

**City Council Regular Session
March 10, 2014**

The City Council of the City of Elizabeth City met for a Regular Session on Monday, March 10, 2014 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Joe Peel
Councilwoman Jean Baker
Councilman Ray Donnelly
Councilman Tony Stimatz
Councilman Michael Brooks
Councilman Kem Spence
Councilman Darius Horton (Arrived at 7:10 p.m.)
Councilman Montravias King

MEMBER ABSENT: Mayor Pro Tem Anita Hummer

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planning Director June Brooks
Chief of Police Eddie Buffaloe
Electric Department Superintendent Karl Clow
Assistant to the City Manager Angela Cole
ECDI Director Rebecca Cross
Human Resources Director Katherine Felton
Inspections Director Stanley Ward
Parks and Recreation Director Bobbi White
City Clerk Vivian White

The City Council Regular Session was called to order by Mayor Joe Peel at 7:00 p.m. Mayor Peel welcomed everyone to the meeting and recognized Councilman Michael Brooks to give the invocation, after which the Pledge of Allegiance was recited by those in attendance.

Mayor Peel announced that Mayor Pro Tem Hummer was not present for the meeting because she had suffered a broken leg.

1. Agenda Adjustments and Approval:

Mayor Peel called for any adjustments to and approval of the agenda.

Councilman Brooks requested that Consent Agenda item “e” (Consideration – Call for a Public Hearing to be Held on March 24, 2014 at 7:30 p.m. in Council Chambers, 306 E. Colonial Avenue regarding the Adoption of an Amendment to the City Code of Ordinances, Chapter 2-Administration, Article IV Code of Ethics, affecting Sections 2-110 through 1-117 to include an expanded Conflict of Interest Policy) be pulled from the Consent Agenda and added to the Regular Agenda as Item “e”. Councilman Brooks also requested that two additional items be added to the agenda as Item “f” - Workplace Violence and Item “g” - Race and the Legal System.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Tony Stimatz, to accept the agenda as amended. The motion carried unanimously.

2. Comments from the Public:

Mayor Peel welcomed Bill Hiemer of 107 Osprey Cove, Elizabeth City, NC to the podium. Mr. Hiemer stated that the purpose of his appearance before the Council was to request that the City Council reconsider the investigation of Mayor Peel and City Manager Olson as a purely financial decision, putting aside any political or personal agendas and any opinions about charter schools. He further requested that the Council exonerate Mayor Peel and City Manager Olson and terminate what he described as the “needless and potentially costly investigation”.

3. Consent Agenda:

Mayor Peel recognized City Manager Olson to detail the items on the Consent Agenda. Mr. Olson recommended approval of all items, as follows:

Consent Agenda:

- a. Consideration – Adoption of Budget Amendment for Accounting Purposes, as follows:

BUDGET AMENDMENT

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2014:

SECTION I. That the JAG Local Solicitation Grant Revenue (103490.5114) and JAG SWAT Grant Expenditure (105100.3305) be increased by \$10,351.

(To record grant to purchase SWAT Team equipment.)

Joseph W. Peel
Mayor

Vivian White, NCCMC
City Clerk

- b. Consideration – Adoption of Fiscal Year 2014-2015 Budget Meetings Calendar, as follows:

DATE	TIME	PURPOSE
April 14, 2014 Monday	5:30 p.m.	Full Council Budget Presentation
April 24, 2014 Thursday	5:30 p.m.	Finance Committee Budget Meeting

May 1, 2014 Thursday	5:30 p.m.	Finance Committee Budget Meeting
May 12, 2014 Monday	5:30 p.m.	Full Council Budget Work Session
May 19, 2014 Monday	5:30 p.m.	Finance Committee (or Full Council) Budget Meeting (TBD)
May 27, 2014 Tuesday	7:00 p.m.	Call for Public Hearing on Budget during Regular City Council Meeting
June 9, 2014 Monday	7:00 p.m.	Hold Public Hearing on Budget (Possible Adoption of Budget)
June 23, 2014 Monday	7:00 p.m.	Adoption of Budget during Regular Meeting

- c. Consideration – Authorization for Mayor Joseph W. Peel to execute the Reimbursement Agreement for NCDOT Project WBS Element 36249.3336 (Herrington Road Bridge demolition);
- d. Consideration – Authorization for the City Manager to execute the Sidewalk Agreement with NCDOT for Project EB-3314C (US 17 North Sidewalk Project).

End of Consent Agenda.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Kem Spence, to approve the Consent Agenda as detailed by Mr. Olson. The motion carried unanimously.

4. Public Hearings:

- a. To receive comment regarding the adoption of TA-01-14 to modify language in the Unified Development Ordinance relating to non-conforming use.

Mayor Peel declared the Public Hearing open and inquired of the City Clerk if speakers were present for this item. There being no one present who wished to speak either for or against this consideration, Mayor Peel declared the Public Hearing closed.

Mayor Peel recognized City Manager Olson and Planning Director June Brooks for an explanation of this consideration. Ms. Brooks responded that during the Council’s February 24, 2014 meeting, a public hearing was scheduled for March 10, 2014 on the issue of Text Amendment TA-01-14. She explained that this is a proposal to amend the Unified Development Ordinance (UDO) to modify language clarifying the definition of “Use” and updating language governing nonconforming situations. She reported that the Board of Adjustment heard and decided appeal Case 01-13 in January 2014, whereby the applicant appealed an Administrative Decision of the Zoning Administrator to operate a four-unit multi-family residential structure, which was on a nonconforming lot and had been vacant for more than 180 days. Citing the ambiguity of the Ordinance language, the final decision of the Board of Adjustment did not uphold the original interpretation. Realizing the greater impact of the Board’s decision and the need for clarification, the Council and the Zoning Administrator initiated a text amendment to the applicable sections of the Ordinance. This proposed text

amendment modifies the definition of "Use" by deleting language of intended and maintained. Language has also been added that specifies specific evidence that the Zoning Administrator shall look for when determining cessation of a use. Ms. Brooks indicated that the text amendment was reviewed during the February, 2014 Planning Commission meeting and the Planning Commission voted unanimously to approve the language as drafted.

Councilman Stimatz pointed out that the text addition in Section 6-3.2 (D) was unclear with regard to "substantiation" and suggested that the text be changed to read "substantiating the cessation".

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to adopt the following ordinance with the one change noted to Section 6-3.2(D). The motion carried unanimously.

Ordinance # 2014 _____
Text Amendment TA-01-14
Amend the Unified Development Ordinance
Relating to Nonconforming Uses

WHEREAS, the City of Elizabeth City adopted the Unified Development Ordinance in 1999; and

WHEREAS, the City Council of the City of Elizabeth City has amended the Unified Development Ordinance from time to time in order to clarify and comply with legislative changes; and

WHEREAS, the Planning Commission reviewed the proposed changes and recommend an amendment to the Unified Development Ordinance; and

WHEREAS, the following text is hereby adopted as of March 10, 2014 with the amendments noted, as follows:

Bolded Text – new language added
Strikethrough – language deleted

Amend Article II Interpretations and Definitions, §2-4.214 as follows:

2-4.214 Use. The purpose or activity for which land or structures are designed, **designated**, ~~or arranged or intended~~, or for which land or structures are occupied ~~or maintained~~.

6-3.2 Conditions for Continuance

Such nonconforming use of land shall be subject to the following conditions:

(A) No nonconforming use shall be changed to another nonconforming use unless such use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the Board of Adjustment shall consider:

- (1) probable traffic of each use;
- (2) parking requirements of each use;

- (3) probable number of persons on the premises of each use at a time of peak demand;
- (4) off-site impacts of each use, such as noise, glare, dust, vibration or smoke and other impacts on surrounding properties or the public health or safety;
- (5) **compliance with applicable development standards and other zoning regulations in this Ordinance.**

(D) If any nonconforming use of land ceases for any reason for a continuous period of more than 180 days, any subsequent use of such land shall be a permitted use in the district in which such land is located.

For the purposes of this subsection, when calculating the 180-day cessation period so as to declare a nonconforming situation ceased, the Zoning Administrator shall find evidence of one or more of the following for substantiating the cessation: inactive public utility service, specifically electricity; inactive or expired building permit(s); expired Certificate of Appropriateness; and/or expired site-specific plan with vested rights, conditional use, special use, zoning, or sign permit. Expiration of permits and site plans shall be in accordance with Section 4-10 (D) of the Ordinance.

NOW, THEREFORE, BE IT ORDAINED, that the City Council of the City of Elizabeth City does hereby amend the above text of the Unified Development Ordinance to reflect the changes to nonconforming uses.

Adopted, this 10th day of March, 2014

Joseph W. Peel
Mayor

Vivian White, NCCMC
City Clerk

- b. To receive comment regarding the adoption of State Speed Limit Concurrence Ordinances as requested by NCDOT.

Mayor Peel declared the Public Hearing open and inquired of the City Clerk if speakers were present for this item. There being no one present who wished to speak either for or against this consideration, Mayor Peel declared the Public Hearing closed.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Tony Stimatz, to adopt the following State Speed Limit Concurrence Ordinances as requested by NCDOT to be in full force and effect from and after March 10, 2014. The motion carried unanimously.

Ordinance # 2014 _____
Amendment to Chapter 46 Motor Vehicles and Traffic
Article III Operation of Vehicles

Section 46-52 Speed Limits

WHEREAS, the City Council of the City of Elizabeth City has received a request from the North Carolina Department of Transportation to adopt certain State Speed Limit Concurrence Ordinances; and

WHEREAS, the City Council of the City of Elizabeth City desires to take the requested action as a housekeeping matter in connection with North Carolina Route 1268 and North Carolina Route 1269; and

WHEREAS, the required public hearing has been called for and held on March 10, 2014.

Now, therefore, be it ordained that paragraph two of Section 46-52 of the City's Code of Ordinances shall read as follows:

The City of Elizabeth City hereby adopts the following State Speed Limit Concurrence Ordinances, as requested by the North Carolina Department of Transportation:

1. Concurring State Ordinance Number 1067601 applies to Herrington Road from US 17 Business (East Ehringhaus Street) to the (former) Herrington Road Bridge. The posted speed limit will remain 25 mph.
2. Concurring State Ordinance Number 1067599 applies to South Water Street between East Elizabeth Street and Southern Avenue (SR 1164). The posted speed limit will remain 20 mph.

Be it further ordained that:

1. All ordinances or sections of ordinances of the Elizabeth City Code, and/or parts thereof, in conflict with this ordinance are hereby repealed to the extent of such conflict.
2. This ordinance amendment shall be in full force and effect from and after the date of its adoption.

Adopted, this the 10th day of March 2014.

Joseph W. Peel
Mayor

Vivian White, NCCMC
City Clerk

5. Regular Agenda:

- a. Consideration – Proposed Amendments to Downtown Improvement Grant Guidelines

Mayor Peel recognized Mr. Olson for an overview of this item. Mr. Olson explained that the Finance Committee had suggested several changes to the guidelines for the Downtown Improvement Grant Program (DIG) during their March 6, 2014 meeting. He referred the Council to the DIG policy provided with the agenda. Recommended changes now include an expanded purpose statement that focuses on improving occupancy of vacant buildings as a primary goal, and improving safety and aesthetics of the properties as secondary goals. Also included is the requirement that buildings must be vacant for 60 days unless the property owner has a lease in hand for the building. If the owner has a lease agreement in hand, this vacancy requirement is waived. Her further explained that City staff must inspect the property and discuss the grant proposal with the property owner before the application moves forward; roof repair and replacement will become an eligible project at no more than 30% of the grant amount; and any HVAC improvements must be with a unit of at least a 15 SEER rating or better. Scoring by staff of all applications will occur after an open application cycle, with any funds left being awarded on a first-come, first-served basis much like the process for Community Support Grants.

Councilman Stimatz noted that the guidelines do not make clear if grant proceeds may be used for existing tenants. He commented that he did not think existing businesses should be ruled out, but that the scoring rubric could be used to apply a lesser weighting for a property with an existing tenant. In addition, he pointed out that the purpose statement should provide a more clear definition of “occupancy” as “retail occupancy” to exclude residential properties from the program.

Councilwoman Baker also expressed concern regarding the apparent exclusion of existing tenant-occupied buildings and noted that she felt façade grants are key to beautifying the downtown, even if the grant is for an occupied building.

Councilman Donnelly reported that he had received calls regarding the 60-day vacancy requirement; and he indicated he thought occupied buildings should be eligible with a lower scoring applied to the application. He reiterated his support for the 30% funding guideline on roof repair.

Councilman King noted that he felt awards to persons with multiple properties should be limited to allow for greater participation. Mr. Olson responded that currently three or four individuals have a large ownership of properties in the downtown; however the program has been designed to only allow one application during a twelve-month period based on the particular property address. Mayor Peel responded that one way to address this concern is through the scoring rubric.

Councilman Spence commented that it appeared there was a great deal of confusion regarding the proposed changes and stated that he felt the matter should be tabled until staff developed something concrete to be considered in order that everyone has a clear understanding.

Councilman Stimatz agreed and noted that staff’s request was for the Council to provide direction. He inquired if the City Manager would take a stab at designing a scoring rubric, to which Mr. Olson responded that staff would do so.

Mayor Peel noted that it should be clearly defined that the primary goal of the program is to fill empty spaces; but if a property has an existing tenant, an application may be submitted for that property, with a lesser scoring weight being applied.

Motion was made by Councilman Kem Spence, seconded by Councilman Ray Donnelly, to table the consideration of the DIG program guideline changes pending staff’s additional work. The motion carried unanimously.

- b. Consideration – Award of Downtown Improvement Grant Program Application for Zack Roberson for property located at 500 E. Colonial Avenue

Mayor Peel recognized Mr. Olson for an overview of this request. Mr. Olson responded that Zack Robertson, owner of the property located at 500 East Colonial Avenue, is requesting financial assistance to bring the property up to City Code, by relocating the electrical meters from inside the building to the outside, as well as to separate 500 E. Colonial Ave. from 502 E. Colonial Ave., which currently utilizes the same electrical meter. The amount of the application is \$3,790, which is one-half the total project cost of \$7,580. Mr. Olson reported that City staff had inspected the building and encouraged the owner to do some additional minor work in the building.

Councilman King noted that he did not feel the Council should award any more grants while the Council was still struggling with developing the guideline changes. Mayor Peel responded that both of the applications on the agenda were recommendations from the Finance Committee; and the Finance Committee felt that both applications would fit well under the guideline changes that were being proposed.

Councilman Stimatz concurred with Mayor Peel and noted that he attended the Finance Committee meeting. He explained that during the committee discussion, it was agreed that both applications being presented for consideration on this agenda met both the old and new standards of criteria; unlike the three additional applications not forwarded to the Council by the Finance Committee.

Motion was made by Councilman Ray Donnelly, seconded by Councilwoman Jean Baker to approve the award of Zack Robertson’s Downtown Improvement Grant Program request in the amount of \$3,790, for a total project cost of \$7,580. The motion carried unanimously.

- c. Consideration – Award of Downtown Improvement Grant Program Application for Owens and Robertson for property located at 510 E. Main Street

Mayor Peel recognized Mr. Olson for an overview of this request. Mr. Olson responded that Owens and Robertson, owner of the property located at 510 East Main Street (the former Gregg Shoe Store) is requesting financial assistance for interior renovations to make the building conducive for utilization for any business, whereas it is currently designed exclusively for a shoe store with extensive shelving. He stated that the applicant is seeking funding to remove existing shelves and trim, and install additional walls and a door in the rear of the building, as well as installation of sheetrock on all walls to a height of 12 feet. Additionally, they seek to install a drop ceiling, drop light fixtures, install wood panel flooring, and finish and paint the interior of the building. The grant request is in the amount of \$6,044, for a total project cost of \$12,088.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Darius Horton to approve the award of Owens and Robertson’s Downtown Improvement Grant Program request in the amount of \$6,044, for a total project cost of \$12,088. The motion carried unanimously.

- d. Discussion requested by Councilman Donnelly – Investigation of Mayor and City Manager.

Mayor Peel recognized Councilman Donnelly for comments. Councilman Donnelly explained that he had asked that the investigation of the Mayor and City Manager be added to the agenda because the Council has not yet selected an attorney to perform the investigation. He reported

that he had been approached by several people throughout the community as well as the County who expressed that what the Council was doing is wrong. He stated that he had initially voted to conduct the investigation only because Mayor Peel and City Manager Olson welcomed it. However, he said that after hearing from a large number of constituents, he re-examined his heart and what he thought was best and had concluded that the investigation is inappropriate.

Motion was made by Councilman Ray Donnelly, seconded by Councilwoman Jean Baker to pass a resolution to, first of all, terminate the investigation of the City Manager and Mayor and secondly, to exonerate both parties identified in the investigation, specifically the City Manager and Mayor.

Mayor Peel called for discussion of the motion.

Councilman Horton stated that he could not go along with the motion because the definition of “exonerate” is to clear, as of an accusation, or to free from guilt or blame. He said that the only thing the Council has done is follow up on the allegations presented by the NAACP; but at no time had Council made an allegation. He further stated that he could not support exoneration, because he had not made an allegation and only said the matter should be investigated.

Councilman Spence pointed out that several votes had been taken on this issue already to move the investigation forward; and that it now appeared the concern was regarding spending money. He asked if the purpose of exoneration was to clear names or if it was to save the City money. He pointed out that if the concern was to save the City money, the motion made during a previous meeting to end the investigation should have been passed.

Councilwoman Baker stated that the vote to move the investigation forward was taken because of the accusations made by the NAACP that there was wrongdoing. She said that based on that premise, she felt that the Council needed to exonerate; because documentation of the investigation can easily be found online whenever you search the Mayor’s or City Manager’s names. She stated that the Mayor and City Manager should not have to live with that if the Council has not charged them with anything. Councilwoman Baker further stated that she was not in favor of spending \$4,500, or any of the City’s money, to do a useless investigation.

Councilman Brooks stated that when the Council tried to investigate him, cost never came up; and he wonders why it is a factor now. He reported that no one that he has come in contact with has suggested that the Council needs to pull the investigation. He pointed out that the Council has voted twice to continue the investigation and he doesn’t know why it continues to come up. He said that as far as he is concerned, all the questions have not been answered.

Councilman Stimatz pointed out that the issue of cost did not come up in the beginning because he thought the investigation was to be performed by the City Attorney. He said his vote for the investigation was based on his assumption that the City Attorney would be used. He stated that the use of the City Attorney had been overturned and the path of using outside counsel had been chosen. He acknowledged that he had not found any evidence of either personal gain or over-reaching of authority by the City Manager or personal gain by the Mayor. He suggested that it did not make sense to go ahead with the investigation and spend the money; but if the investigation is to proceed, he encouraged the Council to allow the City Attorney to perform the investigation to avoid the additional costs.

Councilwoman Baker stated that the only reason she previously voted to continue with the investigation was because the motion to exonerate the Mayor and City Manager had failed.

Councilman Spence inquired as to why it was important to exonerate if the investigation was dropped.

Councilman Donnelly responded that even if the investigation is dropped, the innuendo of wrongdoing still exists unless the Council takes the step to clear it up.

Mayor Peel called for a vote on Councilman Donnelly's motion. Councilman Spence requested a roll call vote, recorded as follows:

Councilman Brooks	No
Councilman Stimatz	Yes
Councilman Horton	No
Councilman King	No
Councilwoman Baker	Yes
Councilman Spence	No
Councilman Donnelly	Yes

The motion failed.

- e. Consideration – Call for a Public Hearing to be Held on March 24, 2014 at 7:30 p.m. in Council Chambers, 306 E. Colonial Avenue regarding the Adoption of an Amendment to the City Code of Ordinances, Chapter 2-Administration, Article IV Code of Ethics, affecting Sections 2-110 through 1-117 to include an expanded Conflict of Interest Policy

Mayor Peel called on City Manager Olson for an explanation of this consideration. Mr. Olson explained that during the presentation of the City's Comprehensive Annual Financial Report for Fiscal Year ending June 30, 2013, the auditor advised the Council to adopt a Conflict of Interest Policy and Statement of Disclosure that included all City employees. Mr. Olson explained that although there is a Conflict of Interest statement included in the City's Community Development Block Grant documents and reference is also made within the City's Ethics Policy, the City does not have a standalone Conflict of Interest Policy. He indicated that staff had worked on proposed changes to the City's current ordinance to provide for the auditor's suggestions. The new document was presented in the agenda for the Council's consideration.

Councilman Brooks expressed concern regarding the removal of the designations of the city manager, assistant city manager, city clerk and department heads from the definition of "city official" in the proposed new policy; and the placing of those designations within the new category of "city employee". He stated that he felt this would let these city officials "off the hook" whereby they could participate in conflict of interest and not be penalized. He said that he was suspicious of this change.

The City Attorney responded that he disagreed with Councilman Brooks' concern, in that Section 2-112 of the policy stated that all city officials and employees are subject to the policy. He explained that, in his opinion, this was just a change in terminology.

City Manager Olson reiterated that the reason the auditor suggested a change in the current policy was because the only ones covered were the City Council, City Manager, Assistant City Manager, Department Heads and City Clerk. The present policy is not incumbent on any other City employees and the auditor suggested that all employees should be subject to the same requirements.

Councilman Brooks stated that he still disagreed that those employees defined as "City officials" under the current policy should be changed to the term "city employee".

Councilman Stimatz responded that the language did not have to be changed because it was the same either way.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Kem Spence to call for a Public Hearing to be held on March 24, 2014 at 7:30 p.m. in Council Chambers, 306 E. Colonial Avenue regarding the Adoption of an Amendment to the City Code of Ordinances, Chapter 2-Administration, Article IV Code of Ethics, affecting Sections 2-110 through 1-117 to include an expanded Conflict of Interest Policy and Statement of Disclosure. The motion carried unanimously.

f. Discussion requested by Councilman Brooks – Workplace Violence.

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks stated that employees were his passion. He read the definition of “Workplace Violence” from page 77 of the Employee Personnel Manual, as follows: “Workplace violence includes, but is not limited to, intimidation, threats, physical attacks, unauthorized weapons or property damage.” He continued by reading the definition of “weapon” in the manual as being “any object used to attack or intimidate another. Prohibited weapons include, but are not limited to firearms, explosives ammunition, knives, pocket knives, switchblades or other dangerous or deadly weapons. Use of other items as weapons (such as tools or furniture) is also prohibited. Tools used in the course of duty such as axes, hammers and similar instruments, are considered weapons when used as a weapon of aggression.” Councilman Brooks also referenced Section IV of the Workplace Violence Policy as it relates to “when incidents occur” as well as Sections V, VI and VII. He pointed out that the responsibility of supervisors in the early recognition of potentially threatening situations is the key to protecting employees and the public from violence.

He stated that he had provided this personnel policy information because he has seen and continues to see a lot of stress among City employees; and in order to make the following motion:

Motion was made by Councilman Michael Brooks, seconded by Councilman Kem Spence, that the full report of the investigation conducted by Chief Manley and all information be released to the Council or let the City Attorney report the findings to Council.

Upon queries from Council members regarding the investigation to which he referred, Councilman Brooks responded that the City Attorney had provided direction to him regarding how to make his motion.

Mayor Peel inquired if this matter should be addressed in Closed Session, to which the City Attorney responded that “we are getting close”.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to table this discussion to a Closed Session to be held after the Council Comments and Inquiries section of the agenda.

The City Attorney pointed out that it was his opinion that to add a Closed Session and amend the agenda at this point would require a super majority approval vote by the Council. However, he stated that if Mayor Peel did not concur with his opinion, he could overrule his interpretation.

Councilman Stimatz stated that he really did not know what this discussion was about and was simply asking to go into Closed Session for clarification. Councilwoman Baker concurred that she, too was not clear on the matter being discussed.

Councilman Brooks stated that he felt the Council members knew what his motion was about, but if not, he had another motion waiting to be made.

Councilman Horton stated that if there were that many investigations that have been called and the reports not given to Council, there is a bigger problem than this one issue.

Councilman Stimatz responded that he would assume that the issue is one of a personnel nature, to which the Council is not privy. He said that he found Councilman Horton's comment to be one of "throwing gasoline on a fire that did not exist".

Councilman Brooks withdrew his motion and made the following motion:

Motion was made by Councilman Michael Brooks, seconded by Councilman Darius Horton, for the Council to direct the City Manager to follow the direction for which he sought a consensus of employment in Closed Session.

Questions again arose by Council members as to the nature and meaning of this motion.

The City Attorney stated that he had advised Councilman Brooks that he could make any motion he wished and had provided advice on how to do so; but he cautioned that personnel issues were now being touched on. He further stated that it is entirely possible that some members of Council may not be aware of the specific personnel action for which Councilman Brooks was seeking action.

Councilman Brooks responded that he did not have a problem going into Closed Session and providing an update for those who apparently did not know what he is referring to.

Councilman Horton responded that he did not see a need to go into Closed Session because there had only been one time that a consensus in Closed Session had been sought by Councilman Brooks since he had been a member of Council.

Councilman Spence stated that the Council could continue to go back and forth on this matter, but that he would like to make the following motion:

Motion was made by Councilman Kem Spence, seconded by Councilman Michael Brooks, to go into Closed Session after Council remarks so Councilman Brooks can refresh the Council on the issue that is being addressed; and come back out into open session for action. Those voting in favor of the motion were: Councilman Brooks, Councilman Horton, Councilman King, Councilwoman Baker, Councilman Spence and Councilman Donnelly. Against: Councilman Stimatz.

g. Discussion requested by Councilman Brooks – Race and the Legal System

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks stated that he put this item on the agenda because it is a topic that everyone evades. He stated that the issue of race still exists and that he has learned that everyone that is of his color is not his kind; that everyone that is black is not his friend; and that everyone that is white is not his enemy. After referencing the differences in individuals' world view, he focused on the fact that Elizabeth City is referred to as "the Harbor of Hospitality." He posed these questions: What do you do when racial profiling continues? What do you do when you are arrested for quoting scripture?

“What do you do when you watch police physically abuse children while directing profanity against them, and you are arrested for Obstruct and Delay of Police Officer in the Performance of His Duty because you told them they were wrong in using profanity against kids?” He reported that in that situation, he was speaking of himself. He continued by emphasizing that “race is real”. He concluded by saying that we do not live in a post-race society because racism is alive and well - not only in the United States but all over the world.

Councilman Donnelly responded by reminding the Council of an upcoming event being sponsored by the Community Relations Commission. He reported that he had participated in a similar event in Edenton during which the film “Racial Taboo” was shown; and that it was very worthwhile in addressing the issue of racism.

6. Comments and Inquiries on Non-Agenda Items:

Mayor Peel invited each Councilor to comment, as follows:

- Councilman Donnelly reported that he attended the Albemarle Hopeline Legislative Breakfast and received an update on their activities. He complimented the recent Council Planning Retreat as being very helpful. He minded everyone of the upcoming Potato Festival in May and invited participation in the Potato Peeling Contest.
- Councilman Spence had no comments.
- Councilwoman Baker reported that she had also attended the Albemarle Hopeline Breakfast and had attended the ECSU Founders Day Gala. She complimented City Manager Olson for receiving the Chancellor’s Legacy Award for Government during the event.
- Councilman King reported that he continues to receive emails from citizens concerned about their utility bills. He expressed concern regarding whether all citizens are charged equally because it appeared to him that the high utility bills are in the poorer sections of town. He requested information regarding average light bills in the different neighborhoods, such as Pelican Point and Sheep Harney. He stated that he hoped that the City was not balancing its debt on the backs of the poor. Secondly, he complimented the Police Department for being proactive in fighting crime, but expressed his concern regarding the number of young black men recently arrested during a special operation.
- Councilman Horton reported that he had also attended the ECSU Gala and was proud to be a part of raising money for scholarships for those less fortunate.
- Councilman Stimatz responded to Councilman King’s concerns by emphasizing that the City Council sets utility rates and the City’s computer determines the bills based on usage. He emphasized that City staff has no control over how bills are created; and the inference that bills are somehow gerrymandered is uncalled for. He stated that unfortunately, the housing stock in poorer neighborhoods consists of older homes with no insulation; and that they have electric baseboard heaters, which is the most expensive heat source to have. The second most expensive heat source is a heat pump. He suggested that citizens should be encouraged to take advantage of the City’s weatherization program as a means of lowering their utility costs.
- Councilman Brooks said that the reason he ran for Council was to help combat the Open Air Drug Market in Elizabeth City. He also expressed concern for the recent number of young black males arrested. He stated that it is just as illegal to buy drugs as it is to sell drugs. He reminded everyone of the reverse sting that had been conducted some years ago when more whites were arrested for buying drugs than there were blacks selling drugs. He said that if you eliminate the market, you eliminate the seller.

- Mayor Peel spoke in support of the City's weatherization program. He reported that the City had recently sent over 1,400 letters asking citizens with high electric bills if they would like the City to perform a free energy audit for them. Sadly, there were less than 20 responses. He encouraged Councilman King to have his constituents call for an appointment and take advantage of the City's energy audit and weatherization program. He also reported that he had attended the ECSU Foundation Gala, which he said was a great event.

After a five minute recess the Council entered Closed Session pursuant to Councilman Spence's motion.

Motion was made by Councilman Kem Spence, seconded by Councilman Tony Stimatz, to come out of Closed Session and go back into Open Session. The motion passed unanimously.

Mayor Peel declared the meeting into Open Session.

Councilman Stimatz stated that the Councilman Brooks' previous motion had been tabled by Councilman Spence's motion to go into Closed Session.

Councilman Brooks restated his motion as follows:

Motion was made by Councilman Michael Brooks, seconded by Councilman Darius Horton, for the Council to direct the City Manager to follow the direction for which he sought a consensus of employment in Closed Session.

Councilman Brooks stated that the Council knows what the consensus is about, as it was discussed in Closed Session.

Mayor Peel stated that under the advice of Counsel, he ruled the motion out of order, as it was not within the Council's authority to make such a motion.

There being no further business to be discussed, Mayor Peel adjourned the meeting at 9:32 p.m.

Joseph W. Peel
Mayor

Vivian D. White, NCCMC
City Clerk