

MONDAY – 7:00 P.M.

AUGUST 13, 2012

CITY COUNCIL

The City Council of the City of Elizabeth City held its first meeting of the month on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. W. Peel presiding. Those counselors attending were: Mayor Pro Tem J. B. Walton, J. M. Baker, M. E. Brooks, R. T. Donnelly, L. A. Hummer, K. K. Spence and J. A. Stimatz. Councilwoman L. M. Hill-Lawrence was absent. City Staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Deputy City Clerk V. D. White, Public Utilities Director P. A. Fredette, Parks and Recreation Director B. V. White, Human Resource Director K. W. Felton, Finance Director S. E. Blanchard, Inspections Director S. E. Ward, ECDI Director R. Cross, Electric Director K. F. Clow, Fire Chief L. M. Mackey and Interim Police Chief J. A. Manley.

Mayor Peel established a quorum was present and called the meeting to order. He welcomed those attending. He called for a Moment of Silent Reflection after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} AGENDA ADJUSTMENTS AND APPROVAL:

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

Mayor Pro Tem Walton asked to ***remove Item 7-c-Addendum to Boys and Girls Club Sub-recipient Agreement and Item 7-i – Adoption of Budget Amendment with regard to Tractor Supply Reuse Grant from the Consent Agenda and place them on the Regular Agenda for discussion.***

Mayor Peel asked to ***add report from Energy Commission.***

Councilman Stimatz asked to add ***discussion of moving City Council meeting schedule for October 24th.***

Councilman Brooks asked to ***add: Debris pickup; personnel policy manual and a Closed Session for discussion of Personnel as per NCGS 143-318.11(a) (6).***

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman J. A. Stimatz to approve the prepared agenda to include the above noted items. Those voting in favor of the

motion were: Hummer, Stimatz, Baker, Brooks, Donnelly, Spence, and Walton. Against: None. Motion carried.

2} PUBLIC COMMENTS:

Mr. Rick Knight, 803 Maple Street, Elizabeth City spoke regarding his opinion of the Culpepper Inn.

Ms. Linda Knight, 803 Maple Street, Elizabeth City also spoke regarding her opinion of the Culpepper Inn.

Mr. Tony Rice, 1704 Pine Street, Elizabeth City spoke regarding the Roanoke Drainage Project.

3} APPROVAL OF THE MINUTES:

a} July 23, 2012 – Work Session:

Mayor Peel called for action regarding the minutes of the July 23, 2012 work session.

A motion was made by Councilwoman J. M. Baker, seconded by Councilman K. K. Spence to approve the minutes of the July 23, 2012 Work Session as presented. Those voting in favor of the motion were: Baker, Spence, Brooks, Donnelly, Hummer, Stimatz and Walton. Against: None. Motion carried.

b} July 23, 2012 – Regular City Council:

Mayor Peel called for action regarding the minutes of the July 23, 2012 Regular City Council Meeting.

Councilman Brooks asked to add his comments to Item #6-b. He proceeded to read the text that he would like to see added to the minutes of July 23, 2012.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman L. A. Hummer to adopt the minutes of July 23, 2012 Regular meeting as prepared to include the added comments as stated. Those voting in favor of the motion were: Stimatz, Hummer, Baker, Brooks, Donnelly, Spence and Walton. Against: None. Motion carried.

4} CONSENT AGENDA:

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

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

Consent Agenda:

- a} Called a public hearing to be held on Monday, August 27, 2012 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Chambers regarding the repeal of the existing Dangerous Dog Ordinance and the adoption of a replacement Dangerous Dog Ordinance.
- b} Adopted APPA Safety Manual 15th Edition as the standard for the Electric Department of the City of Elizabeth City.
- c} Approved the authorization to execute Promissory Note to Pasquotank County in relation to the Halstead Boulevard Extension Area Water Agreement.
- d} Authorized request for Travel for Mayor J. W. Peel.
- e} Approved authorization to retain legal counsel to negotiate Pole Attachment Agreements with Time Warner and CenturyLink.
- f} Approved the purchase of a 100 foot aluminum ladder platform fire truck from H-GAC at a cost of \$919,701.37.
- g} Adopted the following resolution approving financing with PNC Bank for purchase of Fire Department Ladder Truck.

**RESOLUTION 2012- 08
CITY OF ELIZABETH CITY AUTHORIZING THE
EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE-
PURCHASE AGREEMENT WITH PNC EQUIPMENT FINANCE, LLC**

WHEREAS, City of Elizabeth City (the "Lessee"), a body politic and corporate duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of North Carolina is authorized by the laws of the State of North Carolina to purchase, acquire, and lease certain equipment and other property 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 true and very real need exists for the acquisition, purchase and financing of certain property consisting of Fire Department Ladder truck (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 "Master Lease") with PNC Equipment Finance, LLC as lessor (the "Lessor"), substantially in the proposed form presented to the Board at this meeting, and separate Lease Schedules thereto substantially in the form attached to the Master Lease and a separate Escrow Agreement substantially in the proposed form presented to the Board at this meeting; and

WHEREAS, the Board deems it for the benefit of the Lessee and the efficient and effective administration thereof to enter into the Master Lease and the separate Lessee Schedules, relating thereto from time to time as provided in the Master Lease and an Escrow Agreement for the purchase, acquisition, financing and leasing of the Equipment to be therein more specifically described on the terms and conditions provided therein and herein;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE GOVERNING BOARD OF THE LESSEE AS FOLLOWS:

Section 1. It is hereby found and determined that the terms of the Master Lease (including the form of Lease Schedule, Payment Schedule and Escrow Agreement attached thereto), in the form presented to this meeting, is in the best interests of the Lessee for the acquisition, purchase, financing and leasing of the Equipment.

Section 2. The form, terms and provisions of the Master Lease (including the form of Lease Schedule, Payment Schedule and Escrow Agreement attached thereto) are hereby approved in the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by the Finance Officer of the Lessee (the "Authorized Officers") executing the same, the execution of such documents being conclusive evidence of such approval. The Authorized Officers of the Lessee are each hereby authorized and directed to sign and deliver the Master Lease, each Lease Schedule thereto, each Payment Schedule relating thereto, each Escrow Agreement relating 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 Rent Payments under all Leases entered into pursuant to the Master Lease shall not exceed \$919,702.00' (b) the maximum term under any Lease entered into pursuant to the Master Lease shall not exceed fifty-nine (59)

months; and (c) the maximum interest rate used to determine the interest component of Rent Payments under each Lease shall not exceed 1.69%, the annual interest rate, (in the absence of default or change in tax status). The Authorized Officers may sign and deliver Leases to the Lessor on behalf of the Lessee pursuant to the Master Lease on such terms and conditions as they shall determine are in the vest 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 Officers are authorized to sign and deliver Leases pursuant to the Master Lease and related Escrow Agreements on the terms and conditions herein provided and to be provided in each such Lease.

SECTION 3. The Authorized Officers and other officers and employees of the Lessee shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated by the Master Lease and each Lease Schedule (including, but not limited to, the execution and delivery of the certificates contemplated therein, including appropriate arbitrage certifications) 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 Master Lease, each Lease Schedule and each Escrow Agreement.

SECTION 4. 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 5. Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

The undersigned further certifies that the above Resolution has not been repealed or amended and remains in full force and effect and further certifies that the Master Lease (including the form of Lease Schedule, Payment Schedule and Escrow Agreement attached thereto) are the same as presented at said meeting of the governing body of Lessee, excepting only such changes, insertions and omissions as shall have been approved by the officers who executed the same.

ADOPTED, this 13th day of August 2012.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

h} Awarded of contract to construct a storage building at South Park to Harrellsville Metal in the amount of \$70,446.

i} Authorized the execution of commitment letter accepting the terms and conditions of the financing for the South Park storage building with Select Bank and Trust at a fixed rate of 1.99%.

j} Adopted the following budget amendments for accounting purposes (Community Support Grants)

**BUDGET AMENDMENT
NUMBER 2012-08
AUGUST 13, 2012**

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, 2013:

SECTION I. That the Community Support Grants (106620.6000) be decreased by \$3,000 and the NC Blazers 13 and Under Basketball Team (106620.4595) be increased by \$1,200; that the NC Blazers 16 and Under Team (106620.4594) be increased by \$1,000; and the Elizabeth City Boxing Club (106620.4596) be increased by \$800.

(To record contributions to these organizations.)

ADOPTED, this 13th day of August 2012.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

k} Awarded contract for new HVAC system in the clubrooms/kitchen of Knobbs Creek Recreation Center to Ward and Son in the amount of \$24,751.

END OF CONSENT AGENDA

5} PUBLIC HEARING:

a} Public Hearing to amend Section 6-55 of Chapter 6, Article III Dangerous Dogs of the City's Code of Ordinances:

Mayor Peel called upon City Manager Olson for comments.

Mr. Olson stated this particular section of the Code that we are asking you to change at this particular time is Section 6-55(b) which allows the City to issue a permit if the dog is considered potentially dangerous, dangerous or vicious dog. Staff is recommending \$100.00 permit fee and \$25.00 inspection fee. These are the same fees that Pasquotank County charges. There is a section 6-55 (d) that allows us to charge these fees as part of the ordinance. Also, on the Consent Agenda tonight there was a call for a public hearing. Those items covered under that public hearing deals with the items that we discussed at the Joint City/County Meeting which are separate and apart from these items. If we approve these modifications we will then bring back the new ordinance because there were so many changes that we thought we would repeal the existing ordinance and adopt a new ordinance based on the City and County Joint meeting.

Mayor Peel declared the meeting into Public Hearing for comments regarding the proposed amendment to Chapter 6 Section 55 (b). Since there was no one present that wished to speak for or against the proposed amendment, Mayor Peel declared the public hearing closed.

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

**ORDINANCE #2012-19
AMENDING CHAPTER 6 ARTICLE III DANGEROUS DOGS**

**SECTION 6-55 PERMIT REQUIRED
ELIZABETH CITY CODE OF ORDINANCES**

WHEREAS, the City Council adopted Chapter 6, Article III "Dangerous Dogs" of the City of Elizabeth City Code of Ordinances on March 26, 2012; and

WHEREAS, Section 6-55 (Permit required) Item B, requires the issuance of a permit for a potentially dangerous, dangerous or vicious dog, but does not establish a permit fee; and

WHEREAS, Section 6-55 Permit required, Item F requires that periodic inspections be made of the premises of a permittee of a potentially dangerous, dangerous or vicious dog to assure compliance with the provisions of the ordinance, but does not establish an inspection fee; and

WHEREAS, in order to establish a permit and inspection fee, an ordinance must be adopted; and

WHEREAS, the required public hearing was called for on July 23, 2012 and held on August 13, 2012 for the purpose of establishing these fees.

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

SECTION I. Chapter 6 Article III Dangerous Dogs, Section 6-55. Permit required; be amended by adding the following:

A new item after Item B Issuance of Permit to read as follows:

C. *Cost of Permit.* A permit fee of \$100.00 shall be imposed to all owners who register a dog that is deemed as potentially dangerous, dangerous or vicious. Said fee shall be paid to the County of Pasquotank.

A new item after Item G Inspections to read as follows:

H. *Inspection Fee.* The owner of a potentially dangerous, dangerous or vicious registered dog shall be imposed a \$25.00 inspection fee per inspection. Said fee shall be paid to the County of Pasquotank.

SECTION II. All ordinances and sections of the Elizabeth City Code of Ordinances, and/or parts thereof, that are inconsistent herewith, be and the same hereby repealed to the extent of such inconsistencies.

ADOPTED, this 13th day of August, 2012.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

6} REGULAR AGENDA:

a} Addendum to the Boys and Girls Club Sub-Recipient Agreement

Mayor Peel called upon Mayor Pro Tem Walton for comments.

Mayor Pro Tem Walton stated last year we met and we signed the agreement with the Boys and Girls Club. He asked for a scenario of events.

Mr. Olson stated since we last discussed this particular item the Boys and Girls Club has sold their facility on Ehringhaus Street. They were hoping to move into the Middle School location with the PAL Program but unfortunately the Middle School site is not ready for them. They probably will not be ready for them until January 2013. What they are asking is that you extend their existing Sub-recipient Agreement until January 1, 2013 to allow them to get everything ready for the move. In addition, we do have a grant pending before the Community Development Block Grant per the NC Catalysis Program. We should be hearing within the next week to ten days whether or not that grant was funded.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to authorize the execution of an addendum for the Boys and Girls Club Sub-recipient agreement that would extend their agreement until January 1, 2013. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.

Mr. Morgan asked to add that the note called for a payment date of June 30, 2012 so there was no extension involved and payment was made prior to that date.

b} Budget Amendment for Tractor Supply Building Reuse Grant:

Mayor Peel called upon Mayor Pro Tem Walton for comments.

Mayor Pro Tem Walton stated he would like to be clear on the process because what he read he probably misunderstood.

Mr. Olson stated the City received a Building Reuse Grant from the Rural Center for the amount of \$104,000. That money was supposed to be used by Mr. Jim Ezell who is the owner of the old Miles Jennings place to redo the building to fit Tractor Supply's needs. Part of the agreement was Tractor Supply was supposed to create 13 fulltime positions, for which the City would receive \$8,000 per job for a total grant award of \$104,000. Unfortunately they did not create 13 fulltime jobs. The Rural Center only gave them credit for six of the jobs. Mr. Ezell had to pay back \$56,000. That money was given to the City and in turn we wrote a check back to the Rural Center. Since this item was not budgeted, a budget amendment will be needed to allow staff to forward Mr. Ezell's money to the Rural Center.

A motion was made by Councilman J. A. Stimatz, seconded by Councilman R. T. Donnelly to adopt the following budget amendment with regard to the Tractor Supply Building Reuse Grant as presented. Those voting in favor of the motion were: Stimatz, Donnelly, Baker, Brooks, Hummer, Spence and Walton. Against: None. Motion carried.

**BUDGET AMENDMENT
NUMBER 2012-9
AUGUST 13, 2012**

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 fiscal year ending June 30, 2013:

SECTION I. That the Tractor Supply Repayment (103490.6604) and Repayment to Rural Center (106600.7002) be increased by \$56,000.

(To record payment from Tractor Supply for failure to create required jobs.)

ADOPTED, this 13th day of August 2012.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

a} Appointments to Community Relations Commission:

1} Gordon Dove, III

Mayor Peel called for confirmation of appointing Mr. Gordon Dove, III as a member of the Community Relations Commission for a three year term ending August 30, 2015.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. B. Walton to confirm the appointment of Mr. Gordon Dove, III as a member of the Community Relations Commission for a three year term ending August 30, 2015.

Roll Call Vote:

<i>Stimatz</i>	<i>Yes</i>
<i>Walton</i>	<i>Yes</i>
<i>Baker</i>	<i>Yes</i>
<i>Brooks</i>	<i>Yes</i>
<i>Donnelly</i>	<i>Yes</i>
<i>Hummer</i>	<i>Yes</i>
<i>Spence</i>	<i>Yes</i>

7 – Yes - 0 – No Motion carried.

2} Andrea Dawn Morris

Mayor Peel called for confirmation of appointing Ms. Andrea Morris as a member of the Community Relations Commission.

A motion was made by Councilwoman J. M. Baker, seconded by Mayor Pro Tem J. B. Walton to confirm the appointment of Ms. Andrea Dawn Morris as a member of the Community Relations Commission for a three year term ending August 30, 2015.

Roll Call Vote:

<i>Baker</i>	<i>Yes</i>
<i>Walton</i>	<i>Yes</i>
<i>Brooks</i>	<i>Yes</i>
<i>Donnelly</i>	<i>Yes</i>
<i>Hummer</i>	<i>Yes</i>
<i>Spence</i>	<i>Yes</i>
<i>Stimatz</i>	<i>Yes</i>

7 - Yes - 0 – No Motion carried.

3} Stefani Sese

Mayor Peel called for confirmation of appointing Ms. Stefani Sese as a member of the Community Relations Commission.

A motion was made by Councilman K. K. Spence, seconded by Councilwoman J. M. Baker to confirm the appointment of Ms. Stefani Sese as a member of the Community Relations Commission for a three year term ending August 30, 2015.

Roll Call Vote:

<i>Spence</i>	<i>Yes</i>
<i>Baker</i>	<i>Yes</i>
<i>Brooks</i>	<i>Yes</i>
<i>Donnelly</i>	<i>Yes</i>
<i>Hummer</i>	<i>Yes</i>
<i>Stimatz</i>	<i>Yes</i>
<i>Walton</i>	<i>Yes</i>

7 – Yes - 0 – No Motion carried

b} One year lease with renewable options with ABC Properties, the parent organization of Southgate Mall.

Mayor Peel called on Mr. Olson for comments.

Mr. Olson stated in November 2011, the City opened a satellite office at Southgate Mall in an effort to ease congestion at City Hall due to the utility relocation work around downtown. The Mall location has been a great success with over 55% of our customers utilizing the Mall location. It costs the City roughly about \$10,000 annually to operate the site. Staff is recommending that we be authorized to enter into a one-year lease with ABC Properties in order to keep that satellite office opened year round.

A motion was made by Councilwoman J. M. Baker, seconded by Councilwoman L. A. Hummer to approve staff to negotiate a one year lease with renewable options with ABC Properties. Those voting in favor of the motion were: Baker, Hummer, Brooks, Donnelly, Spence, Stimatz and Walton. Against: None. Motion carried.

c} Internet Sweepstakes Café Privilege License Fee Structure:

Mayor Peel called upon Mr. Olson for comments.

Mr. Olson stated this item was requested to be placed on the agenda by Councilman Brooks. In May of 2011, the City established fees for Internet Sweepstakes Privilege License Fee of \$2,000 per location and \$500 per machine. In November 2011 this item once again came up before the City Council and they went ahead and decided to keep those fees the same. There are 27 communities in North Carolina that charge more than the City, 17 charge the same and 17 cities charges less than the \$500 per machine. Also, as Council is aware Representative Owens sponsored HB 1180 which will exempt the City from having local privilege license fees for this type of operation. However, the State Law would require the owner/operators to pay \$1,000 per location and \$500 per machine. The Finance Committee took this item up at their last meeting and recommended no changes to the fee structure.

Councilman Brooks stated he doesn't know what the Finance Committee has got going on but with the economy as bad as it is he can't figure this one out. The motion was made to do \$250 per machine and the City Manager at that time stated that \$300 would be neutral. That means the City would not be hurting and neither would the Cafés. He doesn't understand with all the monies that the Sweepstakes gives back to the public while we are trying to put them out of business. That is what we are trying to do. Yet this same Council was told by the City Manager that if we didn't raise the electric rates and the taxes that the City couldn't pay their bills. We found out that was untrue. He submits the same thing as being untrue. He is tired of people telling him things that are untrue and he is supposed to just swallow it. He got a letter from the attorney for Past Times Sweepstakes that says it is his understanding that the City's

currently excessive \$500 fee for each electronic machine at Past Times is unconstitutional. The purpose of his letter was to put the City on notice that the \$500 fee appears to be unconstitutional as an unreasonable taxation scheme because the affect of the fees will put Past Times Sweepstakes out of business. Mr. Chapman requests that the City consider lowering their fees to \$250 per gaming machine. In a recent case of Smith verses the City of Fayetteville, the NC Court of Appeals upheld that a fee on electronic gaming machines could constitute an unreasonable taxation scheme if the fee was so high that it amounts to a prohibition of the Company's business effectively eliminating all the similar businesses within the City. In this case the \$500 per machine will put Past Times out of business. We are still rebounding from a recession. The City seems to be trying to push small business down as far as possible. They are not thinking about the employees that these places employ. He thinks it is really ridiculous because this same City Council raised the amount that we give to Community Grants from \$50,000 to \$75,000 but yet, he guesses they figured that we can take it away from these small businesses and drain them. It is not fair and it doesn't make any sense. When we discussed this originally the discussion was not the \$250 but \$300 where it would be neutral and the City wouldn't lose anything and the Internet Sweepstakes could continue to strive. He knows Councilman Stimatz put the motion on the floor and it was seconded but he suggests to this Council that we give all businesses a chance. We are going to run them out of town then what would we have. We need to keep it at \$300.

Mayor Pro Tem Walton stated he thinks this is an issue that we need to take to the Finance Committee and then there are other issues that he thinks full Council needs to address because if you make a suggestion that means you have already voted on it. Most City Council people when they vote on something it is hard for them to change their voting pattern after they have established one. Another thing he feels like on that Finance Committee you could have had maybe one or two people that did not go along with the suggestion. He thinks there is still a chance of us doing the right thing. When you look at some of these citizens that have the higher fee, and that is probably because of the location of where they are. Roanoke Rapids is a City that Highway 95 runs right in between it. People can come from Virginia, Rocky Mount and all over and he can understand why those people would charge more. Elizabeth City is a city within itself and you just can't look at stats because sometimes people make stats to prove what they want them to prove. He still feels like \$500 is too much money to charge in this economy. Mr. Chapman said he employs at least six people. They pay the high utility bills too. We need to reconsider this and come back and make the right decision.

Councilwoman Hummer stated the Finance Committee doesn't have anything going on other than what we were tasked to do. We were tasked with three

things and they were: 1} to meet; 2} to discuss the facts as presented to us by City staff; and 3} to make recommendations to the full Council. We have never made a decision on our own as it is always a recommendation to full Council. We don't have the authority to make any decision without the rest of you.

Councilwoman Baker stated she was in favor of leaving the fees where they are and where they have been. She is unclear as to what these companies have given back to the community. She knows there is a lot of money being paid out to winners that she has heard from various people. So they are a money making operation. She doesn't see why we are all of a sudden looking at reducing something that has been working and that we rely on for our budgeting purposes and our revenue generating purposes. She doesn't know how many times we have had police at some of these places but she has had reports from various citizens that frequent these places of problems and issues where we have had to have our police there which costs the City each time. She doesn't see a problem with leaving it where it is. She doesn't see any reason why we need to change that.

Councilman Donnelly stated they doubled the number of machines that they had to begin with and that doesn't sound like they are losing money to him.

Councilman Brooks stated Mr. Donnelly was not here so he knows nothing about it. He has not taken anything out of content as we have it in the minutes. He is tired of Mr. Olson telling inconsistencies to the Council and the people out in the audience. He is tired of it. Saying he is taking it out of content is calling him a liar and he doesn't play that way. He did it in front of the camera and he will respond in front of the camera. One of the Council members said it was revenue neutral. All that smoke screen you are talking about is immaterial. Councilman Stimatz said it right when he whispered to him that we wanted the money. We are smashing the little man but by doing \$300 that will make it revenue neutral. It will not hurt the City neither would it hurt the small businesses. We don't tell Wal-Mart that we are going to do this because they are making money. When they raise their prices we don't mess with them. This is not the standard as this is what this Council elected to do to the people and the citizens in this City at this time. They are trying to drain the taxpayers but yet they had no problem raising it from \$50,000 to \$75,000, just giving away money because people couldn't make their payroll. Don't think the people on the other side of that camera don't understand this. He is just voicing it.

Mayor Pro Tem Walton stated that some people came up to the podium and said it was affecting their Bingo. To make it hard for the café people the Bingo people came up and spoke and people went along with the Bingo people. Revenue neutral was put out there Mr. Donnelly because revenue neutral is suppose to mean that we don't make any money and we don't lose any money.

What is wrong with that? Just like in our property taxes we will say we will put so much out there that first year as a revenue neutral amount. This last reevaluation the County put out there 45 cents but six years later we have made a lot of money on that revenue neutral number because each year they went up more and more. They are up to 61 cents now. Have some heart and vote your conscious sometimes. Don't make money just because you can make money. Don't put people out of jobs.

Councilman Stimatz stated part of the discussion revolved around what the impact was of \$500 per machine. They are opened seven days a week for an average of 12 hours or more. That means it costs them \$.11.5 an hour to pay off that \$500 per machine. They sell their time at least \$.04 a minute. They are making \$240 an hour. That was part of the discussion as well. If they are coming in here requesting additional machines then their business must be booming and they must think they are going to make a whole lot more money. Where is the problem?

Mr. Olson advised that we will be required to hold another public hearing in order to reduce the fees. Mr. Olson then explained the revenue neutral scenario.

A motion was made by Mayor Pro Tem J. B. Walton, seconded by Councilman M. E. Brooks to call for a public hearing to be held on Monday, August 27, 2012 at 7:30 p.m. in the City Council Chambers for consideration of reducing the Internet Sweepstakes Cafés fees. Those voting in favor of the motion were: Walton, Brooks, Hummer and Spence. Against: Baker, Donnelly and Stimatz. Motion carried.

Councilman Stimatz stated he would offer that if someone can identify a budget offset, something you are willing to give up in the budget, you could affect it as of the first of September. That is the \$22,000 shortfall we will have if we do this.

7} CHANGE IN OCTOBER MEETING DATE:

Mayor Peel called upon Councilman Stimatz for comments.

Councilman Stimatz stated that in keeping with community sponsored activities he is once again in a production of this year's *Sound of Music*. Due to NCLM we moved the normal meeting on October 22nd the 24th. That is dress rehearsal and he would ask Council to move the meeting to either the 25th which is a Thursday or the following Monday which is October 29th.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to move the October 24th scheduled Council meeting to Monday, October 29, 2012, at 7:00 p.m. in the City Council Chambers of the Municipal Building. Those voting in favor of the motion were: Stimatz, Baker, Brooks, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.

8} DEBRIS PICKUP:

Mayor Peel called upon Councilman Brooks for comments.

Councilman Brooks stated at the last council meeting, Councilman Spence brought it to his attention that some people at Chesterfield and Summerfield talked about the debris being left in their yards for two weeks. The City Manager stated at that time that he didn't know they were picking up biweekly instead of weekly. Then the conversation went on and it was said that we are short on personnel. Councilman Spence and he stated that since at the present time we have six vacant positions in Public Works and we need to fill those positions. His question is have we put them on line as of yet?

Mr. Olson stated we have an advertisement right now for a solid waste position.

Mr. Brooks said we have six vacant positions in Public Works and you only put an advertisement for one position.

Mr. Olson replied when we are looking in the General Fund we only have four vacant positions in Public Works. That is only in the General Fund.

Mr. Brooks said that if the citizens are not getting what they are paying for then he thinks we should fill the positions like Councilman Spence and he suggested. Those positions are already budgeted and we need to lead instead of following. He doesn't know if he has to put it in motion form as a councilman for him to open up the other positions. We have those positions that are not filled. You can't work people like a sweat shop. Does he have to make a motion to make him fill those positions?

Mr. Morgan replied that it becomes a charter issue perhaps in terms of the Manager's inherent right and duty to manage the personnel issues associated with the City. If Council members have a problem with the way that Mr. Olson is managing then their complaint would be to him as to his management as opposed to directing how he operates a particular department, in his opinion.

Mr. Brooks said we are not talking about a particular department as we are talking about job vacancies that have been budgeted. We are talking on a different line here.

Mr. Morgan said you would be directing him to advertise those positions and to hire people for those positions as he understands the directions.

Mr. Brooks said when we went down to the beach for that class and we were told that as a council we can do that. He is only asking that if we have the positions and the citizens are not getting the services that they are paying for, to him that is not micro-managing. If we tell him to put this person in the position and have them to do this, this and that, then that is micro-managing.

Mr. Morgan said you would need to instruct him to run his departments in such a way that the citizens are not lacking for services.

Mr. Olson asked to address this issue. As Council is well aware during the budget hearings we discussed reduction in the workforce such as the installation of the fixed area network that would make us eliminate three positions downstairs. In addition, we have had discussions concerning the changing the shift requirements at the Water Treatment Plant that will eliminate 2.5 positions. He was instructed during the budget work sessions that the Council did not want to have any employees laid off. That is why these positions are being left unfilled so we can have places to put these employees in when the technology changes are approved.

Councilman Spence asked if he didn't just hire some people for Parks and Recreation.

Mr. Olson replied that we hired some temporary employees.

Mr. Spence said two temporary would mean one full time. Why wouldn't we hire the additional staff that we need when you have people that are once again putting debris on the citizens' property and it being left until it creates brown spots.

Mr. Olson stated he spoke with the supervisor and she told him she only needed one position filled and with the inmate positions then she would be able to get the job done.

9} PERSONNEL POLICY MANUAL:

Mayor Peel called upon Councilman Brooks for comments

Mr. Brooks stated he put this on the agenda because last year he was in his home and he got a call that some people from Public Works were working in extreme heat conditions with 112 heat index. When they called he told them he would be over there in about 15 minutes. He was only about a five minute drive from where the work site was but he rode his bicycle was so he could see what the conditions were. When he got to the site, it was if someone had poured a water hose on him or he had just got out of a swimming pool. Water was dripping from the men at an alarming level. He called Paul Fredette and Rich Olson and told the men to shut the site down. He knows as a council person he has no authority to shut down a work site. Recently, we had another employee who suffered from heat exhaustion. As a council member our policy manual specifically says the supervisor is accountable for injuries incurred by the employees. It is a requirement that all accidents are properly reported and investigated and immediate action is require whenever unsafe conditions are recognized or observed. Fast forward a year later there has been no policy change in that. We have got to be more specific. When we have employees working in 112 heat index and no one seems to be caring about their safety that is not a good message to send. He put on the agenda a closed session for further discussion. We need to be more specific in our policy manual about the procedures that need to be followed.

Mr. Olson stated that periodically we have classes and training concerning extreme heat. We try to schedule our employees on those days when we know the heat index is going to be high to do the bulk of the work in the mornings. Unfortunately because of the needs of the organization some days we have to work all day long to get the work done that we are required to do. We do counsel our employees. We make sure on every truck that we have a five gallon water container filled with Gatorade or another type of electrolytes solution. We have no problem having the employees take frequent breaks. We usually try to overstaff the work where you have multi people working while the other ones are resting to get the job done. OSHA does have standards that we are required to follow.

Human Resource Director K. W. Felton advised that we had a training session about four weeks ago.

Councilman Brooks said he was listening to the City Manager and when you are telling some inconsistencies you have always got to remember what you said. He just listened to what the City Manager said and he said that sometimes they overstaff the workers. How in the world can you overstaff the workers when you are short in staff? That is the kind of stuff he has been talking about. He believes we just got a song and dance given to us. He would like to have a copy of the training or whatever they go through to prepare them for heat exhaustion and what the regiment is. It will be too late after someone dies from a sun

stroke. Since last year there has been nothing put in policy. Something is not working.

Mr. Olson explained the overstaff procedures that is followed.

9} ENERGY COMMISSION:

Mayor Peel stated at the last meeting when we had the public hearing regarding the change to Section 46-128 of the Code of Ordinance and we had a number of people to appear, he was asked to go back to the Energy Commission to get their feedback on their feelings toward it. He did that by way of email. We discussed it electronically and he talked with a couple of people on the phone and their sense to the issue was that they needed to rescind that recommendation. What they heard they felt it was probably left the way that it is currently.

10} COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

Councilman Donnelly stated he had no further comments.

Councilman Spence stated that last week he went to the ElectriCities Annual Conference in South Carolina and it was very informative. He has some information regarding the prepaid meters that he will be getting to Council and staff.

Councilwoman Baker stated she also went to the ElectriCities Annual Conference and as usually it was very informative. This year however all of the presenters, speakers and programs will be on the ElectriCities Web site for anybody and everybody to see as of this Friday. The CEO speech where he talked about the Progressive Energy and Duke merger and how it will be a good thing will also be on the web. You might want to look for that this coming Friday. There were some other breakouts sessions. The election is coming up and about how much emphasis there is about the State of North Carolina. A lot of what ElectriCities does have to do with economic development. They were talking about how much money is coming into this State from the presidential candidates. The president alone is \$60 million this year for his campaign and there is another \$40 million for the other guy. It is just amazing and the focus on North Carolina is because of the Democratic Convention in Charlotte. There were a lot of interesting sessions. There were different things that will help in Customer Service. We need to start speaking in many different languages. We talked about how valuable a workforce is that can communicate in different languages and how there are different apps that you can talk into your phone in one language and it will come out in whatever language you want.

Councilwoman Hummer stated she has a comment. She tried to address all of the concerns and official complaints that come to her from her constituents. One property was mentioned tonight and she was glad that it was. This is a property that she has also reported numerous times. Another one is on Ashe Street and she has reported it a number of times. And, it is her responsibility to see that it gets to the Manager but he has a problem somewhere in Code Enforcement. She is not going to take all the blame because things don't get fixed. It should not have to be discussed here this way but sometime that is the only way she can get things done. She reports things even in other wards. She will give you the addresses again tomorrow. We have started to change some ordinances to bring about better enforcement but we have a lot on the books already that are not being enforced. She will talk to you about it tomorrow.

Mayor Pro Tem Walton stated he commends the Police Department. They had the Police Night Out on Saturday night. It was highly organized by the Police Department. There were a lot of games and fun for the kids.

Councilman Stimatz said the *Sound of Music* starts the end of October and be on the lookout for ticket sales. It is going to be a good show.

Councilman Brooks stated he had the opportunity to be the speaker at the Youth Challenge (Boot Camp) that Pal did. Again, it was a big success and a good turnout. He was very impressed with the instructors and what they were able to accomplish with the youth. He thinks that is a good thing for the youth to be involved in and he commends the City again for making it happen. He asked for an update on the swing set that is supposed to be put in the Enfield Park

Mr. Olson stated we are working on it. It should be up and running by the first of October.

Mr. Brooks stated he would like to see something done about when you walk on the sidewalks the trees are slapping you in the face.

Mayor Peel said his comments would be he was also at the National Night Out event on Saturday. It was fairly well attended as the weather was pretty bad. He would like to commend Ms. Bobbie White and her husband who seems to be everywhere all the time for all her hard work in getting her crews to set up and tear down. We had a tremendous amount of volunteers out there and he thanks them for their efforts. The previous Monday we had a cookout and the weather was even worse. Councilman Spence was cooking hotdogs and had all he could do to keep them dry. Thank everyone for helping make that event successful.

10} CLOSED SESSION:

Mayor Peel called for the pleasure of Council in reference to the Closed Session.

A motion was made by Councilman M. E. Brooks, seconded by Councilman J. A. Stimatz to retire into Closed Session for discussion of personnel matters. Those voting in favor of the motion were: Brooks, Stimatz, Baker, Donnelly, Hummer, Spence and Walton. Against: None. Motion carried.

Mayor Peel declared the meeting in Closed Session.

11} RETURN TO REGULAR SESSION:

A motion was made by Councilman J. A. Stimatz, seconded by Councilman K. K. Spence to return to regular session. Those voting in favor of the motion were: Stimatz, Spence, Baker, Brooks, Donnelly, Hummer and Walton. Against: None. Motion carried.

Mayor Peel declared the meeting back into full session.

12} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Peel adjourned the meeting at 9:45 p.m.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk