

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

Mayor Peel established a quorum was present and called the meeting to order. 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 approval of the prepared agenda.

Councilwoman L. A. Hummer asked to add; ***discussion of a personnel matter as per NCGS 143-318.11 (a) (6) to the Closed Session.***

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilman R. T. Donnelly to approve the prepared agenda to include the above noted item. Those voting in favor of the motion were: Hummer, Donnelly, Baker, Brooks, Spence, Stimatz and Walton. Against: None. Motion carried.***

**2} PRESENTATION:**

Mayor Peel presented a Certification of Recognition to Coach Tillar and the Elizabeth City State University Mighty Vikings Football Team in appreciation for distinguishing themselves, their school and their communities as the 2012 Pioneer Bowl Champions by posting a 28-13 win over the Tuskegee Golden Tigers. Coach Tillar made brief remarks.

**3} PUBLIC COMMENTS:**

Mayor Peel called upon the City Clerk for those who signed up to speak.

Ms. Elizabeth Leary, 3600 Waterside Drive #103, Elizabeth City expressed her concern regarding the police firing range that is still located behind the Tanglewood Apartments.

Ms. Millicent Harrington, 3895 Water Side Drive, Elizabeth City also expressed concerns regarding the police firing range that is located behind the Tanglewood Apartments.

**4} APPROVAL OF MINUTES:**

Mayor Peel called for action regarding the minutes of the November 26, 2012 Regular meeting.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the November 26, 2012 Regular meeting. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Spence, Stimatz and Walton. Against: None. Motion carried.***

**5} CONSENT AGENDA:**

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

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

**Consent Agenda:**

a} Adopted the following 2013 City Council meetings schedule:

**CITY OF ELIZABETH CITY  
CITY COUNCIL  
2013 CALENDAR**

<b>MONTH</b>	<b>FIRST REGULAR</b>	<b>SECOND REGULAR</b>	<b>JOINT CITY</b>
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	<b>CITY COUNCIL MEETING OF THE MONTH</b>	<b>CITY COUNCIL MEETING OF THE MONTH</b>	<b>COUNTY MEETING</b>
<b>January</b>	<b>14<sup>th</sup></b>	<b>28<sup>th</sup></b>	
<b>February</b>	<b>11<sup>th</sup></b>	<b>25<sup>th</sup></b>	
<b>March</b>	<b>11<sup>th</sup></b>	<b>25<sup>th</sup></b>	
<b>April</b>	<b>8<sup>th</sup></b>	<b>22<sup>nd</sup></b>	<b>29<sup>th</sup></b>
<b>May</b>	<b>13<sup>th</sup></b>	<b>28<sup>th</sup> Tuesday</b>	
<b>June</b>	<b>10<sup>th</sup></b>	<b>24<sup>th</sup></b>	
<b>July</b>	<b>8<sup>th</sup></b>	<b>None</b>	
<b>August</b>	<b>12<sup>th</sup></b>	<b>26<sup>th</sup></b>	
<b>September</b>	<b>9<sup>th</sup></b>	<b>23<sup>rd</sup></b>	<b>30<sup>th</sup></b>
<b>October</b>	<b>7<sup>th</sup></b>	<b>28<sup>th</sup></b>	
<b>November</b>	<b>12<sup>th</sup> Tuesday</b>	<b>25<sup>th</sup></b>	
<b>December</b>	<b>9<sup>th</sup></b>	<b>NONE</b>	<b>30<sup>th</sup></b>

**\*Regular City Council Meeting to begin at 7:00 p.m.**

**\*\*Work Session will begin at 5:30 p.m. prior to Second Regular City Council Meeting**

**\*\*\*Fifth Monday is Joint City/County Joint Meeting**

b} Approved the live burn training for the EC Fire Department at 411 Westover Street.

c} Adopted the 2013-2014 Language Access Plan.

d} Adopted the following Resolution in Support of Clean Water Management Trust Fund funding.

**RESOLUTION #2012-17**  
**SUPPORTING THE 2013-2015 FUNDING FOR**  
**CLEAN WATER MANAGEMENT TRUST FUND**

**WHEREAS**, the 1996 General Assembly established the Clean Water Management Trust Fund to provide an innovative and non-regulatory approach to the protection and restoration of the surface waters all across the state; and

**WHEREAS**, the Clean Water Management Trust Fund is a non-regulatory program established to help meet infrastructure needs of municipalities and counties, restore degrades surface water, protect watersheds, increase recreational opportunities and enhance quality of life in this state, all critical components for communities to obtain a competitive edge in their economic development; and

**WHEREAS**, the Clean Water Management Trust Fund has funded 451 infrastructure projects to assist North Carolina communities balance infrastructure needs with environment protection and to help struggling communities become self reliant with future infrastructure needs; and

**WHEREAS**, infrastructure needs across the state addressing drinking water, wastewater and storm water are estimated at \$16.6 billion between 2005 and 2030; and

**WHEREAS**, the Clean Water Management Trust Fund has leveraged more than \$1 billion of private, local and federal funds to support projects; and

**WHEREAS**, the General Assembly has reduced funding for the Clean Water Management Trust Fund by 78% since 2010; and

**WHEREAS**, limited funding for the Clean Water Management Trust Fund left 88% of 2012 critical local needs unmet; and

**WHEREAS**, our economic vitality, health and ability to sustain ourselves and the natural environment all rely on clean water; and

**WHEREAS**, surface water must be protected to ensure sufficient drinking water supply for the state's growing industrial base and population; and

**WHEREAS**, Clean Water Management Trust Fund has provided grants to the City of Elizabeth City to do one or more of the following; to protect, restore or enhance surface water quality for the benefit of the state's agriculture, military, recreation and tourism economies and to protect our natural heritage for the benefit of all North Carolinians:

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Elizabeth City at its meeting on December 10, 2012 that we support Clean Water Management Trust Fund and that the fund receive an increase in recurring funding from the Governor and the North Carolina General Assembly for the 2013-2015 Biennial Budget.

**ADOPTED**, this 10<sup>th</sup> day of December 2012.

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Joseph W. Peel  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

e} Called a public hearing to be held on Monday, January 14, 2013 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for consideration of approving an increase in the City's Rate and Fee Schedule for Lab Fees.

**End of Consent Agenda**

**6} PUBLIC HEARINGS:**

a} RZ-01-12 – Rezoning request for property located at 411 Westover Street:

Mayor Peel called upon Planning Director Brooks for comments.

Ms. Brooks informed Council the subject property is one of 5 contiguous parcels currently owned by the McPherson family. Two parcels front on West Ehringhaus Street and 3 parcels fronts Westover Street. The site in question has been used as a residential structure since the 1940's; however, it is zoned general business and has been vacant for three years. Being a nonconforming use it cannot be reoccupied as a residential dwelling unless it is rezoned. The parcels north and to the east are zoned Residential R-8. Rezoning would be consistent with the adjoining property. The Planning Commission recommends approval of the request.

***A motion was made by Councilman R. T. Donnelly, seconded by Councilwoman J. M. Baker to approve RZ-01-12 to rezone 411 Westover Street from General Business (GB) to Residential R-8. Those voting in favor of the motion were: Donnelly, Baker, Brooks, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.***

b} CUP-02-12 – Conditional Use Permit request from Evangelo Alexpoulos for property located at 101 Capital Trace:

Mayor Peel called upon Planning Director Brooks for comments.

Ms. Brooks stated the applicant seeks a conditional use permit for an 1880 foot building on a 2-acre site. The building is located on the same site as *Big Daddy's Pizza* on Weeksville Road. The applicant is requesting a conditional use permit for 40 Internet Sweepstakes machines at 101 Capital Trace. The Planning Commission is recommending approval of this permit with the following ten conditions:

- 1} That the CUP be granted for a period of only one year. Staff shall review for compliance thereafter and grant a yearly administrative approval;
- 2} The Internet Sweepstakes operation shall not begin until an asphalt parking area with a minimum of nine parking spaces has been constructed on Lot 14;
- 3} The number of improved parking spaces in Lot 14 shall increase proportionally to the number of sweepstakes gaming terminals. Should the number of required improved parking spaces not be provided this permit shall become null and void;
- 4} Comply with the Conditional Use Permit criteria of Article 111-4.441 of the Unified Development Ordinance;
- 5} As per State Statute 130A-309 (f) the applicant shall provide recycle containers for plastic bottles;
- 6} A business/privilege license issued by the City of Elizabeth City Customer Service Division shall be secured by the applicant annually;
- 7} Renovations other than cosmetic (painting, carpet, etc.) shall require a Building Permit;

8} Any new electrical work or rerouting of existing wiring shall require an electrical permit and shall be performed by a licensed electrician;

9} An inspection by the Building Inspector and Fire Marshall prior to opening to the general public is required; and

10} The record owner of the property shall record the permit with the Pasquotank County Register of Deeds. The authorized use shall not commence until the property owner provides documentation that the permit has been recorded and indexed under the record owner's name as grantor and that the required parking lot improvements have been completed.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve CUP-02-12 for Evangelos Alexopoulos to operate an Internet Sweepstakes Café at 101 Capital Trace; and further that the above stated 10 conditions be met. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Spence, Stimatz and Walton. Against: None. Motion carried.***

**7} REGULAR AGENDA:**

a} Authorization to Execute CAMA Grant Documents for purchase of Mack Sawyer Property:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised Council submitted two CAMA grant applications. The property acquisition in the amount of \$102,000 was approved with a matching of \$38,000 and for building improvements in the amount of \$90,000 was submitted but not approved.

***A motion was made by Councilman R. T. Donnelly, seconded by Councilwoman J. M. Baker to accept the CAMA Grant funds in the amount of \$102,000 and authorize the City Manager and the City Attorney to purchase the property at 106 S. Water Street owned by A Mack Sawyer and Associates. Those voting in favor of the motion were: Donnelly, Baker, Brooks, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.***

b} Authorization to submit application for TDA funding:

Mayor Peel called upon the City Manager for comments.

Mr. Olson advised the City received a CAMA Grant Agreement to purchase the Mack Sawyer building located at 106 S. Water Street. The Grant Agreement requires the City to provide \$38,000 in matching funds. The match was not budgeted in the City's fiscal year 2012-2013 budget. Staff would like to apply to the TDA for the matching funds. We currently have a balance in our TDA funding of \$99,268.92. However, the Council has already approved the following expenditures:

Highway 17 Association	\$ 1,000.00
Juneteenth Festival	1,500.00
Port Discover Semi Annual Payment	7,500.00
Former Middle School Renovation	75,000.00

The current amount available is \$14,268.92. The City receives monthly distributions from the TDA and the balance shown includes funding through September 2012. We will receive distributions for October, November and December as well as distributions for January, February and March 2013 before the semi-annual payment to Port Discover. The anticipated available revenue as of June 30, 2013 should be approximately \$50,000 based on monthly distributions of \$5,000. Based on the current distribution rates, adequate funds should be available to pay for this project. The Finance Committee is recommending submission of the TDA application for funding.

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to authorize staff to submit an application to the TDA in the amount of \$38,000 for the purchase of the Mack Sawyer Building. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Spence, Stimatz and Walton. Against: None. Motion carried.***

c} Adoption of Resolution accepting donation of real property to the City:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson stated that City staff presented a request from Walton C. Jennette, Jr. to donate to the City of Elizabeth City property just north of the Knobbs Creek Bridge. To comply with the City's subdivision regulations we decided to do a recommendation plat incorporating the property on the west side of Knobbs Creek. City Council accepted the donation.

***A motion was made by Councilwoman J. M. Baker, seconded by Councilman K. K. Spence to adopt the following resolution accepting the gift of real property from Nell J. Jennette***



***Revocable Trust. Those voting in favor of the motion were:  
Baker, Spence, Brooks, Donnelly, Hummer, Stimatz and Walton.  
Against: None. Motion carried.***

**RESOLUTION #2012-18  
GIFT OF REAL PROPERTY AND AUTHORIZING  
EXECUTION OF CERTIFICATE OF ACCEPTANCE**

**WHEREAS**, the City Council of the City of Elizabeth City hereby accepts, with gratitude, the gift of the real property from the Nell J. Jennette Revocable Trust described in the recombination plat dated December 6, 2012 prepared by Hyman and Robey attached hereto and by this reference made a part hereof; and

**WHEREAS**, Mayor Joseph W. Peel is authorized to execute a Certificate of Acceptance for the Deed of Gift conveying the title to the property being donated to the City of Elizabeth City; and

**WHEREAS**, City Manager R. C. Olson shall cause to be given appropriate notice to the donor of the acceptance of this gift and Mayor Joseph W. Peel is further authorized to execute any and all other documents necessary to the closing of this transaction.

**ADOPTED**, this the 10<sup>th</sup> day of December, 2012, by the City Council of the City of Elizabeth City, NC.

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Joseph W. Peel  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

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

Councilman Donnelly stated he wanted to commend the Jaycees for great job they did with their parade. The Christmas parade was really well handled and organized and it was so nice to see the police out on their bicycles with helmets on. That was a great activity. The Museum of the Albemarle also had the Polar Express back on December 1<sup>st</sup> on Saturday. Over 800 kids and parents showed

up for the Polar Express and it was one of the biggest events that took place at the Museum of the Albemarle in quite some time and it was quite impressive. His wife smelled like cocoa when she came home after serving everything. The Bach presentation at ECSU was also a very pleasant event on Saturday, December 1<sup>st</sup>. Professor Swan and his students did a wonderful job in putting that presentation together. He was really quite impressed with Chief's Buffaloes' parents and his child. The Chief definitely did a great job at the ceremony and he thinks the City put that whole event together very well. Thank you for coming to Elizabeth City Chief Buffalo.

Councilman Spence said he would like to also welcome the Chief. He apologizes for not being able to make the swearing in ceremony. He is looking for great things from him.

Councilwoman Baker said she too was impressed being at the swearing in. She was impressed with your words of wisdom and the whole process was very nice and she is glad that you are here. She has one question for the City Manager. On Colonial Avenue and Poindexter is that going to remain a four-way stop once all this work is done? It used to be a through street. Have we considered making it a stop on one side and throughway on the other?

Mr. Olson said it used to be a traffic signal. It has been down about fourteen months. We can look at it again as we have had those discussions in the design phase. We thought it would be better as a four-way stop.

Councilwoman Hummer said she thinks everyone was impressed with your swearing-in ceremony. She would again like to welcome you and your family to our fair city. She would like to know the status of the firing range.

Mr. Olson replied the City has to follow all the rules and regulations we impose on everyone else. The firing range has received TRC approval. There is \$150,000 in the budget to go ahead and construct the project. Chief Buffalo told him today he wanted to discuss how we were going to get that done. He has had conversations with a National Guard Unit who may come in and help construct at least the berm part of the firing range. It is moving forward and he realizes it is not moving as quickly as the Tanglewood Apartments would like it to be. We have limited the amount of time it is being utilized. It will take us at least 3-4 months to construct the new firing range.

Mayor Pro Tem Walton welcomed Chief Buffalo to Elizabeth City. You do have our support.

Councilman Stimatz said he was out of town during Chief Buffaloes' installation and he was also out when he was here for the interviews and at some point he

will drop by and have a discussion. Welcome abroad and he wishes you luck and let us know what we can do to help you. In regards to the firing range he remembers bringing this up many years ago in email about the issue when Tanglewood started building. His concern is that to what extent does the range as it now exists violate the conditions that we passed in the CUP in September 2011. Does it meet the buffer requirements? If it doesn't why are we continuing to use it? Are we going to have to cease operation of that range in order to accommodate that complex? The question in his mind would be if by being there now does it violate any conditions we put on the CUP then we ought to cease operation. We need to think very seriously about ceasing them anyway. This is not a new issue. You know he can dig up the emails in about 37 seconds. Why is it taking so long to get the permitting? We annexed the property in 2009.

Mr. Olson stated he would supply a written reply to full Council on this issue.

Councilman Brooks welcomed Chief Buffalo to Elizabeth City.

Mayor Peel said he would also like to welcome Chief Buffalo to Elizabeth City. He wanted to say one other thing to the community. This is our last meeting before the Christmas holidays and he wanted to wish everyone a very Merry Christmas and Happy New Year. This is a really special time of the year. It is time for family and it is a special time for kids and it is time for a community to show what it is really made of. He wants to thank all of the folks out there that are volunteering and all of you are making donations of toys and other things and other items so that every child in this community may feel the spirit of Christmas. It is absolutely amazing as he talks with people he finds out more and more about just individuals that take it upon themselves to work with 5 or 10 children and it is a pretty amazing thing we have going on. All of you make this a pretty special place at this special time of the year. He wants to thank you from the bottom of his heart for what you are doing.

**9} CLOSED SESSION:**

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

***A motion was made by Councilwoman L. A. Hummer, seconded by Councilman K. K. Spence to retire into Closed Session as per NCGS 143-318.11 (a) (3) for consultation with the City Attorney; and, as per NCGS 143-318.11 (a) 6) for discussion of personnel. Those voting in favor of the motion were: Hummer, Spence, Baker, Brooks, Donnelly, Stimatz and Walton. Against: None. Motion carried.***

**10} RETURN FROM CLOSED SESSION:**

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

**11} ITEM FROM CLOSED SESSION:**

Mayor Peel called for action regarding the item discussed in Closed Session.

***A motion was made by Councilman J. A. Stimatz, seconded by Councilman M. E. Brooks to accept the settlement agreement with OSHA in the amount of \$20, 438.00. Those voting in favor of the motion were: Stimatz, Brooks, Baker, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.***

**12} ADJOURNMENT:**

There being no further business to come before the Council at this time, Mayor Peel adjourned the meeting at 8:14 p.m.

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Dianne S. Pierce-Tamplen, MMC  
City Clerk

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Joseph W. Peel  
Mayor