

MONDAY-7:00 P.M.

APRIL 23, 2012

CITY COUNCIL

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

Mayor Peel established a quorum was present and called the meeting to order at 7:00 p.m. He called for a moment of silent reflection after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} AGENDA ADJUSTMENTS AND APPROVAL:

Mayor Peel called for approval of the prepared agenda.

Councilman J. A. Stimatz asked to remove Item-(a)-Authorization to submit letter to NCDOT from the Consent Agenda and place it on the Regular Agenda for discussion.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. A. Hummer to approve the prepared agenda with the one adjustment as noted above. Those voting in favor of the motion were: Stimatz, Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Spence and Walton. Against: None. Motion carried.

2} PUBLIC COMMENTS:

Mr. James Elliott, 117 Chancey Drive, Elizabeth City spoke on behalf of the Pasquotank River Yacht Club. The Club feels the bridge work will have a large impact on their regatta concerning the opening and closing of the bridge. He asked that we collect data before changing the opening and closing schedules.

Mr. Greg Duncan 100 Wisteria Drive, Camden also spoke regarding impact the opening and closing of the bridge during the regatta.

3} PRESENTATION:

Mayor Peel read a proclamation proclaiming the week of April 29, 2012 to May 5, 2012 as "Municipal Clerks Week". He presented the proclamation to City Clerk D. S. Pierce-Tamplen and Deputy City Clerk V. D. White.

4} APPROVAL OF THE MINUTES:

a} Work Session – March 26, 2012:

Mayor Peel called for approval of the March 26, 2012 Work Session minutes.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman K. K. Spence, to approve the March 26, 2012 Work Session Minutes as presented. Those voting in favor of the motion were: Hummer, Spence, Baker, Brooks, Donnelly, Hill-Lawrence, Stimatz and Walton. Against: None. Motion carried.

b} Regular Meeting – April 9, 2012:

Mayor Peel called for approval of the April 9, 2012 Regular Council meeting minutes.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman K. K. Spence to approve the minutes of the April 9, 2012 Regular City Council meeting. Those voting in favor of the motion were: Hummer, Spence, Baker, Brooks, Donnelly, Hill-Lawrence, 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 Councilwoman J. M. Baker, seconded by Councilwoman L. M. Hill-Lawrence, to approve the following Consent Agenda as presented. Those voting in favor of the motion were: Baker, Hill-Lawrence, Brooks, Donnelly, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.

CONSENT AGENDA:

a} Adopted the following Budget Amendments:

**BUDGET AMENDMENTS
NUMBER 2012-06
APRIL 23, 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, 3012:

SECTION I. That the General Fund Confiscated Drug Funds (103220.0030) and Capital Outlay (105100.7400) be increased by \$3,000.

(To purchase three bicycles with forfeiture funds received by Department of Justice.)

SECTION II. That the General Fund Insurance Proceeds (103350.8300) and Police Maintenance to Vehicles (105100.1700) be increased by \$9,159.

(To record insurance proceeds for police car accident.)

ADOPTED, this 23rd day of April 2012.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

END OF CONSENT AGENDA

6} PUBLIC HEARING:

Mayor Peel declared the meeting in Public Hearing.

Mayor Peel stated what he would like to do before the citizens speak is spend a couple of minutes talking through some things and putting this conversation in context. The City runs a number of businesses that are completely independent from our General Fund. One of them is we are in the electric business. Just like any business we buy power from a supplier and then in turn sell it to our customers and we have to maintain the infrastructure just like anyone else has to do. Recently our city has encountered three serious problems in our Electric Fund which is a separate fund from our General Ledger. First problem is the City is not generating enough income to pay the bills for the Electric Fund. The second issue is the City has to build the Fund Balance back to over \$5 million and the third problem we have is the City has to build a second delivery point for the delivery of power. To solve these problems, the City staff is proposing a 5% electric rate increase. It is important he thinks for everyone to understand that these problems didn't just happen overnight. Since 2001, the City has received a 42.7% increase in its wholesale power cost, but only passed along 35% of that cost thereby absorbing the difference which is 7.7%. In other words that cost has been absorbed either from our Fund Balance or from other funds. In February 2010, the City decreased the residential electric rates by 1.65%. He thinks in the first year of that there were some cuts to the budget made which meant that didn't have a big impact but he is not sure that happened in the last year and that has about a three quarter million dollar impact on our Electric Fund. The impact is on the first issue in fiscal year 2010-2011; the City had a net operating loss of over \$851,000, which is the 6th year in a row we have had an operating loss in our Electric Fund account. In 2008 the City Council established an Electric Fund minimum balance of \$7 million. Staff was to notify Council once the cash balance dropped below \$5 million which they did on January 9, 2009. The City has seen its Electric Fund cash balance drop from over \$10 million in 2006. Currently it is about \$3.6 million as of the end of February. So why is this cash balance fund important? Basically, it is our emergency fund. If we have a major crisis this is where we go to get the money to take care of it or fix it. It is also important because of the way the City has to pay its power bills to our Power Agency. We get a bill the end of the month that we have to pay and then we send our customers their bills. We have to have money in the bank in order to pay the bill we received prior to us getting it back from our customers. The current amount we have in our Fund Balance puts up dangerous close to not being able to make some of those payments during the warm summer months. The last issue we have is the Second Delivery Point. The City was first advised by Dominion North Carolina Power in 2009 that our electric demand during the summer of 2008 was close to the total amount of power we are allocated to our current existing substation. In August 2011 Dominion put us on notice that we had exceeded our power allocation during the winter of 2010. That means we as the City will not be able to continue to grow if we do not continue to add on to the existing power grid that we have which is what Dominion says we can't do. The cost to develop the second delivery point

is \$3.5 million and it will result in the City having to issue debt which will cost us about \$390,000 per year over the next 10 years. Back in February, the City Council directed staff to execute a contract to purchase property for the second delivery point because we knew this was something that we had to do. Why do we need the second delivery point? So the City can continue to grow, so our citizens will not experience brown or black outs during our peak use of power in the winter and summer months. The health and safety reasons of our citizens is another need. Back about six or eight weeks ago, we had a car hit a telephone pole. In the process of hitting that pole it missed two and according to Mr. Clow if it had hit either of those two poles, part of the City would have been without power for about 18-24 hours because we have no other way to reroute our power because we only have one place from which to distribute it. If we have a major storm and we have severe damage to either our existing delivery point or parts of lines in our system, we have places like the hospital and also as Mr. Stimatz says 40% of us live in a swamp and most of our sewerage is pumped out of here. When the power goes out we have generators in some of those pumping stations but not in all of them. That would create quite a health hazard. It will also save the City money. Currently, we do not own the delivery point that we have as we rent it from Dominion Power. If we built a second one we will be able to begin to transfer power that we delivery from the substation that we rent to the one that we own thereby saving the City money over time. The 5% rate increase equates to an \$8.00 per month increase for the average customer. The 5% rate increase will generate \$1,750,000 per year. In addition, an increase in the meter fee from \$9.18 to \$10 will raise \$118,000. In summary if we look at how this money would be used. 2.43% of the 5% would go back to recoup the operating losses. It is also important to note that the only rate increases the City has passed along for the last 15-16 years is when the wholesale costs increased. We have not had a rate increase during that time to compensate any additional costs in operation. This would be the first time in over 15 years that has happened. 1.41% would be used to increase the City's Electric Fund Balance. With the 5% raise it is estimated to take about four years to build that Fund Balance back to where it needs to be and 1.16% would be used to construct the second delivery point. Recently, Albemarle Electric took a 5% increase while Dominion Power proposes to increase their rates by 20%. One of the things we have talked about over time is the amount of money we transfer from our Electric Fund each year to the General Fund. Some people say why don't we just stop doing that? That is certainly an option. If we did that and we want to continue the services that we currently have that would result in about a 9 cents tax increase in property taxes. Currently we transfer about \$1,050,000 as a return on the investment and \$600,000 is transferred in lieu of services and/or our staff of City employees provide to the Electric Company that we run that do not work for that company. LGC which is the Local Government Commission authorizes the transfer of up to 3% of the amount the Electric Company generates back to the City for these two purposes. Elizabeth City for

some time has only made that transfer of 3%. It is also important to note that 40% of the power that the City sells is used by people that do not live in the City or by institutions in the City or County that do not pay taxes such as Elizabeth City State University, the school districts and many of our non-profits and the hospital. If we stop the transfers the 60% of us who would be paying property taxes would be paying the total cost of 100% that we pay now. 40% would be relieved of that liability. These are many of the things that we have talked about over the last six weeks. Many of you on Council have been talking about this for a long time. This is a difficult issue and that is why it has been in conversations for so long and it is one that we take seriously and it is one that has an impact on many of our citizens in a not so positive way. He called upon the City Clerk for those who had signed up to speak during the public hearing.

Debbie Regel, 122 Ranch Drive, Elizabeth City spoke in opposition to the 5% increase. She lives on a fixed income and an increase of this magnitude would put her and others that are on fixed income in a very serious hardship. She would have to reduce the amount of food that she would be able to purchase. She is not against a lower rate increase as she realizes the City's needs. She asked that Council reduce the proposed 5%.

Mr. Ernest Askew, 1405 West Main Street, Elizabeth City spoke in opposition to the 5% increase in electric rates. He feels that the City should have an independent audit of the whole electric system as he feels something is very wrong here. He encouraged Council to have an audit done and look into how meters can be hacked into.

Mr. Conrad Mollenkopf, 904 McPherson Street, Elizabeth City stated that according to EIA the City of Elizabeth City residential rate is 133% of North Carolina's rate for the year 2010. The commercial rate is 123% of NC's rate. For all sectors of Elizabeth City's Electric Rate Fee Schedule is 134% of North Carolina's. Also, according to EIA for US Electric Power Industry the residential rate is 123% of the US standards. Yet for the commercial rate it is only 102%. The total residential electric revenue is over \$19 million with over 10,000 customers. The usage is 142 million kilowatts. For commercial the total revenue is over \$16 million with only 158 million kilowatts hours for only 1848 customers. He thinks in all the time he has been here he has heard few commercial customers come up here and speak about the rate increase. It is about the residents. This is a town of residents and the Enterprise Fund needs to be adjusted. He encouraged Council to look at the needed funds and adjust them appropriately.

Mr. Linwood Gallop, 604 Cardwell Street, Elizabeth City stated in his opinion Council has ridden the horse straight to the ground and yet we are still trying to put spurs in it to try to get it up. He stated when a city's tax revenue become

shortfall to meet the City needs, when a multi-city housing project bonds becomes degraded, when a city attempts to reduce city employees' pensions and health care benefits, when a City can't afford to build its infrastructure and when a city begins to be sued by other city workers these all means we are heading toward Chapter 9 Bankruptcy. You need to look at the problem and figure out a way to make some cash out of it. He suggested that the City look at its transmission lines first before you look at a second delivery station. He also suggested other areas that the City may look into.

Mr. Wayne Harris, 806 C S. Adams Landing Road, Elizabeth City spoke about being the staff person who deals with businesses who are considering locating to Elizabeth City. The entire rate increase has been inflated with the substation and the substation is a small part of the rate increase and it is absolutely critical to our ability to attract new businesses to town. We are at capacity and it is an issue that has been a cause of concern for businesses that have been looking at our area and if we go beyond capacity and we have an incident where that second pole is taken out and we lose power it will make it more difficult for him to attract the kind of businesses he would like to attract to Elizabeth City. He knows it is a tough decision and it is hard on residents on a fixed income but if we don't have that power station in terms of attracting higher wage employers' to the area we will essentially be out of business.

There being no one else who wished to speak for or against the proposed 5% electric rate increase, Mayor Peel declared the public hearing closed.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman J. A. Stimatz to adopt the 5% rate increase in the City's electric rate and increase the monthly basic facility charge from \$9.18 to \$10.00 effective May 1, 2012.

Councilwoman Hummer said she would like to state her position. She had a problem with the resolution. We were told at our last meeting that we could wait until tonight after the public hearing to submit the resolution. Then we found out early last week that we had to call a special meeting and go ahead and send the resolution in. That did not look good to her to send a resolution before we had a public hearing. In staff's recommendation in the resolution it said that the second delivery point will not have a material adverse effect on the revenues or operation of the City's Electrical Distribution System or materially increase the operating and maintenance expense of its electrical distribution system. It stopped there. In the resolution there is paragraph two. It says, "The City shall adjust its retail electric rates as needed to insure that there is no material adverse effect on the revenues or operation of the City's Electrical Distribution System." She had a real problem because in the Special Meeting there was no reporter here and no television camera and we are holding a public

hearing after the resolution goes through. In her opinion that was not the way to go with it and she is assuming the resolution went out of here last Friday. She really doesn't know. She had a problem with it and when she casts her vote it will be because she had a problem with the process by which this has been done.

Mayor Pro Tem Walton said he also had a problem with the resolution and Mr. Askew is right. When you sign something as quickly as we did and maybe it was a thought from some of you but when you sign something that says the City shall adjust its retail electric rates as needed to insure that there is no materially adverse effect on the revenues operation of the City's electric distribution system. To him this Council is just like the Council that signed the 50 year agreement a few years ago. We are not thinking through it. Just sign a paper because somebody tells you that you should and you have too. To him Mr. Harris brought up a good point, we can do these things in increments rather than trying to do a 5% increase we should do a much smaller percentage. People come to the podium but we don't listen to them. That is why there are about 1,000 more common sense people at home but don't come up here because we don't listen to them. We already have our minds made up what we are going to do. Now, contrary to the PowerPoint and it is a nice power point but on page four this power point says, "That the City has seen its Electric Fund cash balance drop from \$10 million to \$3 million. He got a memo from the City Manager on April 18th that said in 2006 we had a cash balance of \$9,621,781. The number one can make a difference when you are talking about millions of dollars. There is a million dollar difference in these two reports. Something is wrong with that. These figures are not adding up to the same percentages. Now, Mr. Olson did you not tell us at the called meeting that even though the second delivery point is 1.16% of the 5% that we could spread out that amount over a longer period of time. He thinks it is set up for ten years but possibly it could be set up for fifteen years.

Mr. Olson replied that you could because of the value of the asset and you could make it fifteen years and you would save \$100,000 a year in net cost by doing that.

Mr. Walton said that percentage would drop rather than being the 1.61%. It would be roughly one third. The other two prongs in this equation would be the operating in losses. He thinks you were saying that in July we would not be able to pay our payment. Is that what you are considering?

Mr. Olson replied that we will not have enough money on hand if we have a large bill to most likely pay the payment in the month of July.

Mr. Walton said that is you calculating and you are forecasting and not really sure it might be that way.

Mr. Olson stated we have looked at what our historical bills have been in the months of July and August and they are over \$3 million. You need to remember when you buy the second delivery point that land purchase is \$450,000 and that will drop your Fund Balance down to \$3.1 million. That doesn't include any other operating related expenses and our bills are usually at \$3 million or a little over \$3 million for the months of July and August. It is all a cash flow issue in the summer months.

Mr. Walton said he thinks this could be a budget item that we can get to later on. He also thinks the increase of the 1.41% can be a budget item. We can always borrow some money from some of the institutions around here because previously you said that we got a loan from BB&T for the COA Building. You stated that people like Wells Fargo would probably be somebody we could probably use next if need be.

Mr. Olson said that is correct but before you can borrow money from any institution you have to have LGC approval you had to pass the resolution that you did at the Special Meeting last week.

Mr. Walton said the resolution is a dead horse as we have already done that. He is talking about borrowing some money but during our budget process we may see we don't need to borrow any money. To him we have mismanaged some money and he is going to give you a for instance. In 2008 we set up a building fund for \$200,000. Isn't it still sitting there?

Mr. Olson said it is \$276,000 and the balance is about \$240,000 and it is still sitting there.

Mr. Walton said why we would say we need so much money yet we have \$240,000 that is just sitting there. We are not as hungry as we say we are. We make amendments every week. We need to make an amendment and use that \$240,000 during this budget session. Now we are saying we need 5% increase, we don't. We might need the 1% increase for the second delivery point but all that other stuff should come during the budget sessions.

Councilman Brooks stated to him it is very insensitive to just jump on 5% like that. He had the opportunity to campaign so he gets to talk with a lot of people. He hasn't run into anybody that thinks a 5% is a good thing. He thinks Mayor Pro Tem Walton had a good point. If we are in critical need of a second delivery point a 1.16% he can understand but it appears to him that we are trying to balance our budget and everything else off our electric rate. It doesn't make any

sense. Somewhere down the line we have to be sensitive and understand that we are a poverty stricken area. People can't afford such a big bite. He thinks we are taking too large a bite at one time. He understands the second delivery point but he can't stomach the operating losses at 2.43%. It happened over a period of time but yet we are trying to get it back all in one time. That is kind of bad. He understands our fund is low but we can't replenish it over night. He thinks 5% is way to steep. The motion was made and seconded as ok we are going to do this thing. We are going to do it. He is curious just like the resolution went through and that is the intent here with the 5%. He is asking Council to be sensitive to our citizens that we are supposed to be serving along with having good business sense.

Councilman Stimatz said the idea of extending the debt payment we talked about he doesn't have a problem with doing that. If you can come up with a number that you think we can adjust the rate increase to reflect that. Instead of 10 years repayment up it to 15. That is very reasonable. His question for his colleagues is: we are losing the 2.43% to cover the fact that we are not taking in enough money for the day to day operation. We are just not taking in enough money. He doesn't know how you can make it any smaller and put it off any longer because we are losing money. The second number, the 1.41%, is a four year pay back period to get the fund balance up to where it should be which is \$5 million. We can debate maybe it should be a five year payback to get it there. You may say we only want \$4.5 million in the fund. Those are things that we can debate. You have to do something in each of these problem areas, we can't do nothing. His question is we have one suggestion for extending the payment period, he is all for that. Given that we have two other areas to cover there are three problems still. We are here to fix those three problems. We are not collecting enough money to pay to run the business now. We have let our savings account go below a good minimum and we need to buy a new asset. We have discussed the second delivery point extension to reflect a 15 year repayment.

Mr. Olson said if we did that the rate increase would be .82% instead of the 1.16%.

Mr. Stimatz continued by saying he would offer that as a friendly amendment to Ms. Baker's motion that we go ahead and change that and extend the period.

Ms. Baker said she would accept the friendly amendment.

Mr. Stimatz said that is a start but we still have two other problems. How are we going to pay our bill and how quickly do we need and to what level do we need to replenish the fund balance? If you decide those two things, the first one he can't see a way around it. If your household bills are \$1,000 a month you have

to come up with that amount. He doesn't see how we get around it. The second one if Council wants to delay this, we can. Again, he has set here for six years and watched Council delay and delay about passing on rate increases. We delayed a 5.5% rate increase for six years. It is wholesale costs. That is almost \$9 million over those six years. That more than makes up for the Fund Balance and the operating cost losses. We didn't pass it on then because we knew people were hurting because we got two more rate increases. We passed a rate reduction of 1.67%. Think about this, we are asking about 2.43% for operating expenses. We gave you back 1.67% three years ago. In essence we are taking back the 1.67% and he is only asking for .7% more. He is taking back what he gave you because he can't afford to keep doing that. He is only asking for .7% more. In his mind the 2.43% there is no way around that one. If you want to discuss the payback period in terms of how long you want to recoup that money and to what level and that will drive what that rate is. He would like some suggestions if you have an alternative to four years and \$5 million.

Councilman Spence said he is personally against this because if we had to have that paperwork signed and turned in, we did it Friday and we could have waited until today. Friday and today is Monday. It could have waited until after the public hearing. However, it was voted on and it went forth. What we are doing is we are trying to punish the public because we misbalanced. We miss budgeted somewhere down the line. You are saying we have been taking a lost for the last six years. We can't punish the citizens because we have been taking a lost because somewhere down the line something has been miss budgeted or we have made bad decisions and they are not making the decisions. We are. We can't just jump up and take that big bite out of people and just say take it and accept it and that's it. That is not fair to the people. You can't keep taking, taking and taking and don't expect anything to happen.

Councilwoman Hill-Lawrence said she is really concerned that the City has to increase the Fund Balance by 1.41%. She knows in some cities that the City goes into receivership if they don't keep the funds where they should be. They come in and take over the running of the City. That is one thing that we should consider because that could happen.

Mayor Pro Tem Walton said they call it false evidence that appears real. That is fear. He doesn't like increasing the City's Fund Balance either because it can wait until the budget session appears. We don't have a true evidence budget yet, so why should we pass a rate increase. He just gave you a method of finding \$240,000. So it might be some money somewhere or there might be some money where we don't use the same services as we did last year. We just don't need to arbitrary say we need a 5% raise and do it all of a sudden. That is what we are doing again. That is what people did back in 1982. You want to put us back in the same position that we are in today. Let's stop doing things so

quickly. Let's go through the budget process first. Number one is difficult but we have got to try to hold off and give Mr. Olson time to be creative because he is a creative person. He knows he can do it. He can hold that off until the budget session too. Then we can revisit it later. He can do that.

Ms. Hill-Lawrence asked if the \$240,000 sitting there for a purpose or was it designated for a purpose.

Mr. Olson said it is for capital construction in the City's facilities and it is in the General Fund and is not accessible to be used in the Electric Fund.

Mr. Walton said you could have used it when you redid the lobby. Why didn't you use the Building Fund? You said you used the General Fund which is the one that is low now because we used that rather than using what we could have used because the person that hid that money there is not spending it. He needs to use it for what we need it to be used for. We need to use it for the citizens and not for just one person.

Mr. Olson said that the General Fund is independent of the Electrical Fund. He thinks there is some confusion here. The Electric Fund expenditures need to come out of the Electric Fund and General Fund expenditures need to come out of the General Fund. If you want to somehow affect that then you do not transfer as much money from the Electric Fund into the General Fund and use some of your capital construction account to pay for some of your improvements that come out of the General Fund.

Mayor Peel said one of the things that he asked Mr. Olson do was look at paying for the second delivery point over 15 years instead of 10. If we did that and we extend the Fund Balance repayment another year we could reduce the increase to 4.25%.

Councilman Stimatz said he would offer another friendly amendment to Ms. Baker that we extend the repayment to the Fund Balance one more year to five years instead of four and he would remind everybody that 1.67% of that we gave away three years ago. People were already paying that. In his mind if you took that amount you are only looking at a 2.58% actual of what we were doing before. That was a campaign promise that was made and paid. We can't keep paying it. We have an amendment to change the payback period for the delivery point and an amendment to amend the payback period for the Fund Balance which takes us from 5% to 4.25%. He will also note that the resolution that staff asked us to pass is effective the first of May. We need to start generating that money as soon as possible. We can't wait because we need to build back our Fund Balance and to pay our operating costs. Can we delay the execution until the first of July or do all have to start on the first of May.

Mr. Olson replied that we were planning on issuing the debt sometime in June so they need to be effective prior to June first. You are going to have to cover the cost of the delivery point and the operating costs.

Councilwoman Hummer said that we just had a public hearing for transparency purposes and instead of batting this all around the table and everybody is unclear, how about we give direction to the staff on all these amendments and everything else and if we have to call another special meeting then do so. People can't possibly get what we are talking about with all these motions, amendments and figures that haven't even been worked up exactly.

Mr. Brooks said that is a great suggestion. Call a Special Meeting and let us duke it out. He has listen to what everyone has said and he thinks we can work it out without hurting our citizens so very bad. He doesn't think we should try to push this through.

Councilwoman Baker said we talk about being quick to push through the 5%. We have known for months, months and we have talked about it for months and months. We knew we would need a 5% increase. It was no secret nor a push through, not like the 1.65% decrease. Now that was a push through. This has been known forever. Our operating losses and we can't continue to operate at a loss. We are a business. We need to construct the second delivery point. We can't keep growing, we can't keep expanding and we can't let new housing places be built. We can't let new dorms at the University be built. We don't have the power to provide for them. That 5% is what we knew about. If we can knock it down to 3.59% for right now and deal with the 1.41% at the budget time she is fine with that. It is mandatory. You say you don't want to do it because it is hurting the people, give us another reason. Give us the answer. What is the answer if you don't want to hurt people? She doesn't want to hurt people. She doesn't want to hurt me. She is on a very low income as well. People know what almost happened to her. This is not fun. This is not the fun part of being on Council. This is the mandatory part of being on Council and it sucks.

Mr. Peel asked if we stretched out the payment of the second delivery point to 15 years and we took out the Fund Balance that would lower it to 3.59%. That would give us money and the ability to be able to begin to build the second delivery point and also begin to replenish the operating budget.

Mr. Olson said you would stop the bleeding.

Councilwoman Hill-Lawrence said personally one and two would be the main thing for her. She would really look at those two things seriously. Maybe later

do the second delivery next year. She knows how bad it is needed. She thinks the 5% is really flooring people. She thinks in a business world you take care of the necessities first. If we are in the dark then we would just be in the dark until the lights come back on. We know what can happen and if we are willing to take those risks then so be it. She really thinks one and two are the primarily the two things that we really need to cover.

Councilman Donnelly said that he is totally convinced the operating losses need to be addressed. We cannot operate at a loss. The second delivery point if we postpone that, we would have a moratorium on everything. Any new business coming in couldn't. The Electric Fund Balance we got there over several years from what he is told and from what he reads. He doesn't know if we have to get there within four or five years but if we lower that 1.41% to .75% what might that do. How many years would it take to get our Fund Balance back?

Mr. Olson replied not to confuse the Council but for every 1% is equal to \$350,000. That is the number we are utilizing here and .75% would raise the Fund Balance by \$262,000 a year. It would take roughly seven years.

Ms. Hummer said she still wants to see all these different options laid out on paper and brought back in front of us. Let's do this professionally rather than one having one idea and another has another. She wants to see it on paper. Whatever if it is three or four different options, she wants to see it before she votes.

Mr. Stimatz said he doesn't think that is an unrealistic question, to see the options because there are four or five ways to go on this.

A motion was made by Councilman M. E. Brooks, seconded by Councilman J. A. Stimatz to postpone action on this item until Tuesday, May 1, 2012 at 4:00 p. m., in the City Council Chambers of the Municipal Building.

Mayor Pro Tem Walton said he thinks city staff needs to know what we need. There is no need to have the meeting if we are going to go through the same things. Most of us said Number Three is ok and he thinks we have worked through Number Two. Number One is the one that you need to show the most evidence. If you can do less, be creative and do less, and get as low as we can to not keep us from bleeding, but to keep the citizens from bleeding. That is what we are trying to do.

Mayor Peel said what we talked about was extending the Fund Balance repayment out at least one more year and repayment of the Second Delivery

Point from ten to fifteen years. That will reduce both of those. Then we need to look at whatever we can do on the 2.43%.

Councilman Donnelly stated we also talked about extending the Fund Balance more than that period of time.

Councilwoman Hill-Lawrence asked how long do they give us to extend the Fund Balance. Is there a designated time that we have to have it up to a balance that they require?

Mr. Olson replied that the \$5 million Fund Balance is what previous City Council decided. They really decided \$7 million but they wanted us to notify them at \$5 million. \$5 million is basically 60-days operating within the Electric Fund, depending on what time of the year it is.

Mayor Peel called for a vote on the motion.

Those voting in favor of the procedural motion were: Brooks, Stimatz, Baker, Donnelly, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

7} REGULAR AGENDA:

a} Authorization to Submit Letter to NCDOT:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson advised that we received a letter from Jerry Jennings advising that the NCDOT would be making some modifications to the opening of the bridge. He is recommending in his letter that there would be no bridge opening from 7:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:00 p.m. while the bridge is under construction. This item has been before the County Commissioners and they have concurred. The Camden County Commissioners have also concurred on this particular item. NCDOT will have traffic engineers here on Wednesday or Thursday of this week to do a more detailed analysis. They will be doing more detailed analysis concerning the lifts and lighting cues and everything else. He is not sure when NCDOT will make a formal request under the Federal Rule Making Changes to have the bridge lifts modified.

Councilman Stimatz said he understands the concerns of the boaters and also the concerns of the people driving. Currently we have two openings from 7:00 to 9:00. There are a minimum of two openings during that period. What we are proposing is no openings in that period. There might be room to compromise that there might be one opening during that period. One of the things that the

Coast Guard will be looking at is the impact on boating and also there is the benefit of not having vehicles sitting idling and spewing emissions into the air. That is the big issue that DOT is hot on. He thinks if we say limit the bridge openings and don't use the word prohibit he could live with this the way it is. He would like to limit it. He thinks the data is going to have to show something.

Councilwoman Baker asked what is the possibility to expand a lane going two ways in the morning into Elizabeth City and two ways into Camden at night. Is that possible?

Mr. Olson replied that he doesn't think that would be possible and this is not like an HOV lane that you can switch traffic and stuff. You would have to make those adjustments every day in the morning and at night. The other issue you have here is that NCDOT must abide by the Federal Highway Traffic Standards.

A motion was made by Councilwoman J. M. Baker, seconded by Councilwoman L. A. Hummer to table this issue while we are waiting on the engineers to come here next Monday and bring it back at our next meeting. Those voting in favor of the motion were: Baker, Hummer, Brooks, Donnelly, Hill-Lawrence, Spence, Stimatz and Walton. Against: None. Motion carried.

a} CDBG NC Catalyst Grant:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson stated on March 26th the City Council held their second public hearing on the submission of a NC Catalyst Grant application to the Department of Commerce. The City Council had discussions about contributing funds to make the application. After our Budget Hearing on April 16th, Mayor Peel and he did meet with the Board of County Commissioners at their April 16th 2012 meeting. At that particular meeting the Board of County Commissioners has allocated \$75,000 of their funds to be matched with the City's \$75,000 to raise the total grant application from \$500,000 to \$650,000 and to show the people at the Department of Commerce that the City and County do have money into the project. This should help us in the funding criteria. Based on the increase in budget, staff has modified the overall scope of work. The scope of work has been changed so the basic cosmetics repairs would be increased to \$310,500 and the work on the HVAC system would be raised to \$274,500. There would be \$65,000 in contingency fees which is 10% of the project costs. Bringing the total project costs to \$650,000. One of the items that we have discussed during our previous meeting was the need for an Interlocal Agreement between the City and the County giving the City the right to apply for the grant, but reserving the rights of Pasquotank County since it is their asset. The Interlocal Agreement

that was drafted by the County Attorney and reviewed by the City Attorney is in your packet. Also the State is going to require that we have a number of Sub-recipient agreements. We have provided you copies of two sub-recipient agreements which would be incorporated with the Interlocal Agreement. The sub-recipients agreements are with the Boys and Girls Club and the Police Athletic League.

Councilwoman Hummer said this item; the city's contribution to this project is included in our budget in a proposed tax increase. The County is planning to ask the Tourism Authority for that amount. She thinks that would be more palatable if we did the same thing. She doesn't understand because we didn't discuss this in our retreat as part of the tax increases. She thinks we should try to get it from the TA if the County is.

Councilman Stimatz said as he understands it PAL has the lease with the County for the building. He is not sure why we are inserting ourselves between the County and PAL. There are some things that came to mind where who is going to be the contracting entity for the changes. Who is going to be the general contractor? Us or the County? When it came to the sub-recipient agreements it was unclear to him why we needed one with the Boys and Girls Club. As he reflected upon it he realizes that we are going to have multi tenants. There is some language in there that made it sound like the City was going to be involved in the scheduling, etc. He is not sure we want to be there. Particularly Section 2, there is a line that says they can't rent out any spaces. Well we know that PAL is already planning on having spaces for other people to use. There is a Volleyball League that is going to rent space. How does that fit in?

Mr. Olson replied the scope of work does not include that area which the volleyball group will be renting or leasing from PAL.

Mr. Stimatz said he thinks they were going to rent the old cafeteria site.

Mr. Olson said the old cafeteria is not in the scope of work that we are using CDBG money for because of that reason.

Mr. Stimatz asked if it was going to have a separate HVAC unit. If not then it is within the scope of work. The minute you put HVAC into the building it impacts that space and you use that money for that space. Unless you are planning to do it separately it is a fine line to walk.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman J. A. Stimatz that we instruct the City Manager to make application to the Tourism Authority for the \$75,000 City

contribution as the County is doing; and further to do it in a timely manner to go along with the application.

Mr. Olson said he believes that will be a problem. He has to look at the Tourism Fund, remember we are paying \$20,000 a year for the property on Ehringhaus Street and we have a second payment due to Port Discover, so we have committed our funds out for a period of time. He will just have to look at what our cash flow is on that to see if money is available. You will not be able to do it in one year but you may be able to spread the money over three years but you are going to need the money all up front to the work.

Councilwoman Hummer said it is also going to be a problem to raise the taxes for this project.

Mayor Pro Tem Walton said he feels like this is a worthy project. We are talking about \$75,000 for 400 kids to have something to do. If you give the children something to do then crime will be reduced. We are talking about giving the boaters \$68,000 without a problem but we can't give \$75,000 to keep 400 kids off the crime scene. He thinks if the County doesn't even give theirs we can find a way to get the \$75,000 for the kids. He does agree if we can get as much money as we can from the Tourism Authority. We should put that effort in it.

Councilman Stimatz said he thinks it is a good idea and if they don't have enough money and turn us down we will then know how much money we will need to come up with otherwise.

Mayor Peel called for a vote on the motion.

Those voting in favor of the motion were: Hummer, Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Spence and Walton. Against: None. Motion carried.

Mayor Peel said we need to decide if we are going to apply for the grant. Isn't that what we need to do?

Councilman Stimatz stated in the Interlocal Agreement, Item 1, "City agrees to submit an application and will work with the County to facilitate the necessary improvements". The note to himself was who will oversee construction and decide on the work. That needs to be spelled out more clearly. Who is going to make the final decision? Is it jointly? His point is just say that. Are we going to let them run it or what? It is not spelled out and this is a contract. In Paragraph Two of the Boys and Girls Club Sub-Recipient Agreement, Section 2, Limitations and Programs and Services, first paragraph, next to the last line, "The Boys and Girls Club shall work with the City to provide available times". Why are they

working with us? It is the County's building. The less we manage on this thing, the better. It is their building and let them worry about the times and who get the keys and all that other stuff. That would be for both agreements. Then, you talk about termination, the Boys and Girls Club may terminate the agreement after providing 180 days written notice to the City and County. He guesses this is required because we are both signees on the Sub-Recipient Agreement. It also states that Pasquotank County can terminate this agreement without cause after providing 180 days notice. It doesn't say anything about us. If it is going to be a joint decision on termination it needs to be spelled out in both documents. Now, let's go to the PAL Sub-Recipient Agreement. Again, the lease is with PAL. To the extent the lease is an existing document and it defines their relationship he would think the Sub-Recipient Agreement would be ancillary to that.

Mr. Morgan said that you need both. Certainly the lease only deals with the procession of the real estate. The Sub-Recipient Agreement is required by the granting authorities.

Mr. Stimatz said he doesn't think the sub-recipient agreement needs to discuss those issues. You may want to refer to the lease agreement but you don't need to put stuff in here.

Mr. Olson said he would envision that the Lease Agreement would be for the existing facility they have which is the Middle School gymnasium which is not part of the sub-recipient agreement.

Mr. Stimatz said wrong. We found this out when Encore went to go over there. Their lease covers the entire first floor.

Mr. Olson said the lease would be replaced by the sub-recipient agreement for that facility. That is what our discussion with the County has been.

Mr. Stimatz said so they are going to tear up the lease which is a multi-year lease for a one year sub-recipient agreement. If he were PAL he is not sure he would do that. Again, he goes back to the statement of work where it says, the Police Athletic League will receive no financial compensation from the City for services provided. Now, it appears there is a way out of that. It says they can get grants. It doesn't restrict who they can get grants from. He is thinking as long as we count the terms of the grants and not fees for service we can probably get away with it but he thinks you need to check to see that we are on good footing. He doesn't want to jeopardize the program that we already got.

Mr. Olson said you need to remember, the sub-recipient agreement only covers the first floor of the Middle School. It does not cover any other facilities on the

Middle School property. You can continue to give funds for the gymnasium and the work being done to the gymnasium.

Mr. Stimatz said back down to the Limitations in Programs and Services. You want to be careful because of the rent or lease any part of the building. If they are going to have a boxing event and they are going to charge a fee to get in there, can they charge a fee for those themselves? It is clear they cannot offer the building to a third party to come in and run something and have the charge it and then pay them money. That would be considered renting or leasing the building out. So, he knows what they want to do and he just wants to make sure that this document doesn't prevent it. Would you look at those sections? Otherwise we could be tying their hands which is not good for either party. You talk about the services that are going to be offered. But many of them you talk about are ones that are already happening in the gym. There should be something different. He thinks that pretty most takes care of his concerns. He doesn't want to involve the City any more than we have to and he doesn't want to tie PAL's hands any more than we have too. Those are his two goals.

Mr. Walton said to make sure we cross all the t's, the motion that Councilwoman Hummer made is to submit to TDA for the \$75,000. If we don't get that money we need to continue on.

A motion was made by Mayor Pro Tem J. B. Walton, seconded Councilman R. T. Donnelly to make sure that the process is completed and the City Manager sends the application in on Friday.

Councilman Stimatz said in your staff recommendation we have to commit to the \$75,000 regardless of what we get from the TA. To make this motion affective it has to include our commitment to the \$75,000.

Mr. Olson stated by approving the Interlocal Agreement you are making your commitment of the \$75,000. You just don't say where the money is coming from.

Mayor Peel called for a vote on the motion.

Those voting in favor of the motion were: Walton, Donnelly, Baker, Brooks, Hill-Lawrence, Hummer, Spence and Stimatz. Against: None. Motion carried.

8} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Councilman Brooks said he was talking with a resident about widening Roanoke Avenue. The residents are still talking about the sidewalk from Walker's Landing to Weeksville Road.

Councilman Stimatz said he had no further comments.

Councilwoman Hill-Lawrence said the Dog Corner project is looking really good and also the old Fish Court. The people are really proud and happy.

Mr. Olson said the area of the old Fish Court will be torn up and replanted with Bermuda Grass. Right now it has Fescue but the Fescue won't last through the summer time. As soon as it gets a little warmer we will tear that up and replant it.

Ms. Hill-Lawrence asked that you get the edges of the boardwalk painted.

Mayor Pro Tem Walton stated he had no further comments.

Councilwoman Hummer said she had no further comments.

Councilwoman Baker said she wanted to announce that the Travel Channel Program that was filmed in Elizabeth City is called the Dead Files and it will be aired on May 11th at 10:00 p.m. We have no hint or clue of what the results are. She believes the Market will open next weekend.

Councilman Spence said a question was brought to him about the playground out by the Armory. Is there a reason why they do not have swings?

Parks and Recreation Director White said that the playground was put in with the funds Smart Start and that was all the money they had to put in it.

Councilman Donnelly stated that he wanted to remind everyone of the State of the State is on Friday at noon time at the Pines. The Chamber is selling tickets. The River City Cycling Club is holding its Tar Wheel Century on Saturday. If anyone wants to ride in that you can register for it at 6:00 a.m.

Mayor Peel said he would like to thank everyone for a good meeting.

9} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Peel adjourned the meeting at 9:07 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Joseph W. Peel
Mayor