



# MEMORANDUM

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**To:** Mayor and City Councilors  
**From:** Rich Olson, City Manager  
**Date:** August 22, 2013  
**Re:** Consideration – Adoption of Street Closing Order for Herrington Road

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***BACKGROUND:***

As part of the Roanoke Avenue Drainage Project, on May 13, 2013 the City Council adopted a preliminary Resolution for the closing of that portion of Herrington Road that is located between 1009 Herrington Road and the intersection of South Road Street and Herrington Road.

During the City Council meeting held on June 24, 2013, the City Council held a Public Hearing on the possible closure of the Herrington Road Bridge. City staff requested after the Public Hearing that the City Council table any action until the July 8, 2013 Council meeting. During the July 8, 2013 meeting, this matter was tabled once again until the August 12, 2013 meeting to afford City staff time to meet with Mr. Tony Rice on the proposed purchase of his property.

On August 7, 2013, a confidential memo was provided to the City Council outlining the lack of progress made on reaching an agreement with Mr. Rice.

***ANALYSIS:***

Staff presented to Mr. Rice the offer authorized by the City Council during the August 12, 2013 meeting. Mr. Rice was given until August 19, 2013 to respond. Mr. Rice requested several additional days to find a suitable location to relocate. Mr. Rice has not accepted the City's offer at the time of writing this memo.

During the City Council meeting, the Council authorized staff to move forward with the hammerhead design, if Mr. Rice failed to accept the City offer. To construct the hammerhead, the Council will need to adopt the attached Resolution authorizing the closing of Herrington Road between 1009 Herrington Road and the intersection of South Road Street and Herrington Road. The City will be retaining an easement along the former Herrington Road right of way, which will allow us to construct Phase III of the Roanoke Avenue Drainage Project.

**STAFF RECOMMENDATION:**

1. By motion, "remove this item from the table"; and further,
2. By motion, adopt the attached "Street Closing Order" Resolution authorizing the closing of Herrington Road between 1009 Herrington Road and the intersection of South Road Street and Herrington Road and instruct City staff to proceed with the development of Phase III of the Roanoke Avenue Drainage Project based on that premise.

**RESOLUTION #2013-\_\_\_\_\_**  
**STREET CLOSING ORDER**  
**HERRINGTON ROAD LOCATED BETWEEN**  
**1009 HERRINGTON ROAD AND INTERSECTION OF**  
**SOUTH ROAD STREET AND HERRINGTON ROAD**

**WHEREAS**, on the 13<sup>th</sup> day of May 2013 the City Council of the City of Elizabeth City directed the City Clerk to publish a Preliminary Resolution to consider closing that portion of Herrington Road located between 1009 Herrington Road and Intersection of South Road Street and Herrington Road in the Daily Advance once each week for four successive weeks, such resolution advising the public that a public hearing would be conducted in the City Council Chambers of the Municipal Administration Building on June 24, 2013 at 7:30 PM; and

**WHEREAS**, the City Council on the 13<sup>th</sup> day of May 2013 ordered the City Clerk to notify all persons owning property abutting that portion of Herrington Road located between 1009 Herrington Road and Intersection of South Road Street and Herrington Road as shown on the county tax records, by registered or certified mail, enclosing with such notification a copy of the Preliminary Resolution; and

**WHEREAS**, the City Clerk has advised the City Council that she sent a letter to each of the abutting property owner(s) advising the day, time and place of the meeting, enclosing a copy of the Preliminary Resolution and advising the abutting property owner(s) that the question as to closing that portion of Herrington Road located between 1009 Herrington Road and Intersection of South Road Street and Herrington Road would be acted upon, said letters having been sent by certified mail; and

**WHEREAS**, the City Clerk has advised the City Council that adequate notices were posted on the applicable street as required by NCGS 160A-299; and

**WHEREAS**, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect the closing of said street in the public hearing held on June 24, 2013, and

**WHEREAS**, it now appears to the satisfaction of the City Council that the closing of said street is not contrary to the public interest, and that no individual owning property, either abutting the street or in the vicinity of the street or in

the subdivision in which the street is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his property;

**NOW, THEREFORE**, subject to the reservation of easements to the City of Elizabeth City for utility purposes as shown on a map recorded in the office of the Pasquotank County Register of Deeds the portion of Herrington Road beginning at 1009 Herrington Road and Intersection of South Road Street and Herrington Road is hereby ordered closed, and all right, title and interest and quitclaim to the abutting property owner(s) in accordance with the provisions of NCGS 160A-299.

The Mayor and City Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all right, title and interest in those persons owning lots or parcels of land adjacent to the street, such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed street (with provision for reservation of easements to the City of Elizabeth City for utility purposes) in accordance with the provision of NCGS 160A-299(c).

The City Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Pasquotank County a certified copy of this resolution and order.

**ADOPTED**, this the \_\_\_\_\_ day of \_\_\_\_\_ 2013.

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Joseph W. Peel  
Mayor

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Dianne S. Pierce-Tamplen, MMC  
City Clerk