

The City Council of the City of Elizabeth City held its first meeting of the month on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. W. Peel presiding. Council members in attendance were: J. M. Baker, M. E. Brooks, R. T. Donnelly, L. M. Hill-Lawrence, L. A. Hummer, J. A. Stimatz and J. B. Walton. Councilman K. K. Spence was absent. City Staff members in attendance were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Human Resource Director K. W. Felton, Public Utilities Director P. A. Fredette, Planning Director J. C. Brooks, Finance Director S. E. Blanchard, Electrical Director K. F. Clow, Police Chief E. M. Buffaloe 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 the pleasure of Council regarding the prepared agenda.

Councilwoman L. A. Hummer asked to ***add consideration of a Resolution directing the City Clerk to investigate the sufficiency of a Petition for Voluntary Annexation received from Coastal Beverage Company, Inc.***

Councilman J. A. Stimatz asked to ***remove Item 8-c-Execution of Joint Use Agreement for a multi-purpose field location at Sheep Harney School from the Consent Agenda and add it to the Regular Agenda for discussion.***

Councilman M. E. Brooks asked to ***add for discussion; 1} Council/Manager Form of Government, 2} newspaper article titled, "Mayor Blocks Baker Probe."***

Councilman J. B. Walton asked to ***add to the regular agenda discussion of the weekly broadcast of Council meetings and discussion of the use of the gavel.***

***A motion was made by Councilman R. T. Donnelly, seconded by Mayor Pro Tem L. M. Hill-Lawrence to approve the prepared***

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

**2} PRESENTATION:**

Mayor Peel advised the NC Blazers 16 and Under Basketball Team finished fourth in the Nation at their recent tournament. The NC Blazers 17 and Under Basketball Team finished first in the nation in their tournament. He had invited these young men to attend tonight's meeting in order that we might recognize them for their accomplishments, but they have football practice tonight and were unable to attend.

**3} PUBLIC COMMENTS:**

Ms. Pattie Ollis, 1823 Providence Road, Elizabeth City thanked the City Council for their work and efforts in helping to eliminate the flooding problems in Oxford Heights.

Ms. Virginia Giarrusso, 1820 Providence Road, Elizabeth City wanted to thank Chief Buffalo for the new format for the monthly meetings in Oxford Heights. She also expressed concern over the fact that the number of false alarms has reached 4,000. She feels there should be a fine imposed if you have over three false alarms in one month. People should be responsible for checking their alarms as well as if their doors are locked.

Ms. Freda Smith, 1509 Emerald Lake Circle, Elizabeth City spoke regarding traffic concerns in and around Girls Inc.

Mr. Keith Rivers, P. O. Box 2111, Elizabeth City spoke regarding the challenge being made against a student at Elizabeth City State University and his place of residency. People should speak out regarding this issue.

**4} APPROVAL OF MINUTES:**

a} May 28, 2013 – Work Session:

Mayor Peel called for action regarding the minutes of the May 28, 2013 Work Session.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the May 28, 2013 Work Session as written. Those voting in favor of the***

***motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.***

b} June 24, 2013 – Work Session:

Mayor Peel called for action regarding the minutes of the June 24, 2013 Work Session.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the June 24, 2013 Work Session as written. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.***

c} June 24, 2013 – Regular Session:

Mayor Peel called for action regarding the minutes of the June 24, 2013 Regular Session.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the June 24, 2013 Regular Session as written. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.***

d} July 8, 2013 – Regular Session:

Mayor Peel called for action regarding the minutes of the July 8, 2013 Regular Session.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the July 8, 2013 Regular Session as written. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.***

**5} CONSENT AGENDA:**

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

***A motion was made by Councilwoman J. M. Baker, 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: Baker, Hill-Lawrence, Brooks, Donnelly, Hummer, Stimatz and Walton. Against: None. Motion carried.***

**Consent Agenda:**

a} Adopted the following Resolution regarding the closure of certain alleyways located in the First Ward:

**RESOLUTION #2013-23  
TO CLOSE CERTAIN ALLEYS  
IN THE FIRST 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 First Ward, and shown on the attached map, which is incorporated herein by reference:

Alley Number 25 described as extending east approximately 175 feet off of Agawam, parallel to Riverside and Woodruff; and

Alley Number 27 described as extending west approximately 400 feet of Wareham ,parallel to Riverside and Woodruff; and

Alley Number 28 described as extending east and west approximately 740 feet between Agawam and Wareham, parallel to Woodruff and Jones; and

Alley Number 29 described as extending east and west approximately 400 feet between Flora and Raleigh, parallel to Carolina and Preyer; and

Alley Number 30 described as extending north and south approximately 230 feet between Preyer and Camden, parallel to Flora and Raleigh; and

Alley Number 31 described as extending north and south approximately 225 feet between Carolina and Preyer, parallel to Raleigh; and

Alley Number 32 described as extending South approximately 150 feet of Preyer, parallel to Raleigh; and

Alley Number 33 described as extending north and South approximately 235 feet of Camden and Perquimans, parallel to Flora and Raleigh; and

Alley Number 34 described as extending South approximately 200 feet of Perquimans, parallel to Flora; and

Alley Number 90 described as extending east and west approximately 340 feet of Wareham and Flora, parallel to Riverside and Woodruff; and

Alley Number 91 described as extending east and west approximately 300 feet of Wareham and Flora, parallel to Woodruff and Jones; and

Alley Number 23 described as extending north and south approximately 550 feet of Jones and Tuscarora, parallel to Hunter and Agawam; Storm Water Rights are retained.

**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 7<sup>th</sup> day of October, 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 circulation 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 portion 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 12<sup>th</sup> day of August 2013.

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Joseph W. Peel  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

- b} Transfer of ten taxicab franchises previously owned by Mr. Donald Smith to Mr. Tony Lewis.
- c} Authorized the execution by Mayor J. W. Peel of the North Carolina Department of Labor's informal Settlement Agreement in the amount of \$12,285
- d} Authorized the City Manager to request a grant allocation and to take the necessary steps to secure a Municipal Agreement with the North Carolina Department of Transportation for the construction of a sidewalk on US 17 North along the northeast side of North Road Street between the end of the bridge over Knobbs Creek to the southernmost entrance to the Elizabeth City YMCA.
- e} Authorized the City Manager to enter into a Construction Contract with Eastern Carolina Construction in the amount of \$210,000 for the replacement of sanitary sewer line on Crescent Drive from Parkview Drive to River Road.

**End of Consent Agenda:**

**6} PUBLIC HEARING:**

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised that the City and County staff met as instructed to discuss additional changes to the Dangerous Dog Ordinance based on comments made during the Joint City/County meeting that was held recently. The County Commissioners held their public hearing on August 5, 2013 without any additional modifications. They are scheduled to consider for adoption the revised ordinance at their August 19<sup>th</sup> meeting.

Mayor Peel declared the meeting into public hearing to consider public comments concerning the proposed changes to the City's Dangerous Dog Ordinance. Since there was no one present who wished to speak for or against the proposed Dangerous Dog Ordinance, Mayor Peel declared the public hearing closed.

***A motion was made by Councilwoman J. M. Baker, seconded by Councilman R. T. Donnelly to adopt the following Ordinance repealing Chapter 6 Article III Dangerous Dogs of the City of Elizabeth City Code of Ordinances in its entirety and adopt the following new ordinance as its replacement. Those voting in***

*favor of the motion were: Baker, Donnelly, Brooks, Hill-Lawrence, Hummer, Stimatz and Walton. Against: None. Motion carried.*

**ORDINANCE #2013-24  
REPEALING CHAPTER 6 ARTICLE III DANGEROUS DOGS  
OF THE ELIZABETH CITY CODE OF ORDINANCES  
IN ITS ENTIRETY  
AND ADOPTING A NEW  
CHAPTER 6 ARTICLE III DANGEROUS DOGS  
AS ITS REPLACEMENT**

**WHEREAS**, the City Council adopted Chapter 6, Article III "Dangerous Dogs" of the City of Elizabeth City Code of Ordinances on March 26, 2012; and

**WHEREAS**, multiple changes to that ordinance have become necessary due to the City's collaboration with Pasquotank County in the administration of Animal Control Services; and

**WHEREAS**, the required public hearing on this matter was held on August 12, 2013 for the purpose of repealing the existing ordinance in its entirety and adopting a replacement;

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of Elizabeth City that the current Part II, Chapter 6, Article III Dangerous Dogs ordinance is repealed in its entirety and the following replacement is hereby adopted and shall be effective September 15, 2013:

**Part II Chapter 6,  
Article III.  
Dangerous Dogs**

**Definitions.**

For the purposes of this article, the following words and phrases shall have the following meanings:

*Animal Control Board:* The Animal Control Board shall consist of five (5) members; two (2) appointed by the City of Elizabeth City, City Council; two (2) appointed by the Pasquotank County Board of Commissioners; and one (1) member shall be a representative of the SPCA of Northeastern North Carolina recommended by the SPCA Board of Directors and jointly appointed by each governing body. Three members of the Animal Control Board shall constitute a quorum for the purposes of this ordinance.

*Attack by a dog:* Any assault or battery by a dog upon a person or domestic animal, to include biting, felling or toppling, tearing of clothing, provoking flight to escape attack, or any other act which could reasonably cause physical injury to the person or domestic animal.

*Bite by a dog:* Any seizing, gripping or grasping, no matter how slight or momentary, by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

*Dangerous Dog:* A dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriff's Office or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

- (1) Without provocation on public or private property, including the owner's property, has killed or inflicted serious bodily injury on a person;
- (2) Without provocation on public or private property, including the owner's property, has killed or inflicted severe injury to another dog or other domesticated animal; or
- (3) Is a dog trained for dog fighting or is being used or has been used for the purpose of dog fighting.

*Dog:* A domesticated animal (*canis familiaris*) of the Canidae family; provided also that a wild specie of the Canidae family, such as a wolf, fox, or coyote, shall be considered a dog for purposes of this ordinance.

*Guard dog:* A dog trained by a skilled trainer to recognized security industry or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

*Law enforcement dog:* A dog, trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

*Lawful hunt:* A hunt for lawful game conducted on private or public property with the consent of the owner or custodian of the property by a person with a valid license (if required) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.

*Owner:* Any person or legal entity that has a possessory property right in a dog, including the harbinger or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.

*Owner's real property:* Any real property owned or leased by the owner of the dog, not including any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

*Potentially Dangerous Dog:* A potentially dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriff's Office or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

(1) Inflicted injury to a domesticated animal that required veterinary care or bit any person, without provocation, so as to cause a laceration or abrasion requiring medical care.

(2) Chases or approaches a human upon the streets, sidewalks or any public or private property in a menacing or threatening manner and in an apparent attitude of attack, when such human is conducting himself/herself peacefully and lawfully and is not provoking the dog; or

(3) Engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or custodian of the dog.

*Severe injury:* Any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization. Law Enforcement Agency: Shall mean the Pasquotank County Sheriff's Office or the City of Elizabeth City Police Department or any other agency, which has jurisdiction within the City or County.

*Territorial jurisdiction of the City of Elizabeth City and Pasquotank County:* All territory within the boundaries of the County of Pasquotank, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this article in such areas.

*Vicious dog:* A dangerous dog, as defined herein, that after having once committed an act making it a dangerous dog or having been determined hereunder to be a dangerous dog, commits a subsequent attack on a person or domestic animal.

**Sec. 6-51 Application of ordinance; exceptions.**

The provisions of this ordinance do not apply to:

- (1) A law enforcement dog or guard dog being used by a law enforcement officer or bona fide professional security guard to carry out the law enforcement officer's or security guard's official duties or professional responsibilities;
- (2) A dog being used in a lawful hunt;
- (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner, keeper or harbinger, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
- (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.
- (5) A dog which has caused a severe injury or other bodily harm on a person however Law Enforcement Agency finds the injuries are the result of extenuating circumstances.

**Sec. 6-52 Reporting requirements.**

A. *Report required:* (i) An owner, keeper or harbinger of a dangerous or vicious dog or a dog that has attacked or bitten a person or domestic animal; (ii) a victim of or person witnessing such an attack or biting; (iii) a veterinarian treating a domestic animal for such an attack or biting; or (iv) a health care professional treating a person for such an attack or biting, shall report the following events to the Sheriff's Office within three (3) business days after the event has occurred:

- (1) Any attack or biting by a dog upon any person or domestic animal,  
or
- (2) The transfer, gift, sale, or other conveyance of ownership or possession of a potentially dangerous, dangerous or vicious dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.

- a.) If a dog is caused to be moved into Pasquotank County from any jurisdiction (whether it be a municipality, county or other local government), which has caused that dog to be classified as potentially dangerous, dangerous or vicious (or some other similar classification), or an animal so classified elsewhere is situate within Pasquotank County at any time, that dog must be reported as required hereunder to the Sheriff's Office. The Sheriff or his designee shall review the case and classification of the previous jurisdiction and, if appropriate, cause the owner or person in possession of said dog to register the dog within the County as potentially dangerous, dangerous or vicious.

B. *Report data required:* The data required in the report and the format thereof shall be as set forth in administrative procedures promulgated by the Sheriff.

**Sec. 6-53. Determination that a dog is dangerous, potentially dangerous or vicious.**

A. *Generally.* Upon a complaint, or when he has reasonable suspicion, that a dog is potentially dangerous, dangerous or vicious, the Sheriff's Office shall make a determination whether or not such dog is dangerous, potentially dangerous or vicious. Any determination that a dog is potentially dangerous, dangerous or vicious shall be made in a writing which summarizes the available evidence and which shall be delivered or mailed certified mail, return receipt requested, to the owner. If the determination is made that the suspect dog is dangerous, potentially dangerous, or vicious, the written determination shall order compliance with the appropriate provisions of this ordinance and the Sheriff's Office may impose reasonable conditions to maintain the public health and safety. The Sheriff's Office shall assess appropriate civil penalties if he determines that violations of this article have been established and may elect to pursue other remedies authorized by law.

B. *Appeals from determinations.* Any party having a direct interest in the matter and aggrieved by any determination as provided in this chapter may within five (5) business days of receiving such determination appeal such determination in writing, within five (5) business days to the Animal Control Board by delivering a written notice of appeal to the Sheriff's Office. . The ruling of Animal Control Board shall be final, subject only to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Pasquotank County, filed within ten (10) days of the date of the final determination by the Animal Control Board. Any determination of the Law Enforcement Agency under Section 91.04(A) may be appealed to the Animal Control Board by filing written

objections with the Chairman of the Animal Control Board within five (5) business days after such determination. The Animal Control Board shall schedule a hearing on such appeal within ten (10) days of the filing of the written objections. The Animal Control Board shall render its decision as expeditiously as possible after the hearing. It shall deliver it to the parties and any person appearing at the hearing and requesting notice thereof, certified mail—return receipt requested, and file it concurrently with the Sheriff and the Office of the Pasquotank County Attorney. Any decision of the Animal Control Board concerning any appeal provided for in this Chapter other than under Section 91.04(B) shall be final. Any appeal hearing before the Animal Control Board shall be conducted as follows:

- (i) The hearing shall be subject to the Open Meetings Law, and the notice required there under shall be posted and given as applicable;
- (ii) The parties may appear pro se or be represented by an attorney;
- (iii) Any person adversely affected by the appeal may appear and participate fully in the proceeding;
- (iv) Participants may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
- (v) Participants shall be entitled to the right of cross examination;
- (vi) The hearing shall be quasi-judicial in nature and all testimony shall be under oath;
- (vii) Any participant shall be entitled to transcribe the proceeding at his own cost;
- (viii) The Animal Control Board may affirm, deny, or affirm with conditions the determination appealed from. Any conditions imposed by the Animal Control Board shall be reasonable, shall be relevant to the issues in the matter, and shall have the effect of promoting the public health, safety and welfare.
- (ix) The Animal Control Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
- (x) The Animal Control Board may order that a vicious dog be euthanized.

**Sec. 6-54. Registration required.**

A. *Generally.* Any person owning, keeping, or harboring a dog determined as set forth above to be dangerous or potentially dangerous shall register such dog with the Sheriff's Office within five (5) business days of such determination or

may, in lieu of any hearing, register such dog voluntarily, which such voluntary registration shall constitute an admission and determination that the dog is dangerous or potentially dangerous

B. *Relief from civil penalty.* Voluntary registration of a dangerous or potentially dangerous dog by the owner, keeper or harbinger thereof prior to a determination that a dog is dangerous, or within five (5) business days (I) of an event establishing reasonable cause to believe that a dog is potentially dangerous or dangerous, or (II) of the acquisition of a potentially dangerous or dangerous, whichever later occurs, shall relieve such person from assessment of a civil penalty for any violation of this article occurring between such date, event or acquisition and the date of registration.

C. *Permanent identification mark required.* Each dog registered as set forth above shall be assigned a registration number by the Sheriff's Office, which shall be affixed to the dog by permanent chip implant, tattoo or some other permanent means by or at the expense of the owner, keeper or harbinger of the dog. No person shall remove such identification mark once it is assigned and affixed.

**Sec. 6-55. Permit required.**

A. *Generally.* After registration of a potentially dangerous or dangerous dog, or after a determination that such dog is potentially dangerous, dangerous or vicious, no person shall own, keep or harbor such dog thereafter within the territorial jurisdiction of this chapter without applying for and obtaining a permit from the Sheriff's Office.

B. *Issuance of permit.* The Sheriff's Office shall immediately issue a permit for a potentially dangerous or dangerous only upon submission of a complete, verified application, payment of the permit fee, and a finding by the Animal Control Officer assigned to the case that required arrangements for housing of the dog and other public health and safety provisions are in effect, and that each dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and general welfare if the permittee shall comply with the provisions of this article and the conditions of the permit. Each permit shall be conditioned on continued compliance with the provisions of this article and other provisions of law, on continued compliance with and maintenance of the arrangements for housing and safety set forth in the permit application, and any special conditions the Sheriff's Office may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog concerned.

C. *Cost of Permit.* A permit fee as determined by Pasquotank County shall be imposed on all owners who register a dog that is deemed as potentially dangerous or dangerous. That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Office for the Animal Control Program.

D. *Temporary permits.* Following the registration of a potentially dangerous or dangerous dog or the impoundment of such a dog, upon application therefore and for good cause, the Sheriff's Office may issue a temporary permit allowing the owner, keeper or harbinger of a registered potentially dangerous or dangerous dog to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Sheriff's Office. A temporary permit also may be issued to allow the transport of a potentially dangerous or dangerous dog from the territorial jurisdiction of this ordinance. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Sheriff's Office may deem necessary to protect the public health, safety and welfare consistent with the provisions of this ordinance and shall be valid for a period not to exceed thirty (30) days after issuance. . A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of subparagraph (B).

E. *Term of permits and renewal thereof.* No permit shall be issued under subparagraph (B) for a term of more than three (3) years but may in the Sheriff's Office's discretion be issued for a shorter period. Permits may be renewed, subject to the same terms and conditions required for initial permits.

F. *Revocation of permits.* The Sheriff's Office may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If the Sheriff's Office deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this article or with any term, condition or provision of a permit.

G. *Inspections.* The Sheriff's Office shall cause periodic inspections (usually quarterly unless there is reasonable cause for more frequent inspections) to be made of the premises of a permittee to assure compliance with the provisions of this article and the applicable permit. Notice to permittee or occupant of premises must be given before completing any periodic inspection of the premises.

H. *Inspection Fee.* The owner of a potentially dangerous, dangerous or vicious registered dog shall be imposed a \$25.00 inspection fee per inspection.

That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Office for the Animal Control Program.

I. *Insurance.* Every person owning, keeping or harboring a dog that has been declared dangerous, potentially dangerous or vicious shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be one hundred thousand dollars (\$100,000.00) personal injury or property damage, per occurrence. Such person shall cause a certificate or declaration of insurance to be furnished to the Sheriff's Office annually. Every calendar day that the required insurance is not in full force and effect shall constitute a violation of this ordinance article.

**Sec. 6-56. Regulation of potentially dangerous or dangerous dogs; security and restraint requirements.**

No person shall own, keep or harbor a dangerous or potentially dangerous dog except in compliance with all provisions of this ordinance, including:

- (1) *Dangerous dogs and potentially dangerous dogs.* Dangerous dogs and potentially dangerous dogs shall be subject to the following regulations:
  - a. Such dog shall be kept, secured and restrained while on the real property of the person owning, keeping or harboring it only in the following ways:
    1. In a building with doors, windows, and other exits securely fastened shut under the supervision and control of a responsible adult person capable of such supervision and control.
    2. Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children.
    3. While outside a building or enclosure described above, securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
  - b. No person owning, keeping, or harboring such a dog shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the County Animal Shelter, or to remove such dog permanently from the territorial jurisdiction of

this ordinance,. In the event of such removal, such dog shall be securely restrained or enclosed as set forth above for dogs being maintained outside buildings.

- c. Notwithstanding the foregoing, no person shall keep or harbor within the territorial jurisdiction of this ordinance a dangerous dog that has killed a person, except as follows:
  1. In the care and custody of a veterinarian for the purposes of treatment or quarantine or pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog.
  2. In the custody of the County Animal Shelter pending disposition in accordance with the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal, or
  3. Pending appeal as herein provided of the determination that the dog is dangerous, in which case the dog shall be kept and secured by the County Animal Shelter as provided herein.

(2) *Vicious dogs.* No person shall keep or harbor a vicious dog within the territorial jurisdiction of this ordinance, except as follows:

- a. In the care and custody of a veterinarian for the purposes of treatment or quarantine or pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog.
- b. In the custody of the County Animal Shelter pending disposition in accordance with the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal
- c. Pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the County Animal Shelter as provided herein for a dangerous dog.

(3) *Signage.* Any owner of a dangerous, potentially dangerous, or vicious dog shall erect a weatherproof sign (2' x 2') on the enclosure housing said dog which shall read:

BEWARE OF DOG  
THIS DOG IS DANGEROUS  
STAY AWAY!  
(252) xxx-xxxx

All letters must be at least 3 inches vertically and clearly visible from all four sides of the property. In addition, if the owner has a phone the owner's phone number must be placed on the sign.

**Sec. 6-57. Impoundment of potentially dangerous, dangerous and vicious dogs.**

- A. *Apprehension and surrender.* Upon an initial determination or upon registration of a dog to be dangerous, potentially dangerous, or vicious, or if the Sheriff's Office has reasonable suspicion to believe that a dangerous, potentially dangerous, or vicious dog is being kept or harbored within the territorial jurisdiction of this ordinance in violation of it or of a permit issued hereunder, the Sheriff's Office of Pasquotank County and of any municipality subject to this ordinance shall impound such dog. It shall be a violation of this ordinance to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the County Animal Shelter.
- B. *Confinement.* A dog impounded by or surrendered to the Sheriff's Office as provided herein shall be confined in the County Animal Shelter or, upon request of the owner, keeper or harbinger of the dog, or a permittee hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Sheriff's Office, subject to the following conditions:
- (1) *Costs of impoundment.* Impoundment shall be at the expense of the owner, keeper or harbinger of the dog, or of the permittee. Costs of impoundment at the County Animal Shelter shall be paid by the person liable therefore at the daily rate therefore. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall Pasquotank County or any municipality subject to this ordinance be liable for or pay for impoundment at such private facility or kennel.
  - (2) *Release from impoundment.* No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance as provided herein of a permit or temporary permit allowing such release. No such dog shall be released from the County Animal

Shelter until costs of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.

(3) *Disposition of unclaimed or abandoned dogs.* The following dogs impounded at the County Animal Shelter pursuant to this article shall be deemed abandoned and disposed of in accordance with the provisions of this ordinance and the rules and regulations of the County Animal Shelter:

a. Any dog which remains unclaimed by its owner, keeper or harbinger or permittee thereof for a period more than ten (10) business days or a period of lawful quarantine, whichever is longer.

b. Any dog claimed by its owner, keeper or harbinger, which is confined for a period in excess of ten (10) business days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Sheriff's Office shall extend such time upon a showing of justifiable delay in such action by the owner, keeper, harbinger or permittee thereof.

c. Any dog unclaimed by its owner shall be disposed of pursuant to the direction of the Sheriff's Office.

**Sec. 6-58. Violations, penalties and other remedies.**

A. *Violations.* Each act or conduct prohibited by Chapter 91 and each failure to comply with a mandatory provision of Chapter 91 shall constitute a violation. Each day's continuing act or conduct prohibited hereby and each day's continuing failure to comply shall constitute a separate and distinct offense. Violations shall subject the violator to civil penalties and to other remedies allowed by law. For the purposes of assessing civil penalties, violations of Chapter 91 are classified as follows:

(1) *Class I violations:*

a. Failure to report an event for which a report is required.

b. Failure to register a potentially dangerous, dangerous or vicious dog as required.

c. Any other violation not otherwise classified in this section.

(2) *Class II violations:*

- a. Keeping or harboring a vicious dog within the territorial jurisdiction of this ordinance in violation of this article.
- b. Keeping or harboring a dangerous dog within the territorial jurisdiction of this ordinance in violation of terms, conditions and provisions of a permit or of the housing and restraint requirements of this article.
- c. Failure to surrender a potentially dangerous or dangerous dog to the Sheriff's Office for impoundment as required by this article.
- d. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored.

(3) *Class III violations:*

- a. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored, when such dog has thereafter committed an attack or a biting.
- b. Refusal to surrender a vicious dog to the Sheriff's Office for impoundment as required by this article.
- c. Failure to maintain insurance as required herein.

B. *Civil penalties.* The following civil penalties shall be assessed for each class of violation:

(1) *Class I violations:*

- a. One hundred dollars (\$100.00) for the first day of a violation.
- b. Twenty-five dollars (\$25.00) for each subsequent day of a continuing violation.
- c. A maximum of one thousand dollars (\$1,000.00) for each continuing violation.

(2) *Class II violations:*

- a. Two hundred fifty dollars (\$250.00) for the first day of a violation.
- b. One hundred dollars (\$100.00) for each subsequent day of a continuing violation.
- c. A maximum of three thousand dollars (\$3,000.00) for each continuing violation.

(3) *Class III violations:*

- a. Five hundred dollars (\$500.00) for the first day of a violation.
- b. Two hundred fifty dollars (\$250.00) for each subsequent day of a continuing violation.
- c. A maximum of seven thousand five hundred dollars (\$7,500.00) for each continuing violation.

C. *Other remedies.* In addition to assessment of civil penalties, this chapter may be enforced by any one or more of the remedies set forth in Chapter 160A or 153A, as applicable, of the North Carolina General Statutes.

D. *State law violations.*

(1) Nothing in this ordinance shall be construed to prevent the Sheriff's Office or any other person from pursuing remedies under Chapter 67, Article 1A, of the North Carolina General Statutes.

(2) The Sheriff's Office is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Sheriff's Office shall follow the procedure set forth herein for determinations.

(3) The Animal Control Board is designated as the appellate board to hear appeals of determinations made pursuant to Section 67-4.1(c) of the North Carolina General Statutes.

**Sec. 6-59. Administrative provisions.**

- A. *Responsibility.* The Sheriff's Office shall administer and enforce this article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.
- B. *Citations assessing civil penalties.* Law Enforcement Agency shall have authority to investigate alleged or suspected violations of this article and upon the determination by such person, based on observation or other evidence that a violation has occurred; each such person shall have the authority to issue a written citation for violation of this article and to assess a civil penalty in the amount due. Such citation shall be mailed to the violator by the Sheriff's Office, certified mail, return receipt requested, addressed to the last known address of the violator, or shall be personally delivered to the violator or to some responsible person at the violator's residence. Service shall be complete upon personal delivery as provided herein or upon execution of a receipt for the certified mail by the violator or his agent in the event of such service. If a civil penalty duly assessed is not paid when due, the Sheriff's Office shall initiate an action in a court of competent jurisdiction to collect such amount due.
- C. *Authority to enter upon premises.* Law Enforcement agency shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to (I) conduct any investigation of a dog alleged or suspected of being potentially dangerous, dangerous or vicious, or (II) apprehend a dog determined to be potentially dangerous, dangerous or vicious or as which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, or (III) to investigate any violation of this article, or (IV) to serve a citation upon a person for violation of this article. Notwithstanding the foregoing, the Sheriff's Office shall only make such entry upon consent, pursuant to an administrative search warrant under Section 15-27.2 of the North Carolina General Statutes, or otherwise as authorized by law.
- D. *Authority to immobilize or kill a dangerous or vicious dog.*
- (1) If in the course of investigating, apprehending or otherwise taking custody a potentially dangerous, dangerous or vicious dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, such dog is not securely restrained and the Sheriff's Office has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, the Sheriff's Office shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely

possible under the circumstances, then said officer may humanely dispose of said dog.

- (2) If a potentially dangerous, dangerous or vicious dog impounded in the County Animal Shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Sheriff's Office shall have the authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.
- (3) The Sheriff's Office may humanely dispose of any dog being investigated under the provisions of this article at the request of or with the consent of its owner, keeper, or harborer.

**EFFECTIVE**, the 15<sup>th</sup> day of September 2013.

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Joseph W. Peel  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

**7} REGULAR AGENDA:**

- a} Joint Use Agreement for Multi-purpose field:

Mayor Peel called upon Councilman Stimatz for comments.

Mr. Stimatz stated the reason he pulled this item from the Consent Agenda was he has some questions. The first question he has is when did the Attorney review this document?

Mr. Morgan replied when he got his agenda packet on Friday morning.

Mr. Stimatz stated he feels this document is not ready for prime time. There are some things that are in it that are not clear to him. What is the school going to be responsible for and what we are specifically? It appears that the City is

paying for regular utility expenses for the football field regardless of who uses it. He is not sure if that is what we want to do or not. He thinks it should be a little clearer. The big three are this: 1} this MOU does not reflect standard clauses that we have in other MOU's and that is where he has a problem. Obviously there was no central look at this by somebody that said Ok how does this compare to others that we have. There are three things that are specifically missing. Specific period of performance, 2} you don't talk about an off ramp and 3} there is no clause that talks about how we would amend the agreement at any time. He would recommend that we table action on this until the lawyers have time to adequately review it and those things that he has mentioned plus some others he will send you are looked at.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to table action on this until the lawyers have time to adequately review the document.***

Councilman Walton asked if going through all these changes would hold up the football season this year.

Mr. Olson replied that is a possibility. He would like to mention this is the same Interlocal Agreement we presently have with the School System for the Northeastern High School football fields. It was reviewed by city staff and the school district's attorney. We believe that the Agreement has worked well for the Northeastern High School facilities for over twenty years now and that is why we specifically used that as the template. We have numerous meetings with the school district superintendent and also with Parks and Rec staff to discuss this issue. The Interlocal Agreement could be a lot longer and it could be a lot more complicated but basically what we are doing is we are basically given a piece of property which we will improve by putting lights, irrigation system and sod on it and we are responsible for the upkeep of maintenance of that facility. The school district has to continue to maintain their facilities around it pursuant to their existing level of service that they have. It is really no different than what we already have in place for Northeastern High School.

Mr. Stimatz said if he may offer what we are doing here is totally different than what we are doing at Northeastern High School. They are running a concession stand and just because we have had an agreement for twenty years doesn't mean it doesn't need to be amended as well. The three things he mentioned should be included in any agreement. There are some other specific things in here that infer costs that are not clear.

Mr. Walton stated we need to move forward in order that we can use the field.

Mr. Olson stated that this year the plans are to put the lights up and some other things. Next fall we are going to put irrigation system in and sod it. It is too late to do it this year. The big thing is getting the lights up on it so we can have night time practices especially when it gets dark. He thinks with the amount of available daylight and everything else we can continue to practice and that should not be that big an issue.

Mr. Stimatz said we always have the option of holding a special meeting to vote on the agreement.

Mayor Peel called for a vote on the motion.

***Those voting in favor of the motion were: Stimatz, Baker and Hill-Lawrence. Against: Brooks, Donnelly, Hummer and Walton. Motion failed.***

***A motion was made by Councilman R. T. Donnelly, seconded by Councilwoman L. A. Hummer to approve the Joint Interlocal Agreement for a multi-purpose field located at Sheep-Harney School. Those voting in favor of the motion were: Donnelly, Hummer, Brooks and Walton. Against: Baker, Hill-Lawrence and Stimatz. Motion carried.***

b} Appointments to Joint Redevelopment Commission:

Mayor Peel advised in 1995 the City and the County created the Joint Redevelopment Commission. The JRC purchased and tore down a number of dilapidated structures in the Fairgrounds project area. County Attorney Mike Cox who serves as the attorney for the JRC would like to reactivate the JRC in anticipation of the five court hearings. Therefore he would like confirmation of appointing the following:

a} Councilman J. A. Stimatz:

***Roll Call Vote:***

<b><i>Brooks</i></b>	<b><i>Yes</i></b>
<b><i>Stimatz</i></b>	<b><i>Yes</i></b>
<b><i>Walton</i></b>	<b><i>Yes</i></b>
<b><i>Hill-Lawrence</i></b>	<b><i>Yes</i></b>
<b><i>Hummer</i></b>	<b><i>Yes</i></b>
<b><i>Baker</i></b>	<b><i>Yes</i></b>
<b><i>Donnelly</i></b>	<b><i>Yes</i></b>

**7 – Yes votes            0-No votes**

b} Paul Fredette

**Roll Call Vote:**

<b>Brooks</b>	<b>Yes</b>
<b>Stimatz</b>	<b>Yes</b>
<b>Walton</b>	<b>Yes</b>
<b>Hill-Lawrence</b>	<b>Yes</b>
<b>Hummer</b>	<b>Yes</b>
<b>Baker</b>	<b>Yes</b>
<b>Donnelly</b>	<b>Yes</b>

**7 – Yes votes            0-No votes**

c} June Brooks:

**Roll Call Vote:**

<b>Brooks</b>	<b>Yes</b>
<b>Stimatz</b>	<b>Yes</b>
<b>Walton</b>	<b>Yes</b>
<b>Hill-Lawrence</b>	<b>Yes</b>
<b>Hummer</b>	<b>Yes</b>
<b>Baker</b>	<b>Yes</b>
<b>Donnelly</b>	<b>Yes</b>

**7 – Yes votes            0-No votes**

c} Appointment to Airport authority:

Mayor Peel stated Mr. Wayne Perry has been a member of the Airport Authority for the past 13 years and he has acknowledged that he would like to retire from this Authority. He asked for confirmation of Mr. Donald W. Payne to complete the unexpired term of Wayne Perry on the Airport Authority ending June 30, 2014. Mr. Payne has recently retired from E. I. DuPont after a 27-year career and has moved back to this hometown of Elizabeth City.

**Roll Call Vote:**

<b>Donnelly</b>	<b>Yes</b>
<b>Baker</b>	<b>Yes</b>
<b>Hummer</b>	<b>Yes</b>

<b>Hill-Lawrence</b>	<b>Yes</b>
<b>Walton</b>	<b>Yes</b>
<b>Stimatz</b>	<b>Yes</b>
<b>Brooks</b>	<b>Yes</b>

**7 – Yes voted - 0 – No Votes**

d} Procedure for Community Support Grants distribution:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised included in this fiscal year budget is \$50,000 for Community Support Grants. The City has already authorized funding two community organizations this fiscal year. The AAU Basketball 17 and Under Team received \$1300 and the AAU Basketball 15 and Under received \$1200. There is still \$47,500 available. Staff has placed a request for proposals advertisement in the Daily Advance on July 14, 2013 and also included information on Channel 11 that funding was available and applications were being accepted. Staff would like direction from the City Council on whether presentation should be made by each applicant before the Finance Committee or before the City Council during a Special City Council Meeting.

***A motion was made by Councilman R. T. Donnelly, seconded by Mayor Pro Tem L. M. Hill-Lawrence to following the same procedure as last fiscal year in that the applicants appear before the Finance Committee with the Committee forwarding their recommendation to full City Council for the final award. Those voting in favor of the motion were: Donnelly, Hill-Lawrence, Baker, Brooks, Hummer, Stimatz and Walton. Against: None. Motion carried.***

e} Resolution directing investigation of sufficiency of Petition for Voluntary Annexation – Coastal Beverage Company, Inc.:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised that a Petition for Voluntary Annexation has been received from Coastal Beverage Company, Inc. for a 7.25 acre parcel that is contiguous to the existing City limits. To start the annexation process City Council will need to adopt a resolution directing the City Clerk to investigate the sufficiency of the petition.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to adopt the following resolution***

***directing the City Clerk to investigate the sufficiency of the Petition for Voluntary Annexation for 7.25 acres owned by Coastal Beverage Company, Inc. located adjacent to Forest Park Road-SR 1307 and further for the City Clerk to report her findings back to City Council. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Hummer and Walton. Against: None. Motion carried.***

**RESOLUTION #2013-24  
DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G. S. 160A-31  
COASTAL BEVERAGE COMPANY, INC  
FOREST PARK ROAD – SR 1307  
7.25+/- ACRES**

**WHEREAS**, a petition requesting annexation of an area described in said petition has been received on August 12, 2013 by the City Council; and

**WHEREAS**, G. S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

**WHEREAS**, the City Council of the City of Elizabeth City deems it advisable to proceed in response to this request for annexation;

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

**THAT** the City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of her investigation.

**ADOPTED**, this 12<sup>th</sup> day of August 2013.

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Joseph W. Peel  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

f} Council/Manager Form of Government:

Mayor Peel called upon Councilman Brooks for comments.

Councilman Brooks stated he added this item because he thinks during his three terms on Council and in talking with the residents he doesn't think a lot of the citizens really know that we have a city council/city manager form of government. It is not a mayor/council form of government. The City Council/City Manager form of government means that all the power basically is in the hands of the Council, given to them by the General Assembly. This is the form of government that combines a strong political leadership of elected officials in the form of the council governing body with strong managerial experience of an appointed local government manager. This form establishes a representative system where all powers are concentrated in the elected council and they hire a professional trained manager to oversee the delivery of public services. Again, the Council and majority vote directs the city manager on what needs to be done and the city manager gets it done through his department heads. That is how the system is supposed to work. In a council/manager government members are the leaders and policy makers elected to represent various segments of the community and to concentrate on policy issues that are responsive to citizens' needs and wishes. The manager is appointed by council to carry out policies and insure that the entire community is being served. If the manager is not responsive to the council's wishes, the council has the authority to terminate the manager at any time. In that sense a manager responsiveness is tested daily. The Council is the legislative body and its members are the community decision makers. Power is centralized in the elected council which approves a budget and determines the tax rate. For example, the Council also focuses on community goals, major projects, such long term considerations as community growth, land use development, capital improvement plans, capital finances and strategic planning. The Council hires a professional manager to carry out the administrative responsibilities and supervises the manager's performances. The Mayor chairs the meeting but the Mayor does not have veto power. He repeats the Mayor cannot stop any council member from making a motion. He does not have that power. He is not given that power through the General Assembly nor is he given that power by the Council. He does not have it so when he does that he oversteps the boundaries of the authority given to him. He only has powers inferred to him by the City Council and as given to him by the General Assembly. The Mayor assists the council in setting goals. He assists us. We set the goals and he assists. He doesn't come up with a 20/20 Vision or all this stuff as he is supposed to assist us in making the goals. These are the laws that we abide by or these are the laws that we are supposed to abide by. He knows sometimes it appears to be different but this is what we are supposed to abide by and sometimes it appears that he is over the top. He is over the top

because we don't abide by this. He is reading it to the public and those who are listening in TV land so you will understand that these are the guidelines. You probably can look them up on your computer. It will tell you the same thing. When we have a city council/city manager type of government the mayor's position is basically ceremonial and it is called a weak mayoral position. It is not like those mayors in major cities for they are in a strong mayoral position. The mayor has no formal authority outside of the Council he or she cannot appoint and/or remove officials and lacks veto power over council's votes. As such the Mayor's influence is solely based on his/her personality in order to accomplish a desired goal. When you are dealing with motions, a motion is simply a vehicle for initiating actions on a proposal. Some types of motions can be brought up and voted on anytime. A main motion is used to initiate the consideration of a new item of business. After being seconded a main motion is subject to debate, amended, tabled or withdrawn before a final vote is taken. Once a motion is made by any council member and seconded the Mayor cannot deny that motion. If he does then he has overstepped his authority. Once a motion has been made and seconded he cannot say the motion is out of order. According to Bell Rules once a motion is made and seconded the next thing that happens is the debate. The reason why we came from a strong mayor's position to council/manager type of government was because when you read the historical background you will find out that the mayor was overstepping his bounds so this is more like a check and balance. He thought he would talk a little bit about this so the people will understand that the Mayor does not have sole authority over council. The council directs the city manager with the majority vote. The mayor has influence and his job is to assist the council and he is basically a ceremonial mayor and a weak mayor when it comes to the direction of the city.

Councilman Stimatz said he would like to correct one thing. Rule 7 in the Rules and Procedures for the City of Elizabeth City as voted on by City Council under the Powers of the Mayor, the first power is "to rule motions in or out of order" so the Mayor does have the authority before we move to debate to rule a motion in or out of order. That is the rule and that is what it says.

Councilman Walton stated that is probably what type of motion has been made. When a motion has been made inadequately then yes he can call it out of order. If it is made properly he cannot call it out of order just because he wants to do that.

Councilman Brooks said we are the ones that adopted Bells Rules. Go back and read Bell's Rules. Once a motion is made and seconded the Mayor cannot say he is not going to accept the motion. He does not have veto power. The only power that the Mayor has is the power that the General Assembly gives him or

the power that the Council gives him. He just read it to you, the authority and power lies with the majority vote of the Council.

Mr. Stimatz said he would like to read from Fleming Bell's Suggested Rules and Procedures for City Council, third edition from the Institute of Government which is the book that Mr. Brooks keeps referring to. "Rule 7-Office of the Mayor, Rule A, to rule motions in or out of order including any motions patently offered for obstructive or dilatory purposes." That is what Bell says in his book which by the way we do not go by as we wrote our own set of procedures based on that. The governing document is our standard procedures and the fall back is Bell's Book and the third fall back is Robert's Rules of Order. That is our rules.

Councilman Brooks stated a letter was written to UNC School of Government, Frayda S. Bluestein. This is what she says, "There is no law that would prevent the board from taking up a matter out of order or after the board has gone on to the next issue on the agenda." That is from the UNC School of Government. What he is saying is it doesn't matter all these rules and stuff this is it. The Mayor doesn't have the authority to rule a motion out of order because of the time it was presented.

g} Mayor Blocks Baker Probe:

Mayor Peel called upon Councilman Brooks for comments.

Councilman Brooks stated he would like to thank the Daily Advance for the article that they wrote as it gave him a chance to go back through some of his homework. The article read, "Mayor blocks Baker probe". The article starts by saying Elizabeth City's Mayor used procedural grounds Monday to block efforts to launch an ethics probe of a city councilor's conduct in the City Council recent decision to condemn and demolish a house. First we must define what ethics is in its simplest form. In general ethics are the rules of right and wrong behavior. It is the principle of conduct concerning an individual or group. Secondly, we must bring to light the City's ordinance on demolitions and specifically the property in question at 1015 West Church Street in Elizabeth City. June 10<sup>th</sup>, 2013 was the date of our regular council meeting at 7:00 p.m. It reads in part the adoption of ordinance declaring the structure at 1015 W. Church Street condemned and authorized demolition of the same. According to the Director of Inspections the structure was vacant and in various stages of disrepair-substandard, deteriorated and dilapidated and it could impose a safety hazard to the public. Staff requested a title search be performed by the City Attorney for the property. It goes on to state the owners have been personally notified by certified mail and/or newspaper advertisement of the ongoing condemnation process. No visible efforts have been made to bring the property into compliance. The Purchasing Agent solicited and received four demolition bids

per property. The property remained in violation of City and State code. 1015 West Church Street was pulled off the agenda, not from the request of the owners, but by a council member who could benefit. This violates Ordinance #10121 – Code of Ethics for the City of Elizabeth City. This violates Section I, Paragraph 1, Section 2, Paragraph I and Section 3-A, Paragraph I. As he continued to read the Article, Mayor Peel denied Councilman Brooks' motion calling for the probe of fellow councilor Jean Baker saying the motion was out of order because it wasn't offered when Council was discussing the possibility of the probe. Again, he read to you what the UNC School of Government said. There is no law that prevents the board from taking up a matter out of order after the board has gone on to the next issue on the agenda. The Mayor does not have the authority. He does not have the authority to deny a motion that was made and seconded because he doesn't like the motion or he is trying to protect someone or some thing. He does not have that authority. Peel ruled that the motion should have been made during the discussion of the investigation itself which is not true. He is more concerned with what Mr. Morgan said about Peel's ruling was within his authority as the meeting's presiding officer. That is not what the UNC School of Government said. It is varying in conflict so what he is saying is that we either are going to believe the UNC School of Government or we are going to believe our attorney. Baker acknowledged on Tuesday that she should have disclosed her financial connection to the house demolition at 1015 W. Church Street when the issue first came up last month. If that statement had been made instead me as a council person feeling like you were trying to protect but you went after him telling him his motion was out of order and that was the only way you could stop the motion. You have crossed your bounds of authority. In the article it goes on to say that Brooks protested Peel's ruling claiming he had intended to ask for an investigation during the first agenda item but Councilman Stimatz had prevented him from doing so. What happened was he had his hand up and Councilman Stimatz had his hand also and Mayor Peel called on Councilman Stimatz and he made a motion to move on. He would have made the motion then but he made a motion to move on. So, Mayor Peel went on. A motion to move on is a secondary motion that should have had a vote on it. If we are going to have rules to abide by then we need to go by the rules. Make the rules fair and equal across the board to everybody. Because he brought the article up that means he has the last say so in the matter.

Mayor Peel stated he was going to give his gavel to the Mayor Pro Tem.

Mayor Peel stated he thought that the article that you mentioned was a good example of how frequently people that write the articles don't get to write the headlines. The Mayor blocks Baker probe in fact the Mayor asked Mr. Walton twice during that agenda item if he would like to make a motion, assuming he would make a motion to conduct the investigation. Both times Mr. Walton responded in a negative way and a motion was never made. He is glad that you

contacted the UNC School of Government but unfortunately they were not here that night and we relied on our City Attorney. If there is a discrepancy between the two then he is sure Mr. Morgan will look into it and figure out what we need to do. But, as Mr. Stimatz said at least that evening we thought we were operating under our rules.

City Attorney Morgan stated that our body adopted the Rules and Procedures that we were alluding to that night and it has been alluded to again tonight. Under Rule 7, you as the Mayor has the right to rule any motion in or out of order. The relief that a councilor has to oppose you on the ruling is to appeal that ruling to the full board and that is a procedure we have used before. He has not read the question that was posed to Ms. Bluestein nor has he read her entire response but he still believes that our rule as it is written gave you the right to do what you did. Whether you were wrong or right in doing so is another matter all together. You have the right to issue the ruling that you did that night as he understands our rules. That is not as important as the fact that any councilor has the right to appeal the ruling that you issue. There is a relief out there for a councilor who feels that you have made the wrong ruling.

Mr. Brooks asked to respond to Mr. Morgan. If a motion is made without a second he can rule it out of order but once a motion is made and seconded he can't rule it out of order as it goes up for debate. Correct him if he is wrong. Once a motion is made and seconded it goes up for debate. He can't rule that motion out of order. The Mayor can rule a motion out of order but if a motion is made and seconded almost immediately, he cannot rule that motion out of order as it comes up for debate. As soon as he made that motion it was seconded and that is when the mayor said he was ruling the motion out of order.

Councilman Walton stated since his name was brought up he would like to make this a little clearer than that because he does know how to make a motion. While we were debating something you asked him if he was going to make a motion. You wanted him to make a motion to move on so we could go to something else. It should be taken care of and not drug on and on because it is ethics violations. We take a course every year on ethics because it is important. If you will do something unethical you will do anything. You need to have trust worthy people in these positions that we are in. You asked him twice and you wanted to control it to a point that he had to make a motion just because you asked him to make a motion. He knows how to make a motion and when to make a motion. He didn't want to make a motion at that time and it is not his responsibility to make a motion when you want him too. You do other people like that but he is not going to be that way.

Mr. Brooks said he was going to make a motion to have the investigation but Councilwoman Baker has said is she would have benefited from it financially and

she should have informed the Council. What she is saying is ok it might have been poor judgment but she did it so there is no need for an investigation. She said she did it but it was poor judgment. We probably would have had the same results if you had gone on and allowed the motion. He is not on a witch hunt as all he wanted to do was to make sure that the ethical lines are clear. We are not perfect individuals on Council and we can admit when we make a bad judgment call.

h} Weekly Broadcast of Council Meetings:

Mayor Peel called upon Councilman Walton for comments.

Councilman Walton asked why the City Council meetings are no longer being broadcasted. A lot of our citizens view the broadcast during the week and he would like to see it fixed.

Mr. Olson advised that we have a piece of audio equipment that is down and we have ordered and it has not come in as of yet.

i} The Gavel:

Mayor Peel called upon Councilman Walton for comments.

Councilman Walton stated Mr. Peel you gave up the gavel tonight and that was scary but that was what he was trying to get you to do before. Debate and discussion are very similar to each other.

Mr. Morgan stated he thinks it depends on who the Mayor is in a discussion with at the time. If he is discussing something with a councilor and perhaps there is a difference of opinion then he thinks that is debate. In that case the Mayor should give the gavel to the Mayor Pro Tem. But he recalls the issue from the prior meeting and his recollection is that the Mayor was asking the City Manager to explain something regarding an item. He is entitled to be fully informed about issues.

Mr. Walton said he votes only after we vote and there is a tie. He could ask that question when he sees there is a tie. We don't need his vote if there is no tie. He has the right to ask the question then. This is what creates dictatorships. When you tell me he shouldn't give the gavel up when we are talking about important issues.

Mr. Morgan stated he doesn't think it rises to the level of debate when he is asking staff a question. He believes that Mayor Peel has the same right to ask a member of staff a question.

Mr. Walton said he didn't need that information right then. Mayor there is someone in the audience that is mumbling and I am sure you hear them also. He feels he doesn't have that right if it is going to influence someone. When you are deliberating an item you don't ask questions that will influence the final decision and that was what was done.

**8} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:**

Councilman Brooks stated he wanted to thank the NAACP person, Keith Rivers, for addressing the Harbor of Hospitality so eloquently. He did a great job. He let us know how it should be and what brought us to the name of Harbor of Hospitality. We need to protect all segments of our community not just the parts that we think are important. Elizabeth City doesn't have a lot of high paying jobs and factories and things like that to bring good wages where people can easily pay their electric bills. Our major resources are our children. During the movement in the 60's to fight civil rights even in Elizabeth City the students at ECSU were detrimental in sit-ins. Even during the Viet Nam war what they were saying continuously was they could go fight for their country but I can't vote or I can't drink. We tell our children, young adults, to get an education, participate in government, so when they make an attempt to participate in government we try to stagnate them. When he was in the military and he went in when he was 18, and wherever he was stationed he lived in the dorm, but whatever state he lived in and lived in the dorm if he registered in that state he was allowed to vote using the dorm as his permanent address. He is trying to figure out why all of a sudden there has been a blatant attack on the students at Elizabeth City State University. You can call it anything you want as that is your right to challenge it but over and over again we don't need to get to a point where we are discouraging our young people from participating in government. When he sits here and looks out in the audience what he sees is basically there are those of us sitting here we have been around the block a couple of times. There are no young people out there. It is not because we sometimes have passionate disagreements on Council. If you deny him the right to vote and we don't need to continue to fight those "we shall overcome" battles that we did in the 60's. Give these youth the right to vote. Don't just attack the students at ECSU because we have other dormitories where the students stay in and nothing is said. Don't make it look like we are targeting a segment of our students. They are our students and our children. He went in the military to defend the land of the free and the home of the brave. He commends Mr. Rivers for coming and speaking on that topic because we as elected officials shouldn't sit back and say ok go get them, go attack them. We need to be encouraging them and pull them into the fold. We are attacking them and discouraging them from going out and participating in our government. Let's not do that. We are better than that.

Let's stop fighting the civil rights battle and let's not go back in that "we shall overcome" battle of the 60's.

Councilman Stimatz stated he had a number of issues, some for staff, some just general comments. One he has had a number of people talk to him about grass growing in the streets. The concern is if there is something that we can do to kill the grass or get rid of it until we pave it. He would like to comment on the false alarm issue. If we have 4000 false alarms and it only takes one officer an hour to respond that's two person years. That means you are sucking up two people on your staff just to answer false alarms. He would ask that we have the Chief bring back an analysis of the data on the false alarms and a proposed plan to reduce them and what the impact is on those numbers. During the downpour last night from 8:00 – 8:30 p.m. in the half hour Main Street between Locust and Holly flooded severely. He drove around and looked at the other streets and they appeared to be ok. He suspects there was some sort of blockage somewhere in the lines leaving Main Street. He would like to have city staff take a look at that. Along those lines he would like to ask for a meeting with the Stormwater Advisory Board this month. It can be before our last meeting and we can report at the last meeting. The last item which he has still seen no action on and he has asked for it many times over the last several years and that is the Renter's Bill of Rights. We were successful in the State Legislature in turning back the plan to overturn the Rental Inspection Program that we have. However, we still need a Renter's Bill of Rights. The last time this was discussed he understood there was actually one posted on the State Attorney's Web Site and his thoughts were why didn't we just take that one and tweak it a little bit and then adopt it as our own. He has heard nothing back on that issue and he would like something formal for our next meeting. He would like it on the agenda.

Councilman Walton told the Chief he was doing a very good job. Every week someone comes up and tells us about the good job you are doing. Keep it up if you will. Along those lines you need to give people flowers when they are living. Mayor he asked you if we could give Dr. Gilchrist a resolution or something that would show him that we appreciate his stay here in Elizabeth City because even the Mayor when his two years is up the City gives him a citation that shows that they are appreciated. He doesn't care how good the mayor was or whatever they still get a form of appreciation. We need to take that into consideration at our next meeting.

Mayor Pro Tem Hill-Lawrence stated she just wanted to say that she attended a Black Elected Officials conference in Rocky Mount a couple weeks ago. We had Senator Kay Hagans, Representative Butterfield and Roy Cooper were all there and gave us some very valuable information. It went very well and we learned a lot and shared a lot. One of the things on the local level is some people are

concerned about the alley closings and they don't know what all that means. She guesses they have been using some of the alleys and they wonder what that means in terms of relocation or changes.

Councilwoman Hummer stated we would be having a public hearing on the closing of the alleyways. As to the drainage issue, she has walked around a lot in the neighborhoods and she has noticed that the drains have been clogged even before the rains came. A lot of it is pine straw and grass clippings that people continue to mow out into the streets. With hurricane season coming soon and it is supposed to rain next week maybe we can contract with the prison workforce to get some of those things cleaned up. Also, do you know if the chemicals have come in for mosquito control?

Mr. Olson responded that yes they have and they are going to spray tonight.

Councilwoman Baker stated keeping with the grass and sidewalks and all like that she was noticing just driving around town when you see a long street or a long neighborhood that has its sidewalks edged, it looks so much nicer and so much neater. She wonders if we have excess time if we could go down and edge some of our major streets at least give us a start she thinks we could get six to twelve inches at least additional width on those sidewalks. She is very delighted that the Pure Oil Building is being saved. It is under contract and she will disclose that she has the contract although she is not asking for any extension, but it is going to be restored. It will continue to be a landmark in Elizabeth City and she thinks that is great news. It will be a fabulous store in there.

Councilman Donnelly stated city staff code enforcement people he thinks needs to be checking out some of the lawns in the area especially in Ward I he has seen a couple of yards that have at least a foot and a half tall grass. It does need to be cut. The other item deals with the foot patrols in the police department. He has been out in the early mornings walking around with his dog looking for a dog park but he did see the foot patrol out the other day. They are sticking those markers on the businesses. He has had several business people come up to him and say thank you and the police department for what they are doing. If it is encouraging robbers to show up because the building has already been inspected he hasn't seen that happen and from what he hears from the business people they are quite pleased with that service. He wanted to say thank you Chief Buffaloe.

Ms. Hummer stated she would like to thank the Chief for the bicycle patrol. They are stopping and talking with people and making an effort to go up and knock on doors. She had one lady to tell her that she let her dog out at four o'clock one

morning and they were in the alley with the bicycles, helmets and all their gear. We really do appreciate it.

**9} CLOSED SESSION:**

Mayor Peel called for a motion to retire into Closed Session for discussion of 1024 South Road Street and as per NCGS 143-318.11(a) (5).

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilman R. T. Donnelly to retire into Closed Session for discussion of acquisition of property owned by Tony and Tammy Rice at 1024 South Road Street and as per NCGS 143-318.11 (a) (5). Those voting in favor of the motion were: Hummer, Donnelly, Baker, Brooks, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.***

**10} RETURN TO REGULAR SESSION:**

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

Mayor Peel declared the meeting back into full session.

**11} ITEM FROM CLOSED SESSION:**

Mayor Peel called for action on the item that was discussed in Closed Session.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to authorize the City Manager to make Tony and Tammy Rice the best and final offer to purchase the property at 1024 South Road Street; and further if the offer is rejected the City will go forward with the hammerhead procedure. Those voting in favor of the motion were: Stimatz, Baker, Donnelly and Hummer. Against: Brooks, Hill-Lawrence and Walton. Motion carried.***

**12} ADJOURNMENT:**

There being no further business to come before the City Council at this time, Mayor Peel adjourned the meeting at 9:21 p.m.

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

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Joseph W. Peel  
Mayor

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