

The City Council of the City of Elizabeth City held its monthly meeting on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. W. Peel presiding. Those members in attendance 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 attending were: City Manager R. C. Olson, City Attorney W. H. Morgan, Deputy City Clerk V. D. White, Planning Director J. C. Brooks, Public Utilities Director P. A. Fredette, Fire Chief L. M. Mackey, Police Chief E. M. Buffaloe, Parks and Recreation Director B. V. White, Inspections Director S. E. Ward, Human Resource Director K. W. Felton, Finance Director S. E. Blanchard, Electrical Director K. F. Clow and ECDI Director R. Cross.

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.

Councilwoman L. A. Hummer asked to add two items. ***The first being consideration of a Resolution opposing House Bill 998 and the second item is consideration of Resolution opposing House Bill 773.***

Councilman J. B. Walton asked to add ***demolition of 1614 Peartree Road as opposed to 1015 West Church Street for discussion.***

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

2} PUBLIC COMMENTS:

Mr. John Bonk, 1410 North Williams Circle, Elizabeth City, North Carolina stated during his 18 years as a homeowner in Elizabeth City the homeowner across from him has made several attempts to have the City to remove two huge pine trees located on the City's right of way on our street, North Williams Circle. We live close to the trees and we were never asked if we had a problem with the

trees. We object to the removal of these two trees. When we contacted the City Manager last week we were told the trees were too close to the power lines but the canopy of both trees are well above the power lines. Due to tree root the trees have been repaired only twice in 18 years. On June 28th an electric department employee notified neighbors that the power would be off all day, July 2nd. My wife asked why and was told the City Manager had ordered the two pine trees removed. Approximately a year and half ago his wife asked the tree canopy manager to come and evaluate the trees because they were on the city's right of way and were protected by the City's Tree Ordinance. He said there was nothing wrong with the trees and they were healthy. If there had been an issue we would have notified the proper department. Also, the department inspects trees routinely and does maintenance. Through the Internet he has learned that the homeowners are now trying to say the trees have red heart disease as provided by the NC Forest Department's report. The forestry and the homeowner are both employed by J. W. Jones Lumber Company. His report is in conflict and unethical because of their work relationship. The City Manager bypassed his own Tree Commission for an evaluation. Pine trees with red heart disease show external symptoms of abnormal growth when they have the disease and these two trees show no unusual growth, the limbs are not dying and the canopy is full and green. The homeowner made a deal to pay \$1,000 from his personal funds to help out with the project but the City is picking up the rest of the costs with the amount of several thousands to the taxpayers. It is not ethical for the homeowner to be allowed to pay toward his own project. The homeowner has never come before the City Council like any other citizen would do for a special neighborhood project like this. The City Manager lives across the street from the homeowner and the project. Council has worked hard to make this a tree city, the electric department did not order the trees removed and neither did the City's Tree Commission. The tree removal was nothing more than personal landscaping. Our complaint is not only the trees but the manager ordering the work for this home owner, accepting his money and in fairness to all the taxpayers who go through all the proper channels to get a project approved, not to mention the waste of tax dollars in removing two healthy trees. For all these reasons he is asking the City Council to cancel the project.

Ms. Kimberly Bynaker, 200 Pleasant Drive, Elizabeth City, North Carolina stated she is a single mother with three kids. She has been paying the City of Elizabeth City's electric for about a year. Prior to that her ex finance was paying the electric bill in his name up to about 2011. That electric bill was transferred over to her name however in 2011 that bill was paid by her and in August Mr. Olson told her that if she did not pay that last bill that her electric would be cut off. She has been fighting this matter for the last two years and she feels the City Council should pay that money back to her because the bill was not in her name for the three years he was paying that bill. She was getting harassed for

six months by an employee of the City named Kim. She worked with an employee there by the name of Joy for six months who told me she was going to take care of it. She asked her for certain documents and the documents she required she gave to her. She followed everything she told her to do and due to some medical issues unknown to her she turned the case load over to Kim and said she couldn't help her any longer but Kim would take care of it. Kim gave me 24 hours to pay this bill. She wrote a 12-page summary of what had happened and asked Mr. Olson to get involved with it and he was going to take a look at the situation and the hearing was that following week. When she went in for the hearing he had no idea what was going on and he listened to us speak and then Joy, Kim and Shirley and made a decision. She was told she still would have to pay the electric bill that was in somebody else's name or my electric would be shut off. In the prior months before that her electric bill got cut off four or five different times because her ex finance kept moving around and no one knew where he was for the electric bill to be sent anywhere. Just to get the service on so her children could live she had to keep paying cut off fees and going up there because they would not transfer the bill over to her name without her paying a hefty deposit fee which they still have on hold because with her being a single mother and her electric bill \$500 - \$600 a month she cannot pay it on time every month. She is requesting the City Council take into consideration that she had to pay an electric bill that was not hers and she would like to get that money back.

Mr. David Harris, 1101 Park Drive, Elizabeth City, North Carolina thanked Council for consideration of his comments and the opportunity to speak. The two trees that were spoken to earlier are immediately adjacent to his residential lot. They are very close to his driveway and are less than four feet from the City's utility lines and pole. The canopy of the trees extends well over into his driveway and covers approximately half of his paved driveway. After Isobel in 2002 he had a professional tree service company from Cary, North Carolina take two large trees down in his yard that were leaning. He asked him about the two pine trees when he was there and he did not have the time or equipment with all the clean up that was going on but he remembers well his parting comments to him. He said he strongly recommends you have someone take them down. Since that time he has talked with four tree service companies and all looked at them and said in order to take them down because they are so close to the city lines it would require a crane and equipment that they did not have. Last fall he notice his driveway concrete beginning to buckle somewhat. Over the winter it has gotten worse. If you go now you will find about three inch hike where it is above the normal surface of the pavement where the tree roots are pushing the concrete up. Some one from the brick company that he has talked with looked at it and told him he was probably looking at an 8 x 10 area that will have to be dug up and the tree root cut and remove and then repaved. In addition to that, he did have a forester come and look at it. He does work at J. W. Jones Lumber

Mill and we employ professional foresters to buy our timber. Pine is what we buy and he came out and not at his request. He works with great people and Wilson Jones and Bob Phippen who had heard him talking about the trees and volunteered to come look at the trees. The young man is a four year graduate of North Carolina State University in forestry and he buys trees for us everyday. His job is to evaluate the condition of the trees for us and it is important in order that we get a good grade tree for what we are going to get in lumber. Besides that has nothing to do with this. His valuation shows that he found what he believes is early signs of red heart. That is a disease that forms from the center of the tree outward. You have a written report that he provided. He sees early decline in the trees. They are definitely not going to be growing anymore as they are flat topped. They are not healthy and they will only become worse. No one can tell you when they will die. There are numerous dead limbs in them if you look up into the tree. Some of the other things besides the expense of the driveway which if he repairs it now and the roots do it again he is just going to do it again in time. The only solution is if the trees are not there then he knows he can fix the driveway and not have a problem. Other minor problems are if you park a car in the driveway and the sap comes down that is just like glue. It doesn't come off easy and it is not very good for paint if you don't get it off quickly. Pine straw from them fills the gutters on his house all year round. He is now 66 years old and he cleans his own gutters but with some recent health issues that he has had he is not as comfortable doing that going forward. Without them there is only one tree that would be putting leaves in his gutter and once or twice a year would be all it would take to clean the gutters. He was just up there a week or so ago and pine straw was what was plugging up the tops of them. He would appreciate any help you can give him. He has expressed to the City Manager that he is willing to pay part of the costs to get rid of them.

Ms. Joan Ellis, 1301 South Williams Circle, Elizabeth City, North Carolina stated about a month ago Council put on an unforgettable dramatic production that people are still talking about. It was so memorable that on June 14th the Daily Advance wrote a review and opinion of the meeting. She sincerely hopes that all council members are able to read and understand the points made by the editors. If you haven't had time to read it she is sure that prints are available. Recently on national news a commentator made a comment about an elected Washington official. "If you can't be mature enough to listen to something that you don't agree with don't act like a petulant child in response?" The Council seems to forget that you are all elected officials and it is time to remember that you not only represent your Ward but all of the voters in Elizabeth City. She knows she is not the only voter who is disgusted by the rude behavior and actions at most council meetings.

Ms. Camilla Hull, 1011 Rivershore Road, Elizabeth City, North Carolina stated lives across the street from David Harris. These trees that we are so concerned

about have been a great concern to her. She lives alone and she is terrified of violent storms. If one of these trees hits her house it would be the end of it. If she happens to be in it, it will probably be the end of her. She is very worried about them. She is 86 years old and she cannot get on a ladder and clean out her gutters and they stay stopped up. There are lots of pine trees all around. She is not as concerned or worried about them as she is about these two. They are 85 feet tall. That is quite a spread. There is another lady that lives on the same street and she is definitely in approval of these trees coming down. She appreciates so much you letting us come before you and discuss this. She is a lifelong resident of Elizabeth City and she has never asked for a favor. Please carry this forward if you can.

3} CONSENT AGENDA:

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

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

Consent Agenda:

a} Adopted the following Resolution to Close Certain Alleys in the Fourth Ward and called for a public hearing to be held on September 9, 2013 at 7:30 p.m. in the City Council Chambers.

**RESOLUTION 2013-20
TO CLOSE CERTAIN ALLEYS
IN THE FOURTH WARD**

WHEREAS, NCGS 160A-299 authorizes the City Council to close public streets and alleys; and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of the following certain numbered alleys in the Fourth Ward, and shown on the attached map, which is incorporated herein by reference:

Alley Number 98 – described as extending north approximately 250 feet off of "B" Street and running parallel to Wood Street and Herrington Road; and

Alley Number 42 - described as extending east and west approximately 400 feet between Herrington Road and Highland Avenue, parallel to Magnolia and Arbutus; and

Alley Number 39 – described as extending east and west approximately 400 feet between Herrington and Highland, parallel to Hemlock and Spruce; and

Alley Number 36 – described as extending east and west approximately 400 feet between Herrington and Highland, parallel to Massachusetts and Witherspoon; and

Alley Number 94 – described as extending east and west approximately 400 feet between Herrington and Highland, parallel to Hemlock and Massachusetts; and

Alley Number 38 – described as extending east and west approximately 400 feet between Highland and Southern, parallel to Hemlock and Spruce; and

Alley Number 37 – described as extending east and west approximately 400 feet between Highland and Southern, parallel to Massachusetts and Hemlock; and

Alley Number 35 – described as extending east and west approximately 400 feet between Highland and Southern, parallel to Witherspoon and Massachusetts.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City that:

- 1} A public hearing will be held at 7:30 p.m. on the 9th day of September, 2013 in the City Council Chambers of the Municipal Administration Building to consider a resolution closing those certain alleys within the Fourth Ward.
- 2} The City Clerk is hereby directed to publish this Preliminary Resolution once a week for four successive weeks in The Daily Advance, or other newspaper of general circulations in the area.
- 3} The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that parcel of said alley a copy of this Preliminary Resolution.

4} The City Clerk is further directed to cause adequate notices of this Preliminary Resolution and the scheduled public hearing to be posted as required by NCGS 160A-299.

ADOPTED, this 8th day of July 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

4} REGULAR AGENDA:

a} Collaboration with Community Relations Commission to address gangs in Elizabeth City:

Mayor Peel called upon Chief Eddie Buffaloe for comments.

Chief Buffaloe stated on April 8, 2013 the City Council directed him to look at some resources available to the City to collaborate with the City/County Community Relations Commission. We met on May 29th with some representatives of local churches, non-profit organizations, school systems, our colleges and university, DA's office, Department of Correction, the Juvenile Crime Prevention Council, the Police Department, the Chaplains within the Police Department and other local law enforcement partners and criminal justice partners in order to develop some strategies that fight against gang violence in the City. The Police Department gave a presentation regarding the current status of gangs. We basically created a dialog with the CRC and the department and the Relations Committee agreed to spearhead this particular project with all those entities that he just named to try to come up with a collectible collaboration effort to defer youth from joining the gangs within the City. Some of our information regarding gangs within the City in the late 2006 the City began to see its first gang activity. In 2007 between 13-15 gang sets were identified within the City. As we speak today only five of the original gang sets are still in existence. Some of the key players within these particular gangs are either incarcerated or left the area. However, there are additional hybrid gang

members here. They do not identified themselves with colors or signs although they don't associate with that they do have rules and regulations that they do abide by and support each other in doing their criminal activities. These hybrid gangs have identified themselves as participating in illegal activity and they are anti police. These particular gangs are using social media such as the Facebook, Twitter and Skype to relay their message across this particular region. The CRC and the Police Department along with those other entities looked at some goals and objectives and strategies and we felt that education and job training were two of the most important factors to deter gang prevention within the City. However, we do see that a newer generation of gang members between the ages of 13-17 is really active within these hybrid gang groups. The CRC in discussion with everybody that was involved is looking for some grant funding opportunities, hosting a public forum and establishing continued relationships. We are recommending that the Police Department continue to partner with the CRC.

Councilman Donnelly stated he would like to see this item added to our next Joint City/County meeting agenda. He would also like to see the school system added to the list of entities working together.

Mayor Peel stated he would like to see this item added to both the Joint City/County agenda and the regular Council agenda for the first meeting in August.

b} Tree Removal on North Williams Circle:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson stated this item comes before you as a way to provide city staff some direction about the removal of two trees that are located on North Williams Circle. Let him state for the record that the City has followed our past practice when it comes to tree removal. City staff provided you in the memo a number of trees that we have removed from people's yards and/or public right of way at the request of the property owner because of the possibility of the tree removal company coming in contact with the City's power lines. That has been our past practice for a number of years. Every since he has been here we have done that. There are occasional cases whereby our equipment cannot take down a tree. We need a bucket that reaches above the 65 foot height. In some cases we need to use a crane. We utilized a crane to remove some trees on Church Street roughly two weeks ago and was supposed to use that crane in this particular project. He did receive a request from David Harris who lives at 1101 Park Street to remove two pine trees located near the intersection of Park Street and North Williams Circle. These trees are over 80 feet tall. We do have pictures of the trees there and as you can see they are very mature trees and they are

declining. Mr. Harris did provide a letter from a Forrester that indicates the trees show signs of die back and a disease called red heart. Red Heart disease causes the tree to die from the inside out. Because our equipment was limited we did get estimates from a number of different tree companies to have these trees removed. The low bid was from Bateman Tree Service and the cost is \$3800 plus an additional \$450 to grind the stumps. Mr. Harris has agreed to pay \$1,000. The trees themselves are located in a drainage ditch. They do affect the amount of water flow in this area. The trees are leaning and probably some time in the next few years will need to come down. We were proactive because we had a request from the property owner to go ahead and remove these particular trees. As you can see these two very mature trees are very close together. They almost have the same root ball. This is something that the City does each year.

Councilman Spence stated you said the property owner wanted the trees taken down. If they are our trees why are we taking money from him?

Mr. Olson said as you can see the public right of way line would indicate to be right where the electric line is located. The trees belong to the City. We are taking money from him because we would not normally do the grinding.

Mr. Donnelly stated he stopped by there today to look at the situation and when he looks at these pictures you can see the trees going left and right. They are in our drainage ditch. That section of the road on the left has been replaced due to the roots having messed it up. What scares him is there is a transformer on the pole. If those trees fall and if the Forrester's report is accurate then he can't see why we wouldn't want to take them down. They are very big trees and if they fall they could cause a lot of damage.

Mr. Walton said you have left out a lot. The City Manager lives across the other side of the road and he doesn't have a dog in this fight but Mr. Bonk called him on Sunday and he thinks he is in your Ward Ray and Jean. Then he didn't know anything about it until that time but they were going to cut the trees down on Tuesday. That gave us 48 hours. He got up with Michael and we rode over there to look at the trees. He was watching a movie called "Flashpoint" last night. Last night there was a baby and the husband was supposed to have shaken the baby to crib death. This man went crazy and got a gun and come to find out the baby had meningitis and died from having a cold. He said all that to say let's get a second opinion. If what he hears Mr. Bonk say that the Forrester was a friend of Mr. Harris. He is trying to get clarification.

Mayor Peel stated Mr. Harris made it clear that the Forrester was someone he works with.

Mr. Walton asked if the Mayor was debating the issue.

Mr. Peel said we are not debating and you can't address Mr. Bonk as that is not part of our rules. The Forrester is an employee at Wilson and Jones Lumber Company where Mr. Harris is also employed. His job is to assess pine trees. That is who made that assessment. Yes there is a connection between Mr. Harris and the Forrester. What else do you want to know?

Mr. Walton stated you know everything so tell him what he wants to know. You are still not telling him what he wants to know. Now you don't know everything.

Mr. Peel said he doesn't think he knows everything but he does know where the Forrester works. Can we have a motion on this item?

Mr. Brooks stated on the list that Rich gave us he notices on Russell Lane you have ten trees removed. Were those trees diseased or have any issues like supposedly these pine trees have. Did we have the Forrester come out and give his opinion on those trees? On Herrington Road we have trees that are tearing up the roadway. Why haven't we taken those trees down? He just has a lot of questions about this whole situation. We are supposed to be a Tree City. He would like for us to have some consistence across the board.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman J. A. Stimatz to approve the removal of the two pine trees located on North Williams Circle.

Councilman K. K. Spence stated in order to be fair or to appear to be fair and he understands where Mr. Bonk is coming from if Mr. Harris has one of his coworkers or whatever to give his take of what the tree is. If it is the City's tree why don't we get somebody to come in and look at the tree and then if they say the tree is no good or damaged we will cut it down. Let's be fair on both sides instead of just saying we are going with what they said. We need to look at all sides.

Mr. Walton stated that was what he was trying to say a while ago but someone took it over and it went somewhere else.

Ms. Hummer stated she would like to ask some questions. We spent a lot of time on the ordinance. Lately we have kind of veered away from some of our ordinances. She thinks to prevent perception or hard feelings we need to stick to our ordinances and in the Tree Ordinance a Tree Commission was established. Did they take part in the decision? Also, the Public Works Director is supposed to give reports on trees that are located on the city's property. Was that done?

If we stick to our ordinance and Mr. Olson you need to include all of Council into some things before you make a decision.

Mr. Olson stated from his perspective this is a normal, every day operational issue within the Electrical Department. He did not think this raise the level of bringing it to City Council. If it wasn't for the City electrical crew being proactive notifying these individuals that their power would be interrupted, these trees would already be down. We went the extra mile and we did notify the property owners and we have notified them three different times now that their power would be off for a period of time. This is something that we have a full time tree trimming crew that works for Karl. They do most of the tree trimming. They don't usually take a lot of trees down but when need be they do take some down. The last thing you want to do is have an ice storm come in here or hurricane and take out a whole section of electrical lines like what happened on Church Street where we had about eight blocks of lines down. Most of trees that we do have have been inventoried. We have not gone into the public right of ways throughout the city and done the same thing.

Mr. Donnelly stated that he thinks a fore warning to City Council would be appreciative when plans are put in place to make any changes within our community. That way Council would be on top of what is going on. He was away on vacation and he received a phone call and several emails from Ms. Bonk regarding the situation. He really had no idea what was going on and that is part of the reason he is glad that this came on the agenda today. Once he stopped over there and looked at the situation he can fully appreciate where the City is coming from. Those trees are in the drainage ditch. He doesn't know how much water flows through there but you can definitely see that there is a redirection of the water coming through that area. That scares him and when he looks at the trees leaning left and right and the transformer just under the power lines, his attitude is we need to take them down.

Ms. Hummer stated when she got some phone calls she went to Mr. Olson as she always does and Mr. Olson told her that he had a letter from the Forestry Service but the letter isn't actually on the Forest Service letterhead and the person who signed it doesn't have a title. That is again perception. She has a conflict as one of the individuals is a family member. She doesn't want to be in conflict.

Councilman Brooks said he thinks it is a good point that Councilwoman Hummer brought up. At the last Council meeting we had the Procedures and Rules of how the Council ran and we have ordinances and if we are not going to abide by our procedures and our ordinances why have them. We can't just go by procedures and ordinances for some and not for others. We have an ordinance on how this procedure is supposed to be done. He wants to know if we don't

have to go by procedures and ordinances because he will start doing things the way he wants them also. He is sure if he does there will be some objections. What he is saying is we need to be consistent. Why have a book of rules and procedures, charter and ordinances if we are not going to abide by them. We can't continue to do that. The general consensus of the public out there is that we fuss and fight but you have got to understand that all times when you have a procedure because most of the time the public doesn't know what the procedure is. What happens when you sit on Council you see the procedure, charter and ordinances are constantly being abused? You have the ones that abuse it that ignores what it says and it gets frustrated. The trees are 85 feet high and he is sure they didn't grow over night so this has been a process and all of a sudden now it is a huge item. When we had the storm come through they withstood the test and didn't fall. We have a list of all the trees that might fall.

Mr. Donnelly stated he is just concerned that Council is trying to micro-manage what is going on. Trees have been cut down in the past. He has looked at the situation and from his perspective he is seriously worried about the direction of the trees and that transformer and those trees being in our drainage ditch. We worried about water and flooding and everything like that and when he looked at that and it is messing up the road there. The City had to repave a section of that road. These are big trees and they look like they have that red heart disease. From what he saw he feels they need to come down.

Ms. Hill-Lawrence stated she heard someone question Mr. Olson's decision to go and not bring something to Council. It sounds to her like he made an administrative decision with his position. That is ok to do that as she thinks that is his job. If not we need to know that. She doesn't know anything about trees so she leaves it up to him and his expertise and if he needs to get someone to do further investigating then his administrative call would do that as well. She doesn't think Council should get into whether we cut down a tree or not.

Mr. Brooks stated he doesn't have a dog in this fight but he does understand procedure and ordinances. It is our job to direct the City Manager. If he makes a decision and it goes bad it is not on him but it is on the City Council. So we need to continue to read what our Charter says our charge is. We are not trying to micro-manage but what we are trying to do is make sure we go by the procedures that we have in place. Up to this point we haven't talked about the water flow. All the trees that are being cut down and the only difference is he doesn't think there was any opposition in having those trees cut down. No one had a concern about these trees being cut down. That is why it is being discussed now. We have opposition to the trees being cut down. The City Manager has rules and directions that he goes by and he does as directed by the Council. That doesn't mean we micro-manage.

Mayor Peel stated we have taken down over 30 trees and we followed the same procedures that we followed with these two trees that we followed with those 30 trees. We have not ever asked the fact that the Forrester contributed information to this really didn't make any difference because we were going to take the trees down based upon the procedures you have in place regarding the electric lines. These two trees are on city property and if a hurricane comes through and one of those trees falls - - -

Councilman Walton stated you are debating and you are out of order.

Mayor Peel stated you are out of order as he is not debating. He is not giving up the gavel. Mayor Peel called for a five minute recess.

Mayor Peel called the meeting back to order. He read Rule #9 which says that the presiding officer is actively engaged in debate he or she should give up the gavel. That would mean give it up to the Mayor Pro Tem. He was asking questions for clarification and did not as he understands the word debate was not engaged in debate. He will ask Mr. Morgan an opinion about what you observed and advise us as we try to move forward.

Mr. Morgan stated in his opinion Mr. Mayor you asking questions of the Manager does not rise to you being engaged in debate. You were asking questions not of another council member but of the manager. In order to get clarification on questions that you had and he believes it does not fall under debate.

Mr. Walton stated a yes answer can influence someone as well as a no answer.

Mr. Morgan stated any answer can influence votes but that does not change his answer to the question.

Mayor Peel stated he has one more question for Mr. Olson. Those trees are on city property and if they were to fall down in a storm on one of those houses what is our liability.

Mr. Olson answered he thinks that is a question for our City Attorney to answer and not the manager.

Mr. Morgan stated the liability is pretty much on the City. If the City leaders had information leading them to conclude the trees should come down and we did not take them down and in the future if there was a liability claim then that is a potential problem for the City. We are now on notice to look at the condition of the trees.

Mr. Donnelly said the Council being on notice to the condition of the trees and we vote not to do anything about it and the trees happen to come down, Mr. Attorney who is liable?

Mr. Morgan replied he is not going to answer who is liable question but it certainly raises the potential for city liability.

Mr. Brooks asked about acts of nature.

Mr. Morgan stated we have acts of God claims all the time. If these trees were not diseased or if these trees were not hanging over the city's power lines, etc. and a storm came through and knock the tree down on a person's home that would be an event that we could not reasonably foresee. In this situation though we have at least one person with a forestry degree who says the trees are diseased. That may be subject to different opinions but we have at least one opinion out there that says we know from looking at the pictures where the electric lines are in proximity to the canopy of the trees so those are all issues that council needs to take into consideration.

A motion was made by Councilman R. T. Donnelly, seconded by Councilman J. A. Stimatz to excuse Councilwoman L. A. Hummer for voting on the original motion due to a conflict of interest. Those voting in favor of the motion were: Donnelly, Stimatz, Baker, Brooks, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

Mayor Peel called for a vote on the original motion.

Roll Call Vote:

| | |
|-----------------------------|-------------------|
| <i>Brooks</i> | <i>No</i> |
| <i>Stimatz</i> | <i>Yes</i> |
| <i>Walton</i> | <i>No</i> |
| <i>Hill-Lawrence</i> | <i>Yes</i> |
| <i>Baker</i> | <i>Yes</i> |
| <i>Spence</i> | <i>No</i> |
| <i>Donnelly</i> | <i>Yes</i> |

Hummer Abstained

4 – yes – 3 – No Motion carried.

c} Proposed Closure of Herrington Road Bridge/Property owned by Tony Rice:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson stated included in your package is a memo from himself concerning the City's on going effort of closing the Herrington Road. We continue to work with Tony Rice on this issue. We have provided him a copy of the appraisal which he has requested. We did have a chance to review the appraisal with him last Friday. He has asked us to do some additional things for him and City staff is in the process of looking into those items as we speak. Because of these outstanding issues we recommend that this item be tabled until the August 12th meeting before any official action is taken by the City Council.

Mr. Donnelly stated he wanted to make sure it is on record that the City is trying to work with Mr. Rice to accommodate his needs.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem L. M. Hill-Lawrence to table action on this item until August 12, 2013. Those voting in favor of the motion were: Stimatz, Hill-Lawrence, Baker, Brooks, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.

d} Code of Ethics:

Mayor Peel called upon Mr. Morgan for comments.

Mr. Morgan stated he is going to paraphrase from a written statement he gave each member tonight. He asked the City Manager to add this item to tonight's agenda for a brief, general discussion regarding our Ethics Ordinance. Following our 6/24/2013, a Councilor approached him to inquire as to how an investigation might be started regarding a possible violation of the Ethics Ordinance. Under our Ordinance, Council, as a body, has the authority to direct the City Attorney to conduct an investigation of any member that the Council feels may have violated the Ethics Ordinance. The revised Ordinance from December 2010 also authorizes Council to conduct its own investigation also it doesn't really describe how. He has no authority to conduct any investigation unless he is directed by the entire Board to investigate a situation, following a majority vote of Council. He has conducted no such investigation previously. If a member of City Council feels there has been a possible violation of the Ordinance, he or she should address the concern during an open session. If a majority of the members of Council feels an investigation is warranted, then at that time he should be

directed to investigate the facts and circumstances surrounding the situation in question. Again, in the alternative, Council could establish a procedure whereby it conducts its own investigation. That again is the direction in which the December 2010 ordinance appears to be going.

Mr. Walton stated on June 24th he was the one that made the statement that he wished the attorney was here so he could inform us a little better than whoever was present. What happened is on June 4th, the Finance Committee met and they put down a list of different properties to be demolished. That was sent to the Finance Committee and they confirmed that they would recommend it to Council to approve the demolition of all properties. On June 10th, as we were going over the agenda and it was asked for agenda adjustments, Ms. Baker told the Council to take off 1015 West Church Street. Prior to that there was another property that he brought back to Council for reconsideration. He made the statement and a couple of other council members said because they were condemning this property that condemnation should be the last thing that we do. Everybody agreed for us to give that property owner a little more time except Ms. Baker to get the property in place. Now, he told himself that he was going to go around and check these other properties out. In his looking at the other properties he came across 1015 West Church Street. There was a sign in the front yard with Ms. Baker's name on it saying "for sale". That was on the 10th. Now, on the 18th there was some information ready and he has copies of it. If she has a contract on the property dealing with a property that is going to be demolished, he wouldn't understand why a person would want to sell somebody a property that is going to be demolished anyway and if that person did work it out there was a chance for her to get a commission on the sale. Is that the right thing to do? He feels that is not the right thing to do. That is one thing that North Carolina is really hard on people that make profit out of something that is not supposed to be used. That is one reason he asked the City Attorney about giving him history of 1015 West Church Street. In one of the memos you stated that you had made a title search on this property.

Mr. Morgan stated he did do a title search prior to the condemnation.

Mr. Walton asked did he feel like there was interest that was over used in this situation.

Mr. Morgan stated he cannot answer that question Mr. Walton because his title search would only reveal the history of the ownership of the property. The property was listed with the Real Estate Company and would not be reveal by something he would be researching.

Mr. Walton stated he is talking about property that we as Council had confirmed to be demolished.

Mr. Morgan said the way the procedure works with his involvement on those condemnations we had a lawsuit several years ago involving a condemnation and prior to that time the City did not have title searches done on the properties being condemned. We learned a lesson the hard way and now he searches the title at the request of Stanley Ward of every property that the City is proposing to condemn. He would have no way of knowing whether or not city council would actually vote to condemn a property and demolish the structure. All he knows is he would take his direction from Mr. Ward who sends him a memo requesting that a title search be conducted.

Mr. Walton said if a person is a council member and has a contract on the property and can make money off the property there has to be a conflict of interest there.

Mr. Morgan said please don't ask him to render an opinion. He is not going to render an opinion on whether or not there was a conflict unless or until he is directed to investigate it. He doesn't have any listing agreement or any contracts associated with that property. He doesn't have anything except the results of his title search.

Mayor Peel asked Mr. Walton if he has a motion or not.

Mr. Donnelly said he thought he read somewhere that this issue should have been submitted in writing. Is he incorrect?

Mr. Morgan stated that our Ethics Ordinance allows for a councilor to submit an inquiry to him as to a particular set of circumstances and allows him to render an opinion to that councilman. The way he perceives that whole issue and that is the last section of our Ethics Ordinance, he sees that as Section 2-17. That allows in his opinion a councilor to foresee a particular item that may be on an agenda and he or she may feel that there is a potential conflict there and ask him to render an opinion on whether or not that is a conflict situation. In this case he believes what you are alluding to is only the Council as a body can direct him to investigate and he has not gotten that direction yet.

Mr. Brooks said what you are saying is we can send you a letter asking for an advisory opinion. He is more concerned about Section 2.112 Standards of Conduct. He thinks this is where the ball bounces in this area. That is what we are talking about in this situation. That is the bottom line of what is being challenged is the use of official position. He understood that Ms. Baker went to Mr. Olson and he pulled it off the agenda. It was on the agenda for demolition and it was taken off. The reason he has a problem with that is when we were talking about the signs on Paxton Street he came up to the Manager's office and

asked that he remove it from the agenda. It wasn't removed from the agenda so he is saying you follow protocol. You put it on the agenda and he pulled it off before Council. If he has to go through that procedure Councilwoman Baker should have to go through the same procedure. He is not saying it was intentionally done but he keeps talking about procedure. You should not show favoritism in this area and not in that area no matter how much you dislike him. Under investigation that has been a nasty animal. City Council may direct the City Manager to investigate an apparent violation of this code by the City Attorney and report the findings of his investigation to the City Council. The problem we have is whether the City conducts the Council and if you don't have the majority vote on Council the investigation would never go forth. That is the problem that we have. No matter how wrong that person is if the majority of Council says we are going to stick there because we don't like the way they expressed themselves, it will never come up for an investigation. That is the problem that we have. When our Personnel Handbook states in certain instances when this incident happened there should be a prompt and immediate investigation so that is the procedure. The Council doesn't have to call as it is supposed to be a prompt and immediate investigation. What happens when you call a special meeting and the Council members don't show up when we are trying to direct the City Manager to go by what our policy says? That is the problem with it all. All this looks good on paper but we are not following procedures. What he says personally he refuses to be discriminated against on policy and procedures and go through the mess that he has gone through because you just don't like the way he expresses himself. That is the part that really rattles him from the inside. So, what recourse does Council have when the policy is not adhered by? The procedures are not followed.

Mr. Morgan stated the only recourse that he is aware of would be to rely on the morals and ethics of majority of Council to follow our procedures. A member of the public has the recourse of the courts.

Ms. Hummer stated our Charter states that only City Council can call for an investigation of itself. The Code of Ethics doesn't state that but our Charter does. It has not always been followed.

Ms. Baker stated it is common practice for council people to remove items from both the Consent Agenda and the Regular Agenda. This item of 1015 West Church Street she asked for it to be removed from the Consent Agenda on June 10th. In that request to place it on the regular agenda of the June 24th meeting because there was a party interested in buying the property to fix it up and they needed more time to see if they were financially able to do it. They had not submitted an offer to purchase and there was no contract to purchase the property. She always would want to see a house saved rather than torn down if

someone has the interest and the ability to save it. On June 24th she was part of the unanimous vote to demolish the building. Those are the facts.

Mr. Walton stated the facts are you could have made some interest and money off that contract. That is not what it is supposed to be.

Mayor Peel stated we can keep talking about this for a long time but if someone wants to make a motion to do something than we need a motion because we need to move on.

Councilman Stimatz stated he moves the agenda. Point of order Mr. Mayor you need to deal with his point of order before any other discussion. Councilman R. T. Donnelly seconded the motion. Those voting in favor of the motion were: Stimatz, Donnelly, Baker, Brooks, Hill-Lawrence, Hummer and Spence. Against: Walton. Motion carried.

Councilman Brooks stated this item was on the agenda and now you are saying no further discussion.

Mayor Peel that is right.

e} Resolution of Support – House Bill 998:

Mayor Peel called upon Mr. Stimatz for comments.

Councilman Stimatz stated this resolution of support has to do with the Senate Tax Reform Bill and the House Bill that they are trying to change the business climate in the State and revise the Tax Code. To that end the North Carolina League of Municipalities and all municipalities have always been against that and the same thing with the counties. We have not passed a resolution earlier when discussing this with our representatives from NCLM. He asked if it would be helpful to have a resolution to express the will of the Council and not just individual members. Similarly, House Bill 773 has to do with the Rental Inspection program which has been a Godsend to us and those people in this City who rely on having good, clean, affordable, safe and sanitary living conditions which we didn't have before we had this ordinance. He just asked staff if they could put together two resolutions. We would pass these two and they would go to the legislature to express our position on these two matters.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. T. Donnelly to adopt the following resolution opposing House Bill 998 Tax Reduction Act. Those voting in favor of the motion were: Stimatz, Donnelly, Baker, Brooks, Hill-

Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

**RESOLUTION 2013-21
OPPOSING HOUSE BILL 998
TAX REFORM BILL**

WHEREAS, the North Carolina Legislature is in the process of reforming the North Carolina Tax Code; and

WHEREAS, the North Carolina Senate has passed House Bill 998 as part of their efforts to reform the Tax Code; and

WHEREAS, any changes to the North Carolina Tax Code should be fiscally neutral to local units of government; and

WHEREAS, the Elizabeth City Council agrees that the North Carolina Tax Code needs to be reformed and modernized to meet the challenges facing the State and local units of government; and

WHEREAS, as presently written House Bill 998 would adversely affect the City of Elizabeth City's future revenue by over \$630,000 over the next six years;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Elizabeth City that the City of Elizabeth City opposes House Bill 998 as it is presently written and requests that the Bill be modified to be fiscally neutral to the City of Elizabeth City or that a hold harmless provision is included in the Bill to ensure that the City of Elizabeth City would not receive a reduction in existing and/or future revenues.

ADOPTED, this 8th day of July 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

f} Resolution of Support – House Bill 773 – Rental Inspection Program:

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem L. M. Hill-Lawrence to adopt the following Resolution opposing the rental inspection program. Those voting in favor of the motion were: Stimatz, Hill-Lawrence, Baker, Brooks, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.

**RESOLUTION 2013-22
OPPOSING HOUSE BILL 773
RENTAL INSPECTION PROGRAM**

WHEREAS, House Bill 773 would curtail the authority of cities and counties to operate rental inspection programs and would eliminate required landlord registrations and fees paid by landlords to support the program; and

WHEREAS, in the City of Elizabeth City, the Building Inspections Department reports that a majority of housing code violations originate from either rental property or vacant and boarded up housing, rather than owner-occupied property; and that many of these same properties also violate the State unsafe building laws (NCGS §160A-424 et seq.); and

WHEREAS, the Elizabeth City Council believes that a program of inspections that targets certain categories of dwellings and buildings and makes distinctions between owner-occupied and tenant-occupied buildings and single-family and multi-family buildings helps ensure the availability of safe and affordable housing in the city.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City that the City opposes House Bill 773 because it will significantly impair the City's ability to conduct routine, effective inspections of potentially unsafe buildings; and, the inability to conduct routine inspections of potentially unsafe housing will limit the supply of safe affordable housing in the City of Elizabeth City, thereby impacting the living conditions of a majority of the City's residents who are tenants.

ADOPTED, this 8th day of July 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

g} 1614 Peartree Road/1015 West Church Street:

Mayor Peel called upon Councilman Walton for comments.

Mr. Walton stated he will tell you now he knew this Council would vote the investigation down because that is the type of Council we are. No ethics at all. On April 22nd the Finance Committee brought to the Council to demolish certain properties. 1614 Peartree Road was one of those properties. After that meeting the property owner called him and told him that they were trying to save that structure. At the May 13th meeting he requested to add 1614 Peartree Road to the agenda so we could reconsider it. All of the Council members were very logical and wanted to save property like people say that they should but one person voted against it. That was Ms. Jean Baker. On June 4th Mr. Olson sent to the Finance Committee some more properties to be condemned and demolished. The Finance Committee confirmed to do this. On June 10th when we met as a Council as we were going over the Consent Agenda, Ms. Jean Baker took off 1015 W. Church Street. Now, he had told himself he was going to start checking out the properties that came up for demolition. When he was checking out the properties he saw that most of the properties needed to be torn down. When he looked at 1015 W. Church Street he saw a sign in the yard and the realtor was Long and Foster and Ms. Jean Baker's name was on the sign. You don't have to be a genius to know that someone had a contract on the property and the person's name was right on the sign. To him through some kind of logic he said if they sell it they are going to make some money and if they renovate they are going to make some money and that is not the right thing to do. At the June 24th meeting when we changed our minds and considered demolishing all of the properties he said let him check with the attorney to see the history of this piece of property. Mr. Morgan said he would check and get back up with him. The next time he heard from Mr. Morgan it was in a memo. Mr. Olson called him and asked if he was going to have this thing investigated. He told him no that he didn't have the right to do that. Only Council can do that. He told him he wanted the Attorney to give him the history on it. He doesn't want to call an investigation because he knows how this board will vote. When you have cronies and friends that is how you do things. It isn't any secret on how the vote will come out. This is why we are here on July 8th. It is not the right thing to do. That is why we are looking at things. When you stop overlooking the little things big things will happen. When they happen to

you don't look at him because he told you so. She does not need to feel like she got away. You may get away but you aren't getting far.

Ms. Hummer stated she has a question. Mr. Olson did someone direct you to find out what Council is going to do as far as the investigation? Why would you even ask about an investigation?

Mr. Olson said the issue at hand is we reviewed the tape from the last city council meeting and Councilman Walton specifically asked for an investigation during his comments. Subsequently he did call him and he also contacted the City Attorney concerning that and we believe what he wanted was an investigation and he thinks the City Attorney has written a memo to the City Council saying he felt uncomfortable doing that unless directed to by the entire body. That is how we got to where we are today.

Ms. Hummer said she believes the City Attorney directed us in his memo not to discuss it with each other before tonight's meeting.

Councilman Donnelly said he didn't go to IHop.

Mayor Peel called for any other comments.

A motion was made by Councilman M. E. Brooks, seconded by Councilman J. B. Walton to go ahead and investigate this as an ethical violation.

Mayor Peel stated that is not the item that we are talking about. He doesn't think a motion is in order.

Mr. Brooks said you can't stop him from making a motion Mr. Mayor.

Mayor Peel stated that yes he can because it is not on the agenda.

Mr. Stimatz said as he understands it the Chair has the authority to rule a motion out of order. The chair can be overruled if he follows procedure in our procedure manual which states you make a point of order at the time he overrules and you ask the body to overrule him. It takes a majority vote to do so. He can rule anything out of order. He is the chair.

A motion was made by Councilman M. E. Brooks that we override Mayor Peel's ruling that a Council person cannot make a motion at this time to call for an investigation. Councilman J. B. Walton seconded the motion.

Mayor Peel stated that was not his ruling. The earlier item was a discussion on the Code of Ethics and whether or not we should have an investigation. That is where you should have made a motion. He is explaining why he made that ruling. You don't have to agree with him as he is just explaining where he is coming from.

Councilman Spence has a question. Did Ms. Baker go to Rich or did it go to Council to vote on it.

Mr. Olson stated city staff placed on the Consent Agenda for the June 10th meeting the condemnation of five or six different homes. Included in that list of homes that was placed on the Consent Agenda was 1015 W. Church Street. When the City Council took the item up Councilwoman Baker requested that item be removed from the Consent Agenda and placed on the Regular Agenda for June 24th. That is the action that City Council voted on. At the June 24th meeting the item was placed on the Regular Agenda and Council voted to go forward with the condemnation.

Mayor Peel called for a vote on the motion.

Roll Call Vote:

| | |
|-----------------------------|-------------------|
| <i>Donnelly</i> | <i>No</i> |
| <i>Spence</i> | <i>Yes</i> |
| <i>Baker</i> | <i>No</i> |
| <i>Hummer</i> | <i>Yes</i> |
| <i>Hill-Lawrence</i> | <i>No</i> |
| <i>Walton</i> | <i>Yes</i> |
| <i>Stimatz</i> | <i>No</i> |
| <i>Brooks</i> | <i>Yes</i> |

Mayor Peel stated his ruling has been upheld.

Councilman Walton stated Mr. Mayor you broke the tie before we even got into the vote.

Mr. Brooks stated the reason why he remembers they tried to do an ethical violation on him without cause. Tony Stimatz made the motion and Jean Baker seconded the motion. In that Mr. Mayor you were the one that made the initial motion and that was out of order. What he is saying is the motion was made after you made your statement but then when it comes to Jean Baker you want to apply the rules. That is what he is saying about following the procedures.

Mr. Peel stated he understands that is your opinion.

Mr. Brooks asked Mr. Peel to say again why he couldn't make a motion. He doesn't believe there is anywhere in our rules that says once it is brought up again that a motion can't be made. He wants you to give him the Rule and stuff because he knows it isn't there.

Mr. Peel said well we had an item on the agenda that was a discussion of our Code of Ethics and an internal investigation and whether or not we wanted to move forward with an investigation. He asked several times do we have a motion, no one made one so we moved on. This item now is a discussion of these two different properties. And, we have an opportunity to make a motion earlier and we were not talking about an investigation here as we were talking about or what Mr. Walton did was review what happened with those two properties. That is why he made that ruling.

Mr. Brooks said in an investigation process and he just said that. When he raised his hand you called on Tony Stimatz and he made a motion to move on so he didn't get a chance to make any motion then. You can't find nowhere in the Rules and this Council wants to talk procedures. Once Councilman Walton brought the item back up a motion can be made. Look it up and tell him otherwise.

Mr. Peel stated Mr. Brooks we can talk about this all night.

Mr. Brooks asked the Attorney if the topic came up that Councilman Walton was talking about are you telling him he can't make a motion because we had talked about it previously.

Mr. Morgan stated he is not sure such a rule exists. He will say that the Mayor has the right to run the meeting as he sees fit.

Mr. Brooks said the Rule is not there but he knows he has the votes to do what he wants to do. You are not going to tell him that he can't make a motion when an issue is in discussion. He can't say the only time we can make a motion right here. He can't do that. You are not going to find that anywhere. That is why he keeps saying the problem we have is that no one is reading or abiding by the policy, rules and procedures. That is the problem that we are having. Tony thinks he knows everything. He thinks he is a lawyer, engineer, etc. but he guarantees you he won't find it anywhere that once Councilman Walton brought it back up that he can't make a motion on the same lines of what he was talking about. You will not find it in any book. That is just bias that is constantly on this Council. That is what frustrates the individual. That is what the people out there see sometimes. Mr. Mayor when we are talking and we have people out in the audience grumbling and discussing issues you have the right to remove them

also like you have tried to do to him so often. When they are running their mouth out there when a member of council is talking you can have them removed. Don't just try to put a tab on him but make it fair across the board. He has heard other council members sit and talk and snicker when he is trying to talk. He has sit on Council and when he was talking about the meaning of prayer he was sitting on this side and he heard Councilwoman Baker from over there use profanity. If he heard it from here then you heard it from where you sit. He can go get the tape and show you the same thing. He acted as if he didn't even hear her. He has seen Stimatz flip a card right in the middle here but you don't say anything to him. He knows you saw it but you didn't say one word. If that was him he can only image what you would have said or done. He is sick and tired of seeing bias as far as the rules are concerned and basically feel like they are directed at him. Don't show bias and prejudice against another council member because you are in the position to do so.

Mr. Stimatz said Councilman Brooks is technically correct. You can make any motion that you want. However, under Rule 7 under our Standard Operating Procedures the Mayor or presiding officer shall have the following powers: to rule motions in or out of order including any motion patiently offer for constructive or dilatory purposes. The Mayor did not prevent anyone from making a motion. He rules on the order of the motion made. It is true you can make any motion you want. You can make a motion to appoint Mickey Mouse as the Ethics Director but the Mayor can move it out of order if he so chooses. That is what he did. Do not misstate the facts of what the Mayor did. The Mayor ruled the motion out of order. He did not prevent anyone from making a motion nor having it seconded.

Councilman Walton said the Mayor also controlled the motion because he was trying to get him to make a motion during the part when talking about the Code of Ethics. He wanted to get this behind him so we don't have to talk about it. Daily Advance if you don't write about this then he doesn't respect you.

Mr. Donnelly said assumption. Excuse him.

Mr. Walton said that is about the fifth or sixth time he has said excuse him so it doesn't mean anything to him either. The Mayor controlled the whole thing because he wanted to tell him when to make a motion then tell Michael he can't make a motion. He is controlling.

5} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Councilman Donnelly said he would just like to know how we are progressing along Elizabeth Street and the bridge.

Mr. Olson replied they are doing a good job on that section of roadway between North Road Street and Water Street. They are doing some asphalt work right now. They have until the end of August to complete that section in front of Sheep Harney School. They are gearing up to have that completed then DOT will go ahead and shift the traffic from the north side to the south side of Elizabeth Street. It will probably be the middle of September before that occurs.

Councilman Spence stated in reference to the young lady that spoke earlier about her electric bill being in someone else's name and yet they made her pay.

Mr. Olson stated that has been the City's procedure for over 30 years. She was named as a beneficiary on the Customer Service application and that makes her just as financially responsible. That was explained to her in a written letter. We have followed our past practices.

Mr. Spence said the Chief came up and talked about the gangs and the problems we have in the City and then nothing else is said and we just blow it over. Then someone comes up and we talk about a tree. That discussion lasted about 40 minutes. We looked at the tree issue longer than the problem we have in the City. We are all adults on Council and we have to get to the point that we are going to disagree. We are never going to agree to everything with each other. We are going to have to get to the point where we are going to remain professional at all times. Get over this he said she said issues. He didn't vote for an investigation on Mr. Brooks and he is not going to vote for one on Ms. Baker. He feels like we can all get together and talk about what is going on and come to a conclusion. We are adults.

Councilwoman Baker stated she had a call from a constituent with a compliment for a police officer. She was flabbergasted that he was so helpful to her. He moved a table for an event at her church. She is sorry but she has forgotten his name. It is nice to get compliments. The only other thing she would like to mention is that when people talk about how bad the Council is and how embarrassing it is, how just ridiculous the whole thing is and they talk about cartoon characters or other circus acts that we have been classified as she wished they would not paint us all with the same broad brush. We are not all guilty of the same antics on Council. They know who they are and they are afraid to name names for whatever reason. She just doesn't like being painted with that broad brush. It is bad enough being unethical, it is bad enough saying she is doing something illegal which she is not but to paint it with the same brush as other people are painted with. Mr. Walton is there something funny that you are laughing at?

Mr. Walton said be civil now.

Ms. Baker said she is being civil as she can be. What she has been through tonight she is very civil. She is just saying she does not want to be painted with the same broad brush as other people that are misbehaving on this Council.

Councilwoman Hummer stated we need some mosquito control in the Second Ward please. That might seem like a minor thing but they are getting pretty bad.

Mayor Pro Tem Hill-Lawrence said she would like to say on Monday night that we are having another Town Hall Meeting in the Fourth Ward. We are having Representative Annie Mobley of our District to come and share with us and give us her version of what is going on in Raleigh. We had Representative Steinberg and we are going to have others. She invites you to come to share and listen and to process all that you hear. Put it in some perspective as best as you can. It will be held at 7:00 p.m. at Saint James AMZ Church on Park Street. We ask you to come and listen and hear because we need to know. We can ask questions.

Councilman Walton stated that in our Rules it says nothing about civility. It says something about respect. Tony he is glad that you said that earlier. It is very important that you respect people. Don't think you are covering everybody's head up. If you fool everybody all the time then you are a genius. Some people you aren't going to fool most of the time. But if you make some money off a house and if he goes and buys one of the houses that we are going to tear down and makes some money off it then that is wrong. Kem you can say you didn't vote for one so you won't vote for the other then there is still something called ethics. There is right or wrong. He has talked about values about this Council many times. Nothing has changed. A good note now. Mayor do you think we can do a resolution to honor the Chancellor. He did some great things in Elizabeth City. You may look at it another way but he did some great things in this City. It will be good to bring him up here and give him a resolution. He has something to read. The full text of Councilmember Nash's statement and this comes out of Monroe, North Carolina. The same City that said they were going to give Mr. Olson \$165,000 contract. "I am going to address the issue of nepotism since this is being directed towards me. When she was first elected to Council in 2003 it was public knowledge that her husband and sister in law both worked for the City of Monroe. My son came to work for the City in 2008. He was a certified police officer in Matthews when the City had a position come available. The Chief had met my son at SPCC during Rookie School. She asked him if he was interested in applying. My son had grown up in Monroe where his father was an officer. Darrin wanted to serve the people and community that had supported him as he grew. He went for the interview and was hired. Almost five years later a position became available in the Detective Division which includes drugs and violent crimes. He was interviewed by a panel that

included District Attorney Tray Robertson. He finished seventh in the process and as one of the three officers moved to the Detective Division. Anthony Fox stated this was a promotion even though there was no increase in pay. My son makes no more than the average officer with his experience. As to my son's finance who is a hometown girl with a small child, she applied for three different jobs with the City before she was hired. The job she was hired for was an Administrative position which is not a high paying job. When I saw the department head that had the open position he said that he had interviewed my girl. I told him clearly not to hire her for me but only hire her if she was qualified for the job. He also told me that he had interview someone the Mayor had recommended and was suppose to interview someone for Councilman Dasios but that person's husband had just died. Just image what her job is like since this came out last July. She works for a department head and with a staff member who has a close relationship with a Councilmember. It seems that I am the only one that nepotism applied to so let me give you some examples that I know of. The nepotism polickey was changed when Lynn Kashier's son needed a job at the police department. The policy now states that you cannot supervise family members. Council members cannot supervise anyone but the manager. We are a small community where everybody is related or knows someone. A council member had a first cousin that had a well paying job with the City. A council member had at least two people hired at the aquatics center. A council member had a person hired for a department. The department was downsized and several employees were let go including an employee with sixteen years of experience. This person was put in an office outside of City Hall and was brought back under a different title after the other employees were gone. A council member had three football players hired last summer before the former manager resigned. Their salaries were paid out of the City Manager's account. No where in this report did it cover cronyism or friendlyism. After Anthony Fox was hired to do this report it has shown ties to council members and the Chairman to the Board of Adjustments. He has served for several years as the attorney for that board where the chair is related to two council members and a friend to another. Council members Dasios and Hesiod went to his office in Charlotte to meet with him without the mayor knowing anything about it. He was paid \$50,000 to get Chief Duncan and myself. If they had truly wanted an unbiased report they would have discussed it with four council members first and then found a firm with no ties to them. As to why the City cannot keep a city manager he can tell you why and so can some council members. Doug Spell was asked to resign and we were not allowed to discuss why because of an agreement reached by his Attorney. Craig Matthews was asked to resign because his work was not being done. Wayne Heron was asked to resign by the majority so he could collect his severance package of \$150,000 plus benefits. A contractor who is a friend of a council member was given over \$170,000 worth of work since 2006. These were all small jobs. He was also going to be given the demolition of the Scott property. When I asked for the bids there was not

one from this company. After the former manager resigned the job was rebid and given to another company. This is just a small example of what has gone on. As for the retaliation policy I did not vote for it because the City Attorney could not give us an example of what an employee could consider retaliatory. The majority of Council will be the one who decides if someone is retaliatory so he makes a point to speak to the employees that were part of this report but I do not carry on a conversation unless there are other people around. It is obvious to me and several others that the policy does not apply to the majority because of the way they have treated Chief Debra Duncan. Let me give you some examples: They commission a \$50,000 study by Anthony Fox to make sure it came out that Chief Duncan recorded Wayne Heron. It did not matter who got in the crossfire. They tried to discredit Chief Duncan over the drone that was supposed to be pursued. It was stated that she misled them. The interim City Manager is not going to be considered for the manager's job because he will not discipline Chief Duncan. He is aware of this. Council members have told people that he is not doing his job because of this. Chief Duncan did not break any law nor did she violate any policies. I have never seen the meanness that is on this council. This has been caused by a man that lied to us and about us. I recorded Wayne Heron because he would not listen to anything that we said or that was told. Your comments were that mine was a harsh word and that they were perceived problems. I recorded him to show that he lied and I thought you would at least recognize we had a problem. I have omitted to recording him but I have yet to see any of you acknowledge that you violated the Open Meeting Laws and had an illegal meeting. It was told that this was not illegal because four of you were not together at one time. One had left before the fourth one had called in. This is an excerpt from a memo that we got from the City Attorney on December 8, 2009. The public meeting law defines an official meeting as a gathering at any time or place or simultaneous communications by conference telephone, or other electronic means of a majority of the members of the public body for the purpose of transacting the public business of the jurisdiction. Polling members by telephone or by email is construed as conducting public business and constitutes a public meeting. Unless it is properly noticed it is an illegal meeting if a majority of council way in on a public matter involving city business, simultaneous communications does not mean anyone has to hear the communications at the same time. It has been interpreted to cover communication occurring over several days. This was public business when you asked Wayne Heron to resign. We have yet to take official action on his severance package which was outlined in the report. It also talked about Council/Manager form of government where the manager is to run the City and we are to make policy. It seems that the majority of you have been trying to make the City Manager discipline Chief Duncan and since he will not you have been telling people he is not doing his job. None of the majority bothered to show up for the police department accreditation public hearing or for the exit interview where it was recommended for the department to receive gold status.

This is a big honor for our department and some of you should have made the time to be there. These police officers put their lives on the line to protect you and all citizens of Monroe. You should have been there to support your police department. Councilwoman Dasios had no problem calling the Mayor and telling him Billy Jordon should resign because he was not able to be there for the one on one interview with manager candidates. It did not matter whether he was there or not as the three of us have no say in the matter. We go through the motions and offer our opinions but we know you are going to hire who you want. Anybody that comes here at this time either needs a job or is on a suicide mission. The problems on this council have become an embarrassment to our city and our citizens. The only thing I can hope is that citizens will have had enough and will vote to change the makeup of this Council." He read all that to say there are bigger problems than what we have but if we keep going down the road that we are going and not being ethical we will be worst than this because we make dictatorship prevalent and we don't have values anymore. We just vote when the wind changes and vote with the people that will vote with you the next time. It isn't about who you voted for just vote for the right person.

Councilman Stimatz stated he would like to thank the City especially all the city staff and especially the lady who rides around in her golf cart and takes care of special events, Bobbie White for putting on the Fourth of July celebration. He would like to take a moment to read something. This is John Adams' letter to his wife on July 3rd. It is a little bit of trivia which he wasn't aware of until this past week. The Declaration of Independence was approved on July 2nd and it was actually printed on July 4th. That is why we celebrate the 4th. He wrote this letter to his wife and this is the exact text with his original spelling, so bare with it. "The 2nd day of July 1776 will be the most memorable epochal in the history of America. He is apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade. The shows, games, sports, guns, bells, bonfires and illuminations' from one end of this continent to the other from this time forward forever more. You will think of me as a transporter with enthusiasm but I am not. I am well aware of the toil and blood and treasure that it will cost us to maintain this declaration and support and defend these states. Yet through all the gloom I can see the rays of light and glory. I can see that the end is more than worth all the means and that posterity will triumph and those days transaction even although we should rule it which I trust in God we shall not." The 4th of July is an important day in America. He calls on you all to support it. Every year we have fireworks, we beg people to contribute and if everybody in Elizabeth City gave a buck and a half we could pay for them. Celebrating America to him is the most important thing we as a country can do. It brings us all together because we all live here under the same set of laws and we are all trying to live the life and live the dream. Life, liberty and the pursuit

of happiness is never guaranteed but we can pursue it. So he calls on you to think about next year and the fact that we will be asking for money next year and do something about it. Pledge a dollar, give a buck, just do something because to him celebrating America is us. No one else does it like we do it. It doesn't mean the same thing to other people that it does to us. Neither race, creed, color or origin or anything as it is about America and as John Adams said, "I am well aware of the toil, blood and treasures that it will cost us to maintain this declaration and to support and maintain these states." There are people doing that every day for us. The least thing we can do is celebrate the fact that we live in a free country.

Councilman Brooks stated a couple of council meetings ago he sat here and tried to figure out what was going on. The last couple of people that came up to that podium and talked one addressed race and the other addressed the antics on city council. If you want to talk about race he will talk about race. Back when we were talking about taking Ms. Farmer's land through eminent domain trying to do a second delivery point. She was an elderly white woman about 80 years old. He went to bat for her as if she was his grandmother. It wasn't about color. It was about right. Mr. Mansfield, we were talking about taking his property through eminent domain and he went to bat for him as if he was his uncle. He is a middle age white man. It wasn't about color but it was about what is right. When they were talking about closing down Carolina Avenue he fought for them as if they were his neighbors. It didn't have anything to do with color. It had to do with right. He is a student of the history of which he came. No one is going to tell him about the history of him and the history of which he came. One thing he understands about that is the Underground Railroad when they were trying to deliver the slaves out of bondage. You must understand all the slaves didn't want to be free. This is what he has learned from that. Everybody his color is not his kind. Just because you are his color doesn't mean that we think alike. Slavery today is not necessarily about color as it is about a way of thinking. If you are thinking with a slave mentality you are in bondage and you are a slave. It has nothing to do with color. So when someone comes and talks about a racial reality this is the reality as we have it in our minutes. When he fought for Ms. Farmer, Mr. Mansfield and Mayor Bell nothing was said but we have an employee that was cleaning a public bathroom with a toothbrush, the Daily Advance wrote it was racism. Can you image how bad that hurts? That bothered him. Again, people come up here and talk about the antics on city council. When Mayor Peel was gone, Lena conducted the meeting and there were fireworks but it is amazing to him when Councilman Walton conducted the meeting it went smoothly and we were out like that. What he is saying is as long as we don't try to control individual council members it will go smooth. He disagrees with you Councilman Spence when you talk about the investigation. This was a different thing that Councilwoman Baker was dealing with than what he was dealing with. It was totally different. That was a kangaroo court. Even

when Mr. Peel made the motion no one said anything. Tony ended up making the motion and Jean seconded it and of course it failed. What happens is we really don't need to get into the area of race. The Daily Advance can write this down too. When Lena was chairing the meeting and there were fireworks you almost wrote word verbatim what was being said. When we had the meeting with Representative Steinberg it was more fireworks than he could ever imagine and the Daily Advance didn't write that word for word and they acted as if the meeting went smoothly. There were more fireworks than ever have been presented on Council. He has been on this council for three terms and has never seen that much fireworks. He has seen every council member express themselves at one time or another in a very passionate and aggressive way. It is not just one. He will say this again often he is sitting on council and if he says something because one time he had the floor and two people spoke out and he still had the floor and then they were talking about putting him out. But someone comes up here and addresses this Council behind that podium they are supposed to address the entire council as a whole. They don't address individuals and when they are out in the audience being unruly the same authority that you use saying you were going to put a member of this council out you have the same power or authority to deal with those in the audience. He heard mumblings and words out there and yet you never say one word. What we need to do is get on one accord and don't allow people to come up here and bash individual council members. Run for council if you can do better, go ahead and run because everyone that sits on this council is an elected official and they were voted in by the people and when you suppress them being able to express what the people are telling them you are suppressing their vote and that is illegal. We have to go by policy and procedures. He can care less whether someone likes him or not while he is trying to help somebody. The situation that he had with a city employee he will tell you this it is not over until it is over.

Mayor Peel stated he has a couple of short things. One is the last meeting we had we had a report on Vision 2020. Ms. Mackey talked about a grant that they had applied for that was for \$20,000. He found out last week that they did receive the grant and so Chief he says that for a couple of reasons. One is congratulations to that team. That is a place that some of the kids that you are working with gangs might be able to get plugged in because that grant is to establish a leadership program for people 16-30. It will be an interesting mix of people. Also, chief he attended the change of command ceremony and Captain Hatfield replaced Captain Hastings and while he was there his whole family was there and they are from Delaware. Captain Hatfield as well as his entire family came up to him when they found out he was the Mayor and told him that they had never been in a town that had police as friendly as the ones in Elizabeth City. They evidently had gotten lost trying to find the Coast Guard Base and two police officers stopped and asked if they could help them. They were totally blown away and got directions to where they were supposed to go. They went

out of their way to find him and tell him that. The last thing he would like to do is apologize as he recently had an illness and was in the hospital for a week and many of you were very kind in sending cards and calling him and sending flowers and so on. Council sent him a nice flower arrangement and he forgot to thank you at the last meeting. Your kindness was much appreciated and he thanks all of you.

6} ADJOURNMENT:

There being no further business to come before the City Council at this time, Mayor Peel adjourned the meeting at 9:57 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Joseph W. Peel
Mayor