

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 attending were: Mayor Pro Tem J. B. Walton, Counselors J. M. Baker, M. E. Brooks, R. T. Donnelly, L. M. Hill-Lawrence, L. A. Hummer, K. K. Spence and J. A. Stimatz. City Staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, ECDI Director R. Cross, Planning Director J. C. Brooks, Human Resource Director K. W. Felton, Police Chief C. E. Crudup, Inspections Director S. E. Ward, Public Utilities Director P. A. Fredette, Finance Director S. E. Blanchard, Deputy City Clerk V. D. White and Assistant Fire Chief M. Cartwright.

Mayor J. W. Peel established a quorum was present and called the meeting to order at 7:00 p.m. He called upon Reverend Phil Dowdy, Forerunner Ministries for the invocation after which the Pledge of Allegiances to the Flag of the United States of America was given.

1} AGENDA ADJUSTMENTS AND APPROVAL:

Mayor Peel called for adjustments and approval of the prepared agenda.

Councilwoman L. A. Hummer asked to ***add to Item #5 Special Presentations a proclamation proclaiming the week of March 12-17, 2012 as "Girl Scout Week"***.

A motion was made by Mayor Pro Tem J. B. Walton, seconded by Councilwoman L. A. Hummer to approve the prepared agenda to include the above stated item. Those voting in favor of the motion were: Walton, Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Spence and Stimatz. Against: None. Motion carried.

2} SPECIAL PRESENTATIONS:

a} American Red Cross Month: - March 2012:

Mayor Peel read and presented a proclamation to Ms. Carolyn Self, Executive Director of the local American Red Cross Chapter. Ms. Self introduced Mr. Jim Self, Don Campbell and Betty Lou Campbell as three volunteers that assist her in many endeavors. She made brief remarks regarding activities of the Red Cross.

b} Girl Scout Week – March 12 – 17, 2012:

Mayor Peel read and presented a proclamation to Ms. Trevina Marietta. She introduced two young girl scouts who passed out a treat to members of the City Council. Ms. Marietta made brief remarks regarding the activities of the local Girl Scout Troup.

3} PUBLIC COMMENTS:

Mr. Tom Jenkins, 2606 Willis Street, Elizabeth City addressed his concerns on compensation for producing renewable energy in Elizabeth City.

4} APPROVAL OF THE MINUTES:

a} February 27, 2012 – Work Session:

Mayor Peel called for approval of the February 27, 2012 Work Session Minutes.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman R. T. Donnelly to approve the minutes of February 27, 2012 as presented. Those voting in favor of the motion were: Hummer, Donnelly, Baker, Brooks, Hill-Lawrence, Spence, Stimatz and Walton. Against: None. Motion carried.

b} February 27, 2012 – Regular Meeting:

Mayor Peel called for approval of the February 27, 2012 Regular Meeting minutes.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of February 27, 2012 Regular Meeting as presented. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Spence, Stimatz and Walton. Against: None. Motion carried.

5} CONSENT AGENDA:

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

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

CONSENT AGENDA:

a} Called for a public hearing on March 26, 2012 at 7:30 p.m. to notify the citizens that the City intends to apply for a Coastal Waterfront Access Grant in the amount of \$300,000 to purchase 106 S. Water Street

b} Called for a public hearing on March 26, 2012 at 7:30 p.m. to solicit public comment regarding the submission of a \$500,000 CDBG NC Catalyst Grant for renovations to the Old Middle School located at the corner of Elizabeth Street and North Road Street.

c} Authorized execution of third amendment to the Water Tower Attachment Communication Site Agreement with Verizon.

d} Authorized the execution of Declaration of Official Intent to Reimburse prior to the purchase of the Lowry property for \$450,000.

END OF CONSENT AGENDA

6} REGULAR AGENDA:

a} Reappointment to ABC Board:

Mayor Peel advised that Mr. Anthony Jerome Turner's term on the ABC Board expired February 28, 2012. This is a joint appointment with Pasquotank County. County Manager Randy Keaton sent a letter advising that the County Commissioners voted to recommend that Mr. Turner be reappointed to the ABC Board for an additional four-year term. Therefore, he is asking for confirmation of appointing Mr. Anthony Jerome Turner to an additional four-year term on the ABC Board as the Joint Appointee.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman M. E. Brooks to reappoint Mr. Anthony Jerome Turner to an additional four-year term on the ABC Board with an expiration date of February 2016. Those voting in favor of the motion were: Stimatz, Brooks, Baker, Donnelly, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

b} Utility Relocation Agreement B-4922 for Church Street Extended Bridge Replacement Project and related budget amendment.

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised that NCDOT will be replacing the bridge on Church Street Extended next year. Council approved a Municipal Agreement with NCDOT in January which covered the relocation of the 12-inch force main adjacent to the bridge. The estimated costs to relocate the force main are \$136,784. The City has existing power lines which will also need to be relocated. The City's power lines predate the NCDOT right-of-way therefore NCDOT must pay for the relocation of the power line. NCDOT has provided the City with a Utility Relocation Agreement for this project. The City will be responsible for the bidding and award of the work to a third party contractor. NCDOT will reimburse the City for the work done by the contractor and Progressive Engineering Consultants, Inc. Since the City will pay the contractor and seek reimbursement from the State, the contract will require a budget amendment.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. M. Hill-Lawrence to authorize the City Manager to execute the Utility Relocation Agreement B-4922 in the amount of \$131,000 and further; approve the following Budget Amendment. Those voting in favor of the motion were: Stimatz, Hill-Lawrence, Baker, Brooks, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.

**BUDGET AMENDMENT
NUMBER 2012-04
MARCH 12, 2012**

BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2012:

SECTION I. That the North Carolina Department of Transportation Reimbursement (303490.4505) and the Church Street Line Relocation (308300.7347) be increased by \$131,000.

(To record Church Street Extended Bridge Electric Relocation.)

ADOPTED, this 12th day of March 2012.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

c} Call for a public hearing – Text Amendment TA-01-12:

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to revive from the table for further consideration Text Amendment TA-01-12. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

Mayor Peel called upon Planning Director June Brooks for comments.

Ms. Brooks advised the Code Amendment you received in your packet was a reflection of the comments that were made at your February meeting. Since that time we have received additional comments from Council Members to be added to the package or concerns that we wanted to look at and that is the paper copy that you have today. That is updated from your package that you received last week. We tried to address all the concerns in the emails that we received and she is hoping based on comments from the February meeting and the comments we received back from our update that we have captured everything that you wanted us to capture for this code amendment.

Councilman Stimatz stated he thinks you have done a good job of addressing and fixing most of the concerns. He still has some questions that he didn't see an answer. We need to be aware of them. He proceeded to go through the few changes that he wanted to call to everyone's attention.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. M. Hill-Lawrence to call for a public hearing to be held on Monday, March 26, 2012 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for Text Amendment TA-01-12 to amend the Unified Development Ordinance, specifically Articles II Interpretations and Definitions: IX Zoning and XI Development Standards, adding language to define and regulate scrap metal-recycling processing centers. Those voting in favor of the motion were: Stimatz, Hill-

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

d} Call for a Public Hearing to amend City's Code of Ordinances, Chapter 6 "Animals" Article II "Dangerous Dogs":

A motion was made by Councilwoman J. M. Baker, seconded by Councilwoman L. M. Hill-Lawrence to revive from the table for further consideration of amending City's Code of Ordinances, Chapter 6, "Animals", Article III "Dangerous Dogs". Those voting in favor of the motion were: Baker, Hill-Lawrence, Brooks, Donnelly, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.

Mayor Peel called upon Police Chief Crudup for comments.

Chief Crudup stated we also have with us Travis Jackson from the Sheriff's Department. One of his primary duties is dealing with animal control. We have asked him to review the ordinance to see if it is consistent from a regulatory point of view between the County ordinance and the City's ordinance because the Sheriff Department are the ones that will be primarily responsible for enforcing the ordinance. Chief Crudup proceeded to address several of the concerns. On the table tonight is some last minute changes that were made to the ordinance. He stated at the February 27th meeting proposed modifications to the local ordinance pertaining to dogs were reviewed by council. Recommendations were made to broaden the definitions of potentially dangerous, dangerous and vicious dogs and established treat levels for each category of dog. He briefly went over the suggested changes.

Several members of Council asked for clarification of the wording as stated. Chief Crudup answered all questions. A number of changes were suggested and is incorporated in the proposed ordinance.

A motion was made by Mayor Pro Tem J. B. Walton, seconded by Councilman J. A. Stimatz to call for a public hearing to be held on Monday, March 26, 2012 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building for consideration of amending the City's Code of Ordinances, Chapter 6 "Animals" Article III "Dangerous Dogs". Those voting in favor of the motion were: Walton, Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Hummer and Spence. Against: None. Motion carried.

e} City Employee Vehicle Take Home Policy:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised that he included into tonight's agenda packet an administrative directive which will be executed after tonight's meeting basically delineating the City's take home vehicle policy. Who gets the vehicle, which they are assigned too and for a number of years the police department has had their own stand alone standard operating procedure which addresses take home vehicles. We have not had one for regular, general city employees. This

administrative policy is being provided as a heads up to the City Council to address this matter. Basically, it is the City Manager's responsibility for assuring compliance with this directive. Authorization to take home vehicles use requires the recommendation of the department head and approval of the City Manager. Then you go into the directive part of it if you assign the vehicle for one or more of these purposes that an employee may drive the vehicle to and from work and may to the extent necessary use the vehicle to travel to their meal during the meal periods. In some instances employees may be required to keep the vehicle with them while about engaged in city business in order to maintain communication contact and fulfill standby work responsibilities. No action is needed by the City Council.

Councilman Spence said he understands what you are saying but the problem that he has with this is it says in isolated cases the employee may use this vehicle for limited personal use. We have one saying that you can't use it for personal use and another saying you can use it for limited personal use. It is either or. The reason he is addressing this is because the citizens have to pay for this gas and when these vehicles get a certain amount of miles on them we have to get rid of them. We have to pay for the tires and maintenance. If you are using it for work, no problem. Personal use shouldn't be done. That is how he feels and that is the policy. We cannot use city materials or anything for personal use. He understands if you are working and you go to the store while you are working to get something to eat, that is fine, but when you knock off at five o'clock, you need to take the vehicle home and park it. Every department head does not have a car to take home. Every department head can't go to the store and get groceries in their car. It doesn't look good in the citizen's eyes when you see a city vehicle on the weekends riding around at the grocery store with two by fours hanging out the back of it for personal use. It does not look good and it is unacceptable in his sight.

Mr. Olson said one of the concerns that he has and this deals with the Fair Labor Standard Act, the more intrusions we put on an employee, we may be forced to pay them standby pay. That is a provision in the Fair Labor Standards Act. If an employee is out working and has a sewer call and he wants to stop by Lowes and to get something for personal use on his way back, he thinks that is a reasonable restriction. If an employee has to take that vehicle, park it and then go get his stuff, the more intrusions we put on a city employee, the chances are we have a violation of the Fair Labor Standards Act and we may have to start paying standby pay.

Councilman Brooks said that is a smoke screen. This is not the first time that this has come up. It came up with the last Council and you said we would address it. What this does is it gives the employee an out and you are not going to tell him that at 5:30 p.m. that employee can carry Christmas trees on top of their vehicle and two by fours in their vehicle, well let every director have that same privilege. Give them a vehicle. That is taxpayer's money that we are abusing. If an employee does not have a personal vehicle and they are a director then we have a problem. He can understand with the police officers. Things happen but when you have someone that is using the city vehicle for their personal use during the weekday or during the weekend, there is no out for them. We are not talking about on standby. We are talking about what is actually happening. This is not the first time this has come up and it needs to be taken care of. It is the city manager's responsibility to take care of this matter.

Not to find an out for the employee and let them keep doing what they have been doing all along.

Mr. Olson said that this policy addresses all city employees not just the department directors. He understands your concerns as he would be upset too. He is not arguing that issue as that was inappropriate conduct by an individual. He has no qualms with that and he will address that, but there may be those circumstances where it is more convenient for that employee to do that and it may end up saving the city money in the long run.

Councilwoman Baker asked if a Department Head was out on a personal business and they got an emergency call because something blew up or something overflowed would we compensate them for mileage on their own personal vehicle or would we require them to go home and get their city vehicle and come back to a potentially volatile situation.

Mr. Olson replied that it all depends on the nature of the call. Those are what ifs that we cannot judge. He thinks we are focusing too much on department directors. This is an administrative directive for all city employees not just the department directors. He will be happy to rework this policy but it is an administrative directive which he believes is necessary.

Councilman Spence said that if he is not mistaken years ago there were some employees that used the City's vehicle or materials that were fired from the City for using them. Whether it was a department head or a laborer he is saying that it should be straight across the board. This guy five years ago had almost 30-years of service with the City and they fired him for misuse of material. He is not saying we need to fire anyone but if he is working with the City and he has a dump truck around and he sees a load of dirt that he wants to put in his yard on his way back to the yard he can't go dump that load of dirt in his yard as that is personal use. It doesn't look good and we have to stand for what the public is seeing and what the public is doing. This is the public's money. This isolated personal reason is a big statement.

Mayor Pro Tem Walton said if you were more specific with the Police Department you can also be specific with whatever group you are involved with. More so with a supervisor because they are getting the bigger bucks so they can afford things. Make a detailed description of how you want to treat a supervisor.

Councilman Stimatz said sometimes the Manager goes to events in his City vehicle. Why, because you are on call twenty-four hours a day and we expect you to show up like yesterday. That is the reality of that. The question would be, are there other people working with the City who need to be in that same status and if so then we need to identify them. Sometimes we reimburse employees for the use of their own vehicle instead of buying them a vehicle. The question would be is it a job perk or in terms of compensating people for coming to work for the City. Sometimes you write that in as a perk that they get. He would say just be consistent. There is no such thing as sometimes it is ok.

Mr. Olson said he has emergency stuff in his trunk that is used in case of an accident. He has responded to numerous accidents. He pulled someone over

once. These vehicles carry safety equipment. That is something that he doesn't want you to over look. He understands the appearances.

7} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Councilman Donnelly stated he had no further comments.

Councilman Spence stated he had an issue come up with a supervisor complaint from a member of staff. He emailed Mr. Olson and he did that as he always does. He emailed the rest of the Council as a common courtesy. He doesn't have a hidden agenda so he doesn't have anything to hide so he emailed everybody. Some kind of way this got blown way up. The issue was where something was hanging in the supervisor's office. The supervisor took it down. Mr. Olson addressed it but apparently there are some other council members that have a problem with it. His concern is this he is emailing everybody as a courtesy and if there is a problem he doesn't have to email you and that would be fine. Anytime the citizens or a city employee brings an issue to him he is going to address it whether the rest of Council likes it or not. That is why he was put in this seat. If there is a problem with that he is sorry but he is not going to stop. There is no right side, left side for him as he is straight down the middle. He does that because he does not have a hidden agenda. He wants everybody to know what Councilman Spence is doing because he doesn't have anything that is underhanded. He is just letting Council know when he does this he is not doing it to expose Rich or anyone else; he is doing it as information for Council.

Councilwoman Baker stated she had no further comments.

Councilwoman Hummer asked to say that she appreciates you Mr. Spence emailing her and to please continue. Also, she agrees when city council gets a complaint no matter where it is from, an employee or a citizen that we should give it to the City Manager. That way he knows and gives him a heads up to a potential problem as well as it takes us out of it. That has been the way it has been for years. That is what she does also.

Mayor Pro Tem J. B. Walton stated he went by the Fish Courts recently and there were some dark holes in the surface. That means there is water standing there somewhere. Do we intend to do more to that location?

Mr. Olson replied yes. We have a lot of work left to do there. We are no where near getting that facility back to where it needs to be. We do have a plan which we shared with the people in the Fourth Ward that we still need to put in place.

Councilwoman Hill-Lawrence asked that the Public Works Crews be sent out to Oak Grove to clean out the ditches. They are filled and the water is not running off as it should be.

Councilman Stimatz asked that the renewable energy issue be placed on the next agenda for discussion. He finds it appalling that we pay less than one cent per kilowatt hour. He thinks Mr. Jenkins has a valid point.

Councilman Brooks stated he has always adhered to what the citizens in the community have brought to him as one of their concerns. Whenever they come

to him with a problem the passion that flows through him comes out all kinds of ways, sometimes aggressive and sometimes calmer. Their concerns are voiced through him such as the City Manager abides by the directive of the Council. We as council members abide by the directives of the voters. Our reason for being here is to abide by their wishes, cares and concerns and it always has to be. The incident that Councilman Spence was talking about, that wasn't the first time he heard it. He was amazed at the responses of the emails. He thought some of them were like way out there but Mr. Spence had a very legitimate email exchange. It was very interesting. He didn't email back and he didn't even engage in the email conversation because Mr. Spence deals with security and he understood where he was coming from. He wants to thank Council for doing the resolution about appointing Mr. Walton as Mayor Pro Tem. We also must be mindful in that capacity it says that the Mayor Pro Tem fills in for absences of the Mayor. That is why we have a Mayor Pro Tem. Whenever the Mayor can't make a function that is the purpose of the mayor pro tem. If the Mayor Pro Tem is available we need to use him. We were talking a lot about policy and there is no need to have a policy if you aren't going to use it.

City Manager Olson stated he had no further comments.

Mayor Peel advised that he has a couple of comments. One is he had the pleasure Friday of attending the ECSU Founders Day Program. He was really impressed by it. He has been around a long time and has gone to a lot of events and he doesn't think he has ever been to an event where the organization was as large as that. It really reflected back on where it came from and its traditions. It honored the people that really got it started. It is very appropriate today the vision that the three men had who started that school back in the 1890's. If they were alive today he thinks they would be happy to see what they created. Also, later during the evening they had the Gala Foundation Program which was also a very nice event. Congratulations to Chancellor Gilchrist and the ECSU Family for a great weekend. Back on March 1st there was an editorial in the paper that was written by Ms. Martha Johnson on the opinion page. The article was concerning the Mayor's Energy Commission and he wrote a response to the paper to the editorial but he thinks the paper has chosen not to print it. He asked to read a section of it tonight. He started by saying, "she was entitled to her opinion but she was not entitled to state certain things as facts which were simply not true. In this article she stated that Ms. Baker and Mr. Morrissette who are both members of the Energy Commission had gained monetarily from selling off and buying rental properties resulting from the inception of the Rental Inspection Process several years ago. That statement is simply not true. Ms. Baker did not sell any of the properties and Mr. Morrissette did not buy any of them. Shortly after becoming Mayor I had several people tell me that one of the most difficult things he would have to do was to find people willing to serve on committees and commissions for the City. He is happy to say he has not found that to be true. However, allowing public misstatements concerning citizens who are willing to serve our City to go unchallenged may result in the hesitancy of many to get involved in the future. The members of this Commission are dedicated to improving the housing stock in this community, both the rental and privately owned and are working diligently to do so. He is really proud to be working with them and thankful that they are willing to share their time and expertise on this, what he considers to be an extremely important issue. He is convinced this is one of the most important issues we have to address as it is destroying the social fabric of many of the families in this community. He is happy that Ms. Johnson sees this as an issue and is concerned about it and like

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CITY COUNCIL

all citizens he welcomes her thoughts and ideas. Just give him a call or come to their next meeting.”

8} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Peel entertained a motion for adjournment.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman J. A. Stimatz to adjourn the meeting. Those voting in favor of the motion were: Hummer, Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Spence and Walton. Against: None. Motion carried.

Mayor Peel adjourned the meeting at 8:45 p.m.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk