finance Committee to full City Council for action at that time. That is what we have been doing.

Mayor Peel said the recommendation could be not to approve an item.

Mr. Brooks said all of a sudden we are going to go by policy because a lot of items have come on the agenda that were not by policy. He will leave that alone. He also would like to commend the gentleman who spoke about crime. He commended the participants from YouthBuild and he would like to thank Mayor Pro Tem Walton for all his hard work as he deals with those kids on a daily basis. Happy New Year to everybody.

Councilman Stimatz wished everyone a Happy New Year. He would like to thank all those who expressed condolences on the passing of his Father. He stated we have lots of things to do. We are making progress in a lot of areas. The Stormwater Committee will be meeting later this month or early next month. He would like to thank staff for all the work they have done on the Elizabeth Street project.

Councilwoman Hill-Lawrence gave a brief report on her NCL Conference she attended in Boston recently. She brought back a lot of information that she will gladly share with other members of Council. It was an excellent conference.

Mayor Pro Tem Walton stated that we should not put policy over people. He thinks that is what we do a lot of the time. He still feels like we might need to revisit the Finance Committee responsibilities because there is no need for us to meet as a Council if every time we come here they have already voted on something and it has to go their way. It has not failed yet. He asked Mr. Olson if he asked to take the situation to the Finance Committee.

Mr. Olson replied that yes he did. He received a request from an Internet Sweepstakes provider wanting to know whether or not the City was going to rebate or refund a part of the fees that they had paid. It is a finance item and that is why it went to the Finance Committee.

Mr. Walton said that he still feels like he didn't have any input in the decisions. We just came here and went through the motions. That is all that we did because the decision is already made. How many people on Council are on that committee?

Mr. Olson replied four.

Mr. Walton said four and then the Mayor will break the tie. There is no need for us to even meet. The other people will always say yea for everything anyway. It is not right for you all to do this. He keeps bringing this up. He thinks he will bring it up for the rest of the year because you are not going to do anything different because you don't care anything about people you only care about policy. He is appalled at that because he is not allowed to be a part of that committee.

Councilwoman Hummer stated that once again she will try to defend the Finance Committee. She is really surprised that you feel so adamantly that we are controlling everything Mr. Walton. The four members don't have anything to do with what goes on that agenda. The City Manager waits until his staff gives him things or he gets things through his channels that need to be looked at by the Finance Committee. Then he calls her for a convenient date.

Mr. Walton asked if you are commenting or are we in debate? She referenced him and he needs to make a statement back.

Ms. Hummer continued by asking how many years has the City had a Finance Committee. Maybe the City Clerk can answer question.

Ms. Pierce-Tamplen replied that it has been many years. We have had a Finance Committee off and on every since she has been with the City.

Mr. Olson stated that we had a committee forum up until about 2004. Everything was basically committee run. All committees were disbanded on the advice of Mayor Bell. Then when Mayor McLean came on he brought the committees back and the Finance Committee was one of the ones he reactivated.

Ms. Hummer stated she was going to say that the recommendations made by the Finance Committee come to the full City Council and tonight the full Council had the opportunity to participate in and it changed the recommendation. You can vote the recommendation up or down. It is simple as that. Also, she would like to impress upon Council members since our community watch organizations are dwindling and she thinks a lot of it has to do with elderly people not liking to come out at night. Perhaps some efforts should be made to have some afternoon community watch meetings. She thinks each of us can ask people in our immediately neighborhoods to come and bring a neighbor. It is a life long thing because as soon as you stoop things get worse. We are the eyes and ears for the police department. Thank you Mr. Mayor for allowing her to talk as she is an equal member of this Council.

Councilwoman Baker stated she was impressed with the participants from YouthBuild who appeared before Council tonight. She went to the YouthBuild in November and she saw them present that presentation and she thought everybody here should hear that. She was very impressed with how all of them had memorized that and they all feel it and live it. She had a couple of comments from a business owner in town. One was concerned with the crime that we have been having. The other was a thank you to the police department for something he has never seen and that was when he came in one morning there was a note on his door that said during his closed time they had checked his doors and checked access to his business. Seldon Street is a brick street and she believes there is a movement to declare it as a historic street.

Councilman Spence stated he was disturbed about the lost of two young men on News Year Day. He would like to commend the police chief and his department for the work they have done on this matter.

Councilman Donnelly stated he would like to commend the Daily Advance on the article that was done on the residents of Shepard Street. He also would like to commend the Police Chief for his recent press release on the double murder on News Year Day. He would like to say that the Finance Committee only makes recommendations to the full City Council.

Mayor Peel stated that crime is a very serious concern. To the young man that spoke earlier tonight the information was given to Chief Crudup to look at and review. He will talk with the Chief tomorrow to see if we can locate it. Second he would like to commend Mrs. Latson for being here tonight. She has been extremely positive addition to the community. She is very active in the Fourth Ward Community Watch groups. She has really done a good job on pulling that community watch group together. He commends Mr. Spence for his comments. We can and have to take an active role in our communities. Today he had about a 45 minute meeting with our new police chief to get an update on what he is doing about addressing the issues that we are having in the City. He left the meeting extremely impressed with his aggressive approach to the issues that we have. He is bringing every resource to combat our problems. He thinks we have an outstanding new police chief. He has every confidence in his ability. He would ask all citizens to be the eyes and ears because the police can only do so much. People see things that are going on and we need you to be willing to speak up and help the police to be better able to do their jobs. Tomorrow is the last meeting of our Vision 2020 Steering Committee. That group will be addressing community development and what we talked about tonight might be one of the issues that surfaces tomorrow.

9} CLOSED SESSION:

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to retire into Closed Session for Acquisition of Property – 213 N. Poindexter Street – as per NCGS 143-318.11 (a) (5) and discussion of personnel matters – as per NCGS 143-318.11 (a) (6) and consultation with the City Attorney as per NCGS 143-318.11 (a) (3). Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Spence, Stimatz and Walton. Against: None. Motion carried.

10} RETURN TO REGULAR SESSION:

A motion was made by Councilman M. E. Brooks, seconded by Councilman R. T. Donnelly to return to regular session. Those voting in favor of the motion were: Brooks, Donnelly, Baker, Hill-Lawrence, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.

Mayor Peel declared the meeting back into regular session.

11} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Peel adjourned the meeting at 9:35 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Joseph W. Peel
Mayor