The City Council of the City of Elizabeth City held its second regular 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. Council members in attendance were: J. B. Walton, J. M. Baker, M. E. Brooks, R. T. Donnelly, L. M. Hill-Lawrence, L. A. Hummer, K. K. Spence and J. A. Stimatz. City Staff members attending were: City Clerk D. S. Pierce-Tamplen, City Attorney W. H. Morgan, Finance Director S. E. Blanchard, Deputy City Clerk V. D. White, Fire Chief L. M. Mackey, Interim Police Chief J. A. Manley, Electric Director K. F. Clow, Inspections Director S. E. Ward, Planning Director J. C. Brooks, Human Resource Director K. W. Felton, ECDI Director R. Cross and Parks and Recreation Director B. V. White.

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

1} AGENDA ADJUSTMENTS AND APPROVAL:

Mayor Peel called for the Council's pleasure regarding the prepared agenda.

Councilman M. E. Brooks asked to add: ***Discussion of Newspaper Article in "The Daily Advance" on August 21st.***

Mayor Peel asked to add: ***Consideration based on that newspaper article directing the City Attorney to investigate Mr. Brooks's recent behavior regarding that article. Under our Code of Ethics located in our City Charter to determine if what if any laws, ethics or other documents governing the behavior of city council people have been violated and report that back to us at our last meeting in September.***

Councilman Brooks asked the City Attorney if the Mayor has the authority according to our Charter to call for an investigation on any council member. He is not an employee of the City as he is an elected official.

Mr. Morgan stated that under the Ethics Ordinance as he understands it Mr. Brooks, Council as a body has the right to direct an investigation to occur.

Mr. Brooks said council as a body. We would have to vote on it, wouldn't we?

Mr. Morgan replied that would be correct.

Mr. Peel said that is why he put it on the agenda. All it is at this point is an agenda item, Mr. Brooks. What we would need in order to discuss it would be a motion and all it calls for is for the Attorney to investigate. That is it and report back to us.

Mr. Brooks said he wants you to understand under our Charter it says, "Only Council can call an investigation on a member of Council". You don't have the authority to do so and he wants to tell you this too. The ethics laws once information has entered the public domain it can no longer be protected as confidential. So what you are doing is that you are fishing for straws like Jean Baker would say; "That doesn't exist."

Mr. Peel said Mr. Brooks you are out of line.

Mr. Brooks said you can gavel all you want as you are out of line yourself.

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

2} PROCLAMATION:

Mayor Peel read and presented a proclamation to Ms. Liz Reasoner, Executive Director of the Food Bank of the Albemarle entitled ***Hunger Action Month – September 2012.*** Ms. Reasoner made brief remarks.

3} PUBLIC COMMENTS:

Mayor Peel asked the City Clerk the number of people signed up to speak. Ms. Pierce-Tamplen replied that we had one speaker. She called Mr. Darrell McKinley to the podium.

Mr. Darrell McKinley, 1716 Providence Road, Elizabeth City addressed City Council regarding some members of Council attending the recent ElectriCities Conference in Myrtle Beach, South Carolina. He is not in favor of this extravagant expenditure of city funds. In his opinion, the proposed bathrooms/showers at Mariners Wharf are not a good idea. The cost to run the facility will put a strain on our limited funds.

4} APPROVAL OF MINUTES:

a} Joint City/County Meeting – July 30, 2012:

Mayor Peel called for action regarding the minutes of the Joint City/County Meeting held on July 30, 2012.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman L. M. Hill-Lawrence to approve the minutes of the Joint City/County meeting that was held on July 30, 2012 as presented. Those voting in favor of the motion were: Hummer, Hill-Lawrence, Baker, Brooks, Donnelly, Spence, Stimatz and Walton. Against: None. Motion carried.

b} Regular Council Meeting – August 13, 2012:

Mayor Peel called for action regarding the regular city council meeting minutes of August 13, 2012.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilwoman J. M. Baker to approve the minutes of the August 13, 2012 regular City Council meeting as presented. Those voting in favor of the motion were: Hummer, Baker, Brooks, Donnelly, Hill-Lawrence, Spence, Stimatz and Walton. Against: None. Motion carried.

5} CONSENT AGENDA:

Following the reading of the Consent Agenda, Mayor Peel called for a motion to approve it as presented.

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

Consent Agenda:

a} Awarded bid for Church Street Bridge electric distribution relocation work to MasTec North America, Inc. in the amount of $48,227.55.

b} Approved contract with Waste Industries for recyclables and authorize execution by the City Manager.

End of Consent Agenda

6} PUBLIC HEARINGS:

a} Repeal off existing Dog Ordinance:

Mayor Peel declared the meeting into Public Hearing. There being no one present that wished to speak for or against the proposed amendment, Mayor Peel declared the public hearing closed.

City Attorney Morgan asked to be heard on one preliminary item on this. He is sure Councilman Spence will be thrilled to hear that he learned this morning that there had been another incident involving a dog toward the end of last week. A person's pet in town was killed by another dog, so a determination was made by the Animal Control Officer that the dog in question was either vicious or dangerous. He would ask that if we repeal the existing ordinance that the motion that Council adopts includes the following: "As to any incidents involving dogs which occurred on or prior to today's date, August 27, 2012, that the existing dangerous dog ordinance which was adopted by Council on March 26, 2012 shall control. The new ordinance to be adopted by Council tonight will control all incidents tomorrow or thereafter." We don't want to be in a legal quandary where we don't have the authority to move forward as to this most recent incident.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to repeal the City's existing Dangerous Dog Ordinance in its entirety; and adopt the attached ordinance as a replacement with the condition that the existing ordinance remain in effect through today (August 27, 2012) and any pre-existing incidents shall be handled under the pre-existing ordinance; and that as of tomorrow (August 28, 2012) the new ordinance will control from this date forward.

ORDINANCE #2012-20
PART II
CODE OF ORDINANCES
CHAPTER 6
ARTICLE III. DANGEROUS DOGS

Definitions
For the purposes of this article, the following words and phrases shall have the following meanings:

Animal Control Board: The Animal Control Board shall consist of a representative of the SPCA of Northeastern North Carolina, a City of Elizabeth City Councilmember, and a City of Elizabeth City resident who is also a dog owner.

Attack by a dog: Any assault or battery by a dog upon a person or domestic animal, to include biting, felling or toppling, tearing of clothing, provoking flight to escape attack, or any other act which could reasonably cause physical injury to the person or domestic animal.

Bite by a dog: Any seizing, gripping or grasping, no matter how slight or momentary, by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

Dangerous Dog: A dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriffs Department or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

(1) Without provocation on public or private property, including the owner's property, has killed or inflicted serious bodily injury on a person;

(2) Without provocation on public or private property, including the owner's property, has killed or inflicted severe injury to another dog or other domesticated animal; or

(3) Is a dog trained for dog fighting or is being used or has been used for the purpose of dog fighting.

For the purposes of this article, Dangerous Dogs are defined as a Threat Level 2.

Dog: A domesticated animal (canis familiaris) of the Canidae family; provided also that a wild specie of the Canidae family, such as a wolf, fox, or coyote, shall be considered a dog for purposes of this ordinance.

Guard dog: A dog trained by a skilled trainer to recognized security industry or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

Law enforcement dog: A dog, trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

Owner: Any person or legal entity that has a possessory property right in a dog, including the harborer or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.

Owner's real property: Any real property owned or leased by the owner of the dog, not including any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

Police Department: Any member of the Elizabeth City Police Department including, but not limited to the Chief of Police, Police Officers, or other personnel within the department. The Elizabeth City Police Department contracts with the Pasquotank County Sheriff's Office to provide animal control services to its residents; therefore, for the purpose of this article, Police Department is also defined as any member of the Pasquotank County Sheriff's Office including, but not limited to the Sheriff, Animal Control Officers, Deputies, or other personnel within the department.

Potentially Dangerous Dog: A potentially dangerous dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriffs Department or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

(1) Inflicted injury to a domesticated animal that required veterinary care or bit any person, without provocation, so as to cause a laceration or abrasion requiring medical care.

(2) Chases or approaches a human upon the streets, sidewalks or any public or private property in a menacing or threatening manner and in an apparent attitude of attack, when such human is conducting himself/herself peacefully and lawfully and is not provoking the dog; or

(3) Engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or custodian of the dog.

For the purposes of this article, potentially dangerous dogs will be defined as a Threat Level 1.

Serious/severe injury: Any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

Territorial jurisdiction of City of Elizabeth City: All territory within the boundaries of the City of Elizabeth City, North Carolina.

Threat Level: Measurement system used to define the degree of risk/harm associated with potentially dangerous dogs, dangerous dogs, and vicious dogs. Threat levels, for the purpose of this article, will be defined in ascending order with "1" being the least threat of risk/harm and "3" being the most threat of risk/harm.

Vicious Dog: A vicious dog is defined as any dog whose actions, according to the records of the appropriate authority (i.e. Sheriffs Department or Police Department) after a *sustained* investigation and provided such actions are attested to in a sworn statement by at least one person, meet at least one of the following:

(1) A dangerous dog, as defined herein, that after having once committed an act making it a dangerous dog or having been determined hereunder to be a dangerous dog, commits a *subsequent attack* on a person or other dog or domestic animal;

(2) Any individual dog that has a trait, characteristic, or known and established reputation of viciousness, dangerous, or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or special equipment.

For the purposes of this article, vicious dogs will be defined as a Threat Level 3.

Sec. 6-51. Application of ordinance; exceptions.

The provisions of this ordinance do not apply to:

(1) A law enforcement dog or guard dog being used by a law enforcement officer or bona fide professional security guard to carry out the law enforcement officer's or security guard's official duties or professional responsibilities;

(2) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner, keeper or harborer, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or

(3) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was tormenting, abusing, or

assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(4) A dog which has caused a severe injury or other bodily harm on a person, however the Sheriffs Department or Police Department finds the injuries are the result of extenuating circumstances.

Sec. 6-52. Reporting requirements.

A. *Report required:* (i) An owner, keeper or harborer of a dangerous (Threat Level 2) or vicious dog (Threat Level 3) or a dog that has attacked or bitten a person or domestic animal; (ii) a victim of or person witnessing such an attack or biting; (iii) a veterinarian treating a domestic animal for such an attack or biting; or (iv) a health care professional treating a person for such an attack or biting, shall report the following events to the Sheriffs Department within three (3) business days after the event has occurred:

(1) Any attack or biting by a dog upon any person or domestic animal; or

(2) The transfer, gift, sale, or other conveyance of ownership or possession of a potentially dangerous, dangerous or vicious dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the city, or its death.

a.) If a dog is caused to be moved into the City of Elizabeth City from any municipality or county, which has caused that dog to be classified as potentially dangerous, dangerous or vicious (or some other similar classification), or an animal so classified elsewhere is situate within the City of Elizabeth City at any time, that dog must be reported as required hereunder to the Sheriff of Pasquotank County. The Sheriff or his designee shall review the case and classification of the previous jurisdiction and, if appropriate, cause the owner or person in possession of said dog to register the dog within the City as potentially dangerous, dangerous or vicious.

B. *Report data required:* The data required in the report and the format thereof shall be as set forth in administrative procedures promulgated by the Sheriffs Department.

Sec. 6-53. Determination that a dog is potentially dangerous, dangerous, or vicious.

A. *Generally.* Upon a complaint, or when the Sheriffs Department or Police Department has established reasonable suspicion that a dog is potentially dangerous, dangerous or vicious, the Animal Control Officer assigned to such case and the Sheriff or his designee shall make a determination whether or not such dog is potentially dangerous, dangerous or vicious. Any determination that a dog is potentially dangerous, dangerous or vicious shall be made in a writing which summarizes the available evidence and which shall be delivered or mailed certified mail, return receipt requested, to the owner. If the determination is made that the suspect dog is potentially dangerous, dangerous, or vicious, the written determination shall order compliance with the appropriate provisions of this ordinance and the Sheriffs Department or Police Department may impose reasonable conditions to maintain the public health and safety. The Sheriffs Department or Police Department may assess appropriate civil penalties as set forth herein if it determines that violations of this article have been established and may elect to pursue other remedies authorized by law.

B. *Appeals from determinations.*

Any party having a direct interest in the matter and aggrieved by any determination as provided in this article may within five (5) business days of receiving such determination appeal such determination in writing to the Animal Control Board. The ruling of Animal Control Board shall be final, subject only to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Pasquotank County, filed within ten (10) days of the date of the final determination by the Animal Control Board.

Any determination of the Sheriffs Department or Police Department under Section 6-53(A) may be appealed to the Animal Control Board by filing written objections with the City of Elizabeth City within five (5) days after such determination. The Animal Control Board shall schedule a hearing on such appeal within ten (10) days of the filing of the written objections. The Animal Control Board shall render its decision as expeditiously as possible after the hearing. It shall deliver it to the parties and any person appearing at the hearing and requesting notice thereof, certified mail—return receipt requested, and file it concurrently with the Sheriffs Department. Any decision of the Animal Control Board concerning any appeal provided for in this Article other than under Section 6-53(B) shall be final.

Any appeal hearing before the Animal Control Board shall be conducted as follows:

(i) The hearing shall be subject to the Open Meetings Law, and the notice required thereunder shall be posted and given as applicable;
(ii) The parties may appear pro se or be represented by an attorney;
(iii) Any person adversely affected by the appeal may appear and participate fully in the proceeding;
(iv) Participants may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
(v) Participants shall be entitled to the right of cross examination;
(vi) The hearing shall be quasi-judicial in nature and all testimony shall be under oath;
(vii) Any participant shall be entitled to transcribe the proceeding at his / her own cost;
(viii) The Animal Control Board may affirm, deny, or affirm with conditions the determination appealed from. Any conditions imposed by the Animal Control Board shall be reasonable, shall be relevant to the issues in the matter, and shall have the effect of promoting the public health, safety and welfare.
(ix) The Animal Control Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
(x) The Animal Control Board may order that a vicious dog be euthanized.

Sec. 6-54. Registration required.

A. *Generally.* Any person owning, keeping, or harboring a dog determined as set forth above to be potentially dangerous, dangerous, or vicious shall register such dog with the Sheriffs Department within five (5) days of such determination or may, in lieu of any hearing, register such dog voluntarily, which such voluntary registration shall constitute an admission and determination that the dog is potentially dangerous, dangerous, or vicious.

B. *Relief from civil penalty.* Voluntary registration of a potentially dangerous, dangerous, or vicious dog by the owner, keeper or harborer thereof prior to a determination that a dog is dangerous or vicious, or within five (5) days (i) of an event establishing reasonable cause to believe that a dog is potentially dangerous, dangerous or vicious, or (ii) of the acquisition of a

potentially dangerous, dangerous or vicious dog, whichever later occurs, shall relieve such person from assessment of a civil penalty for any violation of this article occurring between such date, event or acquisition and the date of registration.

C. *Permanent identification mark required.* Each dog registered as set forth above shall be assigned a registration number by the Sheriffs Department, which shall be affixed to the dog by permanent microchip implant, tattoo or some other permanent means at the expense of the owner, keeper or harborer of the dog. Any permanent identification mark (i.e. tattoo, etc.) shall be affixed on the dog's ear or lower lip. No person shall remove such identification mark once it is assigned and affixed.

Sec. 6-55. Permit required.

A. *Generally.* After registration of a potentially dangerous, dangerous or vicious dog, or after a determination that such dog is potentially dangerous, dangerous or vicious, no person shall own, keep or harbor such dog thereafter within the territorial jurisdiction of this article without applying for and obtaining a permit from the Sheriffs Department.

B. *Issuance of permit.* The Sheriffs Department shall immediately issue a permit for a potentially dangerous, dangerous or vicious dog only upon submission of a complete, verified application, payment of the permit fee, and a finding by the Animal Control Officer assigned to the case that required arrangements for housing of the dog and other public health and safety provisions are in effect, and that each dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and general welfare. If the permitee shall comply with the provisions of this article and the conditions of the permit. Each permit shall be conditioned on continued compliance with the provisions of this article and other provisions of law, on continued compliance with and maintenance of the arrangements for housing and safety set forth in the permit application, and any special conditions the Sheriffs Department Police Department may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog concerned.

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. That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Department for the Animal Control.

D. *Temporary permits.* Following the registration of a potentially dangerous, dangerous or vicious dog or the impoundment of such a dog, upon application therefore and for good cause, the Sheriffs Department may immediately issue a temporary permit allowing the owner, keeper or harborer of a registered potentially dangerous, dangerous or vicious dog to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Sheriffs Department. A temporary permit also may be issued to allow the transport of a potentially dangerous, dangerous or vicious dog from the territorial jurisdiction of this ordinance. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Sheriffs Department may deem necessary to protect the public health, safety and welfare consistent with the provisions of this ordinance and shall be valid for a period not to exceed thirty (30) days of issuance. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of subparagraph (B).

E. *Term of permits and renewal thereof.* No permit shall be issued under subparagraph (B) for a term of more than three (3) years but may in the Sheriffs Department's discretion be issued for a shorter period. Permits may be renewed, subject to the same terms and conditions required for initial permits.

F. *Revocation of permits.* The Sheriffs Department may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If an officer of the Sheriffs Department or Police Department deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this article or with any term, condition or provision of a permit.

G. *Inspections.* The Sheriffs Department shall cause periodic inspections to be made of the premises of a permitee to assure compliance with the provisions of this article and the applicable permit. Notice to permitee or occupant of premises must be given before completing any periodic inspection of the premises.

H. *Inspection Fee.* The owner of a potentially dangerous, dangerous or vicious registered dog shall be imposed a $25.00 inspection fee per

inspection. That fee will be paid to the County of Pasquotank for use exclusively by the Sheriff's Department for Animal Control.

I. *Insurance.* Every person owning, keeping or harboring a dog that has been declared potentially dangerous, dangerous, or vicious shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be one hundred thousand dollars ($100,000.00) personal injury or property damage, per occurrence. Such person shall cause a certificate or declaration of insurance to be furnished to the Sheriffs Department annually. Every calendar day that the required insurance is not in full force and effect shall constitute a violation of this ordinance article.

Sec. 6-56. Regulation of potentially dangerous, dangerous, and vicious dogs; security and restraint requirements.

No person shall own, keep or harbor a potentially dangerous, dangerous or a vicious dog except in compliance with all provisions of this ordinance, including:

A. Potentially dangerous and dangerous dogs. Potentially dangerous and dangerous dogs, which are defined as Threat Levels 1 and 2 accordingly, shall be subject to the following regulations:

(1) Such dog shall be kept, secured and restrained while on the real property of the person owning, keeping or harboring it only in the following ways:

a. In a building with doors, windows, and other exits securely fastened shut under the supervision and control of a responsible adult person capable of such supervision and control.

b. Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children.

c. While outside a building or enclosure described above, securely restrained with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(2) No person owning, keeping, or harboring such a dog shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the County Animal Shelter. In the event of such removal, such dog shall be securely restrained or enclosed as set forth above for dogs being maintained outside buildings.

(3) Notwithstanding the foregoing, no person shall keep or harbor within the territorial jurisdiction of this ordinance a dangerous dog that has killed a person, except as follows:

a. In the care and custody of a veterinarian for the purposes of treatment or quarantine or pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog;
b. In the custody of the County Animal Shelter pending disposition in accordance with the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal; or
c. Pending appeal as herein provided of the determination that the dog is dangerous, in which case the dog shall be kept and secured by the County Animal Shelter as provided herein.

B. *Vicious dogs.* No person shall keep or harbor a vicious dog, defined as a Threat Level 3, within the territorial jurisdiction of this ordinance, except as follows:

(1) In the care and custody of a veterinarian for the purposes of treatment or quarantine or pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the veterinarian as provided herein for a dangerous dog.

(2) In the custody of the County Animal Shelter pending disposition in accordance with the provisions of this ordinance or lawful instructions of the person owning or previously keeping or harboring such animal

(3) Pending appeal as herein provided of the determination that the dog is vicious, in which case the dog shall be kept and secured by the County Animal Shelter as provided herein for a dangerous dog.

C. *Signage.* Any owner of a potentially dangerous, dangerous or vicious dog shall erect a weatherproof sign (2' x 2') on the enclosure housing said dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!
(252) xxx-xxxx

All letters must be at least 3 inches vertically and clearly visible. In addition, if the owner has a phone the owner's phone number must be placed on the sign.

Sec. 6-57. Impoundment of potentially dangerous, dangerous and vicious dogs.

A. *Apprehension and surrender.* Upon an initial determination or upon registration of a dog to be potentially dangerous, dangerous or vicious, or if the Sheriffs Department has reasonable suspicion to believe that a potentially dangerous, dangerous or vicious dog is being kept or harbored within the territorial jurisdiction of this ordinance in violation of it or of a permit issued hereunder, the Sheriffs Department or municipality subject to this ordinance shall impound such dog. It shall be a violation of this ordinance to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the County Animal Shelter.

B. *Confinement.* A dog impounded by or surrendered to the Sheriffs Department as provided herein shall be confined in the County Animal Shelter or, upon request of the owner, keeper or harborer of the dog, or a permitee hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Sheriffs Department, subject to the following conditions:

(1) *Costs of impoundment.* Impoundment shall be at the expense of the owner, keeper or harborer of the dog, or of the permitee. Costs of impoundment at the County Animal Shelter shall be paid by the person liable therefore at the daily rate therefore. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall the City of Elizabeth City or the County of Pasquotank be liable for or pay for impoundment at such private facility or kennel.

(2) *Release from impoundment.* No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance as provided herein of a permit or temporary permit allowing such release. No such dog shall be released from the County Animal Shelter until costs of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.

(3) *Disposition of unclaimed or abandoned dogs.* The following dogs impounded at the County Animal Shelter pursuant to this article shall be deemed abandoned and disposed of in accordance with the provisions of this ordinance and the rules and regulations of the County Animal Shelter:

a. Any dog that has bitten a human or domestic animal which remains unclaimed by its owner, keeper or harborer or permitee thereof for a period more than ten (10) days or a period of lawful quarantine, whichever is longer.

b. Any dog that has bitten a human or domestic animal claimed by its owner, keeper or harborer, which is confined for a period in excess of ten (10) days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Sheriffs Department may extend such time upon a showing of justifiable delay in such action by the owner, keeper, harborer or permitee thereof.

Sec. 6-58. Violations, penalties and other remedies.

A. *Violations.* Each act or conduct prohibited by Article III and each failure to comply with a mandatory provision of Article III shall constitute a violation. Each day's continuing act or conduct prohibited hereby and each day's continuing failure to comply shall constitute a separate and distinct offense. Violations shall subject the violator to civil penalties and to other remedies allowed by law. For the purposes of assessing civil penalties, violations of Article III are classified as follows:

(1) *Class I violations:*

a. Failure to report an event for which a report is required.

b. Failure to register a potentially dangerous, dangerous or vicious dog as required.

c. Any other violation not otherwise classified in this section.

(2) *Class II violations:*

a. Keeping or harboring a vicious dog within the territorial jurisdiction of this ordinance in violation of this article.

b. Keeping or harboring a dangerous dog within the territorial jurisdiction of this ordinance in violation of terms, conditions and provisions of a permit or of the housing and restraint requirements of this article.

c. Failure to surrender a potentially dangerous or dangerous dog to the Sheriffs Department for impoundment as required by this article.

d. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored.

(3) *Class III violations:*

a. Willfully or negligently allowing a potentially dangerous, dangerous or vicious dog to leave the premises where it is required to be kept and harbored, when such dog has thereafter committed an attack or a biting.

b. Refusal to surrender a vicious dog to the Sheriffs Department for impoundment as required by this article.

c. Failure to maintain insurance as required herein.

B. *Civil penalties.* The following civil penalties shall be assessed for each class of violation:

(1) *Class I violations:*

a. One hundred dollars ($100.00) for the first day of a violation.

b. Twenty-five dollars ($25.00) for each subsequent day of a continuing violation.

c. A maximum of one thousand dollars ($1,000.00) for each continuing violation.

(2) *Class II violations:*

a. Two hundred fifty dollars ($250.00) for the first day of a violation.

b. One hundred dollars ($100.00) for each subsequent day of a continuing violation.

c. A maximum of three thousand dollars ($3,000.00) for each continuing violation.

(3) *Class III violations:*

a. Five hundred dollars ($500.00) for the first day of a violation.

b. Two hundred fifty dollars ($250.00) for each subsequent day of a continuing violation.

c. A maximum of seven thousand five hundred dollars ($7,500.00) for each continuing violation.

C. *Other remedies.* In addition to assessment of civil penalties, this article may be enforced by any one or more of the remedies set forth in Article 160A or 153A, as applicable, of the North Carolina General Statutes.

D. *State law violations.*

(1) Nothing in this ordinance shall be construed to prevent the Police Department or any other person from pursuing remedies under Article 67, Article 1A, of the North Carolina General Statutes.

(2) The Sheriffs Department is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Sheriffs Department shall follow the procedure set forth herein for determinations.

(3) The Animal Control Board is designated as the appellate board to hear appeals of determinations made pursuant to Section 67-4.1(c) of the North Carolina General Statutes.

Sec. 6-59. Administrative provisions.

A. *Responsibility.* The Sheriffs Department shall administer and enforce this article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.

B. *Citations assessing civil penalties.* The Sheriffs Department or Police Department shall have authority to investigate alleged or suspected violations of this article and upon the determination by such person, based on observation or other evidence that a violation has occurred, each such person shall have the authority to issue a written citation for violation of this article and to assess a civil penalty in the amount due. Such citation shall be mailed to the violator by the Sheriffs Department or Police Department via certified mail, return receipt requested, addressed to the last known address of the violator, or shall be personally delivered to the violator or to some responsible person at the violator's residence. Service shall be complete upon personal delivery as provided herein or upon execution of a receipt for the certified mail by the violator or his agent in the event of such service. If a civil penalty duly assessed is not paid when due, the Sheriffs Department or Police Department shall initiate an action in a court of competent jurisdiction to collect such amount due.

C. *Authority to enter upon premises.* The Sheriffs Department or Police Department shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to (i) conduct any investigation of a dog alleged or suspected of being potentially dangerous, dangerous or vicious, or (ii) apprehend a dog determined to be potentially dangerous, dangerous or vicious or as which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, or (iii) to investigate any violation of this article, or (iv) to serve a citation upon a person for violation of this article. Notwithstanding the foregoing, the Sheriffs Department or Police Department shall only make such entry upon consent,

pursuant to an administrative search warrant under Section 15-27.2 of the North Carolina General Statutes, or otherwise as authorized by law.

D. *Authority to immobilize or kill a dangerous or vicious dog.*

(1) If in the course of investigating, apprehending or otherwise taking custody a potentially dangerous, dangerous or vicious dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous, dangerous or vicious, such dog is not securely restrained and the Sheriffs Department or Police Department has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, the Sheriffs Department or Police Department shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.

(2) If a potentially dangerous, dangerous or vicious dog impounded in the County Animal Shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Sheriffs Department shall have the authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then said officer may humanely dispose of said dog.

(3) The Sheriffs Department or Police Department may humanely dispose of any dog being investigated under the provisions of this article at the request of or with the consent of its owner, keeper, or harborer.

ADOPTED, this 27th day of August 2012.

_____
Joseph W. Peel
Mayor

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

Councilman Stimatz said he has a couple of questions. You caught the part in Section 6-55 where we sent the money to the Sheriff's Department because before it didn't say where the money went. Do we need to be more specific and say for Animal Control?

Mr. Morgan stated he had suggested that it be more specific to be for Animal Control and he thinks it would be prudent that we do that. It needs to be narrowed down even further than what is shown. You are talking about Section 6-55 (c) and the last few words for use exclusively by the Sheriff's Department for Animal Control. Those three words added to that would take care of that.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to amend Part II, Code of Ordinances, Chapter 6, Article III. Dangerous Dogs, Section 6-55 (c) to include the words, "for Animal Control" at the end of Sec. 6-55 (c). Those voting in favor of the motion were: Stimatz, Baker, Brooks, Donnelly, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

Councilman Stimatz stated in Section 6-50 (b), where do the civil payments go? Should we infer that if it doesn't designate to go to the County or elsewhere that they are coming to us and even if the Sheriff's Department pursues civil action if it is within the City the money comes to us.

Mr. Morgan replied that he is not sure that we can do that legally. He knows that all traffic ticket monies go to the County School System, the Board of Education and he believes that these funds would be controlled in that same manner. That is certainly something that he would be happy to check on and report back to Council as to his findings. He would suggest at this point to just leave that alone.

Mr. Stimatz said he would like to have that looked into because that could be a significant amount of money and he had rather it go to the Sheriff's Department Animal Control or in our coffers to use for animal control, to defray and offset those expenses for doing this job.

Mayor Peel called for a vote on the original motion.

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

b} Decreasing per terminal privilege license fee for Internet Sweepstakes Cafés:

Mayor Peel declared the meeting in Public Hearing for consideration of decreasing the per terminal privilege license fee for Internet Sweepstakes Cafés from $500.00 to $300.00.

Mr. Darrell McKinley, 1716 Providence Road, Elizabeth City addressed the City Council concerning his opinion of the proposed privilege license fee decrease. He does not feel that the City should insure that a for-profit business makes a profit or a larger profit. He feels that the Internet Cafés have been well treated by the Council to date. If the businesses have more machines than they need then they should look at reducing their hours, price or number of machines. In his opinion the fees should remain as is.

Mr. Ronnie Long, 1701 Providence Road, Elizabeth City spoke in opposition of reducing the privilege license fees for the Internet Cafés. He has watched this same city council during the budget sessions ask Mr. Olson to come back with funds to cover different expenses. We hired Mr. Olson for his expertise of this and now we have some money available and we want to give it away. If we have that kind of money, how come our City is raising taxes? He thinks we need to back up and look at this system differently and keep the taxes what they are and not put a strain on the citizens but on the ones that are paying it.

Ms. Valerie Moore, 206 Renaissance Circle, Elizabeth City stated she begs to differ with the previous speakers. She goes to the Internet Cafés and she would like to urge each Council Member to go and see for themselves what goes on in these Cafés. If there are ten people in there, three are on the internet doing applications or looking for a job. Some even talk to their family members. Even the people on the boats come in and talk to their family members. She feels they are an asset to the City and she asked that Council consider reducing the fees as proposed.

Ms. June Gibbs, Providence Road, Elizabeth City also spoke in opposition of the $500 per machine fee. She supports Internet Cafés. She also frequents them as much as she has the opportunity to do so. If the cafés were not here this summer she would have taken her money to Delaware or New Jersey as that is what she usually does. They are small businesses and they are trying to give back to the community. They have donated very well back to the community. She also encouraged Council to seriously consider reducing the fees at this time. Before you judge and go into somebody's purse and decide how much they are making to at least walk in there and see before you just decide.

Ms. Vicky Christian, 1207 Herrington Road, Elizabeth City spoke in opposition to the $500 fee per machine at the Internet Cafés here in Elizabeth City. She goes to the Internet Cafés and she sees a lot of her ole friends at the café. We don't usually make any money but just getting on the Internet is fun. Come in and check it out for yourself.

Since there was no one else who wished to speak for or against the proposed decrease in Internet Café fees, Mayor Peel declared the public hearing closed.

Mayor Pro Tem Walton stated he was appalled that the "Daily Advance" threw Michael and him under the bus in a recent article on August 22nd. It is a sad thing when you write in to the paper and don't sign your name. That is just like using the blogs and he feels like it is a coward person that will not list their name. He will put his initials to any thing he has to say. They said things such as: "Shame Councilman Johnnie Walton and Councilman Michael Brooks for resulting to shenanigans in their effort to lower privilege license fees charged to the Internet Cafés. Walton of the Fourth Ward took advantage of fellow counselor Ms. Lena Hill-Lawrence." He wonders why they always want to divide him and Ms. Lawrence. He would have made that motion no matter who was here because he feels it is unfair to bring businesses into Elizabeth City and then don't treat them fairly. As Mr. Brooks has said many times, he does not see us upping the fees to WalMart and he knows they are making big bucks. He fought real hard to not increase the utility fees. We brought it down from 5% to 3.92% and we did most of the fighting for that. He always fights for the little guy because some people don't care. "The Daily Advance" reports things like FOX News would. He is disappointed on what they are trying to do by dividing Lena and he. He is appalled at that and he still says we should fight for people when you feel they are not being treated fairly. When Council has to make a decision it should be made fairly for everyone. Give the small business a chance to make it. Don't allow a business to come here and then raise their fees 80% as that is wrong.

Councilman Brooks said we are supposed to be the Harbor of Hospitality. We are in a recession. We have 22 small businesses that have closed within a year and a half. We might not have a say so on whether they closed or not but this Council has a say so on whether the Internet Sweepstakes survive of not. We are trying to shut down more businesses and it doesn't make any sense. We have those that go to bat adamantly for tourism but they voted to raise the fees for Internet Cafés from $100 to $500 per machine. The young lady came up here and said; "even those on boats" use the Internet Cafés. We talk about tourism but yet we try to put the strong vices on Internet Cafés. If we squeeze them out of business not only are doing that but we are losing the fees they pay for electric, water and sanitation and the employees are losing their jobs. We have to be concerned about the citizens of Elizabeth City. There is corruption

and crookedness that is taking place on Council and it will have to be addressed accordingly to our own policies and ordinances. We are not talking about kangaroo stuff or making up stuff as we go along, according to our own rules and our ordinances. If you don't want to go by our rules and our ordinances we can do the kangaroo stuff. We can talk and don't pay attention to anything. What he says to this Council is lets live up to our name of Harbor of Hospitality. Let's not close down the businesses that we have the power for them to remain open that the citizens enjoy the use of them.

A motion was made by Councilman M. E. Brooks, seconded by Mayor Pro Tem J. B. Walton that we drop the fees for the Internet Cafés from $500 to $300 per machine and further moved that it would take effect immediately.

Mayor Peel asked if this would start immediately.

Mr. Brooks said we talked about this last time. It is $22,400 and we have to either find it from some other place or we will have to wait until the next time the fees are done. He doesn't know if anyone has a place they can find it from or not. We can still amend the budget.

Councilwoman Hummer stated as Finance Chairman this item was forwarded from the Finance Committee to the full Council with a recommendation leaving the fees as they are. There was a lengthy discussion and some council members had a lot of concerns. She voted to send it to public hearing so that the public could speak. In the mean time she has gone back and looked at the budget very carefully and the budget was balanced on this revenue. When you take revenue away from a balanced budget you have to find the money to put back into its place. She couldn't find it. She can't vote to take it away from a critical area and she has studied it right up until tonight.

Councilman Spence said he thinks what we discussed last time, it is already in the budget and we discussed that they had to pay the fees by September. We are not going to be able to change that as that has got to be paid by September. That is tomorrow pretty much, so if we could can we just wait until the next time the fees are due. We can't do it that quick. The budget is already there for that.

Councilwoman Baker asked to point out that some of the businesses are opening in Hertford and other communities, they are not closing down the ones in Elizabeth City to move there but they are expanding there. She thinks that business must be pretty good if they are opening up more. That is like when they came to us for additional machines. She would also like to point out that our library has free internet usage so people don't have to go pay to be on the

Internet regardless of how many pennies. Small businesses are closed down. It is a shame but we cannot fund businesses to keep them from closing down. We have all got to find our own way.

Mayor Pro Tem Walton said during our budget process and at the present time the Parks and Recreation is doing a comprehensive study of parks and we are trying to find ways to renovate and do things to the different parks in the area. He knows during the budget process Councilwoman Lena Hill-Lawrence volunteered not to do Edgewood Park. He thinks Brooks, Stimatz, Spence and himself voted to make sure that we put the monies forward to the Edgewood Park. Since we are doing a comprehensive study we can go back and get Edgewood Park later because it is going to be an Inter-local agreement and both County and City will be able to work toward renovating that park. That is $25,000 that we can use to make up the shortfall.

Mayor Peel stated that since that Park was the City's to begin with he doesn't think the County will participate in the renovation. The only time the County participates in renovating parks is when we build them together.

Mr. Spence said the money is still there that we can use. He would still like to make a friendly amendment.

> ***Councilman K. K. Spence made a friendly amendment that we go ahead with the motion and with the finances that are available if they are there but if they are not then we will wait until July 1, 2013.***

Councilman Donnelly said when he thinks about the Internet Sweepstakes the only fact that comes to his mind is that they have expanded. Two of the three in the City has gone from 20 machines to 40 machines. The third one increased their number by 12 machines. That is the only fact that he knows. He hears a lot of talk about maybe they are losing money. He has never seen their books. They don't have to show us their books but if they came forward and shared information with us which documented whether or not they were making money or losing money he might be able to make a better decision. But, the only fact that he has right now is that they have expanded and that tells him they must be doing better.

Councilman Brooks stated you have your minds made up and you are not going to listen to logic and that is the bottom line. To address Councilwoman Baker he would move his business to a town that charges a lesser fee. That is what is happening and it is not so much that they are making money but they are trying to make their business survive. That makes sense but if you have your mind made up you are going to argue against it. They are not moving and expanding

in Hertford. They are trying to survive. We are going to lose the business and lose the money and lose the revenue. We might have put it in the budget this time but if they leave we have got to find other ways to make up that money. He was hoping that Mayor Pro Tem Walton would make the motion because it was Councilman Donnelly, Councilman Stimatz, Mayor Pro Tem and himself that voted to keep that $25,000 in for the Edgewood Park. If that motion is not made then he will take the friendly amendment from Councilman Spence that said it would be effective after the fees are paid this time.

Councilwoman Hill-Lawrence said she would like to clarify the statement of the Edgewood Park and the statement that she made during the budgeting process. That statement was in reference to property tax increase. She said that if it means taking the $25,000 out of the money that you had appropriated for the repairs to Edgewood Park to keep from raising property taxes she would give up her project. Those are her words and she thinks our Clerk can read that for everybody's clarification. That is what she said. It had nothing to do with Sweepstakes Cafés at all as it had to do with property taxes.

Mayor Pro Tem said that $25,000 is not going to equate to no property tax. That will not even come close to denting it. You have done voted now and we know how the vote is going to go anyway. This time the newspaper doesn't have to put us against each other because we are not on the same page.

A friendly motion to amend the motion was made by Mayor Pro Tem J. B. Walton to make up the shortfall of $22,400 by using the $25,000 appropriated for the renovation to the Edgewood Park.

Councilman Spence stated he would like to withdraw his friendly amendment.

Councilwoman Hill-Lawrence stated she didn't care what you do with the $25,000. She has said what her intentions were when we talked about the $25,000. She said she would give it up and she doesn't care what you do with it.

Councilman Brooks stated then he would accept Mayor Pro Tem Walton's friendly amendment.

Mayor Peel called for the vote on the motion with the friendly amendment made by Mayor Pro Tem Walton.

Those voting on the motion plus the friendly amendment were: Brooks, Walton and Spence. Against: Baker, Donnelly, Hill-Lawrence, Hummer and Stimatz. Motion failed.

A motion was made by Councilman M. E. Brooks, seconded by Mayor Pro Tem J. B. Walton that after this fiscal year after the fees are paid this year, that we reduce the $500 fee to a $300 fee making it a revenue neutral item for the next fiscal year.

Councilwoman Hummer said she doesn't understand how we can get into next years' budget tonight.

Mayor Peel said he thinks it is just postponing the impact of the decision until next year. It won't affect this year's budget. The motion is to reduce the fees from $500 to $300 but will not be effective until a year from now. It would be next September when that fee would be reduced.

Councilman Stimatz said as a recommendation to the Finance Committee to consider it he would understand. This is no different than last time we met. You in essence are calling for a change to the ordinance to change the fee next year. That would require that it go to public hearing, etc. He wants to make it clear that what Mr. Brooks is offering is not a change to the fee, but a recommendation that the Finance Committee consider changing the fee in the next budget process.

Mr. Morgan stated he wanted to say as Ms. Blanchard pointed out to him; any public hearing required for a change in fees could be dealt with when we actually have the public hearing for next years' budget. It is not like we would have to have a separate public hearing on this item if it is to be effective with the next fiscal year 2013-2014. Ms. Blanchard believes based on her knowledge of fiscal matters believes that it would be legal for Council to do this now. We wouldn't have to have a separate public hearing, but in keeping with Council's practice, fiscal matters have always been referred to the Finance Committee for consideration. That is a call that Council will have to make.

Mr. Brooks said he was wondering if it would be changing an ordinance. Because he made the motion we can talk about it being sent to the full Council. When it comes from the Finance Committee and he has set in on some of those meetings, it is unanimous. They unanimously voted for it to come to full Council. That means by the time it comes to Council they have the vote to go anyway they want too. They have the votes and whether or not they do it or not they have the votes for it to go the way they want.

Mr. Donnelly asked how do we know that they need help. What do we know? The only facts that we have are they have increased their number of machines. We heard from Mr. Chapman and yet the status report is coming from the fox watching the hen house. He can't follow this.

Mr. Brooks stated the Boys and Girls Club came and asked for $25,000 and we didn't see any of their financial reports. Arts of the Albemarle came asking for $25,000 and we didn't see any of their reports, but when you are dealing with a small business you are trying to hold them to a different standard. We can't do that. We didn't ask for a financial report from one and not the other. That is called discrimination and you can't do that. If we had done the other ones then we could say ok lets do this too. But you can't treat one small business like this and treat others different. We can't hold them to a different standard. He agrees the Boys Club needed help and we did a good job.

Councilman Stimatz asked to note that any non profit that applies to this City has to provide a financial statement. We already had financial statements for the Boys and Girls Club and we already had financial statements from AoA. They are non profit organizations and they are not for profit organizations. So we did not hold this business to a different standard. The other two had already presented their financial statements. That is a total misstatement of the facts.

Mr. Brooks said he is talking that we saw financial reports; he didn't see them so some council members were privilege to it and some wasn't. He didn't see them. He didn't see any financial reports. So Tony Stimatz is just blowing smoke out of his ear. He didn't see them. Basically what he just told him is that the standard is the same across the board. If there was a financial report from those two entities he would have liked to have seen them instead of hearing it come from another councilman. As a council we can't say this council member can see it but this one can't.

Mayor Peel said that he is not sure anyone on Council saw them.

Mr. Walton stated he will go back to his original statement. The Finance Committee when they vote on something and bring it to us they are going to vote that same way. Nobody changes. He doesn't care what we say and we can talk until we are blue in the face, they are not going to change. That is one of the members right there. Donnelly you are another one. Lena Hill Lawrence is another member.

Ms. Hummer asked what did you say about her.

Mr. Walton said he said you are one of the members and he will still say that. We may not need a Finance Committee if we are going to let them make all the decisions before we come here.

Councilwoman Hummer stated she would like to say that the Finance Committee has to vote in a majority to send something to the full Council. Use your head.

Number two you cannot use public money to help a business to keep their door open, you cannot do that.

Mr. Walton said well we did for AoA.

Mayor Peel said Mr. Walton you are out of line.

Mr. Donnelly called the question.

Mayor Peel stated the question has been called and he called for a vote on the motion.

Those voting in favor of the motion were: Brooks, Walton and Spence. Against: Baker, Donnelly, Hill-Lawrence, Hummer and Stimatz. Motion was denied.

7} <u>REGULAR AGENDA:</u>

a} Call for a Special Meeting:

Mayor Peel stated that we will need to call for a Special Meeting in order that we can hear from those seeking a community support grant. It is being proposed to hold the meeting on September 6, 2012.

Mayor Pro Tem Walton stated that he would be unable to attend a meeting on September 6th due to a prior engagement. He would be available to make a meeting on the 5th of September.

A motion was made by Councilman R. T. Donnelly, seconded by Councilwoman L. M. Hill-Lawrence to call for a Special City Council Meeting to be held on Wednesday, September 5, 2012 at 5:30 p.m. in the City Council Chambers of the Municipal Administration Building to hear presentations from the groups/agencies which have requested funding under the City's Community Support Grant program. Those voting in favor of the motion were: Donnelly, Hill-Lawrence, Baker, Brooks, Hummer, Spence, Stimatz and Walton. Against: None. Motion carried.

A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to instruct the Finance Committee to formulate a recommendation for funding, which would be considered by the Council during the September 24, 2012 Work Session for allocation and award of the community support grants. Those voting in favor of the motion were: Stimatz,

Baker, Brooks, Donnelly, Hill-Lawrence, Hummer, Spence and Walton. Against: None. Motion carried.

b} Pool Street Park:

Mayor Peel called upon Parks and Recreation Director White for comments.

Ms. White stated in 1976 the City of Elizabeth City Planning Department developed a comprehensive open space and recreation plan. This plan indicated that the downtown area should be more pedestrian oriented through the development of an open space pedestrian loop system. The plan further suggested that the under-utilized streets could be redeveloped into part of the Pedestrian Loop System by providing amenities such as trees, plantings and benches. Pool Street Park was built in 1987-89 years with a $50,000 grant awarded from the Land and Water Conservation Fund. This quaint park is located between Main and Fearing Streets adjacent to the Hornthal, Riley, Ellis and Maland Law Offices and the County Register of Deeds and Law Offices. The primary intent of the Pool Street Park is to provide a needed attractive and relaxing setting in the downtown area of Elizabeth City. The relationship of this site to the Pasquotank County Courthouse and other County offices, municipal parking lot, Herbert Small Federal Building, and the Historic District make it a perfect location for a park. It has a large fountain in the center of the park surrounded by landscaping (trees and flower beds), pedestrian lighting, benches and brick walkways. Once built, Pool Street Park became an integral part of the Pedestrian Loop System as well as the Historic District. Throughout the years the Main Street area has undergone many changes. The once thriving downtown has now become an area of mostly county offices, the Courthouse, attorney offices, banks and a few small businesses as well as Arts of the Albemarle and Port Discover. Downtown has also attracted a rather large homeless population that the Parks and Recreation Department must deal with on a daily basis. Pool Street Park has many issues. One is that the park was built 32 years ago and the Live Oak and Holley trees have matured and outgrown the space. They are pruned on an annual basis; however, their foliage is large and their roots massive. The tree roots have altered the bricks along the walking paths initiating a hazardous situation. These trees need to be removed and replaced with a more appropriate species, which has a smaller root base, such as Crepe Myrtle or even Laced Bark Elms. The fountain is also cracking and chipping around the base and needs to be repaired. It is also in need of a new submersible pump, which has not been replaced since 2006. The fountain has become a bath as well as a laundry for the homeless population. Our employees have found washing detergent in the fountain and clothes drying along the edge. We have also fund individuals taking a bath in the fountain on numerous occasions. The park is open on a daily basis until 10:00 p.m. Usually, there are anywhere from five to twenty individuals sitting at the park. However, we are

having more and more homeless men and women, transvestites, sexual liaisons and prostitutes becoming a nuisance during the day as well as at night. The police department is aware of this situation and has stepped-up their foot patrols of the park; however, we are still finding urine as well as human feces in the flower beds, along the doorways and near the trees. Our staff conducts trash collections in this park everyday (Monday thru Friday) as well as one day during the weekend. The walkways are blown once a week to remove small trash and leaves. We stopped planting flowers (pansies, verbena and vinca) in the park about ten years ago. It was a waste of our time and money as we would plant the flowers today and tomorrow they would all be removed or uprooted. It became a game and we were losing. This past May our staff put mulch in the flowers beds to dress-up the park for the Potato Festival. It was done in the early afternoon. She happened to stop by the park to make sure the park was in good shape for the festival and noticed that much of the mulch had been kicked out of the flower beds. She and her husband spent two hours sweeping and replacing the mulch in the beds. Our recommendation is that Pool Street Park could and should be one of our most beautiful parks in the downtown area. However, with the issues we have with vandalism and the age of the park, we seem to be fighting a losing battle. The staff would like to see the following recommendations use: 1} remove the Holly and Live Oak trees and replace them with Crepe Myrtle or Laced Bark Elm; 2} renovate the brick walking paths and have them replaced with decorative cement to remove the tripping hazards; 3} place Evergreen plantings or shrubs in the flower beds; 4} repair the fountain; 5} refinish the benches; 6} replace the picnic table; 7} repair or replace the irrigation system; and. 8} try to eliminate the vandalism. This will be a major undertaking and may cost quite a bit of money to complete and renovate the park.

Councilman Stimatz asked, what was a considerable amount of money. This is our park and not a shared facility and we would have to pay for what was done to improve it.

Ms. White replied $50-$100,000.

Mayor Pro Tem Walton asked where we would get the funds to do this work.

Ms. White replied that we could apply for a PARTF Grants, although that money has been cut this year. She will be attending a PARTF Grant conference to see if there is any funding. Even if we apply now it would be a year and a half before we would get the money.

Mr. Walton stated he has not seen any of the things that you have identified.

Councilman Spence asked if we had this problem before we completed our budget. Shouldn't this have been included in the budget process?

Ms. White explained that we have more pressing issues that we needed to get done; things that were put into the budget that Council wanted to see get done. For instance like the gym at Knobbs Creek which serves a larger number of our citizens.

Councilman Donnelly stated he has been approached by constituents in his Ward and he would appreciate it if we could get to that point that you outlined with your recommendations. He agrees with Mayor Pro Tem Walton in that he hasn't seen a lot of that activity going on. He walks through there at least twice a day. The people that are in the park have been very pleasant and recognize him and say hello. There has never been a serious problem. They do pick up after themselves. He thinks in the interim this park needs a little more tender loving care. The County is out blowing the sidewalks in front of the County office buildings and maybe we could make a deal with them to continue on down through the park area. A little more tender loving care he would appreciate and so would some of his constituents.

c} Article in newspaper:

Mayor Peel called upon Councilman Brooks for comments.

Mr. Brooks said he read the article in the newspaper that said, "Brooks slams use of excerpt". First of all he wants you to know it is the responsibility of Council and it doesn't matter to this Council because they are not voting with the hospitality in mind anyway.

Mayor Peel said Mr. Brooks that is an assumption on your part.

Mr. Brooks said no it is part of what he is addressing this and you can't tell him how to address an item.

Mayor Peel replied that he can tell you not to make assumptions.

Mr. Brooks said you can't tell him how to present what he put on the agenda. You don't have that kind of control, Mr. Mayor. He just wanted to let you know that.

Mayor Peel said he appreciates it.

Mr. Brooks said we are always talking about the Harbor of Hospitality and talking about the safety and well being of our citizens. It is amazing to him that most of

us fail to realize and if you would read our ordinances, our policy and state law says. It says in our Personnel Policy Manual, revised June 2006 this. On page 77, "The City of Elizabeth City is concerned with the safety of both employees and the public." That is the first sentence. We want to maintain a work place that is free of violence. We believe it is the obligation of every employee to contribute to the safety of the work environment by refraining from threats, violence, or activities that may provoke violence by reporting threats and conducting city business with respect to all city employees for all customers of the City services. So, we must understand when an employee or anyone comes to him he will go to bat for a citizen when they come to him. When they bring a document to him, it becomes a public document. If the City Manager gives that document in a Closed Session, then it is a different animal. So, when the excerpt came to him, it became a public document as an elected official. First of all, and he wrote it down so he won't get too winded, Mr. Mayor. The article read the City's public utility director recently shared an excerpt from the book ***"Leadership on Line"*** with an employee of the Public Works Department. Whether the statement was intentional or unintentional, he does not know, but he does know that the statement was incorrect. The excerpt was not shared with employees but given to only one employee who had a problem with a weapon (sword) that was in the office of the Public Utilities Director. The excerpt was given to this employee a few weeks after the City Council gave the City Manager a directive to have the weapon removed. If you read our Personnel Policy Manual it is considered violence in the workplace. He didn't understand how you had council people trying to justify a weapon on a wall where you have inmates working there. This is our policy and we are not abiding by it. You can come after him all you want too as it is fine, but he is backed up by the policy. On page 77 of the City's Personnel Policy Manual, a weapon is described as, "An object used to attack or intimidate another." Then it begins to talk about prohibited weapons. It says, "Prohibited weapons include but not limited to fire arms, explosives, ammunition, knives, pocket knives, switchblades or other dangerous or deadly weapons." Within the contents of that excerpt the Public Utilities Director gave the employee was and I quote, "Assassinations are extreme examples of what people will do to silence the voices of frustrating realities." Within its content it read and I quote, "The hope of leadership lies in the capacity to deliver disturbing news." He asked what disturbing news? I ask, is it assassination to silence the voices frustrated employees. It is his duty as an elected official to make sure the public is safe as well as the employees of the City of Elizabeth City.

City Attorney Morgan said Mr. Brooks you are getting close now to potentially violating an employee's rights under the manual so be very careful. If you want to limit your comments to what you believe or what was in the newspaper article he thinks that would be appropriate. It is now in the public and he would

caution you to be very careful about comments that were not included in the newspaper article or discussions that may have occurred during a closed session.

Mr. Brooks stated he understands but since they are trying to put him up on an investigation, he will continue. He appreciations your advice. In the newspaper it names the Public Utilities Director by name and he didn't do that. He can quote the paper and he will be fine.

Mr. Morgan said you have gone beyond his recollection as to what was in the newspaper with the comments that you just made.

Mr. Brooks said well, those are his personal opinions in making sure the public stays safe. That is what it is and that is his own opinion.

Mr. Morgan said you certainly have the right to quote from the Personnel Manual but he would just caution you to be careful.

Mr. Brooks said thank you and he will make a request that the City Clerk write the minutes verbatim, exactly like he said and he will give her these sheets if she desires so she will not have to worry about it. In the book, "Logic of Indirect Speech", Steven Pinker wrote when people speak they often insinuate their intent indirectly rather than stating a bold proposition. North Carolina General Statutes 14.277.1 states one element in communicating threats is a threat is communicated to the other person orally, written or by any other means. Another element is the person threatened believes that the threat will be carried out. He continued to read the article and it talks about Brooks having no qualms in voting to oust the City Manager. He says to the "The Daily Advance" this is not about him as this is about the safety of the public and the safety of the employees. It is not about him. The article continued in saying that Councilwoman Baker said in the article which she always puts her two cents worth when it comes to talking about him.

Councilwoman Baker said she was not interviewed.

Mr. Brooks said well he is reading what is written in the article. He said he is going to read it because he doesn't want to be on that boarder line again. It said, "Councilwoman Jean Baker, when asked about the book excerpt after Brooks raised it last week said, she thought the matter had been blown out of proportion. Baker said the Leadership Book excerpt was typical of things she had received throughout her business career. This is absolutely grasping for straws, Baker said." If you didn't say it then you need to deal with the "Daily Advance" because that was what was written. When you say just grasping for straws it dug deep into him because our ordinance and our Personnel Management Policy actually say it is workplace violence. That is what it says.

We can say ok we are not going to deal with that but that is what our policy says. His thing is that if we have these ordinances and these policies and a state law on the books then lets deal with them and stop going on a witch hunt of a council members that is supposed to have the same interest of heart in helping our citizens. He does not know what motivates someone that does not want to inform the public. When you have a problem with being transparent that means you are hiding something. Don't get mad at him as you can come after him all you want too and you will continue to come after him because when he was elected on Council he had to take an oath and his oath was to make sure that he represented the Ward and the citizens of Elizabeth City and just as he read previously to make sure the citizens of Elizabeth City are safe as well as our employees. Thank you Mr. Mayor.

Mayor Peel asked if anyone else had anything to say about that article.

d} Call for investigation on Councilman M. E. Brooks:

Mayor Peel stated he put this item on the agenda and you will see a different view point. He thinks most of you know that he has been in the public arena for many years and in education for actually over 45 years. He has had an opportunity to absorb and work with many public boards during that time. He is not sure that he has seen a greater lack of regard for the rules governing behavior of public officials or a greater lack of concern for employees' right to due process under the law when involved in an ongoing internal personnel investigation than the article that appeared in Tuesday's morning "Daily Advance". It appears obvious to him that Mr. Brooks shared information with the reporter that came from the discussion this Council had in Closed Session during our last meeting. He believes Mr. Brooks has certainly violated the trust of this Council by willfully divulging confidential information to the press. He believes he may also have violated Section 4.7 of our City Charter which by law has to be approved by the State Legislature. This section defines Council and the City Manager's role in the operation of the City. He believes he has also violated numerous sections of the Council's Code of Ethics. Both documents you have a copy of which is required by State Law 160A-86 such as government decisions and policies must be made and implemented through proper channels and processes of the governmental structure. The book that Mr. Brooks was quoting from also on Page 20 has a whole section outlining internal review processes for all those issues that he was concerned about. Council members should obey all laws applicable to their official actions as members of City Council. He also believes he has violated Rule 25 of this Council's adopted Rules of Procedures which reads, "Closed Session shall be kept confidential in order to avoid bad publicity, lost of creditability, lost of public confidence, legal challenges due to violations of law, personal liability and lost of trust. He believes him to be in violation of the City's Personnel Manual which clearly defines the City

Manager's role in the operation of the City on Page 2. But perhaps worst of all he believes he has violated an employee's right to confidentiality and due process under Federal and State Law. He believes his actions may well result in a suit against him and possibly all of us if we don't take some action as a Council in distancing ourselves from his behavior. One of the reasons he ran for Mayor was because people in this City were tired of working hard to attract businesses to town to revitalize our downtown and to market ourselves as a tourist designation only to have City Council's behavior working against these efforts. He believes as a council one of our most important roles is to lead this community by example. He believes the confidence of the community and our employees have in us as leaders suffers greatly when one of our members exhibit these types of behavior and the rest of us sit by and let it happen as if it is ok. He also thinks it is very unfortunate that this incident occurred in the mist of us trying to hire a new police chief. He knows that two top candidates withdrew their names the last time we hired a chief because of Council's behavior. He believes it is especially in bad taste and extremely detrimental to this process with the comments in the article about the City Manager. Good folks are not attracted to this type of behavior. There are simply too many good places for them to go and work. He also wants to point out that he doesn't believe this is the first time Mr. Brooks has stepped outside the boundaries of his authority. During our last hurricane he attempted to direct the work of a city crew which resulted in a court case against him in which he was found guilty of communicating a threat.

Mr. Brooks said point of order Mr. Mayor. He is not going to set here and let you slander him as you need to get your facts correct.

Mr. Peel continued by saying of course Mr. Brooks has appealed this verdict.

Mr. Brooks said you can keep calling his name like that. You can hit the gavel all you want.

Mr. Peel said Mr. Brooks let me tell you, we are going to have a civil conversation or he will have you removed.

Mr. Brooks said you are sitting here making untrue accusations and telling stuff that is not true on him and he is supposed to set here and say nothing.

Mr. Peel said he has said he believes.

Mayor Pro Tem Walton said that can be an assumption.

Mr. Peel said he said he believes. Prior to this event he directed another crew to stop working because of the heat. Both of these actions on his part are clearly

not within his role as a city counselor as outline in the many documents that he has already mentioned and are in direct conflict with the role of our city manager. He believes it is time for this Council to stand up and be counted for saying Mr. Brooks' behavior does not represent who we are as a Council and how we do business. What this motion asks for is to authorize the City Attorney under our Code of Ethics to conduct an investigation and to bring back to us at our September 24th meeting a report on whether in fact Mr. Brooks has or whether he has not violated any of these rules of procedures. That is the motion. He thinks a motion is in order.

> ***A motion was made by Councilman J. A. Stimatz, seconded by Councilwoman J. M. Baker to authorize the City Attorney to investigate whether there is any truth to the allegations regarding the conduct of Mr. Brooks and to bring it back to us on September 24th in order to clear the air for all parties as to the facts in the case.***

Councilman Brooks said first of all you have got to understand the Mayor can't make a motion and that is why Councilman Stimatz made the motion. He wants to make you understand or bring to your attention Mr. Mayor how out of line you were. When you talk about an on-going case you also crossed the ethical line. If he crossed the ethical line in talking about that in the paper you also crossed the ethical line in talking about an open case that is still in the courts. If the Council votes to investigate him they must also vote to investigate the Mayor because he talked about an ongoing case.

Mayor Pro Tem Walton seconded that motion.

Mayor Peel said we already have a motion on the floor.

Mr. Brooks said he is not finished. He is not finished since you made the allegations and what happened you are so busy doing a witch hunt against him that you are not listening to what he is saying. Again, if he said he did an ethical violation in taking a piece of paper that someone gave to him and asked him to make it public and then he is going to talk about a case that happened with an electric worker which was outside of the bounds. He also did an ethical violation. You need to understand that you picked the wrong one Mr. Mayor. Our ordinance said under investigations, the City Council may direct the City Attorney to investigate any apparent violations of the Code as it applies to the Mayor, a member of City Council, the City Manager or the City Clerk and report the findings of his investigation to the City Council. This is what it says, "any person who believes that a violation of the Code has occurred may file a verified complaint in writing." He can sign and verify a complaint and that verified complaint does not have to go to the Council as he can send it to the FBI, State

Board of Investigations. Watch this now, under the Code of Ethics it says, the proper operation of democratic governing requires that public officials and employees be independent, impartial and responsible to the people." It is his responsibility to the people to tell them when their livelihood is in danger. You cannot meet and last week the Mayor met with several council members and he doesn't know what was discussed but he is assuming this was discussed. An assumption. If he met with Council members about him that is called a criminal conspiracy. That is what it is a criminal conspiracy. A criminal conspiracy occurs when two or more persons enter into an agreement to violate the law even if the outcome of that violation would be legal. That is a criminal conspiracy. To continue, you make it appear the reason that businesses are not coming here because of him. Since Mr. Peel has been the Mayor we have eliminated prayer before our meetings, the next meeting and no offense to you Mr. Donnelly, but Mr. Donnelly was using profanity on camera and the Mayor didn't talk about ethics violations. The next meeting Councilwoman Baker was saying, "sitting on Council sucks"; he didn't call for an ethical violation. What he is saying to him he will not allow him to discriminate against him and that is what you are doing. If this Council votes to investigate him it goes further than this because you are not going to stop with me. You claim that businesses are not coming here because of how Council conducts itself and you are talking about him basically. But, yet we lost 22 small businesses downtown in a year and half and we are talking about squeezing the vice on Internet Sweepstakes that will possible lose more revenue and you are saying he is the cause of it. He is very offended and appalled at the accusations you make on him that are untrue and he will give this also to the City Clerk and he wants her to write this all verbatim because it is a legal document in court. If they find him to be investigated they will need to investigate you too because that is discriminatory too. The rules that apply to him also apply to you Mr. Mayor.

Mayor Peel called for any other comments.

Mayor Pro Tem Walton stated he is kind of in agreement with Mr. Brooks. You almost crossed the boundaries yourself. You said Mr. Brooks crossed the boundaries and you came very close to crossing them yourself. It is just like the time that Ms. Hummer sent you an email, you sent her an email back and then came to council and complained about it. What is good for one should be good for everybody. Not what is good for one is not good for me. You said there was an investigation going on. How long does an investigation last? That excerpt was sent at least three weeks ago. Who cannot investigate if the person gave it to somebody and somebody gave it to Brooks. It shouldn't take this long. But what we do is we try to let time pass and then things go away. This is not going away. Then when you come back and put the same thing on Brooks as you say Brooks did you are out of boundaries just as much as Brooks is. Then he was so much out of bounds that another city council person had to come to your rescue.

That is what you guys do. You rescue each other. You vote the same way and then you say that is why businesses is not coming here. Yea because any time this Council wants to do something he doesn't care if it is right or wrong we do it anyway. That is because we can do it and because we have the four or five votes every time. You got out of bounds before when you voted before those in opposition had time to cast their vote. Then you had to call a special meeting to make it right. Do for others the same as you want others to do for you.

Councilman Spence said he thinks that we are all adults. He thinks what we need to do is we are all elected officials and he is going to be honest. He is on Council but this is embarrassing. This is very embarrassing. We ought to be able to come together and sit down and iron this stuff out. This is embarrassing and we should not be on TV acting like a bunch of kids squalling and hollering at each other when we can come together as grown people, sit down and come to some kind of consensus. We are not going to agree with each other all the time, but we have to come together as one to make things happen for the City. It is not about us. When we got elected as council and the mayor, it is no longer about us as it is about the citizens out there. Instead of always putting each other out there or bashing each other we need to sit down and where we have a retreat, have a real retreat no fake stuff. Get down and tell each other how you really feel and be done with it. This goes on all the time, every meeting we are having the same thing, bickering back and forth. I am on this side or that side. There shouldn't be any sides. He gets so sick of hearing this side again that side. It should be straight down the middle. We are all adults here. So he doesn't know why we should have to get the City Attorney do an investigation. We should pull Mike in if he is wrong and we all get together and act like adults. This just doesn't make any sense to him.

Councilman Stimatz stated the reason he made the motion that it is something that he learned in his previous life is you let things linger without fact finding then people fill in the blanks however they want. In deference to all of us here and no offense Reggie but sometimes the "Daily Advance" doesn't get it all right. His reaction to the article was he was concerned that personnel matters were being discussed in the public before the matter was resolved within the process. That is a big issue. The reason he made the motion to have the investigation as he said was to find out the facts and what are the realities, have that brought back to us then we will take action. If you don't want to know what the facts are then we can all sit around here and make up our own stories because that is what happens. He hears stuff in this room that sometimes that he just cries or laughs because they are so off the wall. So, he is more than happy to have the attorney and he has done this before because all of the investigations that have been called for he made the motion. He just don't want innuendos of he said, they said, you assume and you think and you believe. He doesn't like that as he has seen how damaging it can be. Ok, that is why he made the motion and that

is why he said to Michael that he ought to go with this. It will clear the air, ok. This man will go out and find the facts and report them back. That is why he made the motion.

Councilwoman Hummer said it is her recollection that some of us asked for facts in a closed session on this session and it was brushed aside. But, she remembers a few years ago or maybe five years ago there was an investigation made on three members of council and there was no vote of council. There were a number of top officials that were aware that it was being done except the council members that it was done on so she doesn't go for the so called investigations. She thinks the City Attorney should have called Michael in or as Mr. Spence said we should called a special meeting because things have gotten so out of hand as that is what Special Meetings are for. We have to discuss each other out here and that is what we are doing tonight but it is ugly. That is the law. The Charter does say, "City Council may direct the City Attorney to call for an investigation of itself, of the Mayor, of the Manager and of the City Clerk." It specifically states that. She can't support all that is going on here as it is awful embarrassing.

Councilwoman Baker said she agrees it is very embarrassing but everything has a process and process takes time. Mr. Brooks and she is calling your name because it is about you and she is not saying, call my name. But, you jumped in and interrupted the Mayor in the middle of his speech. He was talking about the court case and you jumped in and talked over him like you are about to do to her. You talked over him and you didn't even hear his next line. That he said it was under appeal. That is what you are complaining about. You are shaking your head and she hasn't even finished yet. She has the floor. This is what we see. This is what people see. You running in and talking over without being recognized, talking over the Mayor or talking over anybody that you want. You did it tonight without hearing his next line explaining about your court case being in appeal.

Mayor Pro Tem Walton said Mr. Stimatz said he made the motion because. All Mr. Stimatz had to do was second your motion as it was the same motion that you made. That is how you cover up for each other. That is how it is done.

Mayor Peel said that is your opinion.

Councilman Brooks said he would like to go back to what Jean said. It only makes sense and you don't have to be a genesis to make this out. If he thinks an investigation is supposed to be called on him because he thinks he shared information with the paper and he thinks it is an ethical violation because it was a legal matter. He didn't have any business talking about a court case that is on appeal. He didn't have any business to do that. That is an ethical violation.

Councilwoman Baker he received what you said perfectly because when someone sits there and makes untrue accusations on you and talk about they are going to investigate you on untrue accusations and they are dong the same thing right in your face right in front of the public, it is hard to sit there and not say anything. If he was wrong so was the Mayor. The only time the Mayor votes is to break a tie. He voted along with others before the other four got to even vote. That is a violation of our Code. What happen is we have to be consistent. You talk about him talking over people Councilwoman Baker you have got to understand he heard you say several times, "Sitting on council sucks". That is not good language for the public. He thinks Mr. Donnelly is sincerely sorry for using profanity. You talk about ethical code that means the whole Council can be investigate but he took it personally Mr. Mayor when you singled him out but others have done these things and nothing was done. You should have said to him, Mr. Brooks he thinks this. He is a grown man and if you talk to him reasonable he will talk to you reasonable. The same motion that Tony Stimatz made, after we vote on this, he will make the same motion to have you Mr. Mayor investigated. If Council then votes to have me investigate and don't have you investigated for the same infraction that means it is discriminatory, very much discriminatory. Right in front of the public and they see what is happening. Don't do a witch hunt on him. You know people say if you live in a glass house don't throw any stones. He has a shield.

Mayor Peel called for any other comments. We have a motion to authorize the City Attorney to investigate Mr. Brooks conduct and report back to us.

Councilwoman Baker asked for a roll call vote.

Roll Call Vote

Brooks	***No***
Stimatz	***Yes***
Hill-Lawrence	***No***

Councilwoman Hill-Lawrence stated she did not want to vote.

Mr. Morgan stated your non vote would be considered a yes vote.

Councilwoman Hill-Lawrence said she did she wasn't going to say anything but Mayor she does have to say something. She will tell you the truth. This has been the worst three years of her life sitting here on this City Council. She is serious. The worst three years of her life and she has been many places in this world. Sitting on City Council and we are adults acting like children. We are acting like children. Mr. Brooks and you know Michael she likes you but Michael some times you need to shut your mouth. You know she likes you and she will

tell you right to your face. You can sit on this Council and you can do what you need to do and you can act like you are supposed to act, starting this night henceforth. She didn't vote for it because she doesn't think what you do that you really mean to do it. We have always had good conversations. So, Michael she wants you to come up here and serve the purpose of being on Council. You know what to do. That is why she doesn't feel justified in voting against you. She really doesn't. She believes in giving you a second chance. She believes you should have that second chance.

Mayor Peel said we are in the middle of a vote and Ms. Hill-Lawrence if you feel that way then your vote would be no.

She said then her vote is no. She will not vote against you Michael, she won't do it.

Walton	***No***
Hummer	***No***

Councilwoman Hummer stated she is voting no because she does not like the way this has been handled. Some of our questions were not answered.

Baker	***Yes***
Spence	***No***
Donnelly	***No***

Mr. Donnelly stated after listening to Lena's comments about Michael, there is a lot of truth in what Lena said. Councilman Brooks does get out of control at times. He would like to have an investigation so we would know what is going on but he will say no.

2 yes votes – 6 no votes. Motion was denied.

8} <u>COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:</u>

Councilman Brooks stated he had no further comments.

Councilman Stimatz stated he had no further comments.

Councilwoman Hill-Lawrence stated she had no further comments.

Mayor Pro Tem Walton stated he has said time and time again this Council does not have the background to put administration into check. If they need to be checked, then they need to be checked. We pass right by it. He doesn't care how many citizens come up here and complain about something, we will make

excuses for them. Administration needs to be checked. Another thing is we need to go ahead and have our evaluations. We haven't had them in a whole year.

Mayor Peel said there was one other thing that he needs to bring to people's attention is we have two people among us who have been recently recognized and he thinks that we should publicly acknowledge them. City Clerk Dianne Pierce-Tamplen and Deputy City Clerk Vivian White have been awarded the prestigious designation of North Carolina Certified Municipal Clerks. We are fortunate to have these two ladies working for us with their knowledge and expertise. This was awarded from the North Carolina Association of Municipal Clerks along with the School of Government at the University of North Carolina, Chapel Hill for achieving their high educational experience and service requirements. Congratulations for a job well done.

Councilwoman Hummer stated she would like to know if there is anything we are going to do to improve our image since we haven't done that so far. That is a question for all of us.

Councilwoman Baker stated she had no further comments.

Councilman Spence stated he had no further comments.

Councilman Donnelly stated he had no further comments.

9} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Peel adjourned the meeting at 9:44 p.m.

_____
Dianne S. Pierce-Tamplen, MMC
City Clerk

_____
Joseph W. Peel
Mayor