

**City Council Regular Session
April 14, 2014**

The City Council of the City of Elizabeth City met in regular session on Monday, April 14, 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
Mayor Pro Tem Anita Hummer
Councilman Tony Stimatz
Councilman Michael Brooks
Councilman Kem Spence
Councilman Darius Horton
Councilman Montravias King

MEMBERS ABSENT: NONE

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
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
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 7:06 p.m. Mayor Peel welcomed everyone to the meeting and gave the invocation, after which all in attendance recited the Pledge of Allegiance.

Mayor Peel reminded the Councilors and all speakers to speak directly into their microphones. He welcomed Mayor Pro Tem Hummer back after having missed a few meetings due to surgery.

1. Agenda Adjustments and Approval:

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

Councilman King requested to remove the Community Support Grant award to the COA Foundation from the Consent Agenda and place it on the Regular Agenda for discussion. Councilman Brooks requested to add a discussion of workplace violence to the agenda. Councilman Stimatz requested to remove the award of a Downtown Improvement Grant to Robert Brown from the Consent Agenda and place it on the Regular Agenda for discussion. Councilman Spence requested to add a Closed Session as allowed by NCGS 143-318.11(a)(6) for the discussion of personnel matters. Councilman King requested to add a discussion of the Middle School project and the potential use of the second floor.

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Tony Stimatz, to approve the agenda as amended. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

2. Proclamations:

Mayor Peel read and presented a proclamation declaring April 2014 as Fair Housing Month in the City of Elizabeth City and urged all citizens to rededicate themselves to ensuring that fair housing laws are always upheld and citizens are protected against discrimination. Planning Director June Brooks accepted the proclamation and thanked the City Councilors for their support.

Mayor Peel read and presented a proclamation declaring April 25, 2014 as Electrical Linemen Appreciation Day in Elizabeth City and called upon all citizens to recognize the contribution that these public servants make every day to the citizens' health, safety, comfort and quality of life. Electric Department Superintendent Karl Clow accepted the proclamation on behalf of the personnel of the Electric Department and thanked the City Councilors for their support.

3. Comments from the Public:

Bonnie O'Neal, 2126 Rivershore Road, Elizabeth City, NC stated that she had great concern about recent actions of some of the members of the City Council. She advised that her first concern was for the "complete disregard and lack of respect" shown toward Mayor Pro Tem Hummer and her constituency in not allowing her a vote in the decision to terminate Mr. Olson. She asked if any member of Council could deny Mayor Pro Tem Hummer's many years of dedication to the City; and pointed out that she had been consistently re-elected to serve a very diverse constituency. She questioned the reasoning and motives of the Councilors who voted to terminate Mr. Olson. She pointed out the many grants received and accomplishments made by the City since Mr. Olson has been City Manager. She stated that the citizens of Elizabeth City do not like the constant strife and adversity of the Council and the turmoil that goes on at every City Council meeting; and said that it was hurting "our town". She asked the Council to work cooperatively and respectfully with each other for the good of Elizabeth City.

Tom Nash, 117 Nixonton Loop Road, Elizabeth City, NC stated that he felt very fortunate to have grown up in Elizabeth City and to have practiced law here for 34

years. He pointed out the many good things available in the community for the citizens in order to say how much he appreciated living in Elizabeth City. He expressed his embarrassment and sadness for the recent discord, sniping and name-calling that comes from the Council. He stated that he appreciates the work that the Councilors do, but advised that he does not think the Councilors realize the damage being done to the reputation of Elizabeth City with the constant discord. He urged each Councilor to check their personal agenda, vendetta and ego at the door and work together for the good of the community.

Diana Gardner, 10 Bateman Drive, Elizabeth City, NC stated that she is the current chair of the Elizabeth City Area Chamber of Commerce and works as a realtor. She said that she had been a resident of Elizabeth City since 1978 and had worked in many volunteer capacities over the years. She said that previously it had been her honor to introduce visitors to the community to the City Councilors; and that the visitors had always been impressed. She stated that recently, however, she did not want visitors to watch Council meetings on television or read The Daily Advance. She asked the Council to work together, show respect, watch their language and watch how they act toward others.

Holly Koerber, 609 W. Main Street, Elizabeth City, NC thanked the Council for the opportunity to address them and for their service to the community. She acknowledged that it is very difficult to make the tough choices that routinely must be made. She stated that she had been a resident of the community for 14 years and had found its diversity to be one of its most attractive things. She expressed that the one thing those who struggle hope for is to be treated fairly and be given an equal chance, regardless of the reason for the struggle. She stated that cannot happen as long as there are those among us who insist on finding the things that separate us and pointing out the characteristics that are beyond our control. She said that Elizabeth City is a community that loves and worships and wants to succeed together. She asked the Council to represent those things for the good of the community.

Dorothy Gibbs, 1203 Herrington Road, Elizabeth City, NC said that she had lived at her address for 39 years and had graduated from the local public school system and Elizabeth City State University. She said that supported the local school system and that her daughter, June Gibbs, works for the system. She stated that she is sometimes perturbed by what she reads and sees on television regarding City Council meetings. She said that she is proud of Councilman King and Councilman Brooks and supports them 100%. She described in detail a "serious problem" with a sewer backup at her home and stated that City Manager Olson had told her to "clean it up myself." She stated that Councilman Brooks and former Councilman Walton had intervened and had the problem taken care of. She stated that "first impressions are lasting impressions" and indicated that her impression of City Manager Olson was not a good one.

Pete Gilbert, 1623 Penny Drive, Elizabeth City, NC stated that he wished to address Councilman King; and said that he was concerned with Councilman King's opposition of the initiative to develop a local charter school. Mr. Gilbert stated that he was also

concerned by Councilman King's motion to terminate the City Manager and offered that the City Manager has done a lot of good things for the City. He cautioned Councilman King against listening to special interest groups and advised that he felt that a lot had occurred previously in the City of which Councilman King was not aware or understood. He questioned if tangible results could be exhibited by the previous community development organizations, OIC and Elizabeth City Neighborhood Corporation, in view of the fact that each had received public dollars for the purpose of helping the community. He advised Councilman King to sit down with people in the community in order to be able to understand the whole story. He further stated his opinion that Councilman King was making poor decisions based on poor advice. He offered to sit down with Councilman King to discuss the issues he was addressing and provide documentation regarding his concerns. He thanked Councilman Spence for standing on his principles. He asked for an investigation of a potential open meetings law violation - with the passing of a note among Councilors - that he said he witnessed during the last City Council meeting. He stated that if a violation is found, he wanted to know how it would be addressed.

Bill Hiemer, 107 Osprey Cove, Elizabeth City, NC stated that he had three brief comments. First, he thanked Councilman Spence for his vote on March 24, 2014 against terminating the City Manager. He stated that Councilman Spence had shown himself to be a fair and courageous man, and that he had the gratitude and respect of many in the City. Secondly, he stated that the motion to terminate the City Manager being made during Mayor Pro Tem Hummer's absence was shameful, self-serving and irresponsible. He said the fallout of that action under those conditions could have been very disturbing. Finally, he requested that the Councilors take a very simple pledge. Considering the magnitude of the decision to hire or fire a city manager, he asked the Councilors to pledge that no vote would be taken unless 100% of the Council members were in attendance. He stated that would show respect for all members of Council, the citizens and the City's system of government.

Johnnie Walton, 401 New York Avenue, Elizabeth City, NC stated that in order to be community-minded, you must help the less fortunate. He said that people that come from out of town cannot relate the same way as locals. He took exception with the comments made by previous speaker, Pete Gilbert, regarding Councilman King and stated that Councilman King was his own man and makes his own decisions. He stated that the "black leaders" referred to in a recent newspaper article were not the "black leaders" in Elizabeth City. He alleged that they are just the people that "follow certain people". He referred to a speaker who appeared before Council during a previous meeting with a Camden address and questioned "why are you up here?" because Camden doesn't have the same problems as Elizabeth City. He stated that "when you have two visions, it's division". He questioned City initiatives such as the Poindexter Parking Lot, bathrooms on the waterfront, the Business Investment Program, Downtown incentives, and free downtown Wi-Fi and asked "is that building the middle class?" He stated his opposition to the development of a local charter school and provided an example in Charlotte, NC whereby he stated "they did not spend their money correctly". He provided an additional charter school example and quoted the salary and benefits

received to further express his opposition to a local charter school and of Mayor Peel's initiative to establish a local school. He stated that "we can do better than this" and expressed that everyone should be given a chance.

June Gibbs, 1918 Providence Road, Elizabeth City, NC said that it had not been her intention to speak; but stated that when she saw the "packed house" present with the intention of "blasting" Councilman King, she had to speak out. She stated that when Mayor Peel and City Manager Olson caused the City to lose \$1.5 million that could help educate local children, no one came to speak about that. She stated her opposition to a charter school; and said that a charter school would not help poor children. She complimented Councilman King and stated that she supported his decision to terminate the City Manager. She stated that anyone who thinks there are not racial differences is wrong. She said that she and her black brothers and sisters have brains that work just like anyone else; and reported that during the past four or five years, she has seen injustices that were not always present.

Maria Gibbs Mullen, 103 Ida Acres, Elizabeth City, NC stated that in 1999-2000 the City placed new pipes on Walkers Avenue; and because of that work, she received a \$1,500 water bill from the City. She stated that she visited City Manager Olson about that bill, and was told that she must pay the bill. She stated that because she couldn't pay that bill, Section 8 discontinued her participation in the program and caused her to be homeless for seven years. She reported that she left Elizabeth City, went to New York, "worked off the books" and slept in the library. She advised that she had now picked herself up, returned to Elizabeth City, was in school and had a house. She questioned why her electric bill was so high and said that people had to make a choice whether to pay their light bill or eat. She stated that it was her opinion that City Manager Olson had treated her badly and that he owed her for seven years of her life. She expressed her support that the City Manager should be terminated.

4. Approval of Minutes:

- a. Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Darius Horton, to approve the minutes of the February 5, 2014 Special Meeting. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.**
- b. Motion was made by Councilman Darius Horton, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the February 10, 2014 Regular Session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.**
- c. Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Michael Brooks, to approve the minutes of the February 27, 2014 Special Meeting. Those voting in favor were: Baker,**

Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

- d. Motion was made by Councilman Darius Horton, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the March 21, 2014 Special Meeting. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.**
- e. Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Kem Spence, to approve the minutes of the March 24, 2014 Work Session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.**
- f. Councilman King requested that the minutes of the March 24, 2014 Regular Session as presented be amended to include a “derogatory statement” made by Councilwoman Jean Baker during that meeting.**

Motion was made by Councilman Kem Spence, seconded by Councilman Michael Brooks, to approve the minutes of the March 24, 2014 Regular Session as amended by Councilman King to include the derogatory statement made by Councilwoman Baker. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

5. 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 Resolution awarding retiring police officer Wilbert “Don” Harris his Elizabeth City Police Department issued service weapon and badge pursuant to NCGS 20-187.2, effective upon his retirement date of June 30, 2014;**

**RESOLUTION # 2014 04-01
AWARDING BADGE AND SERVICE SIDEARM
TO RETIRING POLICE OFFICER WILBERT “DON” HARRIS**

WHEREAS, G.S. 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality; and

WHEREAS, G.S. 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member; and

WHEREAS, Police Officer III Wilbert “Don” Harris served as a member of the Elizabeth City Police Department for a period of 24 years and will retire from the City of Elizabeth City on June 30, 2014.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elizabeth City, North Carolina that the badge and service weapon worn and/or carried by Police Officer III Wilbert “Don” Harris shall be awarded to him upon his retirement date of June 30, 2014.

ADOPTED this 14th day of April 2014.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

- b. Consideration – Adoption of Resolution directing the City Attorney to petition the Court for an Order Requiring the Owners of the Structure Located at 117 North Water Street to make all repairs necessary to bring the building into compliance with any and all applicable state and local laws;

RESOLUTION # 2014 04-02
Directing the City Attorney to Petition the Court
with Applicable Jurisdiction for Order Regarding
Property Located at 117 N. Water Street, Elizabeth City, NC

WHEREAS, the owners of the property located at 117 N. Water Street, Elizabeth City, NC have been duly notified and directed by the City of Elizabeth City Building Inspections Department to make necessary repairs to the structure in a timely manner; and

WHEREAS, the owners of this property have failed to correct the violations with applicable codes and NC General Statutes; and

WHEREAS, the present condition of said structure is deemed by the City of Elizabeth City Building Inspections Department to be a potential safety hazard to the general public.

NOW THEREFORE, be it resolved by the City Council of the City of Elizabeth City that the City Attorney is directed to immediately begin legal proceedings against the owners of the building located at 117 N. Water Street, Elizabeth City, NC; by petitioning the applicable Court of jurisdiction to require the owners of said building to make any and all necessary repairs to the north side exterior masonry wall, and any associated other items, in order to protect the public's health, safety and welfare by bringing said building into compliance with any and all applicable state and local laws.

ADOPTED this the 14th day of April, 2014.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

- c. Consideration – Authorization for the Elizabeth City Fire Department to Conduct Live Fire Training on structures located at 993 Body Road and 1400 Peartree Road;
- d. Consideration – Rescind action taken during the March 24, 2014 Council Meeting selecting Gateway as the City's official depository and further, select Wells Fargo as the City's official depository for banking services for the four-year period beginning May 2014;
- e. Consideration – Authorization for the Elizabeth City Police Department to submit a grant application to the NRA in the amount of \$25,000 for enhancements to the City's firing range as described;
- f. Consideration – Authorization to renew cemetery mowing contract for FY 2014-2015 with K-9 Lawn Care for \$41,999 for the maintenance of eight cemeteries located in Elizabeth City;
- g. Consideration – Authorization for execution of Third Amendment to Water Tower Attachment Communication Site Agreement by Mayor Joseph W. Peel for Cellco Partnership d/b/a Verizon Wireless.

End of Consent Agenda.

Councilman Spence stated that he was not in favor of approving the cemetery mowing contract until such time as the issue could be addressed with Pasquotank County. Mr. Olson responded that a letter had been sent to Pasquotank County requesting their consideration of negotiating an Interlocal agreement whereby they would pay part of the costs of cemetery maintenance. Mr. Olson pointed out that until an agreement could be negotiated, the cemeteries still needed to be mowed. Mr. Olson reported that the three larger cemeteries had formally been accepted by the City Council in the late 1950s–early 1960s, but that the five smaller cemeteries could be considered as being inherited by the City.

Councilman Spence requested that the consideration of the cemetery maintenance contract be tabled until a decision is made by Pasquotank County about cost-sharing. Mayor Peel inquired of the City Attorney if the item could be removed from the Consent Agenda at this point in time. City Attorney Morgan responded that it was his opinion that a super majority vote would be required in order to remove the item from the Consent Agenda.

Mayor Peel inquired when the existing contract expired. Mr. Olson responded that he believed it expired on May 1; but that staff could speak to K9 Lawn Care to determine if the mowing could be done on a month-by-month basis temporarily. Councilman Spence responded that he thought it would be cheaper to pay someone on a month-by-month basis than to take responsibility for the full contract.

City Manager Olson stated that he had been advised that the current contract with K9 did not expire until June 30.

Motion was made by Councilman Kem Spence, seconded by Councilwoman Jean Baker, to remove the Consent Agenda item authorizing the renewal of the cemetery mowing contract for FY 2014-2015 with K-9 Lawn Care for \$41,999 for the maintenance of eight cemeteries located in Elizabeth City and table it. Those voting in favor by roll call vote were: Baker, Donnelly, Hummer, Stimatz, and Spence. Against: Brooks, Horton and King. The motion failed due to the absence of a super majority vote.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Ray Donnelly, to approve the above Consent Agenda as presented by Mr. Olson. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Horton and King. Against: Spence. The motion passed.

Mayor Peel advised Councilman Spence that a discussion with Pasquotank County would be expedited regarding the cemetery mowing contract issue.

Public Hearings:

- a. Consideration - Hold the first required Public Hearing to solicit input from our citizens regarding the City's intention to apply for CDBG-eligible grants;

Mayor Peel declared the Public Hearing open and inquired of the Clerk if anyone was present who wished to be heard. Upon reply by the Clerk that no one wished to speak, Mayor Peel declared the Public Hearing closed.

Mayor Peel announced that no action was required for this item.

- b. Consideration - Hold the required second, project-specific Public Hearing in advance of submitting a CDBG Infrastructure grant for the Raw Water Transmission Main Replacement Project;

Mayor Peel declared the Public Hearing open and inquired of the Clerk if anyone was present who wished to be heard. Upon reply by the Clerk that no one wished to speak, Mayor Peel declared the Public Hearing closed.

Mayor Peel recognized City Manager Olson for comments regarding this request. Mr. Olson stated that the proposed project represents Phase II of the raw water transmission line. He reported that the City completed Phase I approximately 18 months ago; and said that this phase of the project will complete the line from the Knobbs Creek crossing on Main Street Extended to the well field property. He stated that the project involves the replacement of the existing ten-inch and twelve-inch lines that were installed about 70 years ago and have experienced numerous breaks. He reported that the cost of the project is \$800,000, and will result in a City-wide benefit. He further stated that the City has a 57% low to moderate income population; and the CDBG requirement is that there be a 51% low to moderate income population to qualify.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Darius Horton, to adopt the following resolution authorizing the submission of a Community Development Block Program grant application for the Raw Water Transmission Main Project. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

**RESOLUTION # 2014 04-04
BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY
AUTHORIZING SUBMISSION OF RAW WATER TRANSMISSION MAIN
REPLACEMENT PROJECT**

WHEREAS, Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction, replacement, or rehabilitation of water and wastewater infrastructure, and that the North

Carolina Department of Environment & Natural Resources (NCDENR) Division of Water Infrastructure (DWI) was delegated the authority by the state legislature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a) as amended by Section 5.3 of Session Law 2013-363; and

WHEREAS, The City of Elizabeth City has need for and intends to construct a Raw Water Transmission Main Replacement Project described as follows:

The City of Elizabeth City Raw Water Transmission Main Replacement Project consists of replacing the existing raw water transmission lines that serve as the sole supply of water to Elizabeth City's Water Treatment Plant. The current transmission mains, a 10" cast iron main and a 12" cast iron main, were installed over 70 years ago. The existing 10" main is becoming brittle and has broken several times in the past two to three years. The existing 12" main is exposed to vehicular traffic at a creek crossing. Due to budget constraints, the replacement project was planned for two phases. Phase 1 was funded in part with help from the Supplemental Grants Program-Clean Water Partners Infrastructure Program in 2012; and

WHEREAS, The City of Elizabeth City intends to request state grant assistance for the project.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY:

1. That the City of Elizabeth City, "the Applicant", will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system.
2. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.
3. That Joseph W. Peel, Mayor, "the Authorized Official", and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.
4. That the Authorized Official and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
5. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 14th day of April, 2014 at Elizabeth City, North Carolina.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

- c. Consideration - Hold the required second, project-specific Public Hearing in advance of submitting a CDBG Infrastructure grant for the Herrington Road Sewer Project.

Mayor Peel declared the Public Hearing open and inquired of the Clerk if anyone was present who wished to be heard. Upon reply by the Clerk that no one wished to speak, Mayor Peel declared the Public Hearing closed.

Mayor Peel recognized City Manager Olson for comments regarding this request. Mr. Olson responded that the first Public Hearing held was a general Public Hearing to solicit input from the citizens regarding CDBG eligible projects. Mr. Olson reported that this Public Hearing is project specific; and that the CDBG grant application is being submitted to fund the Herrington Road Sewer Project. He stated that this project consists of replacing a non-functioning section of gravity sewer in the vicinity of the Herrington Road Bridge over Charles Creek. He reported that the project will be located in an area bordered by Southern Avenue, Herrington Road, B Street and Arbutus Street that has an 85% low-moderate income population. He advised that the cost of the project is \$1 million and that there is no City match called for in the application.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Tony Stimatz, to adopt the following resolution authorizing the submission of a Community Development Block Program grant application for the Herrington Road Sewer Project. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

**RESOLUTION # 2014 04-03
BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY
AUTHORIZING SUBMISSION OF HERRINGTON ROAD SEWER PROJECT**

WHEREAS, Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction, replacement, or rehabilitation of water and wastewater infrastructure, and that the North Carolina Department of Environment & Natural Resources (NCDENR) Division of Water Infrastructure (DWI) was delegated the authority by the state legislature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a) as amended by Section 5.3 of Session Law 2013-363; and

WHEREAS, The City of Elizabeth City has need for and intends to construct a Sewer Replacement Project described as follows:

The City of Elizabeth Herrington Road Sewer Project consists of replacing a non-functioning section of gravity sewer in the vicinity of the Herrington Road Bridge over Charles Creek. The replacement sewer will be relocated to take a more direct route to the Dawson Street Sewer Pump Station thru the B Street, Goodwin Street and A Street neighborhood replacing old problematic sewer line serving a neighborhood with a 90% low-moderate income population. The redirected sewer line will also relieve environmental issues and very probable sewer infiltration issues that impact the Herrington Road neighborhood directly. Finally, the redirected sewer line will provide an opportunity for the City to reconstruct sewer lines in the neighborhoods south of Charles Creek and west of Southern Avenue, an area with an 85% low-moderate income population. Currently those sewer lines are very flat and in some cases have a negative slope, which creates a high recurrence of sewer backups; and

WHEREAS, The City of Elizabeth City intends to request state grant assistance for the project.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY:

1. That the City of Elizabeth City, “the Applicant”, will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system.
2. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.
3. That Joseph W. Peel, Mayor, “the Authorized Official”, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.
4. That the Authorized Official and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
5. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 14th day of April, 2014 at Elizabeth City, North Carolina.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

6. Regular Agenda:

- a. Consideration – Adoption of Resolution authorizing execution of the Public Beach and Estuarine Access Grant Contract for the City of Elizabeth City Riverside Avenue Acquisition Project (Grant Contract No. 5830); and adoption of companion Budget Amendment.

Mayor Peel recognized City Manager Olson for a review of this item. Mr. Olson explained that on March 25, 2013, the City Council authorized the submission of a grant application to CAMA for the purchase of 702 and 708 Riverside Avenue. He stated that in December 2013, the City was notified that the grant application had been funded by CAMA. He referred the Council to the copy of the grant agreement that had been provided, which indicated that the total grant amount is \$309,597 with a cash match of \$46,190 and an in-kind match of \$3,250. He advised that the in-kind match had already been achieved by the necessary appraisal that had been performed for the application. He informed the Council that the agreement is a standard CAMA agreement such as the City has entered several times previously. He pointed out that the City has until October 2015 to complete the transaction. He also requested the consideration by Council of the companion budget amendment.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Michael Brooks, to adopt the following resolution authorizing the execution of the Public Beach and Estuarine Access Grant Contract for the City of Elizabeth City Riverside Avenue Acquisition Project (Grant Contract No. 5830); and further adopt the following companion Budget Amendment, as presented. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

**RESOLUTION # 2014 04-05
AUTHORIZING LOCAL GOVERNMENT EXECUTION OF
PUBLIC BEACH & ESTUARINE ACCESS GRANT CONTRACT
FOR CITY OF ELIZABETH CITY RIVERSIDE AVENUE ACQUISITION**

BE IT RESOLVED, BY THE City Council of the City of Elizabeth City:

1. That a contract between the City of Elizabeth City and the North Carolina Department of Environment and Natural Resources be and the same is hereby approved.

2. That Mayor Joseph W. Peel and City Clerk Vivian D. White be and they are hereby authorized to sign and execute the said contract for and on behalf of the City of Elizabeth City and forward the same to the North Carolina Department of Environment and Natural Resources.
3. That upon final execution, a copy of said contract be filed with the minutes.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

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 General Fund Balance Appropriated (103990.0000) be increased by \$46,190, the CAMA PARTF Grant – Griffin Property (103490.6614) be increased by \$260,157, and the Purchase of Griffin Property (106600.7314) be increased by \$306,347.

(To record grant to purchase Griffin property. The City will also contribute \$3,250 in-kind match.)

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

- b. Consideration – Award of Bid to ELJ, Inc.; and authorization for the City Manager to enter into a construction agreement for the construction of Phase III of the Roanoke Avenue Drainage Project, contingent on LGC requirements for financing.

Mayor Peel recognized Mr. Olson for a review of this request. Mr. Olson reported that on Thursday April 3, 2014, City staff opened construction bids for the Roanoke Avenue Phase III Drainage Project. He stated that four bids were received as follows:

ELJ, Inc.	\$1,246,330
Geo. Raper	\$1,410,130
RPC Contractors	\$1,519,842
T A Loving	\$1,525,825

Mr. Olson announced that the lowest responsive bidder was ELJ, Inc. in the amount of \$1,246,330 and advised that an additional \$70,000 would be required for the construction inspection contract. He stated that staff recommends the awarding of the bid to ELJ, Inc. and referred the Council to the companion agenda item that follows.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Michael Brooks to accept the bids as presented and authorize the City Manager to enter into a construction agreement with ELJ, Inc., the low bidder, for the construction of Phase III of the Roanoke Avenue Drainage Project, contingent on LGC requirements for financing. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

- c. Consideration – Call for a Public Hearing to be held on April 28, 2014 at 7:30 p.m. in Council Chambers to receive comment regarding the City entering into an installment purchase contract for the Roanoke Avenue Drainage Project, Phase III; and adoption of resolution authorizing the filing of an application for approval of a financing agreement authorized by NCGS 160A-20.

Mayor Peel called on City Manager Olson for a review of this consideration. Mr. Olson advised that this item is a companion item to the bid award to ELJ, Inc. for Phase III of the Roanoke Avenue Project. He explained that the financing for the project will be obtained by installment purchase; and said that this project will require the approval of the Local Government Commission. He advised that it is also a requirement that, before entering into an installment purchase contract involving real estate, a public hearing must be held.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Montravias King, to call for a public hearing to be held on April 28, 2014 at 7:30 p.m. in Council Chambers to receive comment regarding the City entering into an installment purchase contract for the Roanoke Avenue Drainage Project Phase III and further to adopt a resolution authorizing the

filing of an application for approval of a financing agreement authorized by North Carolina General Statute § 160A-20. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

d. Consideration – Discussion of Golf Cart Operation and Regulation on Local City Streets.

Mayor Peel recognized Mr. Olson for an explanation of this request. Mr. Olson explained that Councilman Spence requested that staff prepare this item for consideration in response to inquiries from his constituents.

Mr. Olson stated that during the 2009 session, the General Assembly adopted legislation that allows all cities and counties to regulate golf carts. He reported that NCGS 160A-300.6 permits cities to adopt ordinances regulating the operation of golf carts on any public street, road, or highway where the speed limit is 35 miles per hour or less within the city limits or on property owned or leased by the city. He stated that cities may adopt ordinances that require the registration of golf carts, charge a fee for registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and method of operation of golf carts.

Mr. Olson recognized Angela Cole to provide the particulars of staff's research. Ms. Cole outlined in detail the proposed ordinance that had been prepared for the Council's review. She advised the Council that in order to move the process of adopting the ordinance forward, a public hearing must be held.

Councilman Spence responded that the ordinance requirements were what he had expected and stated that his constituents were aware that there would be regulations involved. He said that he would like to move forward with the process.

Councilman Brooks disagreed and said that he would never move forward with this type of ordinance. He stated that although the City has a lot of retirees, there are also a lot of young people; and pointed to ECSU, MACU, COA and the five schools that graduate 12-graders as examples. He expressed his concern regarding the safety of the public and the use of golf carts. He thanked staff for providing the information, but said that he felt golf cart use on City streets presented a liability that the City should not pursue.

Councilman Stimatz stated that he was not sure of the intended goal – to encourage golf cart use, allow it or discourage it. In addition, he stated that the City has unregulated mopeds that citizens already complain about. He pointed out an additional issue that has not been addressed – motorized wheelchairs being driven in the City streets. He expressed his concern regarding the public's safety. He stated that whether or not to proceed with the ordinance was unclear to him, as he did not know the intended goal and felt the additional issue of mopeds and wheel chairs should also be addressed.

Mayor Peel inquired of Councilman Spence if he would like to make a motion regarding this matter. Councilman Spence responded that his intent was to address the issues

that his constituents had and that he was content with Council's discussion of the matter.

Councilman Stimatz inquired if staff was aware of the experiences in other communities that had adopted golf cart regulations. He stated that type of information would be helpful toward any future discussions.

- e. Consideration – Adoption of Amendment to City Code of Ordinances to Revise Article IV Code of Ethics.

Mayor Peel called on Mr. Olson for a review of this consideration. Mr. Olson reported that during the November 25, 2013 Work Session, the City's auditor presented the City's annual financial report. He stated that one of the issues the auditor had was the City's lack of a formal Conflict of Interest Policy that governed all City employees. Mr. Olson advised that the existing policy only covers Councilors, the Mayor, the City Manager and City department directors. He stated that this item had been tabled during the March 24, 2014 Regular Session; and that staff had made a number of changes, which had been requested by the Council. He referred the Council to the document that had been provided in the agenda and pointed to the various changes made by staff and the City Attorney, as directed by the City Council.

Councilman Stimatz questioned the term "business entity" and asked if that term included non-profit organizations - whether as a board member or paid staff member. Mr. Olson advised that staff believed the definition covered non-profits. Councilman Stimatz made the point that a non-profit, by definition, is not organized for profit as the definition of "business entity" clearly requires; and stated that it was his opinion that non-profits would not be covered under that definition. City Attorney Morgan concurred with Councilman Stimatz. Councilman Stimatz suggested that the definition should read "for financial gain or not for financial gain." He further stated that if an individual works for a non-profit and receives a salary, in his mind that would constitute an interest. He requested that the wording be changed to address this deficiency.

Councilman Stimatz pointed out that "Section 2-113 Disclosure of interest in legislative action" had been duplicated in the document. He questioned the use of the term "local law enforcement agency" at the end of Section 2-113; and suggested using the term "appropriate law enforcement agency" as a replacement in order to provide for violations of federal law. City Attorney Morgan concurred with this suggestion. Councilman Stimatz pointed out that Section 2-113 required referrals of violations to law enforcement, but did not stipulate "by whom". He suggested that the responsibility should be defined. City Attorney Morgan responded that under the statutory duties of the City Manager, it is the manager's responsibility to report violations that the manager encounters. In addition, Mr. Morgan stated that as part of the oath taken by Councilors, that responsibility is also inherent upon them. Councilman Stimatz suggested that the responsibility be defined as the city manager's to avoid any confusion.

Mr. Morgan suggested that a reference to "Section 2-111 Definitions" should be made in Section 2-113 to further define the term "interest". He pointed out that this change had

already been suggested for inclusion in the Statement of Disclosure, which is also on the agenda for consideration.

Councilman Stimatz suggested that in Section 2-114(b) the verbiage “filed on a form prescribed by the city clerk” should be changed to read “filed on a form prescribed by the City Council”. Mr. Morgan suggested that since the clerk is the keeper of documents, the section should also include that the form is “obtained from the city clerk”.

Councilman Brooks stated that he did not think any of the verbiage in “Section 2-115 Investigations” should be changed. He objected to the proposed change requiring that the results of investigations involving employees would not be reported to the City Council. He indicated that it had been his intent to address this issue when he requested a “workplace violence discussion” be added to the agenda. He described action taken during a previous Council meeting that suggested the ordinance requirement had not been followed in order to support his objection to the proposed ordinance change. Mayor Peel pointed out that this change had been suggested by the city’s labor attorney.

Mayor Peel referred to the various sub-sections of Section 2-115 and indicated that sub-section (a) referred to the City Council and the manager and required that reports come back to the Council. He stated that sub-section (b) referred to employees and requires that reports go to the city manager because the manager is the person in charge of employees – not the City Council. Councilman Brooks stated that regardless of that, the current ordinance states that the manager must report findings to the City Council when it involves employees; and he stated that he wanted the wording to remain intact. Councilman Stimatz suggested that the findings should go to the city manager “who shall handle the disposition of the matter pursuant to the City’s Personnel Manual or other appropriate North Carolina law”. He stated that investigations of employees have to be covered by the Personnel Manual. Councilman Stimatz said that what he was hearing is that Councilman Brooks wants to know the findings of employee investigations; and suggested an addition to Section 2-115 requiring the manager to provide a summary report to Council to the extent as can be revealed. City Attorney Morgan responded that a summary report could be provided.

Mayor Peel suggested that with the magnitude of changes suggested during the discussion of this matter, tabling the item would be in order.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Michael Brooks, to table action on this item to the next meeting until the requested changes have been made by staff. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

- f. Consideration – Adoption of amendment to the City Council Rules of Procedure Order of Business to provide for the reading of a Statement of Disclosure (*requires two-thirds vote*).

Mayor Peel announced that this item is automatically tabled until the Conflict of Interest Policy is adopted.

g. Discussion/Consideration – Remote Participation in City Council Meetings by Council Members

Mayor Peel called on City Manager Olson for a description of this request. Mr. Olson responded that this consideration had been brought forward by staff due to interest state-wide in adopting such a policy to allow remote participation of Council members in meetings. He stated that North Carolina law is unclear on the question of whether a member of an elected board can be considered present for purposes of quorum. Mr. Olson referred the Council to the detailed Local Government Law Bulletin written by Frayda Bluestein of the School of Government, which had been provided to the Council regarding this subject. He advised that staff had participated that day in a webinar on the Open Meetings Law during which this issue was discussed. He advised that staff had written a draft remote participation policy for the Council's consideration and provided a summary of the requirements of the proposed policy.

Councilman Brooks commented that there was no way to determine if a Council member was indeed sick and could not attend the meeting. Mr. Olson responded that Councilors would be on their honor and that the only requirement was advance 24-hour notification to the city clerk. Councilman Brooks indicated that he did not know how this consideration came up, but he believed the Council should not change its current procedures. He stated that he would not support remote participation.

Councilman King stated that he found it amazing that this consideration would be introduced now. He said that the Mayor was previously ill, and the matter did not come up at that time; and stated that the health of the Mayor was just as important as the Mayor Pro Tem. He questioned "why now – what is the threat now?" He stated that the policy could be a great thing, but that he could see it being abused. He said he would not be comfortable with the policy.

Mayor Peel asked for additional comments or direction. Hearing none, he moved the agenda forward to the next item.

h. Item removed from Consent Agenda for discussion: Consideration – Award of Community Support Grant in the amount of \$1,000 to the College of the Albemarle Foundation on behalf of Men of Excellence and Distinction in the Albemarle (MEDIA), and adoption of required budget amendment.

Mayor Peel recognized Councilman King for comments. Councilman King said that he had taken a look at the MEDIA and had discussion with the staff at COA and reported that the students in the program recently traveled to Research Triangle Park. He reported that it is an excellent program that is serving underserved men of color. He said that he wanted to know what took so long to award the program \$1,000.

Mayor Peel responded that he could answer that question. He stated that he had met with the program coordinator and learned that the program needed funding, which was

well after the City had awarded the round of Community Support Grants. Mayor Peel stated that he made the coordinator aware that there was some money left in the Community Support Grants line item and encouraged her to submit the application. Mayor Peel agreed that the MEDIA group was worthy of the allocation of funding.

Motion was made by Councilman Montravias King, seconded by Councilman Darius Horton, to approve a Community Support Grant award in the amount of \$1,000 for the College of the Albemarle Foundation on behalf of Men of Excellence and Distinction in the Albemarle and to adopt the following required budget amendment. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

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 Community Support Grant (106620.6000) be decreased by \$1,000 and the College of the Albemarle Foundation - MEDIA (106620.5885) be increased by \$1,000.

(To record community support grant to Albemarle Foundation - MEDIA in the amount of \$1,000.)

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

- i. Addition to agenda requested by Councilman Brooks: Discussion of Workplace Violence

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks indicated that his concerns had been addressed during a previous discussion.

- j. Item removed from Consent Agenda for discussion: Consideration – Approval and Award of Downtown Improvement Grant Program application to Robert Brown in the amount of \$16,960, for a total project cost of \$33,920.

Mayor Peel recognized Councilman Stimatz for his comments. Councilman Stimatz said that based on his recollection of the DIG program, he did not understand why this application was being presented for consideration. He pointed out that the write-up included old language that had been replaced by the new guidelines, which had been adopted by the Council. Mr. Olson responded that it was the understanding of staff that the new guidelines would go into effect on July 1, 2014. He stated that there were three applications in the queue that were submitted based on the old guidelines. He advised that the Finance Committee had rejected one of those applications outright, one application is still in the queue, and that this particular application had been recommended by the Finance Committee for advancement to the City Council for approval.

Mayor Peel responded that the Finance Committee's recollection agreed with Mr. Olson's recollection. Councilman Stimatz pointed out that the Finance Committee recommendation was not included on the staff write-up.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to approve and award Robert Brown's Downtown Improvement Grant Program request in the amount of \$16,960 for a total project cost of \$33,920. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

k. Addition to agenda requested by Councilman King - Middle School Project

Mayor Peel recognized Councilman King for his comments. Councilman King stated that the Middle School project is a very important project; and he complimented the City Manager for his work on the project. He stated that the project will benefit the community's children tremendously.

Councilman King referenced the current mold situation in the Police Department to make the point that he thought now is the time to pursue moving the Police Department to the second floor of the Middle School building. He stated that he had spoken with Pasquotank Commission Chairman Jeff Dixon; and reported that Chairman Dixon did not have a problem with this idea. Councilman King said that the idea of moving the police department and the fire department to the Middle School building was brought to his attention by Mayor Pro Tem Hummer.

Councilman Stimatz suggested that a copy of the Stewart Cooper Newell Space Needs Study that was completed in 2010 be provided to Councilman King. He stated that this idea had been considered previously, but the problem was the price tag attached, which is \$3.5 million for one floor of the building. He asked Mr. Olson what the debt payment would be to finance the costs of the improvements. Mr. Olson responded that it would cost approximately \$310,000 per year for ten years. Councilman Stimatz pointed out that to be able to make the payments taxes would need to be increased 3¢.

Mayor Pro Tem Hummer stated that the reason she broached this subject is because she felt that a lot of the work being done on the first floor would automatically be extended to the second floor. She expressed that she saw it as an opportunity for the City. In addition, she pointed out the availability of parking at the site. She stated that staff should look at the amount of debt being retired during the next budget year as a possible source for further discussion.

Councilman Brooks stated that Mayor Pro Tem Hummer had talked to him about the idea as well. He stated he thought it was a marvelous idea.

Councilman Spence stated that “if you take care of your people, your people will take care of you”. He said that you cannot put a price on police officers’ health. He stated that a mold issue is serious; and said that he feels rather than talk about the cost, the discussion should be about how to get it done.

Councilman Horton stated that he concurred with everyone about the need for a better facility. He said that when he became a Councilor and took a tour of the Police Department, he was shocked at the working conditions. He stated that those conditions, coupled with the new issue of mold being discovered, convinced him of the need to pursue a way to improve working conditions.

Councilman Donnelly pointed out that the Middle School building belongs to Pasquotank County. He stated that although it might be a viable option to pursue, he would like to direct staff to investigate some of the vacant downtown buildings, which may cost less than the Middle School option and could also serve as a facility for both the police and fire departments.

Mayor Peel agreed that the current police department facility was not the best. He stated that it appeared to be a consensus of the Councilors to direct staff to take a look at possible locations to relocate and provide an idea of the costs involved to the Council.

Mayor Pro Tem Hummer commented that the land associated with the Middle School building was valuable and would provide plenty of room for the City’s police cars. She also pointed out that to a lot of people in Elizabeth City, the Middle School building has historic value and should be saved.

Mayor Peel stated that when the building was remodeled the first time, he was the superintendent of schools and the building was a nightmare at that time. He also cautioned that the City should assure that there will not be problems in the future with the ownership of the building being Pasquotank County’s.

Councilwoman Baker stated that she did not think the idea of building a new facility should be ignored. She said that often a new building would cost less and be technologically better.

Mayor Peel asked City Manager Olson if he had proper direction. Mr. Olson responded that staff had already had discussions about this issue and would bring information back for the Council’s consideration. He stated that for the record he wanted to say that the

mold issue in the police department had been abated and tested. He reported that some of the issues were a result of employees making modifications to the air handling system that did not allow a free flow of air through the building.

8. Comments and Inquiries on Non-Agenda Items:

- Councilman Brooks thanked the public for showing up for the meeting. He said that all comments were well received. He asked that members of the public not wait to attend meetings until an issue concerning someone they like or someone that has done favors for them comes up. He questioned where everyone was when the vote was taken to eliminate prayer before Council meetings, when people were reported dead in a dumpster or in the cargo space of a bus, when the report was made that the County regressed to a Tier I county, when the report was made that the County lost 680 of its citizens, or when the City proposed to sell the homeless shelter. He advised those in attendance not to tell Council what they were doing wrong or that they are embarrassed by Council. He said that he hears all kinds of stuff, but he continues to be re-elected. Councilman Brooks advised that he had to go to Court that day over an issue whereby the City did not follow policy, procedure, the Charter, its Ordinances, state law or federal law. He stated that the District Attorney said that he did not file paperwork in a timely manner. He reported he showed the Judge all his paperwork that was filed timely and the Judge still tried to invoke the sentence. He questioned if this was done because it was political or if there was a conspiracy to keep him quiet. He stated that he was bothered by that. He said that he had been fighting for years to get someone young on Council; and stated that Council no longer had to ask young people what they need in Elizabeth City because the Council now has Councilman King and Councilman Horton. He said that people should not be bashing Councilman King because he did not grow up in their generation and stated that “foolishness had to stop”. He stated that people should not tell Council what they are doing wrong without offering a solution. He asked for people to look at what’s going on behind the scenes; and said “we can do better than this”. He stated that as a community, we must move forward; but we must engage our greatest asset – our youth.
- Councilman Stimatz stated that one thing that continues to come up is that the Council violated its Charter and procedures. He said that is incorrect in one particular instance. He explained that in the case of the threatened employee, the personnel manual only applies to employees of the City not to City Council members. Councilman Stimatz stated that the City Manager had advised the employee what his options were and the employee took it upon himself to take the action he took. He stated that there was no violation of state law, no violation of federal law, no violation of the Charter, no violation of the City’s procedures or policies. He stated that he wanted to make that clear because sometimes persons want to make things fit their story.

- Councilman Brooks asked Mayor Peel to allow him to respond to Councilman Stimatz' incorrect statement about him. Mayor Peel stated that he would read the excerpt from the personnel policy manual for Councilman Brooks during his comments.
- Councilman Horton welcomed those in attendance and invited them to continue to attend Council meetings. He said that he was in Food Lion the previous week and was told "ya'll black folks need to be ready to be at the meeting on Monday night, because us white folks are coming". He stated that statement affirms the fact that racism still exists. He said the City needs persons that are willing to take a stand, because "if you don't stand for something, you will fall for anything". He stated that sometimes when you mess with one of the "good old boys that has done you favors", people begin to criticize and complain. He said that he makes his decisions based on what he hears his constituents say. He defended Councilman King against the statements made by citizen speaker, Pete Gilbert. He stated that rather than citizens writing articles for the paper or making comments online, he suggested that they call him personally to discuss their concerns. He said that he was about moving the City forward.
- Mayor Pro Tem Hummer said many speakers tonight had talked about the good things in Elizabeth City and stated that she agreed with that assessment. She stated that when she had her accident five weeks earlier, she felt vulnerable, but said that she had been overwhelmed by phones calls, visits, cards, flowers, food and prayers. She stated that she wanted to thank everyone who had helped her through a very trying time. She said that she loves Elizabeth City and everyone in it.
- Councilman King thanked the public for coming to the meeting. He cautioned those in attendance not to rely on what they read in The Daily Advance regarding the actions of Council, because the articles are not always accurate. He welcomed Mayor Pro Tem Hummer back to Council following her accident. He thanked Chief Eddie Buffalo and ECSU Campus Police Chief John Manley for assuring the safety of students during Viking Fest. He stated that the newspaper reporting of the comment he made referencing advancement of the "black middle class" was taken out of context by the reporter, because he was referring to the lack of community support for ECSU when he made that statement and was not suggesting that the City Manager was responsible. He asked The Daily Advance to be fair, honest and balanced, but advised that he had made the decision not to deal with the newspaper any longer.

(Clerk Notation: Councilman King read from a prepared statement, and his comments are provided verbatim, as follows:)

"On Monday, March 24, 2014, I motioned and subsequently voted to terminate the contract of the City Manager effective immediately. The

need for an immediate change at the executive level of our city is no choice for any city council to make, but it is very clear to me that change is definitely needed, and for numerous reasons. Numerous reasons. I will not go into a lot details because some matters are personnel related. However, I will say this; this City Council should not tolerate the mistreatment of its city employees. They are the backbone of our city, and without them the city cannot function. Ignoring the mistreatment of our city employees is the same as condoning it. Sadly, a lot is swept under the rug with the city because employees fear retaliation. I never met so many employees that are afraid, white and black. They have spoken to me. So I know that there is a certain culture that has been built up over the years. People wondering why they are getting missed for promotions – people wondering why they didn't get promoted when they have Masters Degrees. All this stuff going on in the City. Furthermore, no one man or woman is bigger than this City and that includes the Council and the City Manager. I understand that the city manager is not the most "people friendly" person in the world, but that does not give him an excuse to talk down to people. I've had complaints even from Pelican Pointe and I know most of you have sense enough to know that the people who live at Pelican Pointe have some, you know, - I know I'm talking a lot here. But I'm just saying that to say this is not a black or white issue. This is a right and wrong issue and people can say whatever they want to say – say he's not all nice and fuzzy. Over a quarter of our population live at or below the poverty line. We don't need somebody who walks around here on their high horse. Despite my motion, my colleagues voted 4-3 to retain the Manager. Therefore, as a duly elected member of this body I will continue to do all that I can to work with my colleagues, the manager, community leaders, and business leaders and anyone else to move the city forward in a way that will benefit all of its residents, spur growth and economic development. If anyone wants a copy of that statement, I will be glad to email it to you or send it to you."

Councilman King took exception with the comments made by speaker, Pete Gilbert. He said that he stood by the motion he made to terminate the city manager, and when the opportunity arises, he would bring the matter up again. He stated that he found it amazing that so many people attended the meeting in support of the city manager, because no one had spoken on behalf of the city employees. He said he would continue to represent his constituents; and stated that he represents "the least of those". He said that he was not elected to serve the interests of the elites, but was elected to serve the interests of the poor.

- Councilwoman Baker welcomed Mayor Pro Tem Hummer back. She said that she had chosen Elizabeth City as her home almost 20 years ago and also loved Elizabeth City. She stated that she had served for many years in various volunteer capacities that had helped the City. She stated that tourism is one project that is very valuable to the City, but when tourists come and

hear the kinds of things that are going on, it makes her almost embarrassed that they are speaking ill of the City. She stated that she hopes people will look beyond their own goals and drives and do the right thing. She asked Councilors to not look at one disgruntled employee because some manager made him go to work and not look at one broken pipe or one flooded street to judge the effectiveness of the City. She questioned why people were turning into “poisoned people” and who was responsible for influencing how people were acting. She cautioned people to look into the facts before being persuaded into a particular belief by someone else. She stated that Mr. Olson had done more for Elizabeth City than any other manager since she had been in Elizabeth City.

- Councilman Spence stated that he made a decision regarding a Council vote that he does not apologize for. He said he appreciated those who had called to address their concerns regarding his decision. He said he had been amazed that “one day you are okay and the next day, because you don’t agree with everybody, you are wrong”. He said he had nothing negative to say regarding any Council member. He stated that it was his belief that some City employees are being mistreated. He pointed out for the public and especially the citizens of the Third Ward that he ran for Council based on the premise of fundamental fairness. He stated that before he would compromise his beliefs or morals, he would give up being a Councilor; and said that he stands firm in what he believes.
- Councilman Donnelly welcomed Mayor Pro Tem Hummer back. He said one of his heroes always said at the end of his program “And that’s the way it is – April 14, 2014”.
- Mayor Peel referred to a headline in The Daily Advance, and read from a prepared statement.

(Clerk Notation: Mayor Peel read from a prepared statement, and his comments are provided verbatim, as follows:)

“This morning’s headline in the paper I thought was interesting – It was a question – Can the city build black middle class? Well the answer to that question is a resounding no! That can only be done by all of us working together, by having a strong, stable government and through educating our citizens for the global economy. Education is the key to moving this city forward, along with having that stable government. We were making progress with having a stable government until recently, but we have once again fallen back into some craziness – which will, I guarantee you, ensure we will not be building any middle class, black or white. If you don’t believe me, talk to Don Davis, he’s the CEO of DRS. And he’ll tell you that his company executives who live in Italy read The Daily Advance every day. They’ll now be able to watch us on the internet, because these meetings are now streamed across the whole world. One of the main

reasons they have not expanded in this community is right up front – City Council. I spoke to a local developer over the weekend who had sold two pieces of property on Hughes Blvd., which would have created local jobs only to have them back out because they got to watch a city council meeting.

Everything I have done for the last two years has been to help bring us all together to identify our weaknesses and to develop solutions so we can make this a better place for all. I have been fighting with folks all along who want to keep things just like they are – who use race to divide us – and who have tried to portray me as someone working for personal gain. I did not seek this office to be popular. As someone said tonight, I could be fishing. My desire was and is to make a positive difference in the lives of every single citizen of Elizabeth City. Is this the behavior you want representing you – that you have witnessed the last few meetings? Is this how you want our community portrayed across the world? With the divisiveness shown by members of this Council, no one is going to come here with jobs. I had two County Commissioners from a neighboring county say to me last Friday – What is wrong with your Council? Don't they realize they are killing economic development in the whole region?

It is certainly true that the City Manager as the CEO of the organization serves at the pleasure of the council. But I have to admit that I was really taken aback by Mr. King's motion at our last meeting. There is nobody in this room who has fired more people than I have, and I thought for sure I had missed something. So I decided in the last week or two to do my homework. I went back and reviewed Mr. Olson's evaluations since 2006. They are all well above average. There is nothing in his file that indicates he needs to be fired or even disciplined. There is not one concern about one ounce of his performance. I looked at his job description – I did not see building a strong black community listed as a part of his job. Now, as I said earlier, there is no one in this room who has fired more people than I have. But you don't fire somebody out of the blue. You work with people. If they are doing something that they shouldn't be doing, it's this Council's responsibility to let them know. It's this Council's responsibility to do that over time. There were several years since 2006 that Mr. Olson wasn't even evaluated by City Council. If the vote had been a positive one at the last meeting, you would have fired Mr. Olson without cause – without documented poor performance. Everybody in this room and throughout the City needs to understand that there are some consequences for doing that. The first one is what it does to the organization. If that had happened, and I were Chief Buffalo or Mrs. White or Mrs. Felton, I would begin to wonder – am I next? It puts fear into the organization. Who is the next person Mr. King won't like? It builds distrust among employees because they don't know who has council's ear. When this happens in an

organization performance drops – good people won't apply for jobs here and perhaps worst of all the good folks start looking for jobs elsewhere. I ask you! Is that the kind of place you would want to work? Is that the kind of organization you want your tax dollars supporting? Is this the city government that will build a middle class? I don't think so.

But if this doesn't bother you, then look at the financial consequences of this decision. That 2% cost of living raise that Mr. Olson put in next year's budget – well that would become his severance package for firing him without cause – no raise for employees. The shopping center that has announced it is coming here bringing 225 much needed jobs is at a critical stage of negotiations over the next 3-4 months. I feel certain that if Mr. Olson had been fired, this project would be dead. This is not the only job creation project that would die with his departure. The reality is that most of these business deals are built on relationships over time; and there's no doubt that Mr. Olson has built strong relationships with many of these outside investors.

I found it interesting in the paper this morning that both Mr. Rivers and Mr. Walton were interested in jobs and business development. That certainly has not been demonstrated to me by their behavior over the last several years. Both gentlemen were invited to participate in the Vision 2020 steering committee, which over 2500 of you participated in. Mr. Rivers came to one meeting and never returned and Mr. Walton came to one, late to the second one, and never returned. While at the first meeting, Mr. Walton did attempt to publicly embarrass the CEO of DRS – the largest contract employer at the air park. Mr. Walton also, when he was on City Council, voted against the business incentive plan – that's the plan that has brought the shopping center expansion here; and has publicly stated more than once that he did not want retirees moving here because they want to change things - not wanting to hear, of course, they also bring jobs.

It would be nice to blame one individual for our problems - then we don't have to assume any responsibility ourselves. However, things are always more complex than that. This is the very reason our Vision 2020 process has been so inclusive and comprehensive. We all have to work together – we have to be willing to identify our shortcomings – we have to be able to come up with solutions to our problems. To lead this is not the city managers charge – it is the charge of the Mayor – the City Council – county commission and the school board.

In this morning's article, Mr. Rivers said we should be bringing good paying, low-skill jobs here like Perdue Farms – the chicken processor. This is an industry that has been dominated by illegal immigrants for a reason – low pay and bad working conditions. There's one thing I want to

stress to all of you, good pay and low skills do not go together. If you want good pay today, then you have to have good skills. That's why education is so important. That is why three of the nine Vision 2020 committees focused on some aspect of workforce training and education and two more committees made recommendations regarding workforce education.

In talking with a number of our local employers they tell me that we have good hourly employees, but do not have many folks who can become managers or assistant managers. We don't have a lot of people with the leadership skills they need. We certainly don't have enough people trained for the jobs at the airpark.

This is why I mentioned tonight and mentioned earlier with City Council the need to develop a training development site for our workforce possibly using the Hugh Cale Center when it becomes available this summer. This can be the site that pulls all our community efforts together to ensure that you - our local citizens - are prepared for leadership positions in the businesses we have here and the ones that will come.

I have also tried to raise the bar for public education in this community. I make no apologies for doing that. It is what our children – your children – require. If you look at our student's performance, I would say we have a community crisis. Someone talked about going on the internet and looking up some things. You ought to look up our test scores. The only way for us as a city to build a foundation for world class jobs is through educating our workforce, and that begins, my friends, at birth. Some have objected to my methods - but a crisis needs some new ideas and out of the box thinking to be resolved.

Tonight, there were some comments made about the Charter School. Ms. Gibbs and Mr. Walton and I have had a number of conversations about that. And, while I've told them on several occasions the children that go to this school will have lunch and will have transportation, they continue to tell people that they won't. While I've told them there will be no fees involved, tonight again, they said that there would. They've accused Mr. Olson and me of losing \$1.5 million for the City – I mean for this community. The reality is that the County Commission voted what to submit to Golden LEAF Foundation and Mr. Olson and I didn't have anything to do with that. The reality is that a number of people in this room organized a phone campaign and the money that we would have gotten was pulled – was canceled – because of a number of people making those phone calls to the Golden LEAF Foundation. Those folks cost this community \$900,000. You might not agree on how it was going to be used, but it was for the kids of this community. That's almost \$1 million that was lost.

I call on each of you tonight of sound mind and conscience – members of whatever community you see yourself belonging - to call out anyone who is trying to divide us. We are all in the same ship and we either all will be successful or we will all fail. We can't leave anyone or any group behind. That is what I have been working toward and will continue to push for. The status quo – staying the same - is simply not an option.”

Mayor Peel stated that he agreed that he would read two paragraphs from the City Personnel Manual on behalf of Councilman Brooks.

(Clerk Notion: At the request of Councilman Brooks, Mayor Peel's comments are provided verbatim.)

“Mr. Brooks and I have had this conversation as recently as a couple weeks ago. On page 79 in the City of Elizabeth City Personnel Policy Manual, it reads:

Supervisors, when notified of an incident, should respond in prompt and effective manner, including conducting a complete and prompt investigation, apply disciplinary action as appropriate and following-up with any affected staff.

Second it says, incidents involving non-employees, for example involving a spouse or member of the public making threats against an employee) should be taken seriously and followed up on, just as incidents with City employees.

Now, as I said to Mr. Brooks the other day, all that makes sense until you go back and look at page one – and herein lies the problem. There is a section on page one called “applicability” - it says the provisions of this Personnel Policy pertain to all full-time and part-time employees of the City. Employees exempt from all provisions contained in the Personnel Policy include – and the first people mentioned are members of the City Council. And, so therein lies the policy that has been in effect for several years.”

Mayor Peel thanked everyone for coming to the meeting.

Councilman Brooks stated that the policy deals with personnel except when it's about communicating threats. He said that “he is still trying to cover up stuff – I want to get this right on The Daily Advance . . .

Mayor Peel ruled Councilman Brooks out of order.

9. Closed Session as allowed by NCGS 143-318.11(a)(6) to discuss personnel matters.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Tony Stimatz to go into closed session as allowed by NCGS 143-318.11(a)(6) for Personnel. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz and Spence. (The record shall show that Councilman Brooks, Councilman Horton and Councilman King left the meeting.) Motion carried.

The Council entered Closed Session at 10:12:58 p.m.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Kem Spence to come out of closed session and return to regular session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz and Spence. Motion carried.

The Council returned to Open Session at 10:13:30 p.m.

10. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 10:14 p.m.

Joseph W. Peel
Mayor

Vivian D. White, NCCMC
City Clerk