

**City Council Regular Session
August 11, 2014**

The City Council of the City of Elizabeth City met in regular session on Monday, August 11, 2014 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Joe Peel
Councilwoman Jean Baker
Councilman Ray Donnelly
Mayor Pro Tem Anita Hummer
Councilman Tony Stimatz
Councilman Michael Brooks
Councilman Kem Spence
Councilman Darius Horton
Councilman Montravias King

MEMBERS ABSENT: None

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

The City Council regular session was called to order by Mayor Joe Peel at 7:00 p.m. Mayor Peel welcomed everyone to the meeting and recognized Rev. Elizabeth Cluff to give the invocation, after which all in attendance recited the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

No agenda adjustments were requested.

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

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:

No one in attendance requested to be heard.

4. Approval of Minutes:

- a. City Council Regular Session June 9, 2014:

Motion was made by Councilman Tony Stimatz, seconded by Councilman Montravias King, to approve the minutes of the City Council Regular Session of June 9, 2014. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

- b. City Council Regular Session July 14, 2014

Motion was made by Councilman Tony Stimatz, seconded by Councilman Montravias King, to approve the minutes of the July 14, 2014 Regular Session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

5. Consent Agenda:

Mayor Peel recognized City Manager Olson to detail the item presented on the Consent Agenda. Mr. Olson read the consideration for the record and recommended approval, as follows:

Beginning of Consent Agenda:

- a. Consideration – Authorization for the Elizabeth City Fire Department to conduct live fire training on a structure owned by William and Johnetta Griffin at 710 S. Martin Luther King Drive.

End of Consent Agenda.

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

6. Regular Agenda:

- a. Consideration-Call for a Public Hearing on an Amendment to City Code of Ordinances to Revise Chapter 14 Business Regulations Article I In General re “Carnivals” to be held on August 25, 2014 at 7:30 p.m. in City Council Chambers:

Mayor Peel recognized City Manager Olson for a review of this item. Mr. Olson explained that during the July 14, 2014 Council meeting, staff received direction to make modifications to the proposed ordinance amendment, which had been submitted for Chapter 14 regarding the operation of carnivals within the City. Mr. Olson provided a synopsis of the revised draft ordinance presented for the Council’s review and consideration. He stated that staff wanted to make certain that all changes desired by the Council had been included in preparation for a public hearing.

Councilman Horton pointed out that Section B of the proposed ordinance would limit the conduct of a carnival to a 501(c)3 non-profit organization. He stated that the reason this matter came before the Council was because of a request made by Southgate Mall. He said that it was his understanding that Southgate Mall was not a 501(c)3 organization; and he was of the understanding that Council entertained this matter in order to accommodate Southgate Mall’s request to hold a carnival. Mr. Olson responded that Southgate Mall could host a carnival on its site, but the sponsor would be required to hold a 501(c)3 status. Mr. Olson stated that it was staff’s understanding from previous discussions that the Council wanted proceeds derived from carnivals to somehow benefit the community. Councilman Horton agreed the discussion did include that, but pointed out that anyone sponsoring a carnival would be providing a service to the community by providing activities for our residents and enhancing revenue for other businesses. He stated that he did not feel the policy should limit the sponsoring organization to a 501(c)3 non-profit organization.

Councilman Stimatz agreed that the original conversation did include having 501(c)3 organizations as the sponsoring agency. He said that upon further reflection, he now was not certain the ordinance should restrict sponsors to that designation and he did not have a problem with removing it. He stated that it was really about having the event and not the benefactor of the proceeds. He inquired about the land use issues that were previously discussed and noted they were not included in the proposed ordinance. Mr. Olson responded that those requirements were contained in the Unified Development Ordinance already.

Mr. Olson asked if the ordinance should provide preferential consideration to a 501(c)3 organization. Councilman Stimatz stated that he would defer to the Council for the answer to that question.

Councilman Spence asked if there had been problems during the previous carnival hosted by Southgate Mall. Mr. Olson responded that to his knowledge there had not been problems. Councilman Spence stated that it was his opinion that a carnival was

a good event to have in the City in view of the fact that there are not a lot of large events held locally for our residents.

City Attorney Morgan said that he had made an attempt to re-word sub-paragraph “b” and offered the following change: “An applicant for a carnival event must conduct the same either within the applicant’s property or within property upon which the applicant has written permission from the owner to use.”

Mayor Peel asked for the Council’s pleasure regarding the City Attorney’s suggested text change. It was the consensus of the Council to accept the City Attorney’s re-wording of subsection “b”.

Councilwoman Baker asked if there was some significance to having applications submitted beginning July 1. The City Manager responded that July 1 was simply a date chosen by staff and could be changed. He stated that it was staff’s preference to have applications considered on a first-come, first-served basis since the ordinance would only allow three carnivals per year.

Assistant to the City Manager Angela Cole suggested that when working with the timeline, a carnival event will be affected by two additional policies: the Special Events Policy, which has a timeline of 45 days prior to the event; and also a Special Use Permit, which has a timeline of approximately 120 days.

Councilman Stimatz suggested that staff make changes to the proposed ordinance that would take into account these timeline requirements and bring it back for Council’s consideration during the public hearing.

Motion was made by Councilwoman Jean Baker, seconded by Mayor Pro Tem Anita Hummer, to call for a public hearing to be held during the August 25, 2014 City Council meeting at 7:30 p.m. in City Council Chambers to receive comments from the public about the operation of carnivals within the City of Elizabeth City. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

- b. Consideration-Call for a Public Hearing on an Amendment to the Stormwater Management Utility Ordinance to add a new section entitled “Stormwater Advisory Board” to be held on August 25, 2014 at 7:30 p.m. in City Council Chambers:

Mayor Peel recognized City Manager Olson for a review of this item. Mr. Olson explained that this consideration had been previously discussed during the July 14, 2014 meeting. He reported that the focus of the proposed ordinance amendment is to add certainty to the appointment process for the Stormwater Advisory Board. Mr. Olson provided an overview of the proposed ordinance amendment for the Council.

Mr. Olson referred the Council to the proposed Section 10.1 that outlined the authority for the board. He said that staff proposes changing the original adopted charge of the board to delete the meetings requirement in that section and provide for meetings in Section 10.3.

Councilman Stimatz commented that the board should meet at least quarterly and thereafter frequently enough to take care of any business required.

It was the consensus of the Council to delete the meetings requirement from Section 10.1 and add “to meet at least quarterly” in Section 10.3.

Councilman Stimatz inquired of the City Attorney if the same conflict of interest requirements should be prescribed to the Stormwater Advisory Board as are being contemplated for the HPC, BZA and Planning Commission. The City Attorney responded that he did not think it was necessary to require the disclosure forms for this particular board.

Motion was made by Councilwoman Jean Baker, seconded by Mayor Pro Tem Anita Hummer, to call for a public hearing to be held during the August 25, 2014 City Council meeting at 7:30 p.m. in City Council Chambers to receive comments from the public about amending the Stormwater Management Utility Ordinance to add a new section entitled “Stormwater Advisory Board”. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

- c. Consideration – Execution of Agreement for Weatherization Assistance Program Contractor Services:

Mayor Peel recognized City Manager Olson to provide an overview of this request. Mr. Olson stated that the Council appropriated \$160,000 for the fiscal year 2014-2015 budget for the City’s weatherization program. He advised that quotations for the performance of weatherization services had been received by City staff from three contractors: G&M Construction, Martin County Community Action, and Skinner’s Home Energy Conservation Services. He reported that Skinner’s Home Energy Conservation Services submitted the lowest priced proposal at \$45 per man labor hour, and recommended that the Council award the contract to them.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Darius Horton, to authorize Mayor Joseph W. Peel to execute the agreement for contractor services for the Weatherization Assistance Program with Skinner’s Home Energy Conservation Services, as provided. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

- d. Consideration – Budget Amendment to record NC Rural Center’s Building Reuse Grant for Water’s Edge Grill:

Mayor Peel called on City Manager Olson for a review of this request. Mr. Olson stated that Water’s Edge Grill, owned by John & Mui Chin, was awarded a Building Reuse Grant through the NC Rural Center in June 2013. Although the original application provided for the creation of six positions, staff’s review of their NCUI 101 forms revealed that four creditable positions had been created. Mr. Olson advised that rather than receiving \$30,000 from the Rural Center, Water’s Edge Grill was eligible for a grant of \$22,009.05. He requested approval of a budget amendment to allow the City to forward the Rural Center funding to Water’s Edge Grill.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to approve the following budget amendment to record the NC Rural Center’s Building Reuse Grant for Water’s Edge Grill, as presented. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

BUDGET AMENDMENT

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2015:

SECTION I. That the Building Reuse Grant – Water’s Edge Grill (103490.4902) and Water’s Edge Expenditure (104900.4502) be increased by \$22,009.05.

(To record Water’s Edge Grill Grant.)

Adopted, this the 11th day of August 2014.

Joseph W. Peel
Mayor

Vivian D. White, NCCMC
City Clerk

- e. Consideration – Authorization to Submit Application for Home Depot Community Impact Grant:

Mayor Peel recognized City Manager Olson to review this item for the Council. Mr. Olson advised that the Elizabeth City Police Department’s Code Enforcement Bureau conducts “Clean Sweep” operations several times a year to assist local residents with abatements, yard clean-up, and weatherization projects; and that the Police Department

wishes to apply for funding from the Home Depot Community Impact Grant Program in the amount of \$5,000 to be used during the Fall 2014 Clean Sweep.

Motion was made by Councilman Tony Stimatz, seconded by Councilwoman Jean Baker to authorize the submission of a grant application to the Home Depot Community Impact Grant Program in the amount of \$5,000; and to utilize grant funding for the purchase of materials to be used in the Elizabeth City Police Department's "Clean Sweep" Operation scheduled for Fall 2014. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

- f. Consideration – Adoption of Resolution authorizing financing with BB&T Bank for the Water Treatment Plant Lime Feed System:

Mayor Peel called on City Manager Olson to review this item for the Council. Mr. Olson advised that funds were appropriated in the last fiscal year's budget for a Water Treatment Plant Lime Feed System. In view of the fact that there were some problems associated with bids for the project, the funds were rolled over to fiscal year 2014-2015. He stated that staff had requested and received proposals for five (5) year installment purchase financing, as follows:

	<u>Fixed Rate</u>	<u>Fees</u>	<u>Total Payments Including Fees</u>
BB&T Bank	1.61%	0	\$444,825.78
PNC Bank	2.62%	\$250	\$456,234.45

Mr. Olson recommended that the Council approve the financing with BB&T Bank as the low bidder.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to adopt the following resolution authorizing financing with BB&T Bank for the Water Treatment Plant Lime Feed System, as presented. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

**Resolution # 2014-08-01
Approving Financing Terms**

WHEREAS: The City of Elizabeth City, North Carolina (the "City") has previously determined to undertake a hydrated lime preparation and feed system, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company (“BB&T”), in accordance with the proposal dated July 30, 2014. The amount financed shall not exceed \$427,400.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.61%, and the financing term shall not exceed five (5) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer’s satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer’s final approval of the Document’s final form.
4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).
5. The City intends that the adoption of this resolution will be a declaration of the City’s official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City’s general fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of the City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted this 11th day of August, 2014.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, NCCMC
City Clerk

- g. Consideration - Authorization to Submit application to the TDA for funding to purchase trashcans and benches for the downtown:

Mayor Peel called on City Manager Olson to review this item for the Council. Mr. Olson explained that Elizabeth City Downtown, Inc. (ECDI) is in the process of purchasing additional trashcans and benches for the downtown area and will be utilizing some of the proceeds from the carnival held during the Potato Festival to fund this project. He stated that City staff's goal is to purchase trashcans and benches, which are similar to the ones that were purchased in 2005. Mr. Olson advised that the lowest bid received for the same style of benches and trashcans came from Sitescapes. He stated that their price per trashcan is \$700; and ECDI plans to order 16 at a total cost of \$11,200. Mr. Olson said that the cost of two benches is \$1400; and these benches will be placed in front of City Hall and the Midgett Building. Mr. Olson advised that the total cost for the trashcans and benches is \$14,485, which includes freight; and since the ECDI board has approved \$10,000 of their funds to be used towards the purchase; he requested authorization to submit an application to the Tourism Development Authority to pay the remaining \$4,485.

Councilman Stimatz asked if there is a way for people to donate a trashcan or bench. Mr. Olson responded that there is currently not a mechanism to do that specifically, but that the City does have a donation account. Councilman Stimatz asked if this availability is advertised or promoted, to which Mr. Olson responded that it is not. Councilman Stimatz pointed out that this could be a function of ECDI.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to authorize City staff to submit an application for TDA

funding in the amount of \$4,485. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

- h. Consideration – Award of Bid for Construction of Penny Drive Sewer and Water Utilities:

Mayor Peel recognized Mr. Olson to detail this request. Mr. Olson reported that several weeks ago, City staff received bids for the utility work to be done on Penny Drive. He stated that three construction bids to replace the sanitary sewer and water lines were received by the City. The bids were as follows:

Eastern Carolina Construction	\$265,100
Geo. Raper & Son	\$309,359
RPC Contracting	\$385,345

Mr. Olson explained that this particular work will be funded by an installment purchase and requested that the Council award the contract to the low bidder, Eastern Carolina Construction, in order to allow staff to present the application to the LGC for approval.

Councilman Stimatz inquired as to the timeline for completion of the project and noted that the street had been torn up for quite some time. Mr. Olson agreed and responded that the neighbors on Penny Drive had been very patient. He advised that beginning the project was made a bit more difficult because of the need to submit the project to the LGC for approval. He said he anticipated that the work would begin by October 1 and be completed within 120 days, weather permitting.

Motion was made by Councilman Montravias King, seconded by Councilman Ray Donnelly to award the Penny Drive Sewer and Water Contract to Eastern Carolina Construction in the amount of \$265,100. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

- i. Consideration – Adoption of Resolution Authorizing Financing for Various Departmental Equipment Purchases:

Mayor Peel requested that Mr. Olson provide a review of this request. Mr. Olson reported that funds were appropriated in the fiscal year 2014-2015 budget for various equipment purchases for the following departments to be funded by five (5) year installment purchase financing:

Five (5) Police Vehicles	200,000
One (1) Inspections Vehicle	24,000
One (1) Parks & Recreation Groundmaster Mower	61,000
One (1) Parks & Recreation Multi Pro Sprayer	46,000
One (1) Public Works - Waste Water Plant Pickup Truck	26,250
One (2) Public Works - Water & Sewer F-350 Trucks	69,456
Total	<u>\$ 426,706</u>

Mr. Olson stated that staff had received proposals from two banks for this installment financing, as follows:

	<u>Fixed Rate</u>	<u>Fees</u>	<u>Total Payments Including Fees</u>
BB&T	1.61%	\$ 0	\$444,397.20
Bank of America	1.4052%	0	\$442,121.93

Mr. Olson recommended that the financing be awarded to Bank of America as the low bidder for this financing.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Darius Horton to adopt the following resolution authorizing financing with Bank of America for various departmental equipment purchases as described. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried unanimously.

**Resolution # 2014- 08-02
Authorizing Resolution**

A Resolution of the governing body of City of Elizabeth City, authorizing the execution and delivery of a Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp, as Lessor, and separate Schedules thereto for the acquisition, purchase, financing and leasing of certain equipment within the terms herein provided; authorizing the execution and delivery of other documents required in connection therewith; and authorizing all other actions necessary to the consummation of the transactions contemplated by this Resolution.

Whereas, City of Elizabeth City (the "Lessee"), a body corporate and politic duly organized and existing under the laws of the State North Carolina, is authorized by the laws of the State of North Carolina to purchase, acquire and lease personal property (tangible and intangible) for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

Whereas, the governing body of the Lessee (the "Board") has determined that a need exists for the acquisition, purchase and financing of certain property consisting of nine vehicles and two mowers (collectively, the "Equipment") on the terms herein provided; and

Whereas, in order to acquire such Equipment, the Lessee proposes to enter into that certain Master Equipment Lease/Purchase Agreement (the "Agreement") with Banc of America Public Capital Corp (or one of its affiliates), as lessor (the "Lessor"), substantially in the proposed form presented to the Board at this meeting, and separate Schedules thereto substantially in the form attached to the Agreement; and Whereas, the Board deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement and separate Schedules relating thereto from time to time as provided in the Agreement for the purchase, acquisition, financing and leasing of the Equipment to be therein described on the terms and conditions therein and herein provided.

Now, Therefore, Be It And It Is Hereby Resolved by the governing body of the Lessee as follows:

Section 1. Findings and Determinations. It is hereby found and determined that the terms of the Agreement (including the form of Schedule of Property and the form of Rental Payment Schedule, both attached thereto), in the form presented to the Board at this meeting, are in the best interests of the Lessee for the acquisition, purchase, financing and leasing of the Equipment.

Section 2. Approval of Documents. The form, terms and provisions of the Agreement (including the form of Schedule of Property and the form of Rental Payment Schedule, both attached thereto) are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by City Manager and Finance Director of the Lessee (the "Authorized Officials") executing the same, the execution of such documents being conclusive evidence of such approval. The Authorized Officials are each hereby authorized and directed to sign and deliver on behalf of the Lessee the Agreement, each Schedule thereto under which a separate Lease (as defined in the Agreement) is created, each Rental Payment Schedule attached thereto and any related exhibits attached thereto if and when required; *provided, however,* that, without further authorization from the governing body of the Lessee, (a) the aggregate principal component of Rental Payments under all Leases entered into pursuant to the Agreement shall not exceed \$426,706; (b) the maximum term under any Lease entered into pursuant to the Agreement shall not exceed [five] years; and (c) the maximum interest rate used to determine the interest component of Rental Payments under each Lease shall not exceed the lesser of the maximum rate permitted by law or [ten percent (10%)] per annum. The Authorized Officials may sign and deliver Leases to the Lessor on behalf of the Lessee pursuant to the Agreement on such terms and conditions as they shall determine are in the best interests of the Lessee up to the maximum aggregate principal component, maximum term and maximum interest rate provided above. The foregoing authorization shall remain in effect for a period of [two] years from the date hereof during which the Authorized Officials are authorized to sign and deliver Leases pursuant to the Agreement on the terms and conditions herein provided and to be provided in each such Lease.

Section 3. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of Final Acceptance Certificates, Escrow Agreements and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement and each Lease.

Section 4. No General Liability. Nothing contained in this Resolution, the Agreement, any Lease, any Escrow Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement, any Lease, any Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under each Lease entered into pursuant to the Agreement are limited obligations of the Lessee, subject to annual appropriation, as provided in the Agreement.

Section 5. Appointment of Authorized Lessee Representatives. The City Manager and Finance Director of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of each Lease and the related Escrow Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Agreement and any Lease or Escrow Agreement.

Section 6. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 7. Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

Adopted, this 11th day of August 2014.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, NCCMC
City Clerk

j. Discussion – Remote Participation by Council Members in City Council Meetings:

Mayor Peel recognized Mr. Olson to introduce this discussion. Mr. Olson explained that the Council had previously discussed the issue of remote participation during the Council meeting of April 14, 2014; however, at that time, there was not interest by the Council to adopt a policy. He stated that Councilman Donnelly had requested that the matter be placed on the agenda for additional discussion.

Councilman Donnelly stated that surrounding counties have gotten involved in remote participation, limited to a certain number of times per year. He said that sometimes, through illness or some other personal matter, a Councilor may not be able to make a meeting. He expressed that if members were able to call in on a limited basis to participate in the meeting, he felt it would make meetings run more smoothly and every ward would have the opportunity of full participation. He said he thought remote participation would bring the Council into the 21st century and asked that the Council recognize the value of participating in such a manner.

Councilman Spence asked what the “cons” would be to such participation. City Attorney Morgan responded that there would be some potential cons from a legal point of view and cited a recommendation by Professor Frayda Bluestein of the School of Government that bodies not allow remote participation when the person at the remote location would be used to determine that a quorum is present. Mr. Morgan also stated that Professor Bluestein recommends that Closed Session items not be handled by remote participation or in quasi-judicial matters before the Council. Mr. Morgan advised that the decision would be left to each governing body and if the Council desired to adopt a policy, it may be on firm ground legally or may not be.

Councilman Stimatz asked what the cost would be to accomplish remote participation. City Manager Olson responded that it would be done simply by phone using an existing microphone in the Council Chambers.

Motion was made by Councilman Ray Donnelly to adopt remote participation by the Council limited to two times per year.

Mayor Peel announced that the motion died for lack of a second.

7. Comments and Inquiries on Non-Agenda Items:

Councilman Donnelly had no comments.

Councilman Spence had no comments.

Councilwoman Baker stated that the City of Charlotte had purchased benches with an arm down the middle to dissuade persons from sleeping on them. She inquired if that had been considered in the purchase of the City's new benches. The City Manager responded that both the benches would be placed in front of City Hall and it would be unlikely that someone would sleep at that location. Councilwoman Baker stated that should additional benches be considered at other locations, it would be worth considering.

Councilman King thanked the Police Department for hosting National Night Out and stated that it was a well-attended, great event. He thanked the residents of Penny Drive for their patience through the construction project on their street. He invited all 4th Ward residents to attend a Town Hall Meeting being hosted by Councilman Horton and himself on September 22 at the Pasquotank County Library Community Room at 7 p.m.

Mayor Pro Tem Hummer stated that she had asked the City Manager if a notice could be placed in utility bills asking citizens to mow grass the proper way and not blow clippings in the streets. She cautioned that such action is a big problem for the street sweeper, clogs storm drains and deteriorates the aesthetics of the neighborhoods. She also inquired as to when the replacement sign for Triangle Park would be installed. City Manager Olson stated that the sign had been ordered in March and had not yet been received.

Councilman Horton also invited 4th Ward residents to attend the Town Hall Meeting described by Councilman King. He stated that it was time for ECSU students to return to classes and encouraged everyone to pray for their safe travel.

Councilman Stimatz complimented staff for the PowerPoint display of the agenda in Chambers and requested that it also be shown in the TV broadcast or on the website. He stated that he had received a call about the stop sign at Colonial and Hughes, which is obscured by a tree limb. He thanked City staff for their code enforcement efforts on temporary signs, which include election signs. He reminded the public that election signs are temporary signs and that the City can regulate time, place and manner of such signage. He encouraged candidates and their supporters to abide by the signage ordinance.

Councilman Brooks stated that he had received a call about a sink hole on Park Street. He said that he had also received a complaint regarding local hotels raising rates in advance of the ECSU homecoming.

8. Closed Session as allowed by:

- (1) NCGS 143.318-11(a)(3) Consultation with City Attorney in re Triple S Internet Café #3 LLC v. City of Elizabeth City, etal;
- (2) NCGS 143-318.11(a)(5) Acquisition of Property;
- (3) NCGS 143-318.10(e) – Approval of Closed Session Minutes

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilwoman Jean Baker, to go into Closed Session as allowed by NCGS 143.318-11(a)(3) Consultation with City Attorney in re Triple S Internet Café #3 LLC v. City of Elizabeth City, etal; NCGS 143-318.11(a)(5) Acquisition of Property; and NCGS 143-318.10(e) – Approval of Closed Session Minutes. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

Mayor Peel declared a five minute recess at 7:55 p.m. after which the Council entered Closed Session.

Motion was made by Councilman Tony Stimatz, seconded by Councilwoman Jean Baker, to come out of Closed Session and return to Open Session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

The Council returned to open session at 8:28 p.m.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to approve the Closed Session Minutes of July 14, 2014. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion passed unanimously.

9. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 8:29 p.m.

Joseph W. Peel
Mayor

Vivian D. White, NCCMC
City Clerk