

**City Council Regular Session  
August 10, 2015**

The City Council of the City of Elizabeth City met in regular session on Monday, August 10, 2015 in Council Chambers, located on the 2<sup>nd</sup> floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Joe Peel  
Councilman Ray Donnelly  
Mayor Pro Tem Anita Hummer  
Councilman Tony Stimatz  
Councilman Michael Brooks  
Councilman Kem Spence (*arrived at 7:03 p.m.*)  
Councilman Darius Horton  
Councilman Johnnie Walton

MEMBER ABSENT: Councilwoman Jean Baker

OTHERS PRESENT: City Manager Rich Olson  
City Attorney Bill Morgan  
Finance Director Sarah Blanchard  
Planning Director June Brooks  
Police Lieutenant Jamie LaCombe  
Assistant to the Manager Angela Cole  
Human Resources Director Katherine Felton  
Public Utilities Director Paul Fredette  
Fire Chief Larry Mackey  
ECDI Director Wade Nichols  
IT Director Matthew Simpson  
Inspections Director Stanley Ward  
Parks and Recreation Director Bobbi White  
City Clerk Vivian White

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

**1. Agenda Adjustments and Approval:**

Mayor Peel requested Council's pleasure regarding approval of the prepared agenda.

Councilman Darius Horton requested to remove Item "c" regarding funding to Arts of the Albemarle from the Consent Agenda and add it to the Regular Agenda for discussion.

Councilman Michael Brooks requested to add "the budget" to the agenda.

Councilman Johnnie Walton requested to remove Item "b" regarding the InnovateNC grant application from the Consent Agenda and add it to the Regular Agenda for discussion.

**Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Ray Donnelly, to approve the agenda with necessary adjustments. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton, and Walton. Against: None. The motion carried.**

**2. Statement of Disclosure:**

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

**3. Comments from the Public:**

Raymond Rivers, 512 Magnolia Street, Elizabeth City, NC stated that he wished to convey his support for the letter the Councilors previously received from the NAACP concerning the removal of the Confederate monument, which has an embedded display of the Confederate flag and is located on the grounds of the Pasquotank County Courthouse. He reminded the Council of the atrocities committed during the days of slavery as well as up to 2015 against African Americans. He stated that symbols of “white suppression and hatred” such as the Confederate monument are offensive to a large portion of the population. He said that he was asking the City Council “to do the right thing” and join together to eliminate these kinds of symbols and put them where they belong – in a museum.

Keith Rivers, P. O. Box 211, Elizabeth City, NC stated that he came before the Council as the president of the NAACP Pasquotank Branch. He said that he had the same concerns as Mr. Raymond Rivers – the removal of the Confederate monument on public property that bears the Confederate flag and the words “our heroes.” He said that he was aware of recent legislation by the General Assembly, but he thought it was important that the local community stand together and show that we can move forward in progress. He stated that the Confederate flag had been adopted by hate groups “since the beginning of time.” He spoke about the atrocities committed during slavery. He stated that the Confederate flag and the Confederate monument were offensive to a large segment of the population in the country, state, county and city; and he asked the Council as an elected body to take a stand to show respect, compassion and sensitivity to all citizens of Elizabeth City.

Bruce Simons, 102 Village Drive, Elizabeth City, NC stated that he came before the Council representing the American Legion Post 84. He stated that for about two years, the Legion had been trying to resolve the condition of the Post building on Dyer Street. He said that the members knew that the building was in “really bad disarray.” He provided some history of the building since the 1800’s. He said that the Legion members were satisfied that they had done the best they could and they knew the building would have to be demolished because it is “way beyond repair.” He stated that the American Legion is requesting that the City Council consider waiving the fees for the demolition to allow the Post to retain the property and be able to use it get another home in the future.

#### **4. Approval of Minutes:**

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

- a. City Council Regular Session of July 13, 2015:

**Motion was made by Councilman Darius Horton, seconded by Mayor Pro Tem Anita Hummer, to approve the City Council Regular Session minutes of July 13, 2015. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

#### **5. Consent Agenda:**

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

##### **Beginning of Consent Agenda:**

*(Clerk Notation: Items “a” through “d” were recommended for approval by the Finance Committee during their meeting of August 7, 2015. The two items removed from the Consent Agenda and added to the Regular Agenda for discussion were also recommended for approval by the Finance Committee during that same meeting.)*

- a. Consideration – Authorization to Submit PeopleforBikes Grant Application in the amount of \$6,500;
- b. Consideration – Authorization to Accept Donation of Narcan units from Albemarle Regional Health Services ‘Project Lazarus’;

- c. Consideration – Authorization to Execute Fourth Amendment to Water Tower Attachment Agreement with Cellco Partnership D/B/A Verizon Wireless;
- d. Consideration – Award of Bid for Batting Cages Equipment in the amount of \$50,742.30 with Amusement Products;
- e. Consideration – Call for Public Hearing to be held at 7:30 p.m. on August 24, 2015 in Council Chambers to gather citizen input on adopting amendments to Chapter 14, Business Regulations, Article V Peddling and Solicitation of the City’s Code of Ordinances;
- f. Consideration – Authorization to Post No-Parking Signs on the north side of Fearing Street between Elliott and Pool Streets.

**End of Consent Agenda.**

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

*(Clerk Notation: In order to allow time to expire until the 7:30 p.m. public hearings, Mayor Peel moved the Regular Agenda forward.)*

**6. Public Hearings:**

- a. Consideration – Hold a Public Hearing to gather citizen input on the Adoption of an ordinance repealing Chapter 14 Business Regulations, Article IV License Taxes and Privilege Licenses in its entirety:

Mayor Peel declared the meeting into Public Hearing at 7:30 p.m. and inquired of the City Clerk if persons were present who wished to be heard. Upon her reply that no one was present to speak, Mayor Peel declared the Public Hearing closed. He called on Mr. Olson to provide an overview of this matter.

Mr. Olson stated that the General Assembly repealed NCGS §160A-211 by the adoption of HB 1050 on May 28, 2014, the statute that gave municipalities authority to levy a privilege license tax, effective July 1, 2015. He said that decision by the Legislature cost the City \$280,000 this budget year. He advised that in order to comply with the provisions of HB 1050, staff had prepared an ordinance that would repeal from the City Code the language that is now inconsistent with state law, which is Chapter 14 Business Regulations, Article IV License Taxes and Privilege Licenses in its entirety. Mr. Olson reported that the reason why this particular item is being brought forward is to have it included in the codification that is currently being undertaken.

Councilman Walton inquired if the City still had control of the ordinance. Mr. Olson responded that state law took away the City’s authority to issue privilege licenses. He stated that this is basically a “housekeeping” procedure for the City Code.

Councilman Walton stated that the City would be losing \$280,000. Mr. Olson responded that the revenue had already been lost and was the reason the City had to raise the property tax rate by 2.5¢. Councilman Walton inquired why the City was repealing the ordinance if it was a “done deal.” Mr. Olson stated that the City is in the process of doing a codification to clean up all its ordinances, making it appropriate to repeal the ordinance at this time.

Mayor Pro Tem Hummer stated that she wanted to make certain that people understood that the General Assembly took away the City’s authority to issue privilege licenses, since it had to do with the City’s tax increase. She pointed out that the General Assembly had promised to replace the lost revenue, but since that had not been done, the 2.5¢ tax increase equates to that lost revenue. She stated that the Council had no other choice to cover the budget shortfall.

Motion was made by Councilman Ray Donnelly, seconded by Mayor Pro Tem Anita Hummer to adopt the following ordinance repealing Chapter 14 Business Regulations, Article IV License Taxes and Privilege Licenses in its entirety to be effective immediately. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

**ORDINANCE # 2015 – 08- 01  
TO REPEAL**

**License Taxes and Privilege Licenses as Found in Chapter 14 - Business Regulations, Article IV of the City of Elizabeth City Code of Ordinances**

**WHEREAS**, Part XII, Section 12.3(a) of Session Law 2014-3 (HB 1050) was signed into law on May 28, 2014; and as a result, NCGS §160A-211 has been repealed effective July 1, 2015; and

**WHEREAS**, pursuant to authority granted by NCGS §160A-211, the City of Elizabeth City's Code of Ordinances, Chapter 14, Article IV put into place the City's regulations regarding levying a tax and issuing a privilege license to businesses operating in Elizabeth City; and

**WHEREAS**, in an effort to comply with HB 1050, the Elizabeth City Council desires to repeal Chapter 14 Business Regulations, Article IV License Taxes and Privilege Licenses of the City of Elizabeth City Code Of Ordinances in its entirety.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY THAT:**

**SECTION I. EFFECTIVE DATE:** Effective upon adoption, Article IV License Taxes and Privilege Licenses found in Chapter 14 - Business Regulations of the City of Elizabeth City Code of Ordinances is repealed in its entirety.

**SECTION II. CODIFICATION.** The provisions of Section I of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable.

**SECTION III. SEVERABILITY CLAUSE.** If any section, or part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

**SECTION IV. PUBLICATION AND EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption according to law and for subsequent years unless rescinded or modified in accordance with law.

**READ, CONSIDERED, AND ADOPTED** at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 10<sup>th</sup> day of August, 2015.

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Joseph W. Peel  
Mayor

*Attest:*

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Vivian D. White, CMC/NCCMC  
City Clerk

- b. Consideration – Hold a Public Hearing to gather citizen input on the Adoption of an ordinance repealing Chapter 14 Business Regulations, Article VII Closing Out Sales in its entirety:

Mayor Peel recognized Mr. Olson to review this item. Mr. Olson responded that pursuant to the authority granted by NCGS §66-77, the City Clerk was authorized to supervise the issuance of licenses to businesses conducting closing out sales. He stated that the General Assembly had repealed the statute granting that authority effective July 1, 2015; and requested that the Council adopt the ordinance provided repealing the City's code for Closing-Out-Sales in its entirety.

Mayor Peel declared the meeting into Public Hearing and inquired of the City Clerk if persons were present who wished to speak. Upon her response that no one wished to be heard, Mayor Peel declared the Public Hearing closed.

**Motion was made by Councilman Ray Donnelly, seconded by Councilman Kem Spence to adopt the following ordinance repealing Chapter 14 Business Regulations, Article VII Closing Out Sales in its entirety to be effective immediately. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

**ORDINANCE # 2015 – 08 - 02  
TO REPEAL**

**Closing Out Sales as Found in Chapter 14 - Business Regulations,  
Article VII of the City of Elizabeth City Code of Ordinances**

**WHEREAS**, Section 2 of Session Law 2015-103 (HB 836) was signed into law on June 22, 2015, and as a result, NCGS §66-77, was repealed effective July 1, 2015; and

**WHEREAS**, pursuant to authority granted by NCGS §66-77, the City of Elizabeth City's Code of Ordinances, Chapter 14, Article VII required the City Clerk to supervise and regulate advertising and issue licenses to businesses conducting closing-out-sales in Elizabeth City; and

**WHEREAS**, in an effort to comply with HB 836, the Elizabeth City Council desires to repeal Chapter 14 Business Regulations, Article VII Closing Out Sales of the City of Elizabeth City Code Of Ordinances in its entirety.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY THAT:**

**SECTION I. EFFECTIVE DATE:** Effective upon adoption, Article VII Closing Out Sales found in Chapter 14 - Business Regulations of the City of Elizabeth City Code of Ordinances is repealed in its entirety.

**SECTION II. CODIFICATION.** The provisions of Section I of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable.

**SECTION III. SEVERABILITY CLAUSE.** If any section, or part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

**SECTION IV. PUBLICATION AND EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption according to law and for subsequent years unless rescinded or modified in accordance with law.

**READ, CONSIDERED, AND ADOPTED** at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 10<sup>th</sup> day of August, 2015.

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Joseph W. Peel  
Mayor

*Attest:*

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Vivian D. White, CMC/NCCMC  
City Clerk

- c. Consideration – Hold a Public Hearing to gather citizen input on the Adoption of an ordinance to establish a business registration program in the City's Code of Ordinances, Chapter 14, Article IV and establishing an annual fee of \$20 for fiscal year 2015-2016 for same:

Mayor Peel declared the meeting into Public Hearing and inquired of the City Clerk if persons were present who wished to speak. Upon her reply that no one wished to be heard, Mayor Peel declared the Public Hearing closed.

Mayor Peel recognized Mr. Olson to address this matter for the Council. Mr. Olson pointed out that, as discussed during a previous agenda item, the City no longer has the authority to issue privilege licenses. He stated that privilege licenses served a number of purposes and allowed the City to understand what businesses were operating within the City and make sure they were legal and operating pursuant to the zoning code.

Mr. Olson stated that City staff is requesting the Council to create a Business Registration Program, whereby all businesses would be required to register to do business within the City. He said that the main difference between this program and the former privilege license is that the fee would be \$20.00 annually, which would generate an approximate \$22,000 in revenue. Mr. Olson advised that there is a provision within the proposed ordinance that would exempt those persons who report to a state licensing board, such as attorneys, doctors, and the like. He said that staff had found since the privilege license statute had been repealed that businesses are being asked by vendors to provide documentation regarding their right to do business in the community in which they work. He said that without a business registration ordinance, the City would not be able to provide that information.

Mr. Olson reported that the fee amount had been discussed with the School of Government and that school representatives were concerned that the fee not be exorbitant, but represents fairly the cost of issuing the permit. Mr. Olson said that the \$20 fee would accomplish that objective. He stated that the City formerly issued approximately 1,100 privilege licenses.

In answering a question regarding the fee for Councilman Walton, Councilman Donnelly made the point that privilege licenses formerly generated \$280,000, while the business registration program would generate \$22,000. He stated that a \$20 fee would not impact a business very much.

Councilman Donnelly asked if the projected revenue had been built into the budget. Mr. Olson responded that it had not and would be unanticipated revenue. Councilman Donnelly pointed out that the projected effective date was September 1, to which Mr.

Olson responded that September 1 would keep the same billing schedule as the previous privilege license time period.

Councilman Stimatz stated that under the privilege license process, the “Wal-Marts of the world” were charged based on a percentage of their sales, which generated a significant amount of money.

Councilman Stimatz stated that he did not agree that the Business Registration Program should not apply to dentists, doctors, or lawyers. He pointed out that the City would not be “examining or licensing a person holding a license.” He stated that the City would be issuing a permit and registering entities to do business. He said that he would argue that sections b and c of NCGS § 160A-194 did not apply in the case of a business registration program. He said that the question for the City should be what types of businesses are established and what rules and regulations apply from a zoning and building code perspective. He pointed out that you have to know what the building is to be able to apply the rules. He stated that the City would not be examining or licensing a person who holds a license, but would be allowing the business who employs people who hold licenses. He said it was interesting that under the old privilege license statute, attorneys never paid a fee. He advised that the rules were written in the 1950’s and the fees were “ridiculous.” He stated that his argument is that a business registration fee should apply to every business and if the City did not do that, it would be in violation of the constitution and equal protection under the law.

City Attorney Morgan stated that in this situation, the statute reads that the City may regulate and license occupations. He said that, in his opinion, the license did not mean a professional license, such as his law license. He said that it was his interpretation that the City could not regulate those businesses pursuant to the statute that are regulated by licensing boards. He suggested that if the word “license” was substituted by the word “regulate” in the statute, the issue became clearer. He said that he would certainly be glad to seek an opinion from the School of Government.

Councilman Stimatz stated that he disagreed with the City Attorney and pointed to the distinction in paragraph (a) of the statute that reads that the city may, by ordinance, regulate and license occupations, businesses, trades, professions and charge a reasonable fee except people licensed by an occupational board. He stated that provision gives the City authority to license people if it wants to. He stated that “regulation” is separate from “licensing.” In referring to section (b) of the statute, Councilman Stimatz stated that authority is not given to license a “person” and says nothing about a “business.” He stated that from a licensing standpoint for persons who are examined by a state, he would agree; but he did not think “license” should be confused with “regulate.”

Mr. Olson asked to give an example and stated that the City is not required to license the City Attorney, but could require his law firm to have a registration because multiple people worked for him. Councilman Stimatz countered and stated that the City could require a registration for one person or twenty, it didn’t matter.

Mayor Pro Tem Hummer stated that she agreed with Councilman Stimatz because she receives frequent questions regarding why the City cannot regulate what goes in a storefront or what comes to the City.

Mayor Peel inquired if the proposed ordinance needed to be modified to accomplish what Councilman Stimatz suggested. Councilman Stimatz stated that the proposed ordinance section 14-94 could be broadly interpreted to provide for his suggestion, because in his opinion, state law does not exempt or exclude businesses from registration. He said the ordinance could be adopted as written.

**Motion was made by Councilman Ray Donnelly, seconded by Councilman Tony Stimatz, to table this until City staff does further review on the implementation of such registration. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

- d. Consideration – Hold a Public Hearing to gather citizen input on the Adoption of an ordinance revising Chapter 6, Animals; Article I, In General to include regulations with regard to feral cats:

Mayor Peel declared the Public Hearing open and inquired of the City Clerk if persons were present who wished to speak. The City Clerk responded that three persons wished to be heard.

Deb Regel, 122 Ranch Drive, Elizabeth City, NC stated that her objection regarding the feeding of feral cats is with the food that is left at the feeding site behind her home. She said that the food brings roaches, rats, mice, opossums, foxes, and raccoons. She requested that the feeding site be moved from its location near her home to the other side of the Port Elizabeth Center and that caregivers receive written permission from the property owner to use the property as a feeding site. She stated that she is not against cats, but is against the issues the cats have brought to her street for over ten years.

Tama Glover, 148 Ranch Drive, Elizabeth City, NC stated that she graduated with an Associate Degree in Veterinary Science Technology and was a licensed, registered animal technician practicing animal medicine for ten years. She stated that as a former military person who traveled extensively, she knows firsthand the devastation caused by feral animal populations. She stated that she is aware of at least a dozen feral cats in the Port Elizabeth Center that annoy her and her neighbors. She said that a “feral cat is a feral cat” and although there may occasionally be a success in domesticating a wild cat, they will not become a pet. She agreed with Ms. Regel regarding witnessing the other animals brought near her home due to the location of the feeding station at Port Elizabeth Center. She suggested that the Council has three options: do nothing and risk someone being bitten or worse; “catch and kill,” which she suggests is the most logical and least expensive; or allow feeding stations with regulations required of the caregivers to include obtaining written permission from the property owners and assuming complete care for the animals.

Sabrenna Protain, 158 S. Mill Dam Road, Camden, NC stated that she is the shelter manager for the SPCA. She reported that the SPCA and City staff had been working on a TNR proposal for feral cats since the last Council meeting to hopefully have it included in the ordinance. She said that a TNR program would benefit the community, the City and the feline population. She stated that the SPCA felt a few areas in the draft ordinance needed modification. She advised that the testing for feline leukemia, FIV and renal failure is unnecessary and very expensive. She pointed out that those particular diseases are not transferrable to humans. She reported that sterilization, vaccinations for rabies and distemper and ear tipping are the standards for a TNR program. She stated that the SPCA did not believe that the ordinance should limit the number of caregivers allowed, but should limit the number of cats. She said that for the program to be a success, the SPCA would need as many caregivers as there are colonies to operate within the guidelines. Citing additional concerns, she stated that banning the community from feeding cats, limiting feeding stations, refusing to allow cats to be fed on City property and requiring written permission from property owners is an attempt to starve the cats. She said that would be a cruel and inhumane practice. She thanked the City for working with the SPCA to assure the TNR program is successful.

Councilman Stimatz stated that it was unclear to him the issue with feeding stations. Ms. Protain stated that three feeding stations exist at Port Elizabeth Center. Ms. Glover and Ms. Regel stated that the locations of those stations were the issue. Councilman Stimatz responded that was an area for more discussion.

Councilman Stimatz stated that he agreed there should not be a limit on caregivers. He pointed out that the ordinance already requires that the feeding stations be out of sight and away from humans. Ms. Regel and Ms. Glover stated that the feeding station at Port Elizabeth is too close to their homes. Councilman Stimatz noted that the ordinance

may need to stipulate that the feeding stations should not be allowed on residential properties.

Councilman Stimatz noted that a current City ordinance only permits three pets per residence, and questioned if there were more than that on residential property, what are they? He pointed out that the ordinance should make clear if allowable locations for feeding stations are commercial or residential.

Councilman Walton stated that he thought the stakeholders should get together with Councilman Stimatz, work it out, and bring it back to the Council.

Councilman Brooks stated that what he is hearing from the residents is a request to take the feeding stations away from their homes. He said that he agreed with that request, because it was not fair to have a feeding station with all its problems amongst them.

Ms. Protain stated that she felt the SPCA and the caregivers want to work in partnership with the residents and the business owners in the City to make the process as peaceful as possible. She noted that the cats are already in the City and the only way to bring the population down is through a TNR program.

Councilman Spence asked if the caregivers have permission to feed cats at Port Elizabeth Center. Ms. Protain stated "most of them have received permission." Councilman Spence asked if there was proof of that. Ms. Protain stated "there is not written permission."

Mayor Peel questioned Ms. Protain regarding her comment on not limiting the number of caregivers but the number of cats. Ms. Protain stated that there is not a number, but the SPCA is trying to limit the number of cats in the City through TNR. She said by using caregivers, a more realistic estimate of the cat population could be obtained. Mayor Peel asked if it would not invite more cats if there were more caregivers to feed them. Ms. Protain stated that the cats are territorial and live in colonies that already exist.

Councilman Donnelly inquired of Ms. Protain if she had a number in mind for caregivers that would be necessary to control the cat population. Ms. Protain said she did not, but she was aware that there are currently eight to ten caregivers that publicly admit they are feeding a particular colony. Councilman Donnelly stated that with the TNR program the population should decline. He said that he felt a ceiling should be placed on the number of caregivers. Ms. Protain stated that her concern is if a colony exists without a registered caregiver outside the TNR program, they will simply continue to multiply.

Councilman Spence stated that his fear is if the City doesn't hurry and get control of this situation, we will begin to see dead cats, because people will begin to do away with them. Ms. Protain stated that the cats are there and the SPCA is requesting an opportunity to spay and neuter them so they don't continue to reproduce.

Councilman Donnelly commented that this has been going on for seven or eight years and still there is no resolution.

Councilman Brooks reminded the Council that Ms. Regal and Ms. Glover have been consistently coming before Council with this issue for some while and he thought the feeding station issue near their home should be addressed

Mayor Peel declared the Public Hearing closed.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly to table action on this ordinance until staff has met together with the people of the SPCA and interested citizens. Those voting in favor were: Donnelly, Hummer, Stimatz,**

**Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

Councilman Stimatz requested that staff make a concerted effort to let people know this ordinance is online and where they can look at it. He gave credit to staff's work to date on the ordinance and said that he thought the ordinance was 95% complete.

Councilman Donnelly commented that he thought the SPCA had worked hard with City staff in trying to resolve this issue.

## **7. Regular Agenda:**

- a. Consideration – Withdrawal of Request for Text Amendment TA-01-15 to amend the UDO Article XI, Section 11-4.56 Pawnshops:

Mayor Peel called on Mr. Olson to provide the background for this request. Mr. Olson explained that staff's request is to authorize the withdrawal of zoning text amendment TA-01-15 to amend UDO Section 11-4.56. He stated that during the previous Council meeting, the Council requested that certain performance standards be placed on pawnshops during the discussion of the proposed UDO text amendment. He advised that staff had subsequently determined that the design parameters the Council requested exceeded the City's authority under the state zoning code. In view of that determination, Mr. Olson stated that staff recommends that the Council's request be achieved through an amendment to the City's Code, Chapter 14, for which a companion agenda item was presented for consideration.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to authorize staff to withdraw their request to amend UDO text amendment TA-01-15 specific to Article XI, Section 11-4.56 Pawnshops. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

- b. Consideration – Call for a public hearing to be held on August 24, 2015 at 7:30 p.m. in City Council Chambers to gather public comment concerning the adoption of an Amendment to Chapter 14, Article I, Section 14-3 establishing regulations for pawnshops:

Mayor Peel recognized Mr. Olson to discuss this consideration. Mr. Olson stated that the reason this item was not placed on the Consent Agenda was due to staff's need to have the previous agenda item regarding TA-01-15 resolved. He reported that a proposed amendment to the City Code Chapter 14, Section 14-3 had been identified by staff as the appropriate way to address the items that the City Council had requested during the discussion of TA-01-15. He said that the revisions to the code, as presented, had addressed the concerns voiced by Councilmembers. He reported that staff had met with the stakeholders group as requested by the Council; and said that all pawn shops are in compliance with the rules being proposed.

Councilman Stimatz asked if the code amendment would apply to anyone selling weapons, such as Wal-Mart. Mr. Olson stated that a provision in the proposed amendment had been included that would exempt entities that are open 24 hours each day. He stated that would address the Wal-Mart situation. Councilman Stimatz made the point that if a pawn shop does the same thing as Wal-Mart, it would also be exempt. Mr. Olson stated that was correct. Councilman Stimatz asked what staff would consider to be "security" as referenced in the proposed amendment. Mr. Olson responded that the entity would have to be staffed 24 hours per day and have a surveillance camera. Councilman Stimatz suggested that the code amendment should make clear what the "security requirement" should be for 24-hour businesses. Mr. Olson stated that staff would include that provision.

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to call for a public hearing to be held at 7:30 p.m. on August 24 to adopt an amendment to City Code Chapter 14, Article I,**

**Section 14-3(a). Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

c. Discussion – Supreme Court Ruling Regarding Temporary Signs:

Mayor Peel recognized Mr. Olson to begin the discussion for this item. Mr. Olson stated that the matter before the Council involved the outcome of a recent Supreme Court decision, “Reed v. Town of Gilbert, Arizona;” and he called Planning Director June Brooks to the podium to further discuss this matter.

Ms. Brooks stated that the Supreme Court decision ruled that there can be no distinction between types of temporary signs. She said that in this particular case, the Town of Gilbert, Arizona treated temporary signs for churches one way, political campaign signs another way and ideological signs a different way. She reported that the Supreme Court had found that practice to be unconstitutional. Ms. Brooks pointed out that the ruling had affected all jurisdictions across the nation making it necessary for the City to look at its sign ordinance to make sure everyone is treated fairly. She said that the City’s ordinance does contain an inconsistency because political signs are treated as temporary signs. She said that the City’s ordinance allows only political campaign signs at 14 City-owned sites; and she pointed out that by not allowing all temporary signage at those locations, it would be considered unconstitutional. She suggested that the City’s ordinance should be amended to either allow all temporary signage on the City-owned parcels or none. In addition, she noted that there is currently a difference in timeframe, since campaign signs on City-owned parcels are allowed to be placed 45 days prior to the election and other temporary signs are only allowed to be placed for 30 days.

Ms. Brooks stated that staff is seeking guidance from the Council regarding the direction to take in this matter - to either amend the City Code or to amend the UDO in order to make them consistent.

Ms. Brooks advised the Council that there would be insufficient time to get a code amendment accomplished before the October election.

Councilman Stimatz suggested that the City would not desire to have everyone placing temporary signage on City-owned parcels all the time. Councilman Donnelly agreed and stated that it would be “sign pollution.”

Councilman Stimatz inquired as to how this ruling affects real estate signs. Ms. Brooks responded that real estate signs are not included in the definition of temporary signs. She stated that staff is continuing to participate in webinars to receive additional information regarding how much more of the City’s ordinance will be affected by the ruling. Councilman Stimatz asked if political campaign signs could be made a separate category like real estate signs. Ms. Brooks responded that she was not certain if real estate signs would be affected by the ruling. Mr. Olson pointed out that the Reed case specifically addressed political and religious signs. Councilman Stimatz responded that it is a “slippery slope” and asked if the Supreme Court had defined a “temporary sign.” Mr. Olson said that real estate signs could be differentiated because they are located on private property and not on a public right-of-way.

Ms. Brooks stated that other questions arose during the previous School of Government webinar such as “people signs” that she hoped would be addressed more fully to allow the City to address any other instances needed.

Mayor Peel stated that the Council would need to break this discussion to allow for the Public Hearings to be held at 7:30 p.m.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to table action on this item until after the public hearing. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

*(Clerk Notation: Mayor Peel directed the Council back to this item at the conclusion of the Public Hearings.)*

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to direct City staff to complete their research with the School of Government on the issues that were brought up and to bring back an amendment to our ordinance that meets those criteria; and specifically that the City eliminate all temporary signs on City property regardless of what they are. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

Councilman Brooks questioned the legality of the City directing citizens to remove signs from their private property and stated that he could erect a statue of himself that stated "vote for Brooks" and leave it all year round on his property if he wanted.

Councilman Horton asked to see a list of the 14 City-owned properties on which campaign signs can be located. Ms. Brooks responded that the information is contained in the City code and that she would provide the locations to him.

d. Consideration – Adoption of Condemnation Ordinance Authorizing Demolition of structure located at 215 North Dyer Street:

Mayor Peel recognized Mr. Olson to review this item. Mr. Olson explained that this matter concerns condemnation and demolition of the structure located at 215 North Dyer Street, which as mentioned during the public comment period, is the home of American Legion Post 84. He said that the building had not been used for Post functions for a number of years.

Mr. Olson advised that the City had received a bid to demolish the structure in the amount of \$3,848, an amount that does not include the tipping fee. He estimated the total cost to be close to \$10,000 when complete. Mr. Olson stated that City staff has been working with the Post members for the last few years to help them find a solution to the issue and had been hoping to burn the structure. He said that the building had been deemed too close to nearby properties to be burned.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Michael Brooks, to adopt the following ordinance declaring the structure at 215 North Dyer Street condemned and authorize demolition of same.**

Mayor Peel invited discussion on the motion.

Mr. Olson stated that staff did not initiate this action; it originated from complaints by the adjacent neighbors. He said that staff has no problem continuing to work with the American Legion concerning the cost for tearing the structure down. He advised that he had been told that the American Legion had approached Pasquotank County regarding a waiver of the tipping fee. Mr. Olson stated that his conversation with County staff is that the County is reluctant to waive the tipping fee because of the precedent it would set.

City Attorney Morgan stated that no one enjoys having to do this. He reported that he and Mr. Olson had called Chris McLaughlin with the School of Government to talk about what the City's options might be. He advised that Mr. McLaughlin made a good point in that with every one of these types of situations, there is a similar story - because people would not allow their homes to fall into a state of disrepair if they could typically afford to keep them remodeled and up to date. Mr. Morgan stated that the concern is that a precedent not be set by waiving any fees that may be associated with this matter. He advised that it has been his experience with all these condemnations that the City has not actively pursued having the property sold to repay the assessment. He said that the lien would attach to the real estate; and unless the City takes action to have the property sold, it remains a lien and would be collected at such time as the real estate is

sold. In that regard, Mr. Morgan advised that the American Legion would not be coming out of pocket any time soon to pay these costs based on the City's past precedent.

Councilman Spence asked for clarification regarding payment of the tipping fee. Mr. Olson responded that the City pays the tipping fee at the time debris is taken to the landfill and charges it back to the property owner. Councilman Spence inquired about the City's chance of receiving repayment. Mr. Olson stated that the City has never had tipping fees waived by Pasquotank County. Councilman Spence clarified his question and asked about the possibility of receiving actual payment for the estimated \$7,000 tipping fee. Mr. Olson responded that \$36,000 had been budgeted by the City to demolish structures in the current fiscal year. He explained that once the full cost of demolition and tipping fees is known, the property owner is sent an invoice. He stated that if the invoice is not paid within 30 days, the City forwards the information to the County Tax Department to be placed as an assessment on the property. He advised that the issue with the American Legion property is that the assessment will most likely be \$10,000, but the value of the property is only \$5,000 - \$6,000.

Mayor Pro Tem Hummer inquired if the Elizabeth City Historic Neighborhood Association had looked at the property for possible preservation. Mr. Olson stated that the structure had been looked at and that ECHNA was in the process of salvaging building materials out of the structure for their salvage store. He said that otherwise the building is structurally unsafe and the cost to bring it into compliance far exceeds its value. Mayor Pro Tem Hummer commented that it was a shame to lose the building, given its history.

Councilman Stimatz asked how many properties the City has demolished that currently have liens. City Attorney Morgan responded "three dozen or so" for which he has handled the title work over the past ten years. He noted that the City would have to initiate a Sheriff's sale to collect on the lien, just as the Sheriff would conduct for back property taxes.

Councilman Donnelly stated that he was bothered by the fact that the American Legion has already paid a price through service to our country. He said that he agreed with Mayor Pro Tem Hummer and suggested that staff could do some research to determine if any other community groups, such as ECHNA may be interested in purchasing the property.

Mayor Peel commented that he was a member of ECHNA and he did not believe the organization had the funds available to take the building on.

Mr. Olson reported that the Historic Preservation Commission approached the state about five years ago regarding this structure and determined that there are no state funds available to help the American Legion.

Assistant to the Manager Angela Cole stated that when the HPC looked at the building, they took a full tour with representatives from the regional state history office and the building was too far gone to generate adequate monies to rehab it at that time.

Councilman Brooks stated that the American Legion had made clear to him during public comments that they want the building torn down. He suggested that the Council move forward with their wishes.

**Mayor Peel called for a vote on the motion on the floor.**

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

**ORDINANCE # 2015-08-03  
CONDEMNATION AND DEMOLITION**

**AN ORDINANCE DIRECTING THE BUILDING INSPECTOR TO REPAIR OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED UNTIL REPAIRED OR THAT THE STRUCTURE BE DEMOLISHED.**

**WHEREAS**, the City Council of the City of Elizabeth City finds that the property described herein is unfit for human habitation under the local and state codes, and that all the provisions of said codes have been met as a condition of the adoption of this Ordinance; and

**WHEREAS**, said structure should be repaired to meet the requirements of the Code or demolished as directed by the Building Inspector, and should be placarded by placing thereon a notice prohibiting use for human habitation; and

**WHEREAS**, the owners of said structure have been given a reasonable opportunity to bring the premises up to the standards of the subject codes in accordance and pursuant to an order issued by the Building Inspector on **December 18, 2014** and the owner has failed to comply with said order;

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

**Section 1.** The Building Inspector is hereby authorized and directed to place on the building at **215 N Dyer Street** a sign containing the legend:

***“This building is unfit for human habitation; the use or occupancy of this building for human habitation is prohibited and unlawful.”***

**Section 2.** The Building Inspector is hereby authorized and directed to proceed to repair or demolish the above-described structure in accordance with his order to the owner thereof dated **December 18, 2014** and after abatement, then charge the property owners for all expenses incurred, including any accrued interest after the initial billing.

**Section 3.** It shall be unlawful for any person to remove or cause to be removed said placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building herein declared to be unfit for human habitation.

**Section 4.** This Ordinance shall become effective upon its adoption.

**ADOPTED**, this 10<sup>th</sup> day of August 2015.

\_\_\_\_\_  
Joseph W. Peel  
Mayor

Attest: \_\_\_\_\_  
Vivian D. White, CMC/NCCMC  
City Clerk

e. Discussion – Weatherization Program:

Mayor Peel stated that he had asked for the issue of weatherization to be placed on the agenda because it has come up a number of times during the last few meetings. He said that he thought it might be worth talking a little about his experience and why he thought weatherization is important.

The following is a statement read by Mayor Peel:

*“We have been talking about our utility bills in Elizabeth City for a long time; and in fact it, was the first issue – one of the big issues - when I ran for Mayor four*

years ago. The first thing I did after becoming Mayor, I appointed a committee to look into what we could do to help citizens reduce their electric bill. Basically, there are two approaches: reduce the cost or control the price or control consumption.

The committee – and Mr. Brooks, you remember this because you were on that committee - quickly concluded that there was no way to control the cost of power. We actually knew that before we started because we had been trying to do that for at least 30 years in Elizabeth City and had not been successful.

Let me try to explain why that is so. First, it is important to understand that the city does not make electrical power, it buys it from someone. So, the City is no different from your local gas station that buys gas from someone who delivers the gas, and has to pay a set price with no control over what that price is – and adds a little bit to that price so they can run the service station, pay people to operate the service station, etc. That's exactly what the City does. We buy power now from Duke Progress and we add a little bit to it so we can maintain our delivery system throughout the City and also pay the people that work on the power lines and deliver the power. So, if the price goes up, we either pay for it or we consume less. Back when we were paying over \$4.00 for gas, we either had to suck it up and pay the \$4.00, or we had to park the car and look at it rather than drive it. So, that's where we are. I think the analogy with the gas station is a pretty good one.

So, the only option we really had was to cut consumption; and the committee made several recommendations in this area. They were concerned that people were not aware how much they were going to have to pay. Legally, the City cannot tell people what the previous person paid for power – that's against the law. But what we did do is come up with a rating scale – 1 through 4 – so, if you were going to look at renting or purchasing a dwelling, you could come to the City and the City could give you a range of approximately how much you would pay for power if you bought that house. The reason we did that is because a lot of people said "I moved and now I'm paying half again as much as I was before I moved – I didn't know it was going to cost so much. This was a way for people to have some idea beforehand. We share that information with realtors who use it quite a bit; and I know it's on the website and at other places from time to time.

The second recommendation was to beef up the weatherization program, which at that time was doing about 20 dwellings per year. The amount of money in the fund was doubled; and for the last four years we have been averaging 40 homes per year. To date we have completed about 160 houses.

Here is why I am in favor of weatherization. To date, the average savings for a citizen who has had their home weatherized is 25% of their previous electric bill. That means if prior to being weatherized your electric bill was \$400 – after being weatherized it would be \$300 per month. That gives you an additional \$100. The important thing about that is it is a permanent savings regardless of where the cost goes - either up or down. No matter what happens to the cost, you will always save 25% of what you would have paid if you had not had your house weatherized. It's permanent and lasts for the life of the dwelling. Using my gas station analogy, it will be like trading in your gas guzzler and getting a more efficient model car. You will always use less and as long as you have that car, you will reap the benefits of using less gas.

In addition to that good news, one of the concerns is that weatherization only helped the people whose homes were weatherized. We recently learned that the weatherization program helps everybody, because as we weatherize homes and reduce our consumption, the city overall uses less power. We have been able to figure that we have been saving now, because of the weatherization program - all of us are saving as a City - about \$35,000 per year because we are using less power. That is money that is distributed across everyone. So, as we continue to weatherize more and more homes that dollar amount will increase.

*Also, it is important to note that two-thirds of the homes that have been weatherized in the last four years belong to low to moderate income folks – so we are helping the people who need help the most. Also, almost the same number of homes, it varies about two or three, have been done in each of the city's wards. So, the distribution of homes that have been weatherized across the wards is almost equal.*

*The additional money in this year's budget is going to be focused on helping our citizens who live in rental units. To date, we have done almost no rental units - we focused on dwellings. This is important, I think, because we estimate that about 55% of our citizens live in rental units – either homes or some kind of apartment. So I am sure this change will be welcomed by these citizens.*

*I am also excited that in this year's budget we have money to begin to implement the Nexgrid System. A second way we have to permanently save money is to have the ability to cut our electrical usage during the peak usage time of each day. Under the way we get charged for power, there is a peak established during the day when the amount of power we use during that time sets the rate that we all end up paying. So, if we can lower the power we use at that moment in time, we save quite a bit of money. That's going to be even more important with our new deal with Duke Progress, because the peak charge is going to be a little bit higher than it was under the old.*

*So with the Nexgrid system, the way we manage our peak is by using load management switches. We are not sure how many homes have those, because we really don't have any way to count them. But, we are pretty sure that about 30% of the ones that are out there are no longer working – either because they are old and not working or they have been disconnected. With the Nexgrid system, we will be able to reinstall every dwelling – all 8,000 units – with new load management switches. The estimate is that should save an additional up to about \$150,000 a year by us having the ability to shave the peak off of every single unit. Furthermore, these things will be in a system that will be able to monitor if one is cut off. We will be able to know that has happened and be able to stay up with it.*

*Since becoming your Mayor I have focused on ways to permanently reduce your power bills. Weatherization and the Nexgrid System are the only two methods I know of for doing that. Both of these help you create a home that is more efficient - just like buying a car that gets better gas mileage. I am certainly open to explore any other ideas that would limit consumption, because I think that is the key. Unfortunately, we have a lot of homes and dwellings in the City that are not adequately insulated, so working to help those citizens in that direction, I think, is a meaningful endeavor and something that we, as good stewards of the community, should be involved in.”*

Mayor Peel invited comments from the Councilmembers.

Councilman Walton stated that he was glad the item was placed on the agenda because he was the Councilor who had been asking the questions. He said that it was not good to “put money somewhere so we can use it later.” He stated that is how he believes weatherization is being done. Councilman Walton brought up the subject of the home located at 2000 Rivershore Road, which was weatherized in 2012 in connection with the Arts of the Albemarle “Designer House” event. He reminded the Council that the City had spent over \$10,000 on that house. He said that he had “looked that place up” and “that house is recognized as a mansion.” He commented that “you are not taking care of the ones that need it the most, you took care of someone I guess you knew – I didn't know him.”

Councilman Walton pointed out that if the City is only saving \$35,000 per year across its 8,000 residential customers, they are only getting “four dollars and something a piece.” He stated “you are giving almost a half million dollars to 160 homes – to me that's not good business.” He continued, saying “people are leaving this City because they can't

pay their bills, but then you are helping some people – you helped 160 people. That leaves the other 7,800 people that you haven't helped - but they're leaving town." He stated "to me, we are putting too much in this thing, because if everybody is not getting something back that they can recognize, we are not doing it right."

Councilman Walton stated that EIC has criteria and "we done set up another criteria. Now we're talking about helping rental homes. What was the first criteria – help the houses that's the biggest?"

Councilman Walton requested that the City Manager explain again the circumstances of the home at 2000 Rivershore Road. Mr. Olson responded that the home was a designer home; and at that particular time, the City was weatherizing only low to moderate income homes. He stated that Energy Officer Dennis Gordon thought it was a good idea to showcase during the event how to weatherize a home. He stated that most of the individuals attending that particular event did not meet the low to moderate income guidelines that the City was trying to promote. Mr. Olson advised that roughly 1,200 people went through the designer home during the event and the City had its Energy Department staff there during the entire open house to explain the work the City did on the home.

Councilman Walton stated that "if we are going to analyze it, we should do the right thing. If you find something that's not working right, you should make it better or don't do it." Councilman Walton complained that he had read in the paper that Energy Officer Dennis Gordon had showcased weatherization to 15 kids at a private school in Weeksville. He said "if he wanted a big audience, we got Northeastern High School, we got Pasquotank High School – all those kids could listen to it if you're trying to prove that you're trying to do something different. But he took that process to 15 kids at a private school – it's in the newspaper." He stated "we're not doing something right in that weatherization."

Councilman Walton provided examples of two citizens in the Fourth Ward that had complained to him about the results of their weatherization projects – one a resident of Magnolia Street, who could no longer use her attic because of insulation being installed; and one a resident of Gosnold Avenue, who only received work valued at \$1,700. He said that the resident of Gosnold Avenue told him that she was eligible for more work, but no one ever returned. He said "everybody is not satisfied with what you're trying to say is pleasing to everybody." He stated "when you make the decision, it's not done right. EIC has a criteria that is much better than ours." He continued "I'm sure they do it right because they did deal with the low income." Councilman Walton said that the City needs to do a better job if it's going to spend \$360,000.

Mayor Peel responded by asking to correct Councilman Walton's statement that "you took care of someone you knew" at 2000 Rivershore Road. He stated he did not know the person living at that address and in fact, no one lived in the house at the time of the weatherization. He said that it was Mr. Gordon's decision to use the event to showcase the City's weatherization program in order to let people see what the program was all about. Mayor Peel pointed out that 160 dwellings had been impacted, but those dwellings contained families; and if four people lived in each dwelling it would equate to over 500 people, which is more than 5% of the City's population. He stated that being able to increase the number of homes being weatherized should get the City up to 10% in the next year and one half. He said that he felt that was a worthwhile expenditure, because once a home is done, it doesn't matter who lives there, it will be more efficient and the bills will be lower forever.

Councilman Horton inquired how much of the weatherization fund was used in the previous year's budget. Mr. Olson responded that, off the top of his head, he believed the City used \$153,000 out of the \$160,000 allocated. Councilman Horton stated that during a previous conversation, he thought the amount used was much less. Mr. Olson explained that although the money may not have been spent at that time, it had been encumbered by purchase orders issued for work in progress.

Councilman Horton asked if the Council had given approval to spend \$10,000 on the Rivershore Road house. Mr. Olson responded that the Council did not. He advised that

the staff members who run the program made the decision; that he was aware of it and approved it.

Councilman Stimatz stated that he understood that the City has earmarked “x amount of dollars” and some members of Council don’t think that’s a good number and would like it to be lower. He suggested that if a Council member doesn’t like the number, they should come to every meeting and make a motion to drop it. He advised that if the motion continues to fail, understand that it has been decided by Council. He pointed out that he voted not to increase it because he did not think the City needed to keep that much money there. He said “if you don’t like the number, make a motion to change it – don’t keep complaining that you don’t like the number - because there is something, as a Council member, you can do - and part of what you have to do is, once you’ve lost something, be gracious.”

Councilman Brooks stated that he had just learned that the City spent \$10,000 to weatherize a house that no one was living in; and expressed his frustration that “people are living in homes that are in bad shape that could use that.” He said that is the part that “rattled” him. He pointed out that \$10,000 would have covered the weatherization costs of three houses. He stated that he could not understand why the City would double the money allocated to a program when everything that was previously budgeted had not been used.

Councilman Spence stated that he is in favor of weatherization but was not aware that the City spent \$10,000 on a home that no one lived in. He inquired what the amount is that is set to do weatherization on a home. Mr. Olson responded that there is no specific price established, but staff likes to keep it under \$3,500 per home. He reminded the Council that he had previously provided a detailed list of the amount spent on every home weatherized to date. He explained that the Energy Officer first visits every home and develops a Scope of Work for the repairs that need to be done. Mr. Olson advised that at that point, the contractor provides a cost, a work order is issued and the work takes place. He said that some homes are above the targeted \$3,500 and some homes are less, depending on the scope of work. Mr. Olson said that the City did not want to begin a project unless it can be completed within the budget.

Councilman Spence stated that he thought that was a problem; and in his opinion the City needs to determine a certain price to put in a house and stick with it. He suggested that the City needs to find out what’s going on with the house before spending \$10,000 such as occurred on the Rivershore Road house. He pointed out that the City has only one contractor doing work, and he asked what would stop that contractor from saying a house needed more work. Mr. Olson reiterated that the contractor does not determine the scope of work because that is performed by the City’s Energy Officer based on the energy audit.

Councilman Spence suggested that, although he supported helping people through weatherization, he thought the program process needed to be revisited because “everybody is not getting fed off the same spoon.” He stated that is when issues pop up that no one knew about. Mr. Olson stated that he would have Energy Officer Dennis Gordon provide a presentation for the City Council during the Work Session scheduled for the end of August. Mr. Olson said that the ultimate goal is to have a home that is weatherized, not the amount of money spent to achieve that goal. He explained that the pre- and post- blower door tests determine the amount of air inflow and outflow for the home.

Councilman Spence reiterated that he was in favor of the weatherization program; but pointed out that the problem as he sees it is inconsistency. Mr. Olson stated that the thing that should be consistent is the amount of reduction of inflow or outflow of air to the house, not the amount of money spent to achieve that goal.

Councilman Brooks pointed out that he could not explain to people “suffering in poverty” the rationale of spending more weatherization money on a large house and less money on a small house, because it could not be explained with a formula. He stated that those who are economically deprived don’t think that way. He suggested that some of the fundamentals of the program need to be revisited.

Mayor Peel stated that if Councilors receive complaints regarding the weatherization program from citizens, they should make sure that the information is relayed to Mr. Olson so that the issue could be followed up on. He said that the City does try its best to make sure people are served and served well. He stated that Mr. Gordon, as a team of one, has a lot to do and does a good job.

- f. Consideration – Authorization to submit application to TDA for \$12,500 and authorization of \$12,500 from Fund Balance Appropriated for a total of \$25,000 to Arts of the Albemarle for FY 15-16 *(removed from Consent Agenda by Councilman Horton)*:

Mayor Peel recognized Councilman Horton for his comments. Councilman Horton asked Mr. Olson to further explain the issue with this request. Mr. Olson responded that during preparation of the budget, staff had neglected to include the Council-directed earmark for Arts of the Albemarle. Mr. Olson said that staff is proposing to correct that error by funding half the amount from tourism dollars and the other half from Fund Balance Appropriated.

Councilman Horton stated that he understood in years past, AoA has received money through Community Support Grants. Mr. Olson responded that in the past, AoA has received funding by a variety of sources including direct allocations from the TDA and from community support grants.

Councilman Horton stated that he had received an email and wanted the public to know exactly why the Council had earmarked funding for AoA versus others who have to come through the Community Support Grant process. Mr. Olson stated that the difference is that this governing body instructed City staff to make the funding to AoA an earmark, just like the City does for Hopeline. He advised that the earmark had been discussed during the City's last budget year. Mr. Olson explained that when the budget document was prepared, City staff had missed placing it in the budget because of the manner in which it was previously accounted for in the non-departmental budget.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to direct staff to submit an application to TDA for \$12,500 to fund AoA, and further, authorize that \$12,500 from Fund Balance Appropriated be given to AoA for fiscal year 2015-2016; and that staff make sure that the earmark is in the budget for 2016-2017. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, Spence and Walton. Against: Horton. Motion carried.**

*(Clerk notation: Due to the controversial nature of items g and h following, most of the discussion has been provided in a modified verbatim format.)*

- g. Budget *(added to the agenda by Councilman Brooks)*:

Mayor Peel recognized Councilman Brooks for his comments.

Councilman Brooks stated that he had voted against adoption of the budget as did Councilman Walton and Councilman Horton. He said that it had been said that the Council justified raising taxes “on property and water” because of the state cutting back. He stated that he had a “huge problem with that” and said that “Elizabeth City is a Tier I county – there is no Tier 0 county.” He stated that “people should not be confused when they see buildings coming up” because “we are economically at the bottom.” He suggested that when people think of property taxes, they think of landowners only. He said he voted against the budget because “we raised taxes on our water” and “the ones that take the biggest bite on this are our young people.” He said when the Council voted to raise taxes, they voted to raise taxes “on our children.” He said “I don’t know how anyone can vote to raise taxes on our children, when I see all the fat that’s in our budget.” He pointed out that the Council approved the budget “so swiftly that we forgot to earmark the money for AoA” and caused our kids to be “economic casualties.”

Councilman Brooks stated that it had been said to Council that he should not talk about the raising of taxes without offering a solution. He stated that one way the Council could have saved money was to have voted to change Council terms from two years to four years staggered. He pointed out that Pasquotank County had consolidated polling places as a means of saving money.

Councilman Brooks stated that the Council needs to follow the City's Charter. He pointed out that the Council had voted to contribute to the dog park only if the County matched the City's contribution. He said the County did not make the match, which should have caused the motion to die. He said the Council went against the Charter and placed the money for the dog park in a contingency fund. He stated that the City could have saved money there.

Councilman Brooks said that Community Support Grants are for organizations that do things the City cannot do. He said if the City "is struggling so bad financially as to have to raise taxes," the Council could have cut back on Community Support Grants to \$25,000 "where it was before." Councilman Brooks stated that "the big monster is weatherization - \$360,000 that could have been saved. \$360,000!"

Councilman Brooks stated that "we leave our young people with only two options – join the military or leave the area." He said "and this Council is going to tell me that we had to raise the taxes on water and property because the state cut back – yet we have all this fat that we didn't trim." He said "don't take advantage of people who don't have the means to help themselves because what goes around comes around and you shall reap what you sow."

Councilman Brooks continued by saying "as you know I was adamant about not running for Council anymore." He stated "it was my will not to run, but as long as we are treating our young people and our senior citizens like this, I will fight for them." Councilman Brooks said that the thing that "sparked" him the most is when he read an article by the Mayor that said he had five strong Council people. He stated that he had also read a citizen comment that stated the Council has three stooges – Councilman Walton, Councilman Horton and Councilman Brooks. He said "those five strong Council people voted to raise the taxes on our children and our senior citizens." He said "I consider it malice."

Councilman Brooks stated that he had always heard that you should leave something better than when you found it. He said that "when Roger McLean was mayor, we was a Tier 2 county." He said "the economy is supposed to be bettering, now we're a Tier I county." He said "you might not like what I'm saying, you might not like how I'm saying it to you, but do your research, you'll find I'm 110% correct."

Councilman Stimatz stated that he would like to address a couple things. He pointed out that the state cut \$280,000 out of the City's revenue; and he pointed out that if the City gave back \$25,000 for Community Support Grants, the deficit would still be \$255,000. He pointed out that if AoA was not funded, the deficit would be down to \$230,000. He stated "that's still 2¢ worth of property taxes; or it's \$230,000 in cuts somewhere else." Councilman Stimatz stated that if the Councilors are doing their jobs, they are constantly aware of impacts on the City's budget. He said that the discussion of doing away with privilege taxes at the state level began early. He reminded the Council that the League put out all kinds of bulletins and letters almost on a weekly basis. He stated that the Council's budget process began in March with the Council receiving regular information from the City Manager regarding the possibilities of what might happen at the state level. He said that he reminded the Council on more than one occasion to call or go to Raleigh to express their views and ask for alternative revenue sources, because the City only has one way to raise revenue - and that is property taxes.

Councilman Stimatz stated that he didn't hear a lot of discussion about not giving pay raises or about cutting services or doing away with programs. He stated "when you say we could have done these things and there was fat, if there was fat and you wanted to cut it, you have to make a motion." He said "you can go back to the record and there

were not a lot of those.” He said he was more than willing to look at ways to cut the budget; and taxes would not have been raised because expenses would have been cut. He said “there is no free lunch here.”

Councilman Stimatz pointed out that the City has not raised water rates in some time and that there are some significant problems in the system that need to be addressed. He stated that one of the reasons the City had to raise water rates is because grant money has dried up and the City’s ability to compete has gotten more difficult. He pointed out that if the City doesn’t fix the problems, the people will not have good water. Councilman Stimatz advised that water rates have nothing to do with property taxes, because the Water Fund is a business, like the Electric Fund, and by law it has to be self-sustaining.

Councilman Stimatz pointed out that the Weatherization Program has no impact on the water rates or on property taxes, because the Electric Fund is a separate enterprise fund.

Councilman Stimatz reported that he and the rest of the Council members are more than aware that the state legislature did not care that the cities and counties were not in favor of the privilege license repeal; and he asked “what is our option?” He said “if we’re not willing to cut fat, then the only thing we can do is raise property taxes.” He stated “I agree that it impacts all our citizens, but the blame for that lies in Raleigh or it lies in the fact that we, as a Council, could not find enough cuts.” He reiterated, “we would not have raised taxes one penny if the state had not cut those revenues.”

Councilman Brooks stated “I gave you four places that you could have possibly cut the fat.” He said “we gave \$360,000 to the weatherization program - we can’t blame the state – we had that within our power.” He stated “we could have cut that back and then we wouldn’t have had to raise the property taxes.” He said “if you read the minutes, we tried to postpone that budget until we trimmed some of the fat, but the vote went through - those five strong Council people – that’s what they did. The stooges didn’t have nothing to do with that.”

Councilman Walton stated “\$280,000 will go into \$360,000 at least one time with some change left over.” He said “we put a whole lot of money in that weatherization for no reason.”

Councilman Stimatz stated “I have been on Council for 10 years now, and some of the people that have spoken have been on for at least six to eight. In all that time, they have failed to understand how the budgeting process works. The money in the Electric Fund has to stay in the Electric Fund unless it’s authorized to be transferred. We have already maxed out the number we can transfer from the Electric Fund – by law. So when you say there’s \$300,000 in the Electric Fund we can use to defray property taxes, the answer is – no, there isn’t. You are lying when you say that, or you’re not very smart, because the reality is that money can’t be transferred to cover property taxes. And in fact, the people in this room have said ‘well, we need to cut back on what we give to the City from the Electric Fund and the Water Fund’ for the cost of business and transfer fee and payment in lieu of taxes. The answer to that has always been, ‘okay, that’s good, we can do that.’ I remember Roger McLean - when he ran for mayor - said we’re going to cut taxes and we’re going to cut electric rates. But when asked how, he said ‘we’ll just tell the staff to find it and if they can’t find it, we’ll find a new staff.’ In reality, for every dollar you don’t transfer from the enterprise funds to pay for the services we provide and the taxes they should pay us, has got to come from someplace. Remember, we only have one avenue for revenue generation in this City – one and only one – because we are in a Dillon state where the state controls everything and we have no power – and they’ve taken away what little we did have before. The reality is, you could have a million dollars – you could have twenty million dollars – sitting in the Electric Fund – you can’t move a penny of it to pay for taxes. So don’t hold that out as the answer.”

Councilman Stimatz continued “the things I’ve written down were - you are going to cut the Community Support Grants \$25,000. Okay, maybe you are not going to fund AoA,

that's another \$25,000. The dog park we didn't fund, so that put \$12,500 back. So you are still at \$230,000 like I said before. That's 2¢. Unless you've got some other ideas for making this up - and you can articulate them in a way that we can vote on - then there's not much reason to discuss this. You are just beating a dead horse for the joy of beating the dead horse." He said "understand what's going on, you people out there in television land. These are different pots of money; there's always been different pots of money. It's the one thing you learn early-on in Council - that you can't mix pots of money or you will get in big trouble with the state."

Mayor Pro Tem Hummer stated that it was her observation as Finance Chair that there was a reason –"if you call it rushing to adopt the budget." "Had we not adopted that budget by 1 July, the Local Government Commission could be in here tonight running your meetings, running your City – you would lose your credit rating, you wouldn't be able to get any more grants, you wouldn't be able to get any loans at low interest rates to fix your infrastructure – there's a whole myriad of things you wouldn't be able to do."

Mayor Pro Tem Hummer pointed out that the Finance Committee meetings are open meetings and are open to the public and to every Council member. She said that she has been on Council for 20 years and has always tried to inform any Council member that wanted to speak with her regarding things she thought should be looked at in the budget. She stated "if you won't return my phone calls and you won't speak with me anymore, I can't very well interact with you."

Mayor Pro Tem Hummer stated that at the time the budget was adopted she made the comment that anything in the budget could be changed after its adoption except the tax increase. She said she had not heard any alternatives, only complaints. She stated "if you were really involved in the budget process, you would know what's going on rather than just making accusations."

Councilman Brooks stated that he was appalled by Councilman Stimatz' comment that those that had been on Council for six to eight years had failed to understand. He said he did not appreciate terms like "lying or not very smart." He pointed out that the Council does not make progress by calling names; and he accused the Council of reverting back to "childhood antics." He reiterated that the Council had talked about the weatherization program before voting on the budget. He stated that if the Council is concerned about "the state not giving the City \$280,000" and "then we give \$360,000 to the weatherization program?" He continued "if we are that bad off - don't tell me this, the Council is the one that approved the \$360,000 for the weatherization program." Councilman Brooks stated that Councilman Walton had made a good point, "\$280,000 will go into \$360,000 with some left over."

Councilman Brooks agreed that the City had not raised the water rates in some time and he thought they should be raised; but he advised that he could not agree to raising property taxes at the same time.

Councilman Walton stated that since Mr. McLean's name was brought up, what he remembered him saying was about working on the electric bill. He pointed out that "everybody around this table" said nothing could be done – "even the smartest one in the house." He stated "something is being done right now. That shows you're not the smartest thing in the house, because if you are the smartest thing in the house, nothing could be done." He said that Mayor McLean met with the mayors in Wilson, NC and that's what started the process. He said "we helped make it a done deal, so give credit where it's due."

Mayor Peel stated "during the entire budget process, which lasted about two months, which I don't think was a rush deal, we had a lot of difficult decisions to make." He said any time a budget is developed, it's a matter of making choices. He said that the Council was well aware of what the state had done; and the only way to address the issue was through a tax increase. He stated that the Electric Fund is not an option, as had been stated, for helping with that because the money could not be used since it is a whole different part of the budget. He said what the issue is all about is making motions and trying to help make the tough decisions. He stated that nobody likes to raise taxes,

but the reality is that citizens have come to expect a certain level of service that has to be paid for. He said that if the Council is not willing to make hard decisions along the way, they are not left with many choices.

Councilman Stimatz stated that no one likes to be misquoted or misrepresented. He said “the reality was for the longest time, the only solution to the electric rate issue was, and as has been proven, is the sale of the assets to relieve us of the debt. That’s what happened. That wasn’t started by anybody in particular from this City or another other city. It really has been talked about for a long time. The only way out of that whole thing was to sell off our assets. And until Duke decided that it was worth their while to do it, it wasn’t going to happen. Nobody here, or in this City, influenced that decision. Duke is the one that decided at some point it was worth the effort to take those assets and buy them. That’s always been the solution that I heard to solving the problem. That is the solution that is presented today and to take credit for that, when we don’t deserve it, is not the right thing to do. That falls really on Duke Power for presenting it to ElectriCities. It falls on us in the end because, as a community and as a Council, we were smart enough to realize this is our only off ramp and we better take it. And we, and 31 other communities, took that off ramp. That’s why there’s been action on reducing electric rates.”

- h. Consideration – Authorization for Local Match for InnovateNC Application in an amount up to \$2,500 (*Removed from Consent Agenda by Councilman Walton*):

Mayor Peel recognized Councilman Walton for his comments.

Councilman Walton stated that information provided in the newspaper indicated that City officials had supported the InnovateNC grant application. He asked Mayor Pro Tem Hummer if the Finance Committee had supported the application, to which she responded in the affirmative. Councilman Walton stated that he wondered who the City officials were that were reported in the paper as supporting the grant, since the Finance Committee did not meet until the day after the article.

Mayor Peel stated that he had said that he supported the grant application. He pointed out that support was different than what the Council was being asked to consider for the matching funds. Mayor Peel said that he thought it was a good idea that the grant be applied for.

Councilman Walton said that the newspaper had stated City officials supported the grant and he needed to understand what’s going on. He asked again the results of the Finance Committee discussion. Mr. Olson responded that two representatives from ECSU appeared before the Finance Committee during its Friday meeting, Mr. Goodsen and Mr. Haddad. He stated that they went into great detail concerning the grant application, the grant details, what the purpose of the grant application would be and the amount of local match required. Mr. Olson stated that the Finance Committee, based on staff’s recommendation, recommended that the City go up to \$2,500 towards the \$15,000 local match required.

Councilman Walton stated “that sounded good, but if we don’t get the grant, we wouldn’t get the monies refunded to us.” Mr. Olson stated that the City would not provide any money until the grant application is approved. He pointed out that is the reason why a budget amendment did not accompany the agenda request for this item. Mr. Olson reported that if the City is chosen as one of the five grant recipients, at that time staff would need to bring a budget amendment forward.

Councilman Walton stated “I don’t have a lot of confidence in what’s going on at ECSU right now, myself. When you bring the band in a week and a half before you bring the football team in, I got a problem with that. I don’t know how innovative that can be. That’s not very good, you know? So I think we’re making some decisions out there....I’m passionate about ECSU - and I cry when they do certain things. Some of the things that’s happening out there now – there’s no justification and there’s not good decision making. I just don’t want to give \$2,500 out there. They moving towards

something that I don't like what I see. Because we ask certain questions, questions such as how many minorities. There's something they call the "greater Elizabeth City" innovative community...council. How many minorities do you have on that, Rich, you think?"

Mr. Olson responded "I have no idea Councilman Walton."

Councilman Walton stated "I know you know, Dr. Peel."

Mayor Peel stated that it had not yet been formed. He said that all that had been done was to identify the organizations that have pledged a partnership.

Councilman Walton stated "that's who the players are – oh, I see now." Councilman Walton said "let me name some of the players for y'all." He said "it almost reminds me of Vision 2020, because here's some of the players right here." At this point, Councilman Walton read the names listed on the InnovateNC grant application Partner Matrix, which was included in the agenda. After concluding the list, Councilman Walton stated "as I look at it, you maybe have four or five minorities in there, but this is going to be the group that moves Elizabeth City forward. To me, I am very discontent with the Greater Elizabeth City Council, because if that's the greater, the other people must be the Lesser Elizabeth City Council. You select people the same way we do weatherization, and then you say it's fair? Nothing is fair about this here. Because the same people are making all the decisions – nah, it's not fair. And there's not good decisions being made."

Councilman Walton continued "now, this thing is going to be something coming out of North Carolina State. They have so many big...they have a room in there called the commons – you've probably been there Mr. Peel. They strategize and do innovative things, but they say one of the major things that is going to help this application is going to be publicity – but there's a lot of cities in North Carolina, a lot of cities, Mr. Olson. I hate to put forward some money and it's not going to benefit everybody. I can see in one of the Daily Advance items that Dr. Jones said this is a part of her second stage of Path to Prominence. The first stage, I'm not clear on it, you know, I've heard it explained a couple times. The third phase is going to be ugly, y'all, cause she's talking about making things basically like a science inter-disciplinary school, you know. People like Johnnie Walton won't be able to go to Elizabeth City State University in the next two or three years. Because, where it's headed - it's headed that it's going to be for elitist people, y'all. Elitist people. And these groups here are trying to make it happen. Northeastern High School – they do some of the same - his name won't even up there, one of the principals - but they put the principal of Northeast Academy up there. Why can't he be a part of that, you know? We have 800 – 900 kids at Northeastern. At the Academy they have 120, with a waiting group. We still not hitting the masses and we not hitting all the people that need it the most. Anything you can pick and choose and you choose somebody that already have, you not doing it right, now."

Mayor Pro Tem Hummer stated that she did not know who put that together, but she did not have anything to do with it.

Councilman Walton stated "that's why I said, we be in such a hurry to vote on something that the full essence passes us by - because we don't know all the history of it."

Mayor Peel stated that he did not believe the group of names that Councilman Walton read from the application was the Greater Elizabeth City Council. He said that the list only involved the people that need to be involved in the planning process. He pointed out that most of them are business people who work in engineering fields, which is what the InnovateNC grant is all about – looking at technology and how we can get internet to everyone in the community. He stated that is one of the struggles we all have in small cities across the state is we cannot get the last mile of internet in. He stated that hopefully one of the things these teams will solve is that problem.

Councilman Brooks stated “one of the reasons I am stuck is, if they are the greater Elizabeth City innovative council, what are we? If they are planning and giving direction - we have a planning director. We have a Council that is supposed to make decisions - and on our vote, we direct the City Manager and the City Manager does it with his department heads. If I’m wrong let me know, because that’s what our charter says our responsibilities are.” He said “in order to be a greater, there has to be a lesser. I guess they call themselves leading from behind, you know? That’s not good. Why even run for Council, ‘cause what it sounds like the people you named, they are the Council. We’re gonna plan, we’re gonna put stuff together and stuff - and if we got five votes on Council, those strong five, we got those strong five, we ain’t worried about those weak three – the stooges.” He said “if we can work together collectively on anything in taking the City forth, but don’t take the elected officials, which is governed by the charter and our ordinance, and eliminate us and say we got a Greater Elizabeth City Innovative Council.”

Councilman Walton read from a Daily Advance newspaper article and pointed out that it read that “city officials have already offered their support for the plan.” He quoted the article “I think it is an exciting opportunity for the region, Peel said.” Councilman Brooks asked “what City officials?” Councilman Walton responded “I don’t know, I thought I was one of them, but I don’t know, I must not be one.” Councilman Brooks said “we’re the lesser Council.”

Councilman Brooks stated “it’s okay to have input from the citizens because we have some smart people out there. We got some real smart people. But there is no need of being elected on Council and representing the masses and then we’ve got another Council that’s giving the direction of the City which really eliminates us even being elected, it eliminates the charter, it eliminates all that stuff, if they don’t work with us.”

Mayor Peel asked to address Councilman Brooks’ concern. He said “first of all, the Institute for Emerging Issues is a think tank that Governor Hunt started 31 years ago. They have a major conference every year in February and about five years ago they decided after the conference was over, everybody went back home and nothing happened. So, they decided that after each conference they had a theme and that they would follow up with that theme and actually do something in the state. So, last February, the conference was a day and a half, and was all about innovation. That brought in some phenomenal people from all over the world talking about innovation – a lot of it was technology focused. One of the things that the Institute for Emerging Issues realized was that when you talk about innovation and where those kinds of jobs are, and where the growth is – it’s really in two places, Charlotte and the Research Triangle. So, they decided to try to do something to try and create some more hubs where innovative companies might want to go and help around the state. So they came up with the idea of identifying five cities across the state that could work over a two year period to come up with a plan on how to become – develop the infrastructure they needed – to attract innovative companies, high tech companies, bio-tech, whatever, into their region – and to support that initiative. So what this – if Elizabeth City were awarded the grant – they would receive a lot of technical support and expertise from outside companies from across the southeast to help them develop their plan. It doesn’t have anything to do with running the City – it is more focused on economic development opportunities and what we need to put in place to make ourselves more presentable and more attractive to become an innovative hub. And so, trying to create some mini-Research Triangle Parks around the state that would be a track towards economic business. So that’s really all this is about. You’ve got to have the universities and higher ed involved, you have to have the governmental agencies involved, you have to have business people involved and especially those that are in engineering kinds of fields, because that’s what this is going to be a focus on. So that’s what this is – it’s not about running the City – I don’t know who came up with the name –“

Councilman Brooks stated “the name is not good.”

Mayor Peel continued “I didn’t create the name and I don’t know where it came from but that’s something that came out of writing the grant. ECSU has taken the lead in writing the grant - and I think they should because they are the premier institute of higher

learning and they have a lot of technology and a lot of things going on over there, and the ought to be the leaders in this.”

Councilman Brooks stated “when you’re talking about think tank - and I give Tony his props – if you want someone with a think tank, put Tony up there. Tony will keep them in check. Put Tony in there. I mean, I got confidence – Tony can think inside and outside the box. Put Tony up there. I mean, I’m not being funny - and I’m not being funny - I’m serious about this. I sit in these Council meetings for eight years and I’ve seen Tony come up with some stuff – I’m sayin’ hmmm...it makes sense. Not everything, but he comes up with some good things sometimes. I think when you come to innovative thinking I think Tony would be good up there. Is any way that I can get Tony up there? If you get somebody like Tony up there, I believe that – I mean seriously – I believe that Tony could actually have some input and make sure the City have a smooth transition in their invocation. I really believe that.”

Councilman Stimatz said “are you supporting my re-election?”

Councilman Brooks stated “I’m supportin’ you man – I’m right out there man – I’m right out there. I throw you a bone. But anyway, yeah.”

Mayor Pro Tem Hummer stated “Mr. Walton, thank you for bringing that out tonight, and if you see something that raises a concern, pick up the phone and call some of us. I’ve called you twice this week as Finance Chairman to update you on things that you weren’t a part of because you weren’t back yet. So, you know, can’t we start to do things like that?”

Councilman Walton stated “well, you know, this conversation was held prior to when what they did. This is similar to what happened with the Golden LEAF grant, see. It’s the same type of – everything the same but characters, you know. People didn’t know about it until after it happened. But that’s why I want to bring it to your attention because when Elizabeth City State University be changed - now if they keep following things like this, it’s not going to change for my favor. The passion I have now for it – I’m kind of losing it because we’ve allowed things to come inside of its boundaries and it’s broken a circle up. The alumni are really not supportive of a lot of things that’s going on. You can call that innovative if you want to – it’s not innovative if you’re going to hurt everybody else and make yourself feel good. Now this thing is a public-private connection – and anytime you put private in something, y’all, it’s about money. It’s about money now. ‘Cause public education, most of the time, the taxpayers pay for. Private – they should allow the parents to pay for it – but it has gone to another level. It’s a whole lot of things goin’ on that certain people know about and don’t pass it along to you because they don’t want you to know about it. But, that’s what’s going on, Ms. Hummer, that’s why I brought it out.”

Mayor Peel stated “so what do you want to do with this item? Do we have a motion? Again, as Mr. Olson explained, this is simply to say that if the community were to receive – be one of the five selected – that we would come back and authorize up to \$2,500 being committed.”

Councilman Walton stated “I really don’t like the way it was done. Even though I have a lot of passion for ECSU – if they come this time for \$2,500, and things going the way they going, next time they will be asking for more. They’ll be asking for more – because, you know, they said \$250,000 over two years – is that the right figure that they throwing out there?”

Mayor Peel stated “that’s what the grant would bring in.”

Councilman Walton stated “that’s exactly what I’m saying. And over two years, you’re only getting \$75,000 – nah, less than that – you get \$25,000 apiece. You got to put \$15,000 out there and....that ain’t no money.”

Councilman Walton stated: **“I make a motion that we don’t accept this application.”**

Councilman Donnelly stated “it’s just a draft. You can still give input.”

Mayor Peel stated that there was a motion and asked if there was a second.

Councilman Horton: “**Second.**”

Mayor Peel asked if there was additional discussion.

Mayor Pro Tem Hummer stated “I would just like some more information on it.”

Councilman Brooks stated “That’s what I was...yeah.”

Mayor Peel stated “the motion would be to not do it.”

Councilman Brooks stated “if we can do a motion to table, because I need more information, ‘cause from what Councilman Walton was saying, you know, and Mayor Pro Tem Hummer didn’t even know it existed – it might be some...”

Councilman Stimatz asked “is that a motion, Mr. Brooks?”

Councilman Walton stated “I don’t mind tabling it. I don’t mind tabling it.”

Councilman Brooks stated “**I make a motion to table it.**”

Councilman Stimatz stated “**second.**”

Mr. Olson stated that the matter could not be tabled and needed to be acted on during the meeting because the due date for the application is August 17, 2015 at 5 p.m. He said that by tabling the item, it would mean that the application deadline filing date would be missed. He suggested that the matter be “killed” or that the Council “move forward with it.”

Councilman Walton stated “what did the County say about it?”

Mr. Olson replied “they are going to provide money for it.”

Councilman Brooks stated “if they provide money, do we benefit?”

Mayor Peel responded “here’s going to be the issue. The issue is, if you are submitting the grant, it is only asking that you put up \$15,000. So you are going to be one of - I don’t know how many cities - who apply. But if they look at the application and all the main players, which we are one, are not willing to put a little bit of skin in the game, you are not going to get the grant.”

Councilman Walton stated “but you got about 20 more big players – big players.”

Mayor Peel stated “no you don’t, that’s what I’m trying to tell you – those people...”

Councilman Walton said “then why they up there – they’re the greater...”

Mayor Peel said “that’s what I’m trying to tell you. Those people are not...”

Councilman Walton said “then they’re not greater than. They should be the greater.”

Mr. Olson stated that they would provide technical assistance to help move the innovation group forward.

Mayor Peel stated “so this will be dead – DOA – dead on arrival.”

Councilman Brooks asked why it is so close to the deadline for the Council. Mr. Olson responded that there was a very short lead time – about 30 days when the RFP came out.

Councilman Spence stated that he was not clear on what the grant was about and what the Council was doing, because it was the first time the Council had talked about it.

Mayor Peel agreed that it was the first time the Council had talked about it and he commented that perhaps the Council should have had Mr. Goodsen and Mr. Haddad from ECSU to come and talk about it.

Councilman Brooks stated that the Council didn't really want to kill it, but they didn't want to vote on something that they didn't know what it was about. He said he understood "that Mr. Peel had explained it about as well as it could be explained."

Mayor Peel stated that as far as he had determined, the matching funds would be the only expense that would be incurred and that would not happen unless the grant was awarded.

Councilman Walton stated "basically what they do at the J. B. Hunt Library – awesome place on North Carolina State's campus – they go to a room they call the common and they strategize innovative ideas of how to move different cities forward. But usually, you know, they trying to do this – but as the Mayor said – there's really two, really three, areas that benefit – that supplies two thirds of the high tech jobs – and that's Raleigh, Durham and - what was the other one – Charlotte. So you know, if we have run away with poverty in these smallest areas right now – it's not going to move that fast to Elizabeth City. We out here on the east coast, y'all – so far away that – I just can't see them selecting us. I don't know everything Tony – like you said – but there's so many cities within North Carolina."

Mayor Peel stated "personally I think we have a phenomenal chance of being selected."

Councilman Walton stated "yeah, because you know all the players."

Mayor Peel stated "yes, I do and I think that with the emphasis that the Governor has put on this part of the state and I think we have done some things that they are going to be looking for, I think we have a good chance of being selected."

Councilman Walton stated "but I think that if we don't participate – if we don't entice them – it's going to go anyway."

Mayor Peel stated "not if you don't put skin in the game."

Councilman Walton stated "\$2,500 shouldn't make the City of Elizabeth make that project work."

Mayor Peel stated "it will make it work."

Councilman Walton stated "yeah, like I said, any time you have a private-public venture, there's money involved. I just don't think we need to put money out there. It's like running the lottery, you know. We just as well put \$15,000 in the lottery and you might hit – I mean \$2,500 – you have a better chance then. But to me, it's not a good thing, because, I just really don't think – you know – sometimes when people write books and they use a ghost writer – I don't really think this book came from ECSU."

Councilman Donnelly inquired if there was a motion on the floor.

Mayor Peel responded that there was a motion on the floor - probably two.

Councilman Walton stated "you can't table it – Horton would have to agree to the tabling of it and Horton did not agree to it."

Councilman Stimatz stated "point of order, the motion to table is a procedural motion and requires – is separate from the main motion and only requires – some places it doesn't require a second at all – but in this case it's a separate motion by him and a

second is separate from the main motion. I seconded his motion to table. So that's technically what we should be talking about – is the motion to table. The information the manager gave us was it's a problem – so I withdraw my second, which means you have a motion without a second at this point.”

Councilman Brooks asked when the deadline for the grant is. Mr. Olson responded that it was August 17 and there was no Council meeting before that time.

Councilman Brooks stated “could we get the information and call a special meeting if it's that urgent? If not, there's no way – I don't have enough information to vote. We don't have no information on it – it just jumped out there at us. How many counties have the possibility of getting this – how many?”

Mayor Peel stated “I don't know how many would apply. It's really going to be cities.”

Mr. Olson estimated that 50 or 60 communities would probably apply.

Councilman Brooks stated “and they telling them people the same thing – our chances are great? That was a joke.”

Mr. Olson stated that the application would be graded on its content. He said that the Council had a copy of the application in front of them that ECSU has put forward. He stated that the application speaks for itself and that what ECSU had tried to show is that there was community support, both public and private sector, for moving innovation within the community. He asked the Mayor's indulgence and stated “the Council has two choices – or three choices. One is to take no action and in essence, you kill it. Second one would be to approve the submission of the grant application but defer any funding to a later date when you have more information; and the third is that you go ahead and approve the application and approve the \$2,500.”

Councilman Spence stated “when you say defer until a later date that means you are still committing to pay the money.”

Mr. Olson responded “you would not make any obligation to commit the City to any money.”

Councilman Stimatz said “you agree to the concept, and will make a decision later about whether to fund it.”

Mr. Olson stated “I just want to make sure that everyone on the dais realizes that you don't pay any money unless you get the grant. If you get the grant you're obligated for \$2,500. If you don't get the grant, you're not out any money.”

Councilman Spence stated “so what you're saying is – I want to be clear because I believe plain talk makes clear understanding – if we say defer, we don't have to give them any money, but if the grant goes through, we have to give them money.”

Mr. Olson responded “no. The only thing you're doing is you are deferring how much you will pay to a later meeting. You may give \$1,000, may give \$5,000, they may not even need your money.”

Councilman Walton said “now you're playing games.”

Councilman Horton stated “that's right.”

Mayor Peel stated “all you would do is say - we support the grant.”

Councilman Walton stated “and all those people that's working with IEI, which is the Institute of Enhancing Innovation – they have worked at the private sector before. Natalie Peel worked at AoA. Am I right or wrong?”

Mayor Peel stated “she hasn't worked for IEI.”

Councilman Walton stated “she has worked for AoA.”

Councilman Donnelly stated “a not for profit?”

Councilman Stimatz asked “what does that have to do with it?”

Mayor Peel stated “yes, she did.”

Councilman Walton stated “Answer the question y’all.”

Councilman Stimatz stated “I drive a blue car.”

**Mayor Peel stated “we have a motion, and the motion is to not approve the funding. Is everybody clear on what we’re voting on?”**

**Those voting in favor were: Hummer, Brooks, Spence, Horton and Walton. Against: Donnelly and Stimatz. Motion carried.**

*(Mayor Peel confirmed the voice vote by a show of hands. Mayor Pro Tem Hummer did not vote and Councilman Stimatz noted that Mayor Pro Tem Hummer’s abstention was a “yes “vote.)*

Mayor Peel stated “do we have another motion? That motion was not to fund it.”

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, that we support the submission of the grant by ECSU – period – we support their effort to go ahead with this program – period – not committing any money.**

Councilman Brooks stated “put it in the wording.”

Councilman Stimatz reiterated “that we, the City, support ECSU’s submission for this program – period on the end of that sentence. That’s all – we think it’s a great idea, go ahead and do it. Have fun.”

Councilman Walton stated “y’all still trying to talk people into it.”

Councilman Spence said “this motion is saying what?”

Mayor Peel responded “that motion is – Mr. Walton’s motion was not to fund it. We voted not to fund it. Now, this motion has nothing to do with funding it, it says we support the concept, go forth and do it.”

Councilman Spence stated “I’m confused. We just said we’re not supporting it and then Rich give us an option that said defer – and then if we change our minds, go along with it and pay it. Now you’re saying, just say we support it. Why couldn’t we just say we support it from the beginning and be done with it?”

Councilman Stimatz stated “that wasn’t the motion.”

Mayor Peel stated “the motion was to not support it, but the way this is written is to support it and provide them up to \$2,500. Right now, what people are saying is that they are not willing to do that. So, this motion says we just think it’s a good idea, you go forth and do it – we’re supporting the concept.”

Councilman Horton stated “that’s defeating the purpose.”

Mayor Peel called for a vote on the motion by show of hands, which is recorded as follows:

**Those voting in favor were: Donnelly, Hummer and Stimatz. Those opposed: Brooks, Spence, Horton and Walton. Motion failed.**

Councilman Donnelly commented “that’s why we’re a Tier I.”

#### **8. Comments and Inquiries on Non-Agenda Items:**

Councilman Brooks stated that he disagreed with Councilman Donnelly that the City was a Tier I “before we made this vote. We’ve been a Tier I for two almost, three, four years.” Councilman Brooks, in referring back to the discussion on temporary signage, made the point that if the City could direct people to remove signs from their yard, the City could certainly tell them to remove the Confederate statue from the Courthouse. He stated “so when people come up here talking about removing that Confederate flag and that statue off that monument, don’t tell me we can’t do that, because A, B, C and D when you just told me you can make me remove a statue with ‘vote for Brooks’ on my private property. Let’s be real now.” He stated that Mr. Raymond Rivers and Mr. Keith Rivers made good points and he wanted to add something to it. He stated that he is an activist and this is something that should be acted on. He stated that he did not know what to tell his sons when they get stopped by an officer. He said “you don’t have your seat belt on so he shoots you.” He stated that he did not know what to tell his sons if you have a traffic violation and then are found hung in their cell. He stated that he didn’t know what to tell his sons when you have a misdemeanor and you are choked to death with a choke hold that is unauthorized by police officers. He said “the reason why I say ‘my sons’ is because they all seem to be black men, young black men.” He stated that he was tired of people trying to justify a hate symbol saying that it’s heritage. He stated that everyone knows it’s a symbol of hate. He read a statement written by South Carolina Congressman James Clyburn regarding the issue of the confederate symbol being a symbol of hate. Councilman Brooks stated that the confederate flag was not heritage but a rebel battle flag of hatred. He suggested that “anything that divides us” should be eliminated.

Councilman Brooks stated that it was his will not to run again for Council, but due to the number of calls he received and the interaction at the last minute with his pastor as well as his own prayers, he filed “15 seconds” before the deadline. He shared that during a Council retreat, all participants wrote down words describing each other. He said that the eight people there described him as “determined” “righteous” “caring” “passion” “loyal to constituents” “God-fearing” “recall” “dedicated to causes”. He said when he reads those words and then received a call from a 90-year old woman who said “baby, I heard you wasn’t going to run again. Baby, we need you to help fight for us” that because of that and his commitment to God, and not doing his will but God’s will, he will fight for those less fortunate than we are. He stated “when that electric worker lied on me, none of these people who wrote these fantastic words about me came to my defense. None of them. Not one of them.” He said “it really was a conspiracy. You can say what you want, this is what they said behind closed doors. In front of open cameras, they was shut-mouthed tight. And when Roger McLean was there, we called a special meeting to have it investigated, going in line with what our charter says – didn’t but three of us, four of us show up. We didn’t have a quorum. The same Council people that wrote this up there didn’t show up for a special meeting. All we wanted to do was direct an investigation to occur.” He said, “that’s why it was a toil and I fought against God’s will and my will was ‘I don’t have to put up with that stuff.’”

Councilman Stimatz thanked staff and the Red Cross for including the hurricane awareness insert in the utility bills. He pointed out that it was an important reminder to prepare now for a potential disaster. He asked City staff to provide an update on the Council’s goals and objectives. He pointed out that he was still waiting for two items from those goals - the streetlight effectiveness study and a history of CDBG funding at the national level. He asked about the status of the City’s endeavor to become an Entitlement City. Mr. Olson responded that a letter had been sent once again to Congressman Butterfield. He thanked the citizens for being involved in the feral cat ordinance issue.

Councilman Horton reminded residents that the City and the County did not make the decision to consolidate polling places. He stated that the change was an act of the Board of Elections. He said that there were a lot of people in the community that have “major issues” with the monument at the Courthouse. He said that it was time that both City and County elected officials look at the community and realize that the community was not in favor of any sign of oppression. He stated that he wanted to go on record and ask the City Manager to investigate what can be done to remove the Confederate monument from the Courthouse.

Mayor Pro Tem Hummer stated that Coast Guard Week was a beautiful week and she thanked the Coast Guard for all they do in our community. She noted that we now have a new Coast Guard stamp that is unique to Elizabeth City. She stated that National Night Out was well attended and she thanked the Police and Fire Departments for their impressive showing.

Councilman Walton stated that all the other agencies in the community should be pushed the same way as the Coast Guard. He said it hurt him not to vote for ECSU, but “they have a 360 degree turn-around on what they are trying to do.” He stated “you know, you are only going to be as strong as your head – the head’s talking about having team players – but you get team players, you got to involve everybody that’s involved. ECSU has been – when they founded ECSU - it was to be a teacher’s school. From what they are looking at now, it’s going to be privately owned, because that’s who the Greater EC Innovative Group - Councilors are – that’s what they pushing for. And, you know, there’s not a fight being put up. After a while, there’s going to have to be another school formed somewhere – I hope we have land for it, because the people that’s in charge of ECSU will not be in charge of it in the next few years if people continue following how they are going. I’m serious about that – it’s bad. ‘Cause we don’t have any land anywhere but like Weeksville or Newland, because ECSU - it was made for teachers – not for scientist, aviation – all those people are good, you know, but you take a person that’s coming out of the 7<sup>th</sup> or 8<sup>th</sup> grade, they still got to go to high school. Still got to go to college. Man, they got a whole lot of things – they got to go to work for a few years because aviation they only hire people maybe the ages of 45 through 54. That’s what written out there. For a person to become 45 and they are now 12 and 13, that’s a long ways from now. That’s a long ways from now. But right now we’re trying to take ECSU over and we just giving up on it too easily, y’all. I just don’t like what I see. Kids supposed to go to school there and we go and take the best building and use it as a private interest – that’s not good and it’s allowed to be done. I don’t know where the next normal school will be started at, but we’re going to have to have another one because the kids that’s out there now are not going to have the same opportunity. And they’re not flocking to come there now because there’s so much negative out there. As I said earlier, Tony, positive press will make people want to be a part of it. Negative press will not. I hope it’s not offensive to anybody what I’m saying tonight, but it’s on my heart - because flesh always destroys things – manly flesh will kill everything. Saddam Hussein – he had power. He lost his power – they took that monument down. They took it down now. Joe Paterno, icon in football, god of football. They were doing some of the same things they did in slavery – raping, killing. This guy messed with young boys. When they lost the power, monument come down. Didn’t a whole lot of people raise Cain about it either – they took it down. But now, it’s all a big issue – people don’t want to use that power – I’m better than this person. It’s in my DNA, I’m better; it’s my heritage, I’m better. No, you are flesh just like everybody else. The monument need to come down. If it’s offensive to one group, it should not be there. And it’s very offensive to me how ECSU is being treated.”

Councilman Spence stated “for the last four years I’ve been on Council, I don’t think anybody can ever say that they heard me say anything negative or treat anybody negative or anything like that. My thing is this...I am one person. I’m one vote. Whatever decisions I make, I make it to the best of my ability. I am tired of hearing about this side, that side. Listen, when I campaign, I campaign for Kem Spence. While I’m on Council, I represent the Third Ward to the best of my ability. Now, if that offends people, by representing them to the best of my ability, I don’t apologize for it. But before I compromise my religious beliefs, the way I was raised and my standards, I will get off Council. That’s what I feel, since we are speaking from the heart tonight. Before I

compromise my religious beliefs, what I stand for and the way I was raised, I will come off of Council and I stand firm on that. Thank you, Mr. Mayor.”

Councilman Donnelly stated “if we are speaking from the heart, my heart says it wants to go home and go to bed. It’s pretty late.” He said “I hope Council continues to remember the five operational principals that we agreed to back during that retreat. They are posted in front of each of us.” He reminded everyone about the following evening’s Music on the Green at Mariners’ Wharf and the Movie on the Green following.

**9. Closed Session: As allowed by NCGS §143-318.11(a)5 Acquisition of Property and NCGS §143-318.10(e) Approval of Closed Session minutes:**

Mayor Peel requested a motion to go into Closed Session.

**Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Tony Stimatz, to go into Closed Session as allowed by NCGS §143-318.11(a)5 Acquisition of Property and NCGS §143-318.10(e) Approval of Closed Session minutes. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

Mayor Peel declared a five minute recess after which the Council reconvened in Closed Session at 11:20 p.m.

*(Clerk Notation: Councilman Kem Spence left the meeting before the Closed Session began without a vote to excuse. Subsequent votes on motions after that time include an aye vote for Councilman Spence.)*

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to come out of Closed Session. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

The Council returned to Regular Session at 11:32 p.m.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to authorize the Mayor to enter into a contract for the purchase of the property discussed in Closed Session at the price set and terms agreed to, subject to an inspection; and once that’s completed, staff moves ahead with all due diligence. Those voting in favor of the motion were: Stimatz, Brooks, Spence, Horton and Walton. Against: Hummer and Donnelly. Motion carried.**

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Michael Brooks, to approve the Closed Session minutes as presented in Closed Session. Those voting in favor were: Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.**

*(Clerk notation: The Closed Session minutes approved were for the meeting of July 13, 2015.)*

**10. Adjournment:**

There being no further business to be discussed, Mayor Peel adjourned the meeting at 11: 35 p.m.

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Joseph W. Peel  
Mayor

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Vivian D. White, CMC/NCCMC  
City Clerk