

**City Council Regular Session
May 26, 2015**

The City Council of the City of Elizabeth City met in regular session on Tuesday, May 26, 2015 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 Johnnie Walton

MEMBERS ABSENT: NONE

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planning Director June Brooks
Chief Eddie Buffaloe
Electric Department Superintendent Karl Clow
Assistant to the City Manager Angela Cole
Human Resources Director Katherine Felton
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
IT Director Matthew Simpson
Parks and Recreation Director Bobbi White
City Clerk Vivian White

The City Council regular session was called to order by Mayor Joe Peel at 7:04 p.m. Mayor Peel welcomed everyone to the meeting and recognized Phil Dowdy to give the invocation, after which Mayor Peel led the Pledge of Allegiance.

Mayor Peel welcomed Councilman Johnnie Walton to the Council and congratulated him on his recent election victory.

1. Agenda Adjustments and Approval:

Mayor Peel stated that a number of items needed to be added to the regular agenda, which were carried over from the evening's previous work session as follows:

Item f – Weatherization

Item g – Budget

Item h – Call for Public Hearing

Item i – Committee Reports

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton, to adopt the agenda with necessary corrections. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

2. Statement of Disclosure:

The City Clerk read the Statement of Disclosure. No conflict of interest disclosures regarding items listed on the agenda were made.

3. Comments from the Public:

Debbie Regal, 122 Ranch Drive, Elizabeth City, NC shared a concern regarding a man who is sleeping at the waterfront. She pointed out that with all the people visiting the City for the recent Potato Festival, the man was there and is storing his things in the bushes. She stated that she thought it was bad for the City to have people sleeping in our parks. She stated she also had an issue with “the cat lady” who is feeding feral cats and encouraging the cat population to grow. She reported that the cat food and cat houses being placed by the woman are bringing rats and other wild animals detrimental to her dog. She asked the City Council to look into the issue. She stated that she also thought the City needed to reconsider construction of a dog park to offer a safe place for persons to walk their dogs.

Jackie Latson, 1305 S. Williams Circle, Elizabeth City, NC spoke on racism and characterized it as “the inflammatory bomb.” She stated that remarks made during the May 11, 2015 Council meeting by American Legion Post 223 Commander Larry Gibson regarding an incident that occurred in March 2014 and legal actions taken by Mayor Peel at that time had inflamed “poison tongues of racism” that did not serve anyone well. She stated that the issue was not necessarily one of race, and advised that racially divisive tactics should not be thrown out without due diligence. She stated that the City could not progress under a cloud of racial discord and will not progress without a concerted effort to disparage the “us against them” mentality. She said that there are those who will not sit still and let the hard-earned Council civility that has accrued over the last few months be blown to “smithereens” by those who are bent on wreaking havoc, both on the Council and in the community. She stated that some see the recent issue as a “blatant attempt to divide and conquer.”

Quentin Jackson, 104 Powells Court, Elizabeth City, NC stated that he was present to speak in support of the American Legion Hut. He stated that he thought that the term “the people” used by Mayor Peel in an affidavit filed with the ABC Commission was a racial term because those who frequented the establishment were African American. He questioned whether Mayor Peel had “done his research” and disputed the information provided in the affidavit with regard to the purpose for 911 calls. He said that “most alcohol-related problems in the County come from Wal-Mart, but the Mayor would not write a letter on Wal-Mart and say the people that frequent Wal-mart are a

problem or try to shut Wal-Mart down.” He stated that the American Legion Hut had only had one violation since 1975 and was the only club to sustain that long without a violation. He said that only four people out of the 3,000 in the Ward had complained about the American Legion “Hut.” He stated the American Legion leadership had invited the neighbors to come in and tried to bring smaller sound equipment in to lessen the noise and had tried to do all they could. He said “let’s be honest, there’s alcohol and there’s people, you’re going to get noise at night.” He stated that Mayor Peel had not included other clubs with issues; and stated that he believed the issue to be one of race because “the people” was the term used in the Mayor’s affidavit and not “we the people.” He reiterated that the Mayor had not written anything about all the positive things by Post 223, only negatives. He stated he wanted to go on record and state that the American Legion Post has no animosity towards the Police Chief because the Chief testified and spoke “basically the truth” that the American Legion was a problem he had as well as every other club. He said that the Mayor was called to testify “but had disappeared.” He stated that the only problem the American Legion had was that the Mayor did not do research when he wrote “that letter.” He alleged that the police documents that were written were falsified. He said the entire “letter” written by the Mayor was based on a lie and was defamatory to those who are members of the Post. He stated he thought the American Legion should receive a letter of apology because the accusations were untrue and pledged that they would go as far as they needed to go to receive justice.

4. Approval of Minutes:

Mayor Peel called for the Council’s pleasure regarding approval of the minutes.

a. City Council Regular Session of May 11, 2015:

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilwoman Jean Baker, to approve the minutes of the Regular Session of May 11, 2015. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried unanimously.

b. City Council Special Meeting of May 14, 2015:

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilwoman Jean Baker, to approve the City Council Special Meeting minutes of May 14, 2015. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried unanimously.

5. Consent Agenda:

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

Beginning of Consent Agenda:

- a. Item recommended for approval by the Finance Committee:
 1. Consideration – Downtown Improvement Grant Program Application for Christ Episcopal Church in the amount of \$10,229;
- b. Consideration – Acceptance of Abstract of Votes for the May 12, 2015 Special Municipal Election;
- c. Consideration – Call for a Public Hearing to be held on Monday, June 8, 2015 at 7:30 p.m. in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue to gather citizen input regarding RZ 01-15 filed by Northeastern Professional Associates, Inc.

End of Consent Agenda.

Motion was made by Councilman Tony Stimatz, seconded by Councilwoman Jean Baker, to adopt the Consent Agenda as presented. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

6. Public Hearing:

- a. Consideration - Hold a Public Hearing to Adopt an Ordinance Approving Execution of All Documents related to the Sale of the City's Generating Assets to Duke Energy Progress.

Mayor Peel declared the meeting into Public Hearing at 7:30 p.m. and inquired of the City Clerk if persons were present who wished to be heard. The Clerk responded that one person was present to speak and called Debbie Regal, 122 Ranch Drive, Elizabeth City, NC to the podium.

Ms. Regal stated that she agreed that the City should sell its assets, but also thought that the percentage of rate decrease should be low. She said that she would like to see the rate decrease spread out longer, such as 5% over time rather than 14% at once. She stated that she was one of the few people in the City that managed her utility bill and reported that the most electric she had used was \$162.88. She said that she was a single person on a budget and knew that when it is cold you bundle up. She stated she kept her home at 64 degrees because she knew she had to live within her budget. She advised that she had sympathy for people who had big bills, but she was very conscious of her electrical use. She stated that she and some of her neighbors had discussed the situation and would prefer for the City to average out the decrease over a longer period rather than a lump sum for the first year. She said she had been following the issue and thought that would be more fair than providing a big decrease and then turning around and "jacking it up again."

With no other persons present to speak, Mayor Peel declared the public hearing closed.

Councilman Walton inquired of the City Manager about the debt on the second delivery point. Mr. Olson responded that the City has ten years left on the debt.

Mayor Pro Tem Hummer stated that she thought it was worth mentioning that for every month the Council delays action on this matter, it will cost the City \$400,000 per month.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly to adopt the following ordinance as presented approving all documents related to the sale of the City's generating assets to Duke Energy Progress and authorizing officers and officials of the City to execute such further documents and to take any and all further action to effectuate the execution and delivery of the Debt Service Support Contract, Full Requirements Power Sales Agreement and Powers Sales Agreement Termination Agreement and the transactions contemplated thereby, and the Asset Purchase Agreement and Full Requirements Power Purchase Agreement; said ordinance to be effective upon adoption.

City Attorney Bill Morgan called the Council's attention to a typographical error in the proposed ordinance of which he had been made aware. He stated that in the last "Whereas" section, the Roman numerals contained s duplicate "Roman numeral six" and he asked that it be corrected.

Councilman Stimatz made an amendment to his motion that any necessary typographical corrections be made prior to dissemination. Councilman Donnelly accepted the amendment.

Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

ORDINANCE # 2015 – 05-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE CITY OF ELIZABETH CITY TO APPROVE THE ASSET PURCHASE AGREEMENT AND THE FULL REQUIREMENTS POWER PURCHASE AGREEMENT BETWEEN NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY AND DUKE ENERGY PROGRESS, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF THE DEBT SERVICE SUPPORT CONTRACT, THE FULL REQUIREMENTS POWER SALES AGREEMENT AND THE POWER SALES AGREEMENTS TERMINATION AGREEMENT BETWEEN THE CITY OF ELIZABETH CITY AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

WHEREAS, the City of Elizabeth City, North Carolina (the “Municipality”) and North Carolina Eastern Municipal Power Agency (“Power Agency”) entered into an Initial Project Power Sales Agreement dated as of July 30, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the “Project Power Sales Agreement”), pursuant to which Power Agency sells and the Municipality purchases and pays for the Municipality’s Participant’s Share (as defined in the Project Power Sales Agreement) of Project Output (as defined in the Project Power Sales Agreement); and

WHEREAS, the Municipality and Power Agency entered into a Supplemental Power Sales Agreement dated as of July 31, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the “Supplemental Power Sales Agreement”), pursuant to which Power Agency sells and the Municipality purchases and pays for All Requirements Bulk Power Supply (as defined in the Supplemental Power Sales Agreement), which consists of Project Output (as defined in the Supplemental Power Sales Agreement) and Supplemental Bulk Power Supply (as defined in the Supplemental Power Sales Agreement); and

WHEREAS, Power Agency and Duke Energy Progress, Inc. (“DEP”) have entered into an Asset Purchase Agreement (as supplemented and amended, the “APA”) dated as of September 5, 2014, pursuant to which Power Agency has agreed to sell and transfer to DEP, and DEP has agreed to purchase and pay for, the following undivided ownership interests of Power Agency in the following electric generating facilities: (i) 16.17% in Harris Unit No. 1, (ii) 18.33% in Brunswick Unit No. 1, (iii) 18.33% in Brunswick Unit No. 2, (iv) 16.17% in Mayo Unit No. 1, and (v) 12.94% in Roxboro Unit No. 4 and 3.77% in the common facilities that support Roxboro Unit No. 4 and the three

(3) other coal-fired generation facilities located at the site of Roxboro Unit No. 4 (collectively, the “Joint Facilities”); and

WHEREAS, in connection with the sale and transfer of the Joint Facilities to DEP, Power Agency is required to redeem, purchase, otherwise retire or defease all of its bonds (the “Outstanding Bonds”) issued pursuant to, and outstanding under, Resolution R-2-82, adopted by Power Agency on April 1, 1982, as amended and supplemented thereafter; and

WHEREAS, such redemption, purchase, retirement or defeasance by Power Agency of the Outstanding Bonds will result in Power Agency being obligated to pay certain costs associated therewith (the “Defeasance Costs”); and

WHEREAS, portions of the Defeasance Costs will be funded from proceeds of the sale and transfer of the Joint Facilities to DEP and other funds available to Power Agency for such purpose, and Power Agency proposes to finance the balance of the Defeasance Costs by the issuance of revenue bonds (the “Bonds”) pursuant to a bond resolution substantially in the form and content of the proposed form of bond resolution dated April 24, 2015, previously delivered to the Municipality by Power Agency (the “Draft Bond Resolution”); and

WHEREAS, Power Agency proposes to enter into a Debt Service Support Contract dated as of April 24, 2015, with each of its members, including the Municipality, in order to support Power Agency’s obligation to pay debt service on the Bonds, pursuant to which Debt Service Support Contracts each of its members, including the Municipality, is obligated to pay to Power Agency its Member’s Share (as defined in the Debt Service Support Contract) of Monthly Support Costs (as defined in

the Debt Service Support Contract) pursuant to the terms of the Debt Service Support Contracts; and

WHEREAS, the Bonds will be secured by, among other things, revenues derived by Power Agency pursuant to the Debt Service Support Contracts; and

WHEREAS, pursuant to Section 5 of the Debt Service Support Contract, the payment by the Municipality of its Monthly Support Costs is to be made to Power Agency unconditionally and without offset, counterclaim or other reduction, whether or not all or any portion of the electric power and energy contracted for under the member's Full Requirements Power Sales Agreement (described below) is delivered to the member or such Full Requirements Power Sales Agreement expires or is terminated in whole or in part; and

WHEREAS, the Municipality's Member's Share (as defined in the Debt Service Support Contract) is as set forth in Exhibit A to the Debt Service Support Contract; and

WHEREAS, Power Agency and DEP have entered into a Full Requirements Power Purchase Agreement (as supplemented and amended, the "Full Requirements Power Purchase Agreement") dated as of September 5, 2014, pursuant to which Power Agency will purchase from DEP and DEP will sell to Power Agency firm capacity and energy in the amounts required by Power Agency to reliably serve the current and future electrical loads of each of its members, including the Municipality, throughout the term of the Full Requirements Power Purchase Agreement; and

WHEREAS, Power Agency proposes to enter into a Full Requirements Power Sales Agreement dated as of April 24, 2015, with each of its members, including the

Municipality, in order to supply its members, including the Municipality, with its Full Requirements Bulk Power Supply (as defined in the Full Requirements Power Sales Agreement); and

WHEREAS, the Asset Purchase Agreement, among other things, requires the consent of the Municipality to, and approval of, the consummation of the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement and each of the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement requires the termination of the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency proposes to enter into a Power Sales Agreements Termination Agreement dated as of April 24, 2015, with each of its members, including the Municipality, to terminate the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency has caused GDS Associates, Inc., Power Agency's Consulting Engineer, to prepare an economic analysis of the projected financial impact of the transaction contemplated by the APA on Power Agency's wholesale power costs and proposed full requirements wholesale rates (the "Economic Analysis"); and

WHEREAS, Power Agency has caused to be furnished to this governing body a copy of each of the following: (i) the Asset Purchase Agreement, (ii) the Full Requirements Power Purchase Agreement, (iii) the Draft Bond Resolution, (iv) the Debt Service Support Contract, (v) the Full Requirements Power Sales Agreement, (vi) the Power Sales Agreements Termination Agreement, and (vii) the Economic Analysis.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Elizabeth City, North Carolina:

1. After due consideration to the contents of each of the preambles set forth above and each of the documents referred to in such preambles, it is hereby found and determined that it is in the best interests of the Municipality to consent to and approve the consummation of the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement, and such other documents as may be necessary to effect or implement either of the foregoing, and the same are hereby consented to and approved, and to enter into the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement terminating the Project Power Sales Agreement and the Supplemental Power Sales Agreement effective upon APA Closing Date (as defined in the APA), which also is the effective date of the Full Requirements Power Sales Agreement.

2. The Municipality hereby approves the form, terms and provisions of the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement between Power Agency and the Municipality, and the exhibits attached thereto, in the forms presented to the meeting at which this Ordinance is adopted, with such changes therein as shall be approved by the officials of the Municipality executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes. The Mayor and the Clerk of the Municipality are hereby authorized and directed to execute, acknowledge and deliver the aforesaid Debt Service Support Contract, Full Requirements Power

Sales Agreement and the Power Sales Agreements Termination Agreement in the name of and on behalf of the Municipality and thereupon to cause the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreement Termination Agreement to be delivered to Power Agency.

3. The officers and officials of the Municipality are hereby authorized and directed to execute such further documents and to take any and all further action as, upon the advice of the Attorney of the Municipality, shall be deemed necessary or desirable in order to effectuate the execution and delivery of the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreements Termination Agreement and the transactions contemplated thereby and by the Asset Purchase Agreement and Full Requirements Power Purchase Agreement.

4. The Clerk of the Municipality is hereby directed to file with the minutes of the meeting at which this Ordinance is adopted each of the documents referred to in the last preamble of this Ordinance.

5. This Ordinance shall become effective from and after its adoption.

ADOPTED this 26th day of May, 2015.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, CMC/NCCMC
City Clerk

7. Regular Agenda:

a. Consideration – Appointment and Re-appointments to the Airport Authority:

Motion was made by Councilwoman Jean Baker, seconded by Councilman Ray Donnelly, to approve all three of the appointments in one motion.

Councilman Stimatz requested a point of clarification and asked if the motion was to suspend the rules for a roll call vote. Councilwoman Baker stated that her intention was to approve all three appointments together, but with a roll call vote.

Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

Mayor Peel announced that there were three people to reappoint, Mr. Donald Payne, Mr. Orestes Gooden and Mr. Donald L. Parks. He called for the roll call vote, with the results recorded as follows:

**Councilman Brooks – Yes
Councilman Stimatz – Yes
Councilman Horton – Yes
Mayor Pro Tem Hummer – Yes
Councilman Walton – yes
Councilwoman Baker – yes
Councilman Spence – yes
Councilman Donnelly – yes**

(Clerk Notation: The appointments made by this action are as follows:

- 1. Reappointment of Donald W. Payne to serve a two year term on the Elizabeth City-Pasquotank County Airport Authority with the term expiring on June 30, 2017;*
- 2. Reappointment of Orestes Gooden to serve a two year term on the Elizabeth City-Pasquotank County Airport Authority with the term expiring on June 30, 2017;*
- 3. Appointment of Donald L. Parks, Jr. to serve a two year term as Chairman of the Elizabeth City-Pasquotank County Airport Authority with the term expiring June 30, 2017.)*

b. Consideration – Community Support Grant Request from Home Team Foundation, Inc.

Mayor Peel recognized City Manager Olson for the background on this request. Mr. Olson stated that the City received a request from Alvin Parker of the Home Team Foundation, Inc. for a Community Support Grant in the amount of \$1,850 for a summer football program. He advised that the proceeds would be used specifically to feed the youth participating in the program. Mr. Olson reported that the Finance Committee had discussed this matter and deferred action to the City Council without recommendation.

He stated that the Finance Committee had requested that staff contact Coach Antonio Moore of the AAU Basketball organization to determine if he would be making his usual request for funding. He reported that staff had been able to determine that Coach Moore would be submitting an application in the next couple of weeks for roughly \$2,800 to fund two AAU teams going to national tournaments.

Councilwoman Baker inquired about the Council action that has been taken in previous years for the AAU, to which Mr. Olson responded that the Council has historically funded the AAU teams at \$100 per person. He pointed out that normally the AAU allocation is one of the first made in a fiscal year and not at the end of the year. He stated that only \$1,850 remains in the Community Support Grant line item.

Councilman Walton asked if some of Council's travel funding could be used to support the applications. Mr. Olson responded that a budget amendment could be processed to do that. Councilman Walton stated that both groups are basically the same and are both dealing with youth. He said that he did not feel the City has done enough for youth during its budget process. He stated that if there was any way possible, he would like to provide funding to both groups. He said he was personally acquainted with the leaders of both organizations and knew them to be youth supporters.

Councilman Horton asked if any money had been earmarked for the AAU teams when the Council was going through the Community Support Grant process. Mr. Olson responded that the AAU teams had already been funded at that time, and pointed out that their need is normally in the first week of July at the beginning of the fiscal year. Councilman Horton stated that he would like to see the Council provide funding to both programs because he knew both to be great programs.

Councilman Brooks stated that he was thinking along the same lines and pointed out that Councilmembers are allowed to provide funding to other Councilmembers when their travel money is depleted. He stated that he had not traveled in two or three years and offered that one-half of his funding could be used for this purpose. He said that he thought when the Council could support youth with responsible adults in charge, it should be done.

Mayor Peel noted that the Council needed to break from this item and conduct the Public Hearing.

Motion was made by Councilman Michael Brooks, seconded by Councilman Darius Horton, to table the matter and come back to it. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

Mayor Peel called the Council's attention back to the discussion of this item at the conclusion of the Public Hearing.

Councilman Horton asked when Home Team Foundation would need the funding it was requesting to which Mr. Olson responded that it was the third week in June. Councilman Horton asked if Mr. Olson thought the Council could table the matter in order to determine how it could work financially. Mr. Olson responded that the Home Team Foundation need would be coming up shortly, but the AAU had not yet submitted its application. Councilman Horton stated that he would like to see if the Council could somehow support both organizations.

Mr. Olson stated that in looking at the Council's travel report, it appeared that adequate funding was available to fund both requests, if the Council wanted to utilize travel money to support the remaining funding in the Community Support Grant line item.

Councilman Donnelly stated that he would like to know how many kids would participate in the Home Team Foundation program from the City of Elizabeth City. He noted that the application submitted indicated the participants would be from all of Pasquotank County. He said he would like to have the same information for the AAU organization. He pointed out that the City often carries the burden and wondered if Home Team Foundation had approached Pasquotank County for funding. He stated that he needed more information before he could make an educated vote.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Tony Stimatz, to table both items until the next Council meeting in order to gather more information.

Councilman Spence stated that he would be in favor of using travel money to support the applications.

Councilman Brooks stated that he didn't care where the youth lived, if they were playing AAU basketball in Pasquotank County under Coach Moore, it was "still youth." He said just because other entities do not contribute to youth programs, it did not negate the Council for being responsible for our youth. Councilman Brooks stated that he would like to donate \$1,000 of his travel allocation to support the applications.

Councilman Stimatz declared a point of order and stated that the motion on the floor was a procedural motion to table. Mayor Peel stated that the Council needed to limit its discussion to the motion to table.

Councilman Walton stated that he did not have a problem in tabling the motion, but offered that the motion should be amended to indicate that the funding would be granted if the money is found.

Councilman Stimatz stated that the motion to table, as a procedural motion, was a standalone motion that could not be amended. He called the question.

Mayor Peel advised the Council that the vote was to table or not to table.

Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, and Horton. Against: Brooks, Spence and Walton. The motion carried.

(Clerk notation: To verify the voice vote taken, Mayor Peel also requested a show of hands.)

Councilman Horton inquired the amount of funding needed in order to fund the applications. Mr. Olson said that the funding needed by Home Team Foundation was \$2,300 and for AAU at \$100 per player, it would equal \$2,800 making the total \$5,100. He said there was \$1,850 left in Community Support Grants leaving a shortage of \$3,250.

Councilman Walton requested a roll call vote on the motion taken. City Attorney Bill Morgan advised that there was already a show of hands. Mr. Morgan stated that the vote had already been taken and registered; and inquired of the City Clerk if she saw the show of hands. The Clerk responded in the affirmative.

Councilman Horton stated that he was under the assumption that members of Council would be given an opportunity to say how much money they wanted to give in order to make the funding happen.

Mayor Peel responded that the information could be given to the City Manager, so when the matter was presented for consideration during the June 8 meeting, the City Manager will be prepared to show where the money will come from.

c. Discussion/Consideration – Recommendation for Closure of Front Lobby of Police Department After Hours

Mayor Peel recognized Chief of Police Eddie Buffalo to address this item for the Council.

Chief Buffalo reported that historically, the Elizabeth City Police Department has functioned as a twenty-four hour facility open to the general public and surrounding law enforcement agencies. He said that until the emergence of the Central Dispatch/E911 Center to this region in the early 1990's, the Police Department staffed full-time tele-communicators who dispatched all public service calls within the jurisdictional boundaries of the City. He reported that with the arrival E911, the role of the Police Department's tele-communicators was modified to Communications Officers. He stated that today, they serve as customer service representatives to members of the public and provide support to all members of the Police Department.

Chief Buffalo stated that the Records and Communications Sections of the Police Department perform tasks on a daily basis, including but not limited to data entry, quality control, state and federal mandated reports, incident arrests, juvenile custody reports, infractions, citations, crash reports, and the like. He said that with the addition of several community policing programs, the duties and assignments of our civilian staff

members have considerably broadened over the past decade to include the PAL Program, National Night Out, Citizens Police Academy, Crime Watch Program, Adopt-a-Block Program, Coffee with a Cop and Kids for Lunch Program. He said that they provide assistance on a daily basis to all these types of programs.

Chief Buffaloe reported that as part of the restructuring of the Police Department, this section would remain open to the public during normal business hours and extended business hours until 10 p.m. Monday through Friday, thereby reducing overtime costs associated with manning the front desk twenty-four hours a day seven days a week, while still utilizing current staff in a more strategic and defined manner to meet citizens' needs. He stated that a survey of police departments in the surrounding areas was conducted and revealed that most modern day facilities have been closed after normal business hours, but citizens have been provided access to a telephone directly linked to the E911 Dispatch. Chief Buffaloe reported that an in-house departmental survey was completed in 2013 and it revealed approximately one walk-in per day between the hours of 11:00 p.m. and 7:00 a.m. He said that the walk-ins were surveyed regarding critical incidents or emergencies. He stated that these surveys revealed that six people wanted newspaper deliveries; four people were requesting to see the magistrate; two people were requesting to go to jail; one person wanted to get in out of the rain; and one person requested the City to buy him gas. He stated that the remainder of the walk-ins included wanting to leave a message for a staff member, requesting to pick up a report, and one actually requested to file a police report.

Chief Buffaloe reported that a more recent survey conducted between December 13, 2014 and May 17, 2015 revealed 287 telephone calls and 77 walk-ins after 10 p.m. and before 6 a.m., which equates to 1.85 calls per night and .496 walk-ins per night. He said those surveys revealed walk-ins were looking for the magistrate's office, coming to pick up an arrestee, or were witnesses in a DWI case.

Chief Buffaloe suggested that the first and most efficient option would be to place a sign on the front wall of the Parker Midgett Building directing members of the public to go the Public Safety Building, adjacent to the Police Department, where their front lobby is open and unlocked for a 24-hour period and equipped with a call box already linked to 911/Central Dispatch. He said that the second option would be to place a "call" box outside of the front doors of the Parker Midgett Building, which would involve additional costs. He pointed out that both methods involve securing the doors of the Police Department between the hours of 10:00 p.m. and 6:00 a.m. daily and closing on weekends and holidays.

Chief Buffaloe stated that research has shown that the demand for public assistance greatly diminishes after normal business hours and citizens would still have instant access to 911 for emergencies should they come in person after this time by utilizing the call box located in the Public Safety Building. He stated that in addition, the Police Department has a camera system that would be transferred to the 911 Center for monitoring, where there are a greater number of personnel to view the system for an enhanced effect.

Chief Buffaloe suggested that two employees would remain sharing a 40-hour split shift between 6:00 a.m. and 2:00 p.m. and 2:00 p.m. to 10:00 p.m. daily. He said that City staff is recommending the closing of the front lobby between the hours of 10:00 p.m. and 6:00 a.m. daily, nights and weekends with the following proposed options: Option One to place a sign on the front wall of the Parker Midgett Building directing the public to go the Public Safety Building; and Option Two to erect a telephone call box in front of the Parker Midgett Building.

Councilman Spence asked what the surrounding cities are doing with regard to closing their offices. He stated that if the City is not getting calls, even 10 p.m. is a waste of staff, especially if citizens have access to a phone. Chief Buffaloe stated that the surrounding cities had been surveyed and it was found that all close at 5 p.m. He said as a point of clarification, the one call received was after 10 p.m.

Councilman Spence asked why staff is proposing to close at 10 p.m. rather than 5 p.m. Chief Buffaloe responded that it was “not to cut the public off directly at the knees – to soften the blow.” He said he simply chose 10 p.m. but he was okay with 5 p.m.

Councilman Spence stated that he thought 10 p.m. was late if nothing was going on. He stated that he would like to see the closure earlier than 10 p.m. especially if other cities are closing at 5 p.m.

Councilman Walton asked if the staff members working were male or female. Chief Buffaloe responded that 95% of the employees were female. He stated that there was one part-time male employee. Councilman Walton stated that he thought that was unsafe considering the way people are looking at Police Departments now.

Councilman Spence asked if the employees were certified police officers to which Chief Buffaloe responded that they were not.

Councilman Horton asked what would happen to the staff persons if the hours were changed to closing at 5 p.m. Chief Buffaloe responded that the employees would still maintain a 40-hour workweek, but would be directed within the police department or any other departments that the City Manager would see fit to use them. Councilman Horton stated that based on the safety issue and the uses of the department, he thought a 5 p.m. closing would be sufficient.

Motion was made by Councilman Kem Spence, seconded by Councilwoman Jean Baker, that the front lobby of the Police Department be secured at 5 p.m. daily to reopen at 6 a.m. the following morning.

Councilman Stimatz requested a point of clarification and asked if the motion included closing on weekends.

Councilman Spence stated the closure included weekends and holidays.

Councilman Horton stated that two options were given to either place a sign on the front wall or install a call box. He said he thought the motion should include the option the Council wanted.

Councilman Spence stated that he agreed. He amended his motion to add Option One to place a sign on the wall to direct citizens where to go for assistance. Councilwoman Baker accepted the amendment.

Councilman Stimatz inquired about the payment kiosk proposed for placement in the Police Department. Mr. Olson stated that staff would re-evaluate the location for the proposed kiosk.

Mr. Olson asked if the motion could be effective July 1, 2015 in order to allow time for staff to put the directive in place.

Councilman Spence accepted the suggestion and amended the motion to be effective July 1, 2015.

Councilman Stimatz requested that Mayor Peel restate the motion. Mayor Peel restated the motion as follows:

To close the police department lobby at 5 p.m. to reopen at 6 a.m., Monday through Friday, closed on weekends and holidays, that Option One would be adopted to direct people and the effective date would be July 1, 2015.

Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

d. Report/Discussion – American Legion ABC Permit Matter/Legal Motion by City Attorney Bill Morgan

Mayor Peel recognized City Attorney Morgan for his comments. Mr. Morgan stated that he had been asked during the May 11, 2015 meeting to report back to Council regarding a motion that had been made during that meeting to direct the Mayor to send a letter of apology to the leadership of the American Legion Post. He said at that time, he had determined that the motion was out of order, in his opinion. He said that Mayor Pro Tem Hummer agreed and ruled the motion out of order. Mr. Morgan stated that he had followed up the following day with a representative of the School of Government and reported that he had provided a copy (in the Council's packet) of the email that had been received in response that essentially said the same. Mr. Morgan quoted from the email received from Trey Allen, Assistant Professor of Public Law and Government, as follows:

"I am not aware of any statutory authority that would permit a city council to compel a mayor to apologize. Accordingly, a motion to require such action would

not be in order. Please note, however, that a council may express its opinion regarding a mayor's conduct. A council could, for example, adopt a resolution urging the mayor to apologize for some action, even though it may not force the mayor to do so."

Mr. Morgan stated that he had indicated in his memo to the Council that his opinion had nothing to do with determining whether the affidavit was justified based upon the facts of the situation. He was only asked to report back on the motion itself, which he felt he had done.

Councilman Brooks stated that he had read from the Charter during the last meeting and he felt it necessary to read what a charter is. He said that a charter is a document that spells out the powers and duties of the structures of government and rights of the citizens. He stated that it is often compared to the Constitution at the local level. He said that when he read the Charter and it gave the duties and structures of the City's government, what he read "was in order." He stated that the Council cannot make the Mayor apologize, but the Charter says "as directed by the Council." Councilman Brooks acknowledged that the only issue he has is if a document is signed "Mr. Peel" he would not come under the authority of the Council; but when he signs "Mayor" it has a different connotation.

Councilman Brooks stated that he continues to hear about "race" and "racism" and he wanted to talk about it. He said that racism is alive and well, not only Elizabeth City, but in the world; and because it isn't discussed doesn't mean it goes away. He stated that if he came to the Council and talked about the atrocities of ISIS, everyone would agree. He said that if he talked about the events of September 11, 2001 or the Oklahoma City bombing, everyone would agree. He stated that if he talked about how unarmed black males are being murdered - he questioned "then it becomes racism?" He stated that to talk about something true is not racism. He said that it is true that 95% of the people who go to the American Legion Hut are black – not racism - but a fact. He stated that he was tired of citizens coming to meetings bad-mouthing Council members with no solution. He stated that "if you come up here bad-mouthing without a solution, you are just a person of mouth." He suggested "let's talk about some solutions, and then they can be received." Councilman Brooks stated that he was "not going to listen to anyone come up and bash Council when they ran for Council two times and got a total of 25 votes running twice." He said that he would agree that lately the Council has been very "subtle" and hasn't gone off the edge. He stated that he had "backed down a lot and just stopped talking and for two months didn't say a word." He advised that he could not keep quiet forever and must say something.

Mayor Peel cautioned Councilman Brooks to remain on agenda topic.

Councilman Brooks read a blogger's comments to a Daily Advance article and commented that he learned in the military that there is no such thing as reverse-racism, only racism. He stated that he was aggravated that if he addresses any issue that concerns himself as a black person, his world view of what he has experienced or what his sons possibly go through, then he was not saying that everyone that is non-black is a racist. He stated "that is stupidity." He said when issues exist and he addresses

things that are happening in our culture, “as United States citizens we need to address it and not act like it doesn’t exist.” Citing examples of past world events, he stated “different day, same storm.” He said he would deal with “the Hut thing” and then leave it alone. He stated that he doesn’t talk racism, or race; he talks about what’s happening to a people. He said that “if they had murdered a white male, a Latino, a Pilipino, a Hawaiian, a Chinese, a Japanese or anybody like they murdered that young black man that was running away, he would have addressed it the same way.”

Councilman Brooks stated that it’s a person’s right to “come up here and say what they want to say, how they want to say it” and “it’s my right to respond the way I want to respond and how I want to respond.”

He said that he did not think when Mayor Peel used the term “the people” in the affidavit to the ABC Commission there was necessarily a racial intent, but the wording wasn’t good. He advised that you should “consider your audience.”

e. Report from Mayor Peel – Justification for Affidavit to ABC Commission re American Legion Post 223

Mayor Peel turned the gavel over to Mayor Pro Tem Hummer. He stated that what he intended to do was respond by reading the following statement into the record.

Beginning of statement read by Mayor Peel:

During the public comment period for the May 11, 2015 City Council meeting, Mr. Larry Gibson, a representative of the Linton J. Sutton Post 223 American Legion located at 611 S. Martin Luther King Drive, spoke concerning actions I took as Mayor of Elizabeth City. Prior to Mr. Gibson’s comments, the Council agenda was amended to add a discussion of the matter. As a result of the Council’s discussion, a motion was made that directed me to provide justification for the affidavit I provided to the ABC Commission in connection with the ALE investigation of the American Legion. Most of the following information was provided to you by memorandum on May 12, 2015, the day following the meeting. However, I have included some additional information in this memo.

Once again, some members of the City Council assumed certain facts without knowing the circumstances surrounding the issue. If the City Council believed Mr. Gibson’s comments had merit, the matter should have been forwarded to the next City Council meeting’s agenda for debate. At that time, all relative facts and documents could have been presented to aid in the discussion. Some members of the City Council attempted to pass a motion directing me to send a letter of apology to the American Legion, which the City Attorney advised Mayor Pro Tem Hummer (who chaired this meeting) was out of order due to the Council not fully understanding my role as Mayor and the authority that the City Council had previously given to the Office of the Mayor. A memorandum from City Attorney Bill Morgan is included in this document addressing the legality of that motion, which we have just discussed.

So, as requested, I am providing herein a justification for my actions regarding this matter.

First of all, you will find you received a resolution that the City Council adopted on February 27, 2006 giving authority to the Office of the Mayor to be the designated official to notify the North Carolina Alcoholic Beverage Control Commission of the suitability of persons and locations for ABC permits within the City of Elizabeth City. This resolution gives me, as Mayor of Elizabeth City, the authority to sign all ABC Local Government Opinion Forms for permit applications and to make recommendations on behalf of the City Council pursuant to NCGS §18B-904(f), which states as follows:

The governing body of a city or county may designate an official of the city or county, by name or by position, to make recommendations concerning the suitability of a person or of a location for an ABC permit. The governing body of a city or county shall notify the Commission of an official designated under this subsection. An official designated under this subsection shall be allowed to testify at a contested case hearing in which the suitability of a person or of a location for an ABC permit is an issue without further qualification or authorization.

As required by this statute, I sent you with this memo a letter dated December 19, 2011, which was sent to the North Carolina ABC Commission advising that I would replace former Mayor Roger McLean in matters related to the City of Elizabeth City with the ABC Commission.

I have received numerous complaints concerning activities at the American Legion since becoming Mayor. I and members of City staff have met on several occasions with the residents that live near the American Legion at their request. Most of these meetings included members of the Elizabeth City Police Department and Alcohol Law Enforcement. Some of the community members who participated in these discussions and shared their concerns about activities at "the Hut" included Katherine Kelley, Donald Graham, Glover Shannon, Reubin Houston, Juanita Spence and Jacquelyn Morris. As a matter of fact, these individuals all presented affidavits to ALE, as well.

The following are the facts:

- There have been 798 calls for service dispatched to the American Legion facility from July 2005 through March 17, 2014. The actual police reports are available in the City Manager's office if you would like to inspect them.
- These calls included such things as drug offenses, disturbances, disorderly conduct, fights, reports of gunshots fired, robberies, simple assaults, aggravated assaults, assaults on government officials, resisting arrest, aggravated assaults, larcenies, vandalism, drunk and disruptive, trespass, failure to disperse and suspicious conditions.
- The American Legion received numerous warnings over the years by law enforcement and ALE and was given instructions regarding steps required to take in order not to lose their ABC license.

- The residents living in the general area of the American Legion have informed me that they are afraid for their safety.
- Those in charge of security for the American Legion do very little to insure that this facility and its perimeter are safe.
- The affidavit copy that you received and read from at the last meeting was a part of the packet of information presented to the ABC Commission by the ALE. A very similar affidavit was provided by Chief Eddie Buffaloe. Both affidavits were attached to the memo I sent you last week.
- All facts contained in my affidavit are true and correct to the best of my knowledge and belief and were based on my personal conversations with members of the community as well as members of law enforcement.

The ABC Commission suspended all of the American Legion's permits by an Order issued on April 11, 2014 after a Finding that the public health, safety and/or welfare required emergency action. This order was issued based on an incident, which occurred on April 6, 2014. Members of the Elizabeth City Police Department, including Chief Buffaloe, provided testimony. However, Administrative Law Judge Ward returned and restored their ABC Permit on December 23, 2014 after a subsequent Court hearing requested by the American Legion. The reinstatement of their permit was previously reported to you in the City Manager's FYI dated January 2, 2015.

It should be noted that the American Legion facility was not closed during this period – they only lost their permit to serve alcoholic beverages. All other activities could have continued without interruption - absent the serving of alcohol.

I have had discussions with some of the neighbors of this property and they have thanked me for the actions we have taken. I will continue to work with the Elizabeth City Police Department, ALE, this neighborhood – and any neighborhood in this community - to insure that their concerns are addressed.

As an elected public official, I believe my primary duty, and the duty of all elected officials, is to ensure that every citizen feels safe in our city and especially in their neighborhoods and homes. I will continue to take any action necessary to make this a reality. It is concerning to me that some members of Council would find my support for these citizens to be suspect. It is even more concerning to me that some members of Council would choose to support the very source of their problems over the safety and well-being of these residents.

I am deeply disturbed that two members of Council continue to define some issues along racial lines. I have spent 48 years of my career working for all the children in every community I have served and I don't appreciate my character being attacked nor defamed. As public officials, all of us need to be engaged in activities that pull our community together rather than tearing it apart.

In conclusion, it is always easy to play the armchair quarterback in situations; however, when rushing to conclusions based on assumptions and not fact, the result is often the creation of needless controversy for the Council and the citizens we serve.

End of Statement Read by Mayor Peel.

Mayor Pro Tem Hummer recognized Councilman Horton for comments. Councilman Horton stated that one of the reasons he brought this issue up after hearing much discussion from the community, is that oftentimes it is easy not to deal with issues. He said that it is a fact that the American Legion, better known as “the Hut,” is a place that blacks frequent. He said that seemingly they were under attack. He stated that when he read Mayor Peel’s affidavit, he thought that it clearly attacked the Hut and the persons that attend the Hut. He said that even though everyone wants to be politically correct and move forward, the reality is as elected officials, “we cannot attack organizations in our City.” He stated that he didn’t know anything about the resolution that was passed by the Council. He said that he had been on the Council for nearly two years and had not heard anyone that lives adjacent or near the American Legion come forward to bring any type of allegations of public safety concerns. He said he had not voted or engaged in any discussion as it relates to the Council making a recommendation to the ABC Commission about the owners of the American Legion or the persons who go there. He said that he felt, “as a black male that understands our rich history” – it was a “smack in the face” of the American Legion. He said that was his personal opinion and that he refused to apologize.

Councilman Horton stated that the veterans of the American Legion should be allowed to come together. He said that he was a pastor of a church and that he had previously called the police to his church and “we were worshipping the Lord.” He said the bottom line is that when people get together, you can’t control them. Councilman Horton said that “to add insult to injury”, for him “to have to sit up at this dais and listen to a black individual come and try to – in so many words - degrade individuals who have a feeling or who have an opinion” – he stated that everyone is entitled to their opinion. He said that “it is a shame - after all our forefathers and what they went through - that we have black, African Americans that are so henpecked and that they are scared to stand up for their rights.” He said he had a problem with that.

Councilman Horton stated that “the Mayor may never issue an apology, nothing may ever happen, but I feel as a black, poor male, I am going to stand up for what I feel when our people are violated.” He said that the whole situation bothered him because the Council did not give the Mayor permission to issue the affidavit. He stated “do I think the Mayor is racist? No. But do I think this affidavit had racist intent? Yes.”

Mayor Pro Tem Hummer recognized Councilman Spence for his comments. Councilman Spence asked why the Council adopted the resolution in 2006. City Attorney Morgan stated that he was unsure.

Councilman Brooks stated that “there was a problem with The City Meeting Place and the Council wrote a resolution authorizing the governing body to designate an official by name or by position to make recommendations concerning the suitability of persons or locations for the ABC Permits.” He said that as he understood it, it was not a continuing resolution. City Attorney Morgan responded that the resolution is continuing because it names the Mayor by position rather than name. Councilman Brooks disagreed and re-read the resolution aloud. He reiterated that, in his opinion, the resolution was not continuing. City Attorney Morgan stated that his opinion was that the resolution is a continuing resolution because it identified the “mayor by position not by name.”

Councilman Brooks stated that “I’ve been through so much legal mess with this Council since I’ve been on this Council, that what happens is I question any interpretation of the law.”

Councilman Brooks stated that he thought Mayor Peel had a point when he said the American Legion was not shut down, but when he issued the affidavit he had a problem with it. He said he was in that community from 1992 to 1996 when there was an open air drug market and at that time there was never talk about the American Legion Hut being a problem. He said there was no one more concerned about the safety of that area than he has been over the years. He said the residents of the neighborhood will tell you the same thing.

Councilman Stimatz stated that he was confused. He said that he had heard it said at the podium that the Mayor’s use of the phrase “ ‘the people who frequent the property have the general reputation for engaging in activities as described in paragraph five above’ is racist – it attacks the black community, it attacks the Hut and the affidavit had racist intent.” He stated that when he looks at Chief Buffalo’s affidavit and it has exactly the same phrase – “how is it that a black man can say it and it’s okay and a white man says it and it’s racist – unless you’re a racist?” It said it’s either okay for both or not okay for both.

Councilman Brooks stated “it’s not okay for both.”

Councilman Stimatz stated that he did not see Chief Buffalo castigated on this issue. He stated “in fact, I’ve heard it being said of Chief Buffalo – he’s a good man, he knows what he’s talking about – he did okay.” He reiterated that he was confused and just wanted to bring it up.

Councilman Walton stated that he was glad to be back in a Council seat because formerly as a citizen he could only speak for three minutes before the Council, but now he could use more than three minutes and he had a lot to say. He said people talk about race, but “we don’t have transparency on this Council.” He thanked Mayor Pro Tem Hummer and Councilman Donnelly for being professional when the newspaper came to them to seek comment on his election win. He said other people on the Council put him down. He stated that to bring out transparency he wanted to provide the facts, because “the newspaper wrote it.” In referring to a newspaper article with the

headline “Councilors - Peel Criticism Political” – he asked “how in the world can they make political out of racism or closing the Hut?” He stated that he had not talked to Sgt. Gibson of the American Legion, but “slurring my name didn’t mean anything to them.” He said he wasn’t going to ask for an apology because he wouldn’t get it.

Councilman Walton read aloud portions of the newspaper article and stated “you can make all the excuses you want, but people are not treated right.” He stated that he thought people that “put things in the newspaper, don’t have a lot of fight in them.” He said “they let their words and the electronics fight their games for them.” He said that he wanted to tell them that he is an “anointed warrior for God.” He stated that when he wasn’t on Council, he was fighting issues the same way he would fight them now and when he is not on Council again, he would still fight issues. He stated “there are black and white issues out there.” He said he didn’t care how people try to hide it. He stated “you need transparency and you need to stand up and mean what you say and say what you mean.” He said “you’re going to get what you get when you deal with me because I am an anointed warrior.”

Councilman Horton asked City Attorney Morgan if the resolution adopted in 2006 required the Mayor to obtain Council input before making recommendations to the Alcoholic Beverage Control Commission. City Attorney Morgan stated that it could be inferred from the wording. He stated that the resolution designates the Mayor to report on behalf of the City on all ABC Permits and other ALE issues, but in his opinion, he did not think the resolution requires that there be input from the Council prior to a report to the Commission. He stated that certainly it could be inferred that recommendations from Council could be received. He stated that he did not believe it was mandatory.

Mayor Peel stated that he would like to make a point regarding that matter. He said that the City Clerk calls him at least once or twice per week to sign ABC Permits. He stated that he thought the Council would be amazed at the number of forms that are signed over the course of a year. He stated that most requests are to establish a business. He said he had actually had people come by his home at 2 p.m. in the afternoon to get him to sign because they were on their way to Raleigh to the ABC Commission. He stated that these are the people who are opening restaurants and want to get a liquor license. He advised that he was not on Council in 2006, but he would imagine that one of the reasons the resolution was adopted was in order that people didn’t have to wait a week or two until the Council met because they wanted to open their business. He said that judging from his experience over the last three years, there is a lot more going on with ABC Permits than you would think in this little town.

Councilman Spence stated that he thought a little of this controversy could be eliminated if a resolution was adopted stating that the Mayor would have to come to Council before doing anything with ABC permits.

Councilman Stimatz stated that he had gone back to the minutes from 2006; and the minutes indicated that it is a requirement that Alcoholic Beverage Control Commission Form 001 be completed. He quoted from those minutes and stated that “historically the

Mayor has been the designee for executing the forms, since the Mayor is usually in the office at some point during each work day. It provides for quick turnaround.” He said basically, it appeared that the ABC Commission approached the City and proposed that the designation be changed to the Mayor by position and Mayor Pro Tem as the alternate, rather than the Mayor by name - just so there could be quick turnaround. He said the minutes actually used the phrase “quick turnaround.” He inquired of the City Manager the number of ABC permits that have been processed by the City in the last twenty years - to which Mr. Olson responded “hundreds.” Councilman Stimatz asked if they had ever come before the Council. Mr. Olson responded that in the twelve years since he had been with the City, they had not. Mr. Olson stated that prior to 2006, the Council would designate the individual authorized by name.

Councilman Stimatz stated that he remained confused with all the controversy over a sentence out of the mouth of a black man that was okay and white man that isn't. He said that is what everyone is arguing about.

Mr. Olson clarified that the ABC Commission had approached the City regarding the change in the designation. He said that the resolution adopted in 2006 contained the wording suggested by a model ABC Commission resolution.

Councilman Brooks stated “we must stay on point.” He said “the issue is not whether the mayor could sign the ABC form. The issue is the affidavit. We don't want no smokescreens. The issue is the affidavit. We are not talking about his authority to sign it, because what he said made sense.” He stated that if Councilman Stimatz said “one more time that if a black man say it, it's different than if a white man say it – that's a racist statement within itself.” He reported that he had stated when interviewed by the newspaper that “it was just as wrong for Chief Buffalo to say it the way he said it, than Mayor Peel.” Councilman Brooks continued “I didn't back off on neither one of them, because his wording was just as bad as Mr. Peel – matter of fact they were almost identical.” He said “I'm not giving no pass because of the color of his skin – if it's wrong, it's wrong.” He said “we talk about the race issue that don't nobody want to address.” He stated “you don't generalize on a whole organization.” He said that although “we have come a ways” it is not true that we live in a post-race society.

Councilman Horton stated that the issue is not about licensing, it's about the affidavit.

City Attorney Morgan stated that he would like to add one thing very briefly. He said that the wording of the statute is, if anything, stronger than the wording of the resolution. He stated that the last sentence in NCGS 18b-904f reads “an official designated under this sub-section shall be allowed to testify at a contested case hearing in which the suitability of a person or of a location for an ABC permit is an issue without further qualification or authorization.” He stated that it is not necessary for Mayor Peel to report to Council or anyone else based on the wording of the statute.

Councilman Brooks inquired “even with the affidavit talking negative about an organization?” Mr. Morgan stated that he would not talk about the merits of the affidavit, but about the Mayor’s ability to execute the affidavit or testify.

Councilman Walton commented that as strongly as the affidavit was written, he would think the person would at least go to Court to testify.

Mayor Peel stated that he would like to address that issue. He said that he was in Court for the better part of a day and a half when the attorney told him he did not need to testify. He said that the attorney had his cell phone number and he never received a call to return to Court. He stated that about one quarter of the Police Department also spent the better part of two or three days at the hearing.

Mayor Pro Tem Hummer returned the gavel to Mayor Peel. Mayor Peel declared a five minute recess.

f. Weatherization (*Continued from Work Session*)

Mayor Peel declared the meeting back into session and called on the City Manager to continue the discussion of weatherization from the Work Session.

Mr. Olson stated that there was a discussion pending regarding whether to increase the weatherization budget by \$200,000. The City Clerk advised that a motion from the work session had been tabled pending further discussion during the regular session, as follows:

Motion was made by Councilman Ray Donnelly, seconded by Councilwoman Jean Baker, to increase weatherization and decrease contingency by \$200,000.

Councilman Horton inquired what was meant by the use of the term “contingency.” Mr. Olson stated that the budget included approximately \$438,000 in the Electric Fund for contingency. He said that would build the fund balance within the electric budget if it is not spent. He explained that the City Council had established a goal of \$6 million by the end of this fiscal year and \$7 million by the end of the next fiscal year for the Electric Fund. Mr. Olson stated that the real issue is whether the City needed to be at those levels with the sale of its generating assets. He said there had been a discussion to have at least 90 days operating expenses on hand, which would be \$6 million rather than \$7 million.

Councilman Horton asked if the City would be on sound footing if the Council appropriated the extra \$200,000 to weatherization. Mr. Olson stated that the only thing that had occurred was the proposed decrease in contingency by \$200,000, which did not affect the operation of the electric utility.

Councilman Horton inquired whether all funds previously appropriated for the program had been used. Mr. Olson responded that during the previous fiscal year when there were funds left, it was due to issues with the third party contractor, not the weatherization program.

Councilman Horton inquired if there was a long waiting list of homes to be weatherized. Mr. Olson responded that he would have to obtain that information from the City's Energy Officer.

Councilman Walton inquired regarding the number of houses that have been weatherized to which Mr. Olson responded that the City is averaging approximately 40 per year. Mr. Olson stated that with the proposed increase in funding, the City would hope to double the number of homes served. Councilman Walton stated "but right now you are not sure if they are doing it right." Mr. Olson stated "Councilman Walton, they are doing it right. I can guarantee they are doing it right."

Mr. Olson explained the procedure used when utilizing the blower door test for the Council.

Mayor Peel pointed out that he did not think the City had made a dent in apartments; and he stated that there is about 60% of the City's housing stock in apartments. Councilman Walton stated "there are a lot of people not living in them, too – there are a lot of ghosts in Elizabeth City." Mayor Peel stated that "the people coming down here with high electric bills aren't ghosts."

Councilman Spence commented that there were some houses that would not allow the blower door system to be used, to which Mr. Olson responded that in some cases, it would bring the roof down. Councilman Walton said "and we want to deal with something like that?"

Mr. Olson stated that the purpose of the program is to help the individuals within Elizabeth City. He said initially the program was limited to individuals of low to moderate income, but now the program is open to anyone.

Councilman Walton stated that he did not think the program benefited the whole city. He stated that he was not suggesting that the program be discontinued, but did not support placing more money toward it. He said that he also thought some things needed to be revamped.

Councilman Brooks inquired if the program has ever run out of money. Mr. Olson stated that sometimes homes must be placed in a queue and deferred until the following fiscal year. Mr. Olson advised that customers generally see an average 25% savings in their utility bills once weatherization has taken place.

Referring to Councilman Walton's concern regarding the program not benefiting the entire City, Mr. Olson explained that it is the individual customers who are receiving the

benefit. He said that they are the ones not having to pay such high utility bills. Councilman Walton responded “but everybody got to pay their property tax.”

Councilwoman Baker stated that the problem over the years has been getting people to schedule. She stated that she thought it would be helpful for everyone on Council to see an energy audit performed. She said that she thought that would help the Councilors see the value of the program that the City is offering for free. She advised that her entire real estate office had participated in order to be able to explain the process to potential sellers regarding why they were reporting high electric bills.

Councilman Stimatz stated that if the criteria is used that it doesn't benefit the whole City, then the City should not give money to ball teams. He stated that is not how the City's programs work. He pointed out that this program in particular was a way to help people with their utility bills, when there was nothing else that could be done. He said it didn't matter if the \$200,000 was designated or in a contingency fund, it was still available. He stated that if Councilman Walton had specific ideas or suggestions that can be considered to change the program, the Council could do that.

Councilman Stimatz said he would be reluctant to go past single family houses and would not want to consider multi-family or large scale apartment complexes. He said the Council could leave the funding at \$160,000 and still use the contingency funding later if it wished to do so. Councilman Stimatz suggested that the Nexgrid system may provide opportunities to do other things with the program to focus on energy efficiency, such as providing water heaters and thermostats for electric baseboard heaters.

Councilman Walton pointed out that he thought the City was strapped for funding and any programs chosen should benefit the entire City.

Councilman Donnelly called for the question.

Mayor Peel requested the Council's pleasure on the motion on the floor as follows:

Motion was made by Councilman Ray Donnelly, seconded by Councilwoman Jean Baker, to increase weatherization and decrease contingency by \$200,000. Those voting in favor of the motion were: Baker, Donnelly, Hummer and Spence. Against: Stimatz, Brooks, Horton and Walton. Mayor Peel voted in favor of the motion. The motion carried.

(Clerk notation: Mayor Peel verified the voice vote by calling for a show of hands.)

g. Budget Presentation (Continued from Work Session)

Mayor Peel recognized City Manager Olson to proceed with the budget presentation continued from the Work Session.

Mr. Olson requested action by the City Council to make the required minor budget adjustments to the Electric Fund as follows: Increase Energy Sales and Purchase for Resale by \$304,232, to change the customer rate adjustment from 14% to 13% and rate adjustment to the City from 17% to 16% based on adjusted rate reductions received from ElectriCities.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to direct the City Manager to increase energy sales and purchase for resale by the amount indicated, and to change rate adjustments as indicated on the slide. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

Mr. Olson reviewed the Solid Waste Fund estimated revenue sources and advised that the total revenue and expenses for the fund are proposed to be \$1,715,701.

Mr. Olson stated that the revenue proposed for the Stormwater Utility Fund is \$430,284, with a residential rate of \$36.00 per lot and \$.01 per square foot of impervious area for commercial properties. Councilman Stimatz asked if the City should consider lot size in the future. Mr. Olson stated that a previous study had shown that there was very little difference in the amount of impervious area based on the size of the lot. Councilman Stimatz stated that the City would be working on the total number of imperious feet on new build outs.

Mr. Olson stated that the Halstead Drainage Study was previously budgeted to be \$75,000. He stated that a motion was requested to provide \$5,000 in funding for public outreach as requested by the Storm Water Advisory Board.

Motion was made by Councilman Tony Stimatz, seconded by Councilwoman Jean Baker, to increase Community Outreach by \$5,000 and decrease Halstead Boulevard Analysis by \$5,000. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

Mr. Olson provided an update on the Fairgrounds project at the request of Councilman Walton. He advised that the City is taking the drainage structure behind the Water Treatment Plant and dumping it into Knobbs Creek to alleviate the flooding in that general area. He stated that there were no other plans for the property at this time regarding economic development.

Mr. Olson stated that the Water and Sewer Fund reflects a cost of purchased water in the amount of \$4.71 per 1,000 gallons. He said that the water rate dispute with Pasquotank County is ongoing.

Mr. Olson stated that the 3% water and sewer rate increase that is proposed will generate \$223,000. He said that the Finance Committee had discussed rolling the

sewer surcharge into the base rate. He stated that in doing so, it would eliminate the surcharge as a separate item on customers' utility bills, and would be rolled into the base rate.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Kem Spence, to roll the water and sewer surcharge into the base rate and adjust our books accordingly. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

Mr. Olson reviewed the major capital expenditures for the Water and Sewer Fund, which include the water and sewer fixed area network, the accelerator rehabilitation, a new roof on the wastewater treatment plant, a bar screen rake, a van for the City's electrician and a trailer jetter.

h. Call for Public Hearing on Budget (*Continued from Work Session*)

Mayor Peel called for the Council's pleasure regarding the request to call for a public hearing on the fiscal year 2015-2016 budget.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Tony Stimatz, to call for a public hearing on the FY 15-16 budget on June 8, 2015 at 7:30 p.m. in Council Chambers. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Kem Spence, to set aside \$12,500 for a dog park pending the SPCA raising the matching funds.

Councilman Stimatz stated that the money had been in a budget previously and the reason it did not go through was because it should be a joint project with the City and Pasquotank County. He stated that he would argue that the City should put up \$6,250 if the County puts up \$6,250 and the SPCA makes the match.

Councilman Spence commented that the City cannot get the County to do anything. Councilman Stimatz stated that the City would continue carrying the freight

Councilman Stimatz offered a friendly amendment to cut the amount budgeted in half to \$6,250. Councilman Donnelly accepted the friendly amendment. Councilman Spence concurred.

Those voting in favor of the motion were: Baker, Donnelly, Stimatz, Brooks, Spence, Horton and Walton. Against: Hummer. The motion carried.

i. Committee Reports (*Continued from Work Session*)

- a. EC-PC Economic Development Commission: Mayor Pro Tem Hummer, Councilwoman Baker, Councilman Donnelly and Mayor Peel

Mayor Pro Tem Hummer stated that Director Wayne Harris had reported on several conferences he had attended. She stated that the Iberdrola Wind Project is set to break ground on July 1, 2015.

- b. Central Communications Advisory Board: Councilman Spence

Councilman Spence had no report.

- c. Fireman's Relief Fund Board: Councilman Brooks

Councilman Brooks had no report.

- d. NC Eastern Municipal Power Agency: City Manager Olson and Mayor Peel

Mayor Peel stated that he had attended the last meeting and that the Commission had approved the sale of assets. He stated that everyone was excited about that decision.

- e. Elizabeth City Downtown, Inc.: Councilman Donnelly

Councilman Donnelly stated that the NC Potato Festival was successful and the amusement rides company made "big money" with a certain percentage coming back to ECDI. He stated that former director, Rebecca Cross has relocated to Florida and Morgan Jethro is serving as the interim director as the search goes on for a new director.

- f. Elizabeth City Area Chamber of Commerce Board: Mayor Peel

Mayor Peel stated that the Women of Excellence Banquet is scheduled for the following week. He said that the Chamber is doing well and continues to get new members.

- g. Finance Committee: Mayor Pro Tem Hummer, Councilman Donnelly, Councilman Horton and Mayor Peel

Mayor Pro Tem Hummer stated that all items had been reviewed during the earlier portion of the meeting.

- h. Parks and Recreation Advisory Board: Councilman Horton

Councilman Horton asked if the City was solely responsible for opening and closing the restrooms at Mariners' Wharf Park. He stated that during the discussion regarding the

closing of the Police Lobby, concerns were raised about female employees working alone. He stated that Parks and Recreation Director Bobbi White goes out every night to lock the restrooms at the Park. He stated that he would like to see the Police Department take over that function.

City Manager Olson stated that he would speak to Chief Buffalo about the issue.

- i. Elizabeth City/Pasquotank County Airport Authority: Councilman Stimatz

Councilman Stimatz stated that the sale of contract fuel is going well and because of that, neither the City nor the County will be contributing to the Airport Authority directly. He said that progress is moving along on the apron repairs and that serious discussions have been held regarding repairs to Runway 119 and the possible funding sources.

- j. Storm Water Advisory Board: Councilman Stimatz, Councilman Donnelly and Councilman Brooks

Councilman Stimatz stated that the City needs to do some outreach on the issue of not putting lawn clippings in the gutter to wash down the drain. He stated that the Board would be coming up with a campaign toward that end. He stated that the Halstead Corridor Drainage Analysis had been discussed, with the discussion centered on the City possibly creating a "stormwater septic system" to allow more of the property to be developed.

- k. Tourism Development Authority: Councilwoman Baker

Councilwoman Baker stated that a meeting is scheduled to approve line item grants. She stated that a replacement for the recently retired director has not been hired.

8. Comments and Inquiries on Non-Agenda Items:

Councilman Donnelly had no further comments.

Councilman Spence had no further comments.

Councilwoman Baker read an article that had been published by the Outer Banks Voice regarding the position they have taken on the pending visit by the Westboro Baptist Church. She stated that she hoped that people would do what the City of Elizabeth City and the Police Department hoped they would do and ignore the Westboro Baptist Church picketers.

Councilman Walton stated that the City needed to be leery of groups coming here because anybody can infiltrate what is good. He said that the City needs to push toward transparency as much as it can. He stated that during the recent Special Election, one candidate was touted as a consensus builder. He said that doing what somebody else says is not consensus building because he thinks everyone on Council

should have a voice and be able to discuss things logically. He said to ask someone to be a clone is not “what we have in this system.”

Mayor Pro Tem Hummer complimented the Memorial Day Ceremony conducted for our fallen heroes. She stated that it was very well attended and she thanked the Police Department for taking care of the Council’s wreath. She stated that she was pleased to see the Police Department’s new K-9 corps and invited them to come and be introduced to the Council.

Councilman Horton officially welcomed Councilman Walton back to the Council and stated that he looked forward to working together peacefully and advancing the City “to higher heights and deeper depths.”

Councilman Stimatz reminded everyone that the Coast Guard City naming ceremony is scheduled for Friday, May 29 and he invited everyone to attend.

Councilman Brooks congratulated Councilman Walton.

Mayor Peel thanked Angela Cole and City Manager Olson for their work on the Coast Guard City ceremony planning.

9. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 9:55 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk