

MONDAY – 7:00 P.M.

MARCH 25, 2013

CITY COUNCIL

The City Council of the City of Elizabeth City held its second regular meeting of the month of March 2013 on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. W. Peel presiding. Those council members attending were: J. M. Baker, M. E. Brooks, R. T. Donnelly, L. M. Hill-Lawrence, L. A. Hummer, K. K. Spence, J. A. Stimatz and J. B. Walton. City Staff members in attendance were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Deputy City Clerk V. D. White, Parks and Recreation Director B. V. White, Planning Director J. C. Brooks, Finance Director S. E. Blanchard, Police Chief E. Buffaloe, Fire Chief L. M. Mackey, ECDI Director R. Cross, Public Utilities Director P. A. Fredette and Inspections Director S. E. Ward.

Mayor J. W. 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 action regarding the prepared agenda.

Councilman Walton asked the City Attorney if he thought it was ethical to add items ten days early on the Consent Agenda, spending citizen's money on a public hearing before the City Council is even given the information prior to the regular meeting.

Mr. Morgan stated you blindsided him with that question. Would you please tell him again exactly what you are asking him his opinion on?

Mr. Walton said the Consent Agenda, the Coastal Management Grant. City Council had not been given information until March 19th. On March 11th it was put on the Consent Agenda to have a public hearing tonight.

Mr. Morgan said he thinks it is legal for it to have been done the way it was done. Ethical, only Council can determine whether or not it thinks its members have enough time to deal with an issue.

Mr. Walton stated he has always said that Council should have the information before they can act on any issue.

Mr. Morgan stated he thinks the only issue that has come before Council yet was the call for the public hearing tonight.

Mr. Walton replied but Council had not even discussed it as of yet.

Mr. Morgan said it is his belief that following the public hearing tonight there will be ample time to discuss the issue. He doesn't know if there is any urgency in getting the public hearing done tonight.

Mr. Walton stated it must have been urgent. He has asked if there is any money involved we cannot put it on the Consent Agenda unless it is talked about. He asked that early in our calendar year.

Mr. Morgan stated he has just been handed a document that indicates that the deadline for the application for the grant consideration by the granting agency is April 5th so perhaps that leads to the urgency. He is sure that the other members of Council and yourself would like to have as much time to deal with the issues as you possibly can. He can't speak to the specifics as to why it was handled the way that it was.

Mr. Walton said he likes things to be specific and he does not like to be blindsided. We will go forward but he wants to ***add to the agenda the Mack Sawyer Building discussion.***

Councilman M. E. Brooks asked to add to the agenda ***the Criminal Justice Byrne Grant.***

Councilman J. A. Stimatz asked to add to the agenda ***the proposed legislative changes.***

Councilman R. T. Donnelly asked to add to the ***agenda a resolution referencing fracking in the Northeast region.***

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the prepared agenda as presented to include the four noted items as stated above. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Spence, Stimatz and Walton. Against: None. Motion carried.

2} PUBLIC COMMENTS:

Mr. Kaleem Shahid addressed City Council regarding a dvd that was given to the Mayor and subsequently misplaced. He presented another dvd and asked that

all members of city council take a few minutes and watch the dvd as it is vital to what is coming to Elizabeth City.

3} APPROVAL OF MINUTES:

Mayor Peel called for action regarding the minutes of the March 11, 2013 City Council meeting.

A motion was made by Councilwoman L. A. Hummer, seconded by Mayor Pro Tem L. M. Hill-Lawrence to approve the minutes of the March 11, 2013 Council meeting as presented. Those voting in favor of the motion were: Hummer, Hill-Lawrence, Baker, Brooks, Donnelly, Spence, Stimatz and Walton. Against: None. Motion carried.

4} CONSENT AGENDA:

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

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

Consent Agenda:

- a} Adopted the following resolutions authorizing financing with BB&T for the Brooks Avenue and Crescent Drive projects:

**RESOLUTION #2013-8
APPROVING FINANCING TERMS
BROOKS AVENUE**

WHEREAS, the City of Elizabeth City, North Carolina (the "City") has previously determined to undertake a project for the financing of Brooks Avenue Sewer Pipe Manhole Lining Project, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

NOW, THEREFORE, BE IT 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 March 20,

2013. The amount financed shall not exceed \$280,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.14%, and the financing term shall not exceed 59 months 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 payment 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 Internal Revenue Code Section 265 (b) (3).

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 25th day of March 25, 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

**RESOLUTION #2013-9
APPROVING FINANCING TERMS
CRESCENT DRIVE**

WHEREAS, the City of Elizabeth City, North Carolina (the "City") has previously determined to undertake a project for the financing of the Crescent Drive Sewer Replacement Project, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

NOW, THEREFORE, BE IT 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 March 20, 2013. The amount financed shall not exceed \$194,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.14%, and the financing term shall not exceed 59 months 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 payment 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 Internal Revenue Code Section 265 (b) (3).

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 25th day of March 25, 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

b} Approved Amendment to the December 1, 2009 Fire Department Mutual Aid Emergency Protection Agreement

End of Consent Agenda

5} PUBLIC HEARING:

- a} 2013 Division of Coastal Management Grant funding.

Mayor Peel declared the meeting into public hearing to receive public comments regarding the City's plan to submit an application for 2013 Division of Coastal Management Grant funding. Since there was no one present that wished to speak for or against the proposed funding, Mayor Peel declared the public hearing closed.

Planning Director J.C. Brooks stated at your March 11th City Council meeting you called for a public hearing for tonight. The North Carolina Department of Environmental and Natural Resources announced its grant funding for the 2013 Coastal Access Grants. There is \$1.4 million being made available to the 20 coastal counties in North Carolina. Grant funds may be used for pedestrian access to public beaches and to public trust waters. Eligible projects for funding include land acquisition, site improvement projects, urban waterfront access, boat launches, parking areas with restrooms just to name a few. The City has received grant funding in the past for the Mack Sawyer Building purchase and for Veterans Park on Water Street which is adjacent to the Elizabeth Street Bridge. Staff has identified two parcels which met the criteria for the grant. These parcels are 702 and 708 Riverside Avenue. Both sites are adjacent to the water on the east side of the Charles Creek Bridge. There are several metal buildings on the site which are in fair condition. Acquiring this site gives the City the opportunity to expand its waterfront recreational area and widen its boat access launch at Waterfront Park while cleaning up our downtown waterfront. 702 Riverside Avenue has a tax value of \$29,700 and 708 Riverside has a value of \$236,800 for a total of \$266,500. Staff is working with Josh Tunnell to establish a fair market appraisal on these sites. We anticipate that the fair market value will be close to the tax assessments. In addition, the City will have to provide CAMA a contract purchase executed by the principles of Riverside Houses LLC. The City's matching contribution for acquisition is 15% of the total project cost which is approximately \$40,000. Half of this \$40,000 must be in cash and the remainder may be an in-kind contribution. Grant application submittals are due April 5, 2013. The Finance Committee discussed this matter during their meeting on March 21st and recommends approval. Staff is requesting at the end of the public hearing that City Council authorizes staff to submit the grant application to NCDENR 2013 cycle for Coastal Management Grant funds.

Councilman Walton stated that this is the grant that he was implying about earlier. Who are the members of the Riverside Houses LLC?

Mr. Olson replied it is the Griffin family. Dr. Griffin and Mary Hadley Griffin.

Mr. Walton stated so if we get the grant it is turned over to the City.

Mr. Olson replied we would purchase the property from the LLC and then the City would have the right to basically do whatever we want with the property.

Mr. Walton asked if there were any boats tied up to this property at the present time.

Mr. Olson replied that there are some watercraft there that needs some work done to them.

Mr. Walton asked if we took it over would we then have to do the repair work. We would abolish the use of the marine aspect of that. Once we acquire the property we would give the boat owners notice that they would need to move or vacate the slips they have right now. He doesn't want to spend the citizen's money of \$40,000 right now. We do not need to raise property taxes or fees. This is when it is happening right now. We need to leave more money in our coffers for the budget process. He is not in favor of this.

Mr. Olson stated in staff's memo we specifically addressed that we would not put this particular expenditure in our Fiscal Year 2013-2014 budget. City staff does consider it is a long shot since we would be asking for one third of the value of the grants available. We have had some conversations with the people at CAMA. We were just funded last year for the Mack Sawyer property and it would tend to be a long shot to be funded two years in a row. It is his belief as manager that whenever we have a possibility of acquiring a grant to purchase waterfront property that we should go forward with this.

Mr. Walton asked how long have we known about this grant?

Ms. Brooks responded approximately 30-days if that. It was sometime in the beginning of March when we found out about it.

Mr. Walton said what he is trying to do is break down the wall that city council has. It would have been much easier for him to grasp what you are talking about if he had more information earlier rather than getting it on the computer on the 21st and then we having to make a decision on the 25th. That is not being fair to him or the rest of the Council.

Mr. Olson stated he understands your concerns. When we called for the public hearing at that particular time we had not heard everything from the final vote of the original property owner. He thinks the next day afterwards we realize it

would not do us any good to continue negotiations so we then went to an alternate site. That is why the specific information was not included in the call for the public hearing at your last council meeting.

A motion was made by Councilman R. T. Donnelly, seconded by Councilman J. A. Stimatz to authorize City staff to submit a grant application to NCDENR for 2013 Division of Coastal Management grant funds for the purpose described herein. Those voting in favor of the motion were: Donnelly, Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

6} REGULAR AGENDA:

- a} Change to the City Council Rules and Procedures with regard to Council Holdover positions:

Mayor Peel called upon City Attorney W. H. Morgan for comments.

Mr. Morgan advised that during the last council meeting he was directed to draft a simple straight forward policy to handle holdover situations. You have in front of you his suggested revisions. The first paragraph covers the situation which arose during the last election. The second paragraph that is being proposed deals with a holdover situation that could arise during a prior election cycle but did not. This addresses the facts that arose before. The third paragraph recommends that we follow the procedure that was suggested by Robert Joyce of the School of Government when we spoke with him a few weeks back. That is if our policy and established laws does not specify how to handle the holdover situation as to which two otherwise qualified incumbent councilors should serve as hold over, the matter shall be decided by a coin flip. If Council approves these suggested procedures then we can incorporate those into the established Council Rules and Procedures that we have and he can submit that to the Justice Department for approval.

Councilman Brooks said he thinks the flip of a coin option is out. He doesn't think that should be in there. He thinks that is ridiculous. As he reads it the two options that we were confronted with, he thinks those are the two that we should submit to the Department of Justice. Those are the ones that we know of and we don't know what will happen in the future or if a third one would happen or not but flipping a coin to him is not an option.

Mr. Morgan stated he certainly understands you feeling that way. The third paragraph is what was suggested to us by the School of Government but if

Council would like to have him submit just the first two paragraphs to be included in our procedures he would certainly be happy to do that.

Councilman Stimatz stated it is not clear to him that we can do Paragraph Two. If you are sitting and according to the Charter it says until your successor has been delegated by the Election Board and approved, you continue to sit. Then that makes an odd situation there. This could be subject to a challenge when it changes back to you as the person currently sitting in the chair. All that says is we haven't decided who is supposed to sit in the chair and in that case you just keep the person that is there. Paragraph Two doesn't make sense to him. It seems to fly in the face of what is in the charter.

Mr. Morgan stated he agrees with what you are saying but he was tasked with trying to draft something that would cover the situation which arose several years ago where a sitting counselor was subject to residency challenge and ultimately was deemed by the local election board and he thinks the State Board as well, but in any event this was a scenario which had arisen previously and it was his understanding that Council wanted him to draft something to deal with the two scenarios which had arisen in the past and this was his attempt to do so.

Mr. Stimatz said again he goes back to what is in the Charter. Until you are deemed to have been elected then whoever is sitting sets. He is subject to a challenge. You don't qualify that by saying under what conditions. Has one of the other incumbents gotten re-elected or are two of them been elected and this person is being challenge on some other grounds. Did they win the election? It is not clear what this situation is and that is why he has a problem with it unless you define it a little bit better.

Mr. Morgan said he could certainly expand upon what is there and address the situation which arose before as he recalls and that is that two counselors would otherwise be eligible to serve as a hold over in that second scenario but one would have been subject to the challenge.

Mr. Stimatz said until the count is upheld and he is deemed not eligible then he serves as the hold over. You are saying he is not.

Mr. Morgan stated it might be a situation where there are two potential hold overs and in that case where two incumbents for whatever reason have not qualified to assume the seat for the new term and in that case and one of the incumbents is subject to the challenge then he would not be eligible.

Mr. Stimatz said all it says to him is that two incumbents run and they are elected and one of them gets challenged. You have not certified an electoral

winner for that other seat. It happens to be the incumbent but it could be anybody. That says to him that the person still sits in that seat until that challenge is validated. If the challenge is upheld and they have to vacate the seat then the other provisions in the charter kick in or the next person who had the highest votes gets it. If the challenge is overturned then there is no problem he gets certified and he sits. So your statement will not be eligible to serve as a hold over to him is wrong.

Mayor Peel said one way this might work is if the two incumbents finish second and the determination was who would have the second seat as someone else won the first seat outright.

Mr. Stimatz said the situation you are talking about is if two incumbents run, a third person wins the seat and they are the next two vote getters. You didn't even talk about that one here. This is a different one where of the two of them one is now subject to a challenge. He thinks you can default back to the situation where you have two incumbents and neither of who have been determined to be in the seat and that is when you default to the third paragraph which says, what do you do if you have that situation. That is how you handled that one. The second one doesn't make sense and the third one again, Michael doesn't like the flip of the coin and he doesn't know how else you are going to do it.

Mr. Morgan stated it was clear during the discussions that Council should not make the decision as to who the hold over should be. In a particular case like that where you have two otherwise eligible to serve.

Mr. Stimatz said the second one just doesn't make sense to him. Any Counselor desiring to serve as a hold over who is subject to an election challenge will not be eligible to serve as a hold over. That is not correct.

Mr. Morgan said it is not correct if that is what Council decides isn't correct. These are all subject to change.

Mr. Stimatz replied then go back and read the charter. Until someone is certified as elected for that seat the person who sets in that seat is the incumbent. The second one violates the first one. He thinks you need to go back to the drawing board.

Mr. Morgan stated he would be happy to do so as he indicated during the last meeting. He is uncomfortable to put it mildly doing anything without getting Justice Department approval prior to changing the policy.

Mayor Peel stated we needed to get this correct first before we talk about where we are going with it.

Councilman Donnelly stated he had originally voted against pursuing this and having staff try to come up with some kind of strategy terminology to address this whole issue primarily because it addresses what the council is. It is not dealing with what our citizens need. A council can change this at any time it wants too. We might come up with some kind of strategy and waste a lot of time coming up with that strategy and having our attorney address the whole issue and then we are satisfied but the next council that comes in may want to change that. Why are we wasting time on something like this?

Councilman Brooks stated he doesn't think we are wasting time. We have experienced this situation three times and this is your first time on Council. He was affected with this three times. It is not a waste of time. A matter of fact the paperwork that was sent to the Attorney General's office was a waste of time when we can put it in our laws which the General Assembly gives us the authority to legislate ourselves. With the question at hand as to what if three people ran and two were the incumbent and you had to decide who would be the hold over? That is not as difficult as we make believe. All you have to do is the one that had the highest votes in the prior election sits there. Case closed. We are making something difficult that is not difficult to start with. Mr. Morgan if you can put that as one of the scenarios because he agrees with Tony in what he was saying about the second paragraph, but that is the best way to do it if you have two incumbents and you have one that hasn't set in the seat before to beat out the two incumbents. That means that there will be a decision of who is the hold over. If you have two incumbents tough luck if you didn't have more votes than the other incumbent. You just wait and see what the results are.

Mr. Morgan asked if he was suggesting that the determination as to who has more votes is in the election that was just past for which those seats have not been certified.

Mr. Brooks said if Kem and he were running for Council in the Third Ward and someone that had never had the seat before won. Kem and he had to go through another election. If he had one vote more than he in the previous election he sits in the seat and he would have to wait until the outcome of the election.

Mr. Morgan asked the previous election or the current election, the one that just occurred. Do you want the determination of who had the most votes to be the election that just occurred which you are waiting to be certified?

Mr. Brooks said lets go with the current election. That means if he had one vote more than he did that would mean there would be no question and he would know he was not going to be the hold over. If we have it written down we will not have to write the Attorney General. He doesn't think it is a waste of time because we don't need to keep being confronted with the same thing over and over again when we as Council has the ability to legislate and make it as simple as that.

Mayor Peel said he would suggest that Mr. Morgan rework this and gets it sent out to everybody for them to look at it by our next meeting. That will give you time for any feedback.

b} Mack Sawyer Building:

Mayor Peel called upon Councilman Walton for comments.

Councilman Walton stated on the 15th he was reading in the newspaper, The Daily Advance, and sometimes they report like FOX News because it is so incorrect on so many things that they are saying. The article was incorrect and he thinks it needs to be corrected because on the 14th at the Recreation meeting we were discussing the Mack Sawyer Building. The City Manager brought to our attention the version much different that what was in the newspaper. Mr. Olson would you give them the correct version because if he gave it to them they would probably not print it.

Mr. Olson asked to provide an update as it is what it is. The City has hired Hyman and Robey to do the design engineering work associated with the reuse of the Mack Sawyer Building to include the public restrooms and shower facilities. We are in the final design stages of that. We made our final selection of items last Friday. We are waiting for the engineers now to provide us with a cost estimate in the final design. That final design will be brought back to the City Council before we put that out to bid. We do anticipate bids most likely will be opened toward the end of April or first part of May and then we will bring that cost back to the City Council to give the authorization if Council so desires to move forward with that project. You have already set aside money for that specific project. There is \$135,000+/- that has been earmarked for this project.

Mr. Walton said the version that the newspaper had written was that it had already been approved. It said that the grant that we submitted was approved.

Mr. Olson said there were two separate grants. We had one grant for the purchase of the Mack Sawyer Building. He thinks it was roughly \$140,000. That particular grant was approved and our local match was \$36,000. In addition we applied for a second grant which was denied by CAMA to have them pay for 75%

of the cost of the adapted reuse of that building. That particular grant was denied by CAMA. Roughly about four months ago staff brought forward some money that we had due to under spending on some projects and we had roughly \$135,000 that was left over from the Knobbs Creek Recreation complex that Council decided to use that money for the adapted reuse of the Mack Sawyer Building.

Mr. Walton stated it was not authorized by us to let them do those things as of yet.

Mr. Olson said what you have authorized is for us to do construction drawings and everything else and bring back to you an engineering estimate of the costs. There has been no authorization to go ahead and put it out for bids. The second part of that is any bid that we take we have to come back before this body for approval anyway.

Mr. Walton said that is what he wanted corrected. It is a conflict of the truth. While we are talking on that issue he would like to bring up something else. We had \$350,000 grant from BB&T to do the Knobbs Creek Center.

Mr. Olson stated because some work by city staff we were able to save a considerable amount of money on the HAVC. We saved about \$150,000.

Mr. Walton stated at our Recreation meeting we were asked to bring a budget forward. On the budget the number one priority was to install a partition at the Center which would cost \$76,000. Knowing that was a priority to him we should have at least discussed spending that money some other way. The number one thing on the list was a partition for \$76,000. To him that brings in the other part of that equation. We should have taken that \$76,000 and fixed that partition right then. Then we wouldn't have had that money to play with. Just because you have money sometime doesn't mean you have to spend it. After you spend it then you need \$76,000 more that has to come from the citizens. Yes that is about one and a half cents property tax increase for those who don't want to raise taxes. We will be spending that money possibly and then needing more money during the budget process. He said all that just to say we need to put the truth out there and let things fall the way they will.

c} Criminal Justice Byrne Grant:

Mayor Peel called upon Councilman Brooks for comments.

Councilman Brooks stated he talked about this at our last meeting. His thing is not that the City can't use any extra money but his only thing is that he feels as though the City is pimping that community in order to achieve the goal of getting

more money. For example, they had on Roanoke Avenue and Peartree Road as the boarder of the troubled area. He thought it is amazing that Harney Street alone in the same time frame had more arrests than on Roanoke/Pear tree. This is the last time he will bring this up because a battle that he elects to not fight by himself because no one in that area has come up here even with the information that he has given them. This is something that he is electing not to fight but he is just informing them what is happening to them. When he sees you on the street and all of this \$995,000 you don't see in your neighborhood don't question him because you never came up and voiced your distain on what happened to you. He will give those numbers again because the Mayor made it clear that he is on the opposite side of his opinion but the numbers speak for themselves. They did a budget summary on where they project the money to go. Personnel - \$390,000; Fringe Benefits - \$63,000; Travel - \$8,355; Equipment - \$35,000; Supplies - \$63,750. Out of a \$995,000, \$560,000 which is over half of the money that you are supposed to be using to help the community over there and that is just personnel, fringe benefits, travel, equipment and supplies. Then a greater concern was money for a consultant to tell you what they think might work. We are talking \$32,570. Then we have other and that is for \$125,250 and his problem is this, he thinks the people are under the impression that the \$1 million grant is to help their community but as you see where almost \$600,000 is going. With that said, what is being done to help the community? It is stated in the grant that it is not just allocated for those people in that community but other areas as well. The grant has already been submitted and he has done his job as a councilman and a representative of that Ward by letting them know exactly where the monies went. Don't be confused thinking that \$1 million is going into your area to help you because it is spelled out in the grant.

d} Proposed Legislative Changes:

Mayor Peel called upon Councilman Stimatz for comments.

Councilman Stimatz stated in getting our NC League of Municipalities alerts they have let us know that there are a number of bills being proposed that are going to have an impact on the City. It is not pretty. Republican control State Legislature is looking at lowering some tax rates and eliminating some present taxes, doing away with some franchise fees and business privilege license fees. The net impact is can we stand to lose \$1.345 million dollars in revenue. They talked about raising the sales tax to offset that lost. That would be rather significant. We would have to raise that 46% so you would go from 6.75% to over 10%. If they don't raise the sales tax base then we face even harder decisions. As you heard earlier we already have a half million dollar hole in our budget. We lost \$120,000 because the Internet Sweepstakes Cafés had to close and we lost that privilege license revenue. We have a \$440,000 medical benefit package rate increase. There are some other things that are going to hit us. The

net affect of all this is how are the cities supposed to run themselves and it seems like what is happening is they are saying we can do it with property taxes. The reality is that if we had to make this up in property taxes it would be a 10 cents property tax increase which is a 25% increase in your property taxes. If you are paying \$2,000 now you will pay \$2,500. This is an issue that is important to all the taxpayers and if you want us to represent you then you need to get behind us because that is what is going to carry the day in Raleigh. We can talk until we are blue in the face but you have got to talk to those people. We understand this is a zero game. There is only so much water in the balloon and if you push one side and something is going to pop out the other side. It is not clear but they are pushing on one side and they don't really care whether the other side pops or not. He just wanted to bring that out for everybody. He thinks this would be a good article for the Daily Advance to write about. These are some things of concern. The other one is SB 350-Privilege Tax on unregulated utilities. He can tell you that is a direct shot at ElectriCities. What they are proposing was that they will levy a 6%, they are going to do away with our ability to collect franchise fees, but they want to impose a 6% franchise fee on electrical power and water companies not currently regulated on gross receipts that are equal or exceed \$6 million. They are proposing to impose a \$42 million fee on ElectriCities. Who is going to pay for that fee but the citizens are in higher electric rates? If they go through with this and it passes then they are going to pass it on and we will have to pass it on. These are the things that are happening and you need to stay on top of it.

e} Fracking Resolution:

Mayor Peel called upon Councilman Donnelly for comments.

Councilman Donnelly stated Elizabeth City and northeast North Carolina needs to not become a dumping station for fracking waste. There has been talk in Raleigh about using this area as a dumping station for the waste from fracking. If all that comes through we are going to be a cesspool. He doesn't want to be there. He thinks Elizabeth City deserves better. He thinks we need to follow the lead of Pasquotank County Commissioners that put together a resolution to oppose fracking waste coming to this area. He proposes that this Council goes forward with a resolution supporting what our County Commissioners have offered and presented through their process.

A motion was made by Councilman R. T. Donnelly, seconded by Councilman J. A. Stimatz to have staff bring back a resolution opposing fracking in Northeastern North Carolina at our next meeting for action at that time. Those voting in favor of the motion were: Donnelly, Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

7} **COMMITTEE REPORTS:**

a} **Albemarle Economic Development Commission** - Councilwoman Hummer stated we met last week and a number of items were discussed. We are losing one of our members Captain Werner Winz, in April so we will have some new faces on the board. We are also looking at our Bylaws. The Bylaws Committee will be meeting next week. Any changes will be brought forward to both boards. A lot of people have asked about the Carolina Theater and we are still hoping that someone will put a package together to revitalize that. Finances are the problem

Councilwoman Baker stated she thinks it would be interesting to know that the Bylaws Committee is looking at a potential name change to the Elizabeth City/Pasquotank County Economic Development Commission since we no longer have Camden on this board or Currituck. That is one item that will be brought back at our next meeting. The restaurant on Poindexter Street is really getting a lot more work done on it lately and the restaurant where the Marina was should hopefully be open in May or June. Two new eating places is a reason for more parking on Poindexter Street.

Mayor Pro Tem Hill-Lawrence said she had nothing to add.

b} **Central Communications Advisory Board** - Councilman Walton stated we had a meeting and Mr. Rawlins has put his budget together at this time. He wants both bodies to think about him adding a new position. One of his employees is doing two positions and it is overwhelming for him and he wants to create an additional position.

c} **Firemen's Relief Fund Board** - Councilman Spence stated they have not met.

d} **NC Eastern Municipal Power Agency** - City Manager Olson stated he provided an update in his weekly FYI last Friday that addressed every thing that took place in the meeting. Basically our units are operating at 100% right now. We did have a forced outage at one of the units due to some high winds. That will be covered by insurance. We did have a positive variance of \$1 million because of lower than projected sales and lower projected costs. We did elect a new member to the ElectriCities Board who is the council person from Kinston.

e} **Elizabeth City Downtown, Inc.** - Councilman Donnelly stated as you know they had their ribbon cutting at their new office in the Mack Sawyer Building. If you haven't been down there he would recommend you stopping in and checking the facility out. It looks great. He thinks city staff and Rebecca

have done a good job at making the quarters look very good. They also had the Cash Mob a couple of weeks ago. It took place at Page After Page Bookstore. About 15 people attended and brought in about \$300 within one hour. If you need to know anything about Cash Mob follow along with ECDI and they will give you all the details on how all that works. Stay tuned for the next downtown Cash Mob coming soon and the details will be there for you.

f} **Elizabeth City Area Chamber of Commerce** - Mayor Peel stated the Chamber kicked off the Business Expo tonight. It will be open all day tomorrow. This year the theme is on aviation and they have some really nice exhibits there. They had a good crowd there tonight.

g} **Finance Committee** - Councilwoman Hummer stated the Finance Committee met last Thursday and we discussed Coastal Management Grant in detail and forwarded it to the full Council for tonight's public hearing and discussion by City Council. We also had a Closed Session.

h} **Parks and Recreation Advisory Board** - Councilman Walton stated we did meet and Ms. White is putting together a budget also. As he stated previously the number one priority is the partition at the Center. He brought forth football at some other location other than the old Boys and Girls Club.

i} **Alleyway Committee** - Councilwoman Hummer stated we have not met.

j} **Elizabeth City/Pasquotank County Airport Authority** - Councilman Stimatz stated we continue to be fiscally sound. We are doing well in terms of fuel sales in spite of the economy. We recently got some money from NCDOT Aviation to repair the exterior walls of the terminal. That will be starting soon. We have applied to be on the DOD schedule contract fuel list. We hope to get positive results on that in the not to distant future. The impact of that is it allows us to sell fuel to DOD aircraft on schedule. They are usually limited and have to do it that way. It makes for a more attractive airport. It will generate considerable more revenue. While we are waiting word on the Coast Guard Maintenance. DRS is one of the current incumbents and hopes to get the contract but again you never know in any budget climate what is going to happen. We hope we have some advantages with them being located here and we have some good resources, etc. That should be coming out in the next couple months.

k} **Storm Water Drainage Advisory Board** - Councilman Stimatz stated we are having a meeting in April. We are going to go over some items related to the budget and we will be providing some information to Council.

1} **Tourism Development Authority** - Councilwoman Baker stated we have a meeting coming up on Thursday. The Marketing Committee met last week and we are looking at bringing a recommendation to the Board to ramp up our conversion to the Word Press Platform for our website which will dramatically increase the capabilities of that website. We will be bringing that to the Board next. We are losing a member which is the representative from the Hampton Inn.

8} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Councilman Brooks said everybody knows the Albemarle Hospital laid off 42 people and are not filling 45 positions that were vacant. We know the issues we have with the DRS and the grant now. He went back and read the 2020 Vision and he noticed that they had them as far as supporting initiatives to bring jobs to the area. He is trying to figure out how a lot of these people supporting initiatives which includes Albemarle Hospital and DRS. He just wanted to raise those two because it impacts a small city when you have that many people laid off and don't have a job to replace it with for what they were making. That is the problem we run into with the 2020 Vision is that the people that are supporting it are losing jobs themselves. It is hard for them to bring economic growth when they can't even stay afloat themselves. There are some more things that he found interesting about the 2020 Vision but he will bring them forward at a later time.

Councilman Stimatz stated he is planning to attend Town Hall Day this Wednesday and he will be talking to our representatives in Raleigh about several issues facing Elizabeth City in the near future. This is an opportunity to meet with people that represent us as well as representatives from the surrounding areas who have similar concerns as we do. We are small towns and don't have a lot of resources and you need to be careful what you do before you turn the spigot on and find out we don't have any drinking water. That is something that he goes to annually and it is a good opportunity to meet and greet not only our legislators but people like ourselves that are having the same issues and to share our solutions.

Councilman Walton stated it is amazing that he gave all of us around the table a chance to talk about a certain issue but it seems like it has to be him to do it. At one meeting a statement was made that COA and ECSU hate each other. You have got to be mindful about what you say because image is what we have been talking about trying to improve. At another meeting it brought about a concern as the director stated he wanted to add another position to his staff. He stated one person was being stretched too thin. This person was doing training and technology. He stated that he had tried to get COA to do some training on line but they acted as if they were not interested. His question to him was had he

asked ECSU to do the training because it could also be a win-win situation for both entities. He stated we have something else for ECSU to do but he gave him no more insight on what it was. You know it is amazing and he is sure that everybody gets the Daily Advance and if you didn't read yesterday's article you probably need to get a paper and read it. It stated that ECSU safe from the ax for now. For some reason nobody else thought that was important. We talk about bills and legislation, fracking but if we lose ECSU there will be a whole lot of things that is not going to happen in this City. Nobody has said a word about it and it has to be important. He thinks this Council should be more proactive in our reaction to this issue. We have to show more support. If we lose ECSU we will have major problems and we must unify and show much more support for the University. We have a Town Hall meeting and there are several people going to Raleigh on Wednesday and we must allow our feelings to show our support for ECSU. To do nothing is not an option. Mr. Donnelly recommended doing a resolution opposing fracking and us as a group need to get in contact with our legislative people to see what this is about. They are one of the biggest businesses in our area. We can have some say so in this issue.

Mayor Pro Tem Hill-Lawrence stated she would like to say to the Parks and Recreation Department that you certainly did make Edgewood Park looks really good. The neighbors are really pleased and she thinks you will have a large turn out for the ribbon cutting.

Councilwoman Hummer stated each Council member talked about the bleak news that we have in front of us on our desks tonight. It is not a pretty picture. She agrees with Mr. Stimatz that we do need to get citizens to get behind us by calling their representatives in Raleigh. Their phone numbers are in the Daily Advance. She also agrees with Mr. Walton as she too read that article. Can you even image the revenue lost if a community college leaves a community. She thinks we need a resolution of support of ECSU to go to Raleigh. It is very troubling at the Federal level also and that is why President Obama is traveling around the country having forums with citizens trying to get support to back his agenda to keep these critical cuts from taking place. She is also concerned about the cuts at the hospital. She can't believe that they are laying off nurses and phlebotomists. That is very troubling news right now and she thinks we all need to work hard to stay in touch with our representatives, both state and federal.

Councilwoman Baker thanked all those who sent condolences to her during the recent illness and death of her Father. She has her first meeting for the Vision 2020 this week. She is looking forward to that.

Councilman Spence stated he agrees with everything that has been said about the State. He thinks now more so than other is a praying time. If things don't

go the way we want or plan for it to go then we are in big trouble. So along with making action we have got to pray. He challenges everybody in the City to put your hands together and put your knees to the ground and get to praying.

Councilman Donnelly stated we are very fortunate to have Chancellor Gilchrist heading up our University. He totally agrees with Councilman Walton and Councilwoman Hummer that we do have to show our support for the University and move forward. That is one of the major reason he is attending Town Hall Day in Raleigh this Wednesday. He would like to tell them to leave ECSU alone.

Mayor Peel said one of the things that he has been involved in recently has to do with the Abdul Rasheed Chairman of the Board of Trustees and the Chancellor has started a vision process for the University and brought a group of people together trying to look at how the University can realize itself as an economic driver in this region. We have had some pretty high power people sit down around the table. We have had three four or five hours' meetings over a period of four to five months. The University has hired a consulting group out of Greensboro that has been working with us in this process. On Friday he spent about two and a half hours with Representative Steinberg. We went to Edenton to talk about a number of issues. One of the things we talked about was the importance of ECSU to this entire region. He can't speak for anyone else but he thinks he can speak for him and that is something he thinks he really understands. The next thing there was an article in the paper on Sunday that this Friday morning at 9:30 a.m., starting at Cornerstone Missionary Church there is going to be a walk for Stations of the Cross through town. That is sponsored by Pastor Smith and Father Melton and he was not aware that it had ever happened but evidently this is the third or fourth year that it has been going on. He thinks it is a real opportunity for this community to be able to come together around a positive thing and as the article said to get people to come together and get to know one another on a very neutral ground. The last thing since a number of his colleagues have been talking about the Daily Advance he certainly doesn't want to be left out and generally he is pretty pleased with the job that the Daily Advance does but he is a little bit concerned about a couple of the recent articles about our Air Park. He is going to ask Ms. White to put these bullets on his website tomorrow. If he was not sitting around this table he thinks having read the articles in the paper they would leave him wondering who these screwballs that really messed us up are. He would like to walk through some points which he thinks will help clarify the entire picture of that Air Park because as Mr. Walton and Mr. Brooks have already alluded too jobs are critical and we need every single one we can get. Hopefully when he is finished you will have a better idea of the importance of that project out there. The following is a synopsis of the remarks regarding the articles published in the Daily Advance recently:

- 1} The City purchased 63 acres from the Hollowell Family Trust in 2007 utilizing grant funds.
- 2} The City donated 15 acres to ECSU for development of an aviation classroom.
- 3} The City received a total of \$10,500,000 in grant funds to develop the Park.
- 4} The City only contributed \$240,000 toward the project costs.
- 5} The City receives \$188,945.41 annually in lease payments from DRS, which have been held in reserve.
- 6} If DRS misses its job goals, the lease payment will increase about \$50,000 annually.
- 7} The City has a \$12,000,000 Aviation Park, which we only contributed \$240,000 towards building.
- 8} Any money the City will need to pay granting agencies for the lack of job creation is secured through legally binding Letters of Commitment on 3 of 4 grants
- 9} The City has adequate funds on hand derived from lease payments to pay all contingent grant liabilities for not meeting job creation goals from the 4th grant.

Economic Benefits of the Airport/Aviation Park – from July 2012 study by Institute for Transportation Research and Education – NC State University.

- 1} Our airport has an annual economic output of \$144 million – 1st among all NC airports
- 2} Total 510 jobs around airport
- 3} \$13 million in direct and \$9 million in indirect payroll for a total of \$22 million in annual payroll
- 4} Pay \$2 million in annual local and state taxes

The bottom line is the City has a \$12 million job and tax generating asset for about \$250,000. He would say to those who did this, THANKS FOR A JOB WELL DONE.

9} CLOSED SESSION:

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

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman J. A. Stimatz to retire into Closed Session for consultation with the City Attorney as per NCGS 143-318.11 (a) (3); and consideration of Closed Session Minutes as per NCGS 143-318.10 (e). Those voting in favor of the motion were: Hummer, Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Spence and Walton. Against: None. Motion carried.

- a} **Consultation with City Attorney:** As per NCGS 143-318.11 (a) (3)
- b} **Consideration – Closed Session Minutes:** As per NCGS 143-318.10 (e)

10} RETURN TO REGULAR SESSION:

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

11} ITEM FROM CLOSED SESSION:

Mayor Peel called for action regarding the Closed Session minutes that were presented in Closed Session.

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

12} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Peel adjourned the meeting at 9:22 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Joseph W. Peel
Mayor