

**City Council Regular Session
August 22, 2016**

The City Council of the City of Elizabeth City met in regular session on Monday, August 22, 2016 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Pro Tem Anita Hummer
Councilwoman Jean Baker (*arrived at 7:30 p.m.*)
Councilman Ray Donnelly
Councilman Tony Stimatz
Councilman Rickey King
Councilman Darius Horton
Councilman Johnnie Walton

MEMBERS ABSENT: Mayor Joe Peel
Councilman Michael Brooks

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planning Director June Brooks
Police Chief Eddie Buffaloe
Electric Department Superintendent Karl Clow
Assistant to the Manager Angela Cole
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
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 Pro Tem Anita Hummer at 7:00 p.m. Mayor Pro Tem Hummer welcomed everyone to the meeting and recognized Councilman Darius Horton to give the invocation, after which she led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

Mayor Pro Tem Hummer requested the Council's pleasure regarding adjustments to and approval of the prepared agenda.

Mayor Pro Tem Hummer announced that a "housekeeping" item needed to be added to the agenda to approve the Downtown Improvement Grant documents that were presented during the previous Work Session.

Councilman Horton requested to add "Council conduct" to the agenda.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Rickey King to approve the agenda with any necessary adjustments. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried. (*Baker had not yet arrived.*)

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:

(*Clerk Notation:* For several weeks, supporters and members of The Master's Touch Church have been speaking during the Public Comments portion of the Council's agenda to encourage the Council to amend the City's Noise Ordinance to exempt churches. During this August 22, 2016 meeting, two individuals spoke in

support of the Master's Touch Church request to exempt churches from the Noise Ordinance. These speakers are listed by name and address, as follows:)

1. Kerita Snowden, 1203 Southern Avenue, Elizabeth City, NC 27909
2. Eric Staten, 311 Betty Drive, Elizabeth City, NC 27909

4. Consent Agenda:

(Clerk Notation: Items "b" through "f" recommended for approval by the Finance Committee during their meeting of August 18, 2016.)

Mayor Pro Tem Hummer recognized City Manager Olson to read the items on the Consent Agenda into the record. Mr. Olson recommended all items for approval, as follows:

Beginning of Consent Agenda:

- a. Consideration – Call for four (4) separate Public Hearings to be held on Monday, September 12, 2016 at 7:30 p.m. (or as soon thereafter as the agenda allows) in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue, to gather citizen input on the following matters:
 1. Repeal of Chapter 112 "Insulation Contractors" of the City of Elizabeth City Code of Ordinances in its entirety;
 2. Amendment to Section 150.22 "Load Management Switches" of the City of Elizabeth City Code of Ordinances to include action taken previously by the City Council;
 3. Repeal of Section 110.36 "Franchises Saved from Repeal" of the City of Elizabeth City Code of Ordinances; and
 4. Repeal of Subsection "Recreation Advisory Committee" in Chapter 91 "Parks and Recreation of the City of Elizabeth City Code of Ordinances.
- b. Consideration – Authorization for City staff to withdraw the Clean Water Management Trust Fund Grant application, the CAMA Access Grant application and the PARTF Grant application submitted in connection with the proposed purchase of the Griffin Shipyard Property.
- c. Consideration – Adoption of the following Resolution authorizing the financing of equipment in the amount of \$255,000 at a rate of 1.62% for a term of five years with BB&T, as budgeted in the FY2016-2017 budget:

Resolution # 2016 – 08-03 Approving Financing Terms

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

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated August 12, 2016. The amount financed shall not exceed \$255,500.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.62%, and the financing term shall not exceed five (5) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or

desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's general fund or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of the City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 22nd day of August, 2016.

City of Elizabeth City, NC

By: _____
Joseph W. Peel, Mayor

ATTEST:

Vivian D. White, CMC/NCCMC
City Clerk

- d. Consideration – To declare surplus a 1990 GMC High Ranger 65 foot bucket truck, VIN # GDM7D1Y6LV510607, and authorize that it be placed on the public auction site, GovDeals, for sale with a minimum starting bid of \$15,000;
- e. Consideration – Authorization for City staff to submit an application to the Tourism Development Authority in the amount of \$12,490 to cover the shortfall in funding for the construction of Veterans Park for a total project cost of \$62,490.

- f. Consideration – Authorization for City staff to submit an application to the Tourism Development Authority in the amount of \$8,000 for additional marketing funding for Elizabeth City Downtown, Inc.

End of Consent Agenda.

Motion was made by Councilman Rickey King, seconded by Councilman Ray Donnelly to approve the Consent Agenda. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried. (Baker had not yet arrived.)

(Clerk Notation: Mayor Pro Tem Hummer moved the agenda to the Regular Agenda portion in order to reach the scheduled time of 7:30 p.m. for the Public Hearings.)

5. Public Hearings:

- a. Hold a Public Hearing to receive public input on the adoption of an Ordinance amending the City Code to comply with state law concerning the use of cash as a form of payment.

Mayor Pro Tem Hummer recognized Mr. Olson to review this request. Mr. Olson stated that the proposed ordinance would amend the City Code to comply with state law concerning the use of petty cash within the City. He noted that the 2015 Session Law, specifically HB 44, requires the Council to adopt an ordinance allowing the City to use petty cash within the organization. He stated that the City utilizes four petty cash funds at present: Knobbs Creek Recreation Center, South Park Sports Complex, the Police Department and the Customer Service Department.

Mayor Pro Tem Hummer called the Public Hearing to order and inquired of the City Clerk if persons were present who wished to be heard. Upon the Clerk's reply that no one wished to speak, Mayor Pro Tem Hummer declared the Public Hearing closed.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Darius Horton, that the Council adopt the following ordinance amending the City Code to comply with state law concerning the use of cash as a form of payment. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried.

**ORDINANCE # 2016-08-02
AMENDING THE CODE OF ORDINANCES OF THE CITY OF ELIZABETH CITY
BY ADOPTION OF A NEW CHAPTER 35 IN TITLE III: ADMINISTRATION
ESTABLISHING PETTY CASH AS A FORM OF PAYMENT**

WHEREAS, during the 2015 session of the North Carolina General Assembly, Session Law 2015-246 was ratified and signed into law; and

WHEREAS, among the provisions included in Session Law 2015-246 was an amendment to NCGS-159-28 requiring adoption of an ordinance by local governments authorizing the use of and specifying the limits for the use of cash as a form of payment; and

WHEREAS, in accordance with these requirements, the City Council ordains that the following new Chapter 35 be incorporated into Title III: Administration to establish the use of petty cash as a form of payment by the City of Elizabeth City, NC.

Section I. CHAPTER 35: PETTY CASH

§ 35.01 PETTY CASH AS A FORM OF PAYMENT

The use of petty cash as a form of payment expedites minor purchases and minimizes accounting costs. Expenditures of twenty-five dollars (\$25) or less (including sales tax)

can be made through the use of petty cash. Petty cash shall only be used when the expenditure is clearly for a public purpose as defined by the North Carolina Constitution, and the individual initiating its use is certain that the funds have been appropriated. Petty cash shall not be used for purchases that exceed the \$25 limit without the prior approval of the Finance Director or his/her designee.

SECTION II. EFFECTIVE DATE: This Ordinance shall take effect on August 23, 2016.

SECTION III. CODIFICATION. The provisions of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable after its adoption.

SECTION IV. 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 V. All ordinances and sections of the Elizabeth City Code, and parts thereof, inconsistent herewith be and the same hereby are repealed to the extent of such inconsistencies.

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 22nd day of August, 2016.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, CMC/NCCMC
City Clerk

- b. Hold a Public Hearing to receive public input on the adoption of an ordinance amendment establishing a 25 MPH speed limit on all sections of all City-controlled streets.

Mayor Pro Tem Hummer called on Mr. Olson to review this item. Mr. Olson stated that the proposed ordinance would establish a speed limit of 25 MPH on all City-controlled streets. He pointed out that this action would decrease the state's default speed limit of 35 MPH to 25 MPH. He noted that approximately 306 City streets would be affected, but that the ordinance would not affect any NCDOT controlled streets within the City limits. He stated that the City will be required to post the roads with the new speed limit at an estimated cost of \$7,000. He stated that City staff recommends that the ordinance be effective as of October 3, 2016 to allow time to erect the 141 signs that will be needed.

Mayor Pro Tem Hummer called the Public Hearing to order and inquired of the City Clerk if persons were present who wished to be heard. Upon the Clerk's reply that no one wished to speak, Mayor Pro Tem Hummer declared the Public Hearing closed.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to adopt the following ordinance amending Chapter 71 Traffic Regulations, Section 71.01 Speed Limits, establishing a 25 MPH speed limit on all City controlled streets effective October 3, 2016; and direct City staff to post the streets as needed. Those voting in favor of the

**motion were: Baker, Donnelly, Hummer, Stimatz, King, Horton and Walton.
Against: None. Motion carried.**

Councilman Stimatz commented that he had been a champion of this action for quite some time and he thanked his Council colleagues for “jumping on the bandwagon.” He said that he thought it was a step in the right direction for the entire City, because reduction of the speed limit will save lives.

**Ordinance # 2016-08-03
AN AMENDMENT TO
City of Elizabeth City Code of Ordinances
Chapter 71: Traffic Regulations, Section 71.01 Speed Limits
Establishing a 25 MPH Speed Limit on all City-controlled Streets**

WHEREAS, currently the City’s Code of Ordinances establishes a 25 MPH speed limit for a few streets; while other streets have been posted over the years with 25 MPH speed limit signs with no authorizing City Ordinance; and

WHEREAS, after several discussions, the City Councilmembers have proposed making all City-controlled streets subject to a 25 MPH speed limit; and

WHEREAS, by making the speed limit for all City streets 25 MPH, the overriding concern for safe vehicle operations in the City will be addressed and citizen confusion because of an intertwined and illogical pattern of speed limits in the City will be eliminated; and

WHEREAS, the Public Hearing to effectuate this ordinance amendment was advertised on August 12, 2016 in The Daily Advance to be held on August 22, 2016, as required.

NOW THEREFORE BE IT ORDAINED THAT the City Council of the City of Elizabeth City hereby amends Chapter 71: Traffic Regulations, Section 71.01 Speed Limits of the City of Elizabeth City Code of Ordinances, as recorded by the following add-delete formatted text:

SECTION I.

Section 71.01 Speed limits.

~~A. (A) It shall be unlawful for any No person to operate or cause to be operated shall operate a vehicle on any section of all City-controlled streets as enumerated herein in a residential district in excess of 35-25 miles per hour., provided, however, no person shall operate a vehicle on the streets specifically enumerated in subsection “B” in excess of the speed limit posted on signs erected for this purpose.~~

~~B. Exceptions: It shall be unlawful to operate or cause to be operated a motor vehicle in any of the following described locations in excess of the posted speed limit:~~

- ~~1. All streets within the Old Oak Subdivision shall be 25 miles per hour.~~
- ~~2. All streets within Central Business Zoning Districts shall be 25 miles per hour.~~
- ~~3. Preyer Avenue between Raleigh Street and Rivershore Road shall be 25 miles per hour.~~
- ~~4. The City-controlled streets affected by this ordinance are enumerated as follows:~~

~~1403 River Road, A St, Adams St, Agawam St, Albemarle St, Alexander Ct, Anderson St, Arbutus St, Asbury Dr, Ashe St, Aydlett Cir, B St, Ball St, Bank St, Barney Ln, Bartlett Ave, Baxter St, Bayberry Dr, Beech St, Bell St, Bias St, Binnacle Ct, Blue Bonnet St, Bonner Dr, Boston Ave, Bray St, Briarwood Rd, Broad St, Brookridge Dr, Brooks Ave, Brothers Dr, Brown St, Bunnells Ave, Burgess St, Burke St, Butlers Ln, Byrd St, Byron Ct, Byrum Ln, Cale St, Calvert St, Camden Ave, Camellia Dr, Capital Trace, Captains Ct, Cardinal Way, Cardwell St, Carolina Ave, Carver St, Catalina Ave, Cedar Point Cir, Cedar St, Celeste St, Center Cross Dr, Center St, Chalk St, Chancey Dr, Chapel St, Charles St, Chesson St, Chestnut St, Church St, City Center Blvd, Cobb St, Cohoon St, College St, Colonial Ave, Commercial Blvd, Compass Dr, Conlon Way,~~

Cooke St, Corsair Cir, Crescent Dr, Crohns Dr, Culpepper St, Cypress St, Dance St, Davis Ave, Dawson St, Debry Ln, Delaware Ave, Douglas St, Dunstan Ln, Dyer St, Edge St, Edgewood Dr, Elcinoca Dr, Eleuthera Way, Elliot St, Ensanada Dr, Etheridge St, Factory St, Fairfax Ave, Fairlead Dr, Fairway Terr, Fearing St, Fifth St, First St, Fleetwood St, Flora St, Forrest Dr, Fourth St, Francis St, Franklin St, Ft Bragg Dr, Galera Ct, Garden St, Glade St, Golf Club Dr, Goodwin Ave, Gosnold Ave, Grace Dr, Grady St, Grand View Dr, Green Run Ct, Greenleaf St, Gregory St, Grice St, Griffin St, Grove St, Hampton Dr, Harding St, Hariot Dr, Harney St, Harrell St, Harris Dr, Hastings Ln, Hemlock St, Herrington Rd, Highland Ave, Hoffler St, Hoggard St, Holly St, Honeysuckle Dr, Hopkins Dr, Horner St, Hull Dr, Hummingbird Way, Hunnicut Ave, Hunter St, Hyman Cir, Ida Acres Dr, Inagua Ct, Jail Rd, Jefferson St, Jessica St, Jones Ave, Jordan St, Kaitlyn Way, Kathryn Ct, Knobbs Creek Dr, Kramer St., Kristin St, Kylers Way, Lane St, Laurel Ave, LeJune Ct, Lexington Dr, Lighthouse Dr, Lincoln St, Locust St, Lowe St, Lowry St, Mac Dr, Mackey Dr, Madison St, Madrin Ln, Madrin St, Magnolia St, Main St, Maple St, Martin Luther King Jr Dr, Maryland Ave, Massachusetts Ave, McArthur Dr, McMorrine St, McPherson Crossing, McPherson St, Meadowlark Ln, Medical Dr, Meekins St, Midgett Dr, Millbrooke Cir, Mimosa Ln, Mitchell Dr, Moore St, Morgan St, Morrisette Ave, Moseley St, Nance Ct, New Jersey Ave, New York Ave, Newby St, Newport Ave, Normal Ave, Nugget Trail Dr, Oakwood Ln, Old Oak Dr, Overman Cir, Pallister Ct, Panama St, Park Dr, Park St, Parkwood Dr, Parsonage St, Paxton St, Pearl St, Penny Dr, Perquimans Ave, Perry St, Persse St, Pleasant Dr, Poindexter St, Pool St, Powell Ct, Preyer Ave, Price St, Pritchard St, Providence Cir, Providence Rd, Queen St, Raintree Run, Raleigh St, Ranch Dr, Ray St, Red Cedar Run, Renaissance Cir, Renaissance Dr, Rhode Island Ave, Rich Blvd, Richardson St, Ridgefield Dr, Ridley St, Riley Dr, River Breeze Ct, Rivershore Rd, Riverside Ave, Robinson St, Rochelle Dr, Rosebud Ave, Rosedale Dr, Rosewood Ave, Russell Ln, Salem Dr, Sam Davis St, Sanford Dr, Sawyer St, Schwarzkopf Dr, Scott St, Second St, Selden St, Shadowwood St, Shannon St, Shephard St, Shiloh St, Shirley St, Simpson St, Sixth St, Speed St, Spellman St, Springvale St, Spruce St, St. Helen Dr, Stallings Ct, Starboard Ct, State Ln, Summerfield Dr, Summerfield St, Sundown Dr, Sunset Cir, Sutton Dr, Sycamore Ln, Tanglewood Pkwy, Tanglewood Pkwy South, Tanner Ct, Tatem Ln, Third St, Tidewater Way, Timber Trl, Tonto Ct, Tuscarora Ave, Villa Dr, Virginia St, Williams Cir, Walker Ave, Walnut St, Walston St, Ward St, Wareham St, Warren Way, Washington St, Weeks St, Wesley Dr, West City Dr, Westover St, White St, Williams Cir, Willow St, Willow Way, Wilson St, Windermere Dr, Windfield Dr, Winston St, Witherspoon St, Wood St, Woodruff Ave, and York St.

SECTION II. EFFECTIVE DATE: This Ordinance shall take effect on October 3, 2016.

SECTION III. SIGN POSTING: City staff is hereby directed to post speed limit signs as needed.

SECTION IV. CODIFICATION. The provisions of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable after its adoption.

SECTION IV. SEVERABILITY CLAUSE. If any section, or part or 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 V. All ordinances and sections of the Elizabeth City Code of Ordinances, and parts thereof, inconsistent herewith be and the same hereby are repealed to the extent of such inconsistencies.

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 22nd day of August, 2016.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- c. Hold a Public Hearing to obtain citizen comment regarding North Carolina Department of Commerce Small Cities Community Development Block Grant application for the Herrington Road sewer infrastructure project.

Mayor Pro Tem Hummer recognized Mr. Olson to provide the background for this matter. Mr. Olson stated that this public hearing is the second of the two required hearings under the Small Cities CDBG program guidelines. He stated that the application being proposed is to do sewer work in the area of Herrington Road and Massachusetts Avenue. He advised that City's staff's estimate of the costs to do this work is \$916,000. Mr. Olson said that the City has applied for funding for this targeted area project twice previously. He noted that the area consists of roughly 308 homes. He said that one of the requirements of the DENR funding guidelines is that the City must serve areas with a high low-to-moderate income population. He said that staff estimates that 85% of the individuals living in this area meet that requirement. He noted that Census data is no longer allowed as documentation for the grant application so staff is conducting a door to door survey of the neighborhood. He stated that the application must be submitted by September 30, 2016 to be eligible.

Mr. Olson stated that the Herrington Road project will redirect the sewer line that presently goes to the Dawson Street lift station, eliminating the Charles Creek crossing. He stated that the new infrastructure would provide a more direct route and would help the overall sewer system.

Mayor Pro Tem Hummer called the Public Hearing to order and inquired of the City Clerk if persons were present who wished to be heard. Upon the Clerk's reply that no one wished to speak, Mayor Pro Tem Hummer declared the Public Hearing closed.

Councilman Stimatz encouraged all citizens to inform themselves and become involved by contacting their state and congressional representatives to increase funding for the Community Development Block Grant program. He stated that funding for the program was \$3 billion in 1977, but was less than that amount now. He noted that, adjusted for inflation, CDBG funding should be \$12 billion or more. He said that it was important for all states and all cities to have access to these kinds of funds in order to perform critical infrastructure work. He noted that in comparison, the country has spent over \$160 billion in Iraq and Afghanistan on their infrastructure alone and only \$44 billion over the same period in the United States.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to approve the following resolution; and instruct staff to submit a Small Cities Community Development Block Grant for the Herrington Road Sewer Infrastructure Project. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried.

**RESOLUTION # 2016-08-04
by the City Council of the City of Elizabeth City
Herrington Road Sewer Infrastructure Project**

WHEREAS, Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction,

replacement, or rehabilitation of water and wastewater infrastructure; and, that the North Carolina Department of Environment & Natural Resources (NCDENR) Division of Water Infrastructure (DWI) was delegated the authority by the State Legislature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a), as amended by Section 5.3 of Session Law 2013-363; and

WHEREAS, the City of Elizabeth City NC has need for and intends to abandon the sewer crossing at Herrington Road and Charles Creek and reroute a failing terra cotta clay pipe, which serves the Herrington Road/Massachusetts Avenue Neighborhood. The sewer suffers from an initial installation of flat or low slope sewer, settlement of pipe, dislocated joint sealing material and numerous protruding taps; and

WHEREAS, the City of Elizabeth City intends to request state grant assistance for this project.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY:

That the City of Elizabeth City, (“the **Applicant**”), will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Mayor Joseph W. Peel, (“the **Authorized Official**”), and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Elizabeth City with the State of North Carolina for a grant to aid in the construction of the project described above.

That the **Authorized Official** and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 22nd day of August, 2016 at Elizabeth City, North Carolina.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- d. Hold a Public Hearing to obtain citizen comment regarding an application to the North Carolina Department of Commerce Small Cities Community Development Block Grant for the Raw Water Transmission Main Project.

Mayor Pro Tem Hummer recognized Mr. Olson to provide information regarding this request. Mr. Olson explained that this is the second of two required public hearings for this project. He stated that City staff is requesting permission to make application to the Small Cities CDBG program for Phase II of the Raw Water Transmission Main Project. He said that the estimated project cost is \$800,000.

Mr. Olson advised that the City had been able to use funds provided by the Rural Center four years ago to complete Phase I of this project, which was from the Water Treatment Plant to an area 100 feet west of Knobbs Creek on Main Street extended. He said that the City still had roughly 9,000 linear feet of water main to construct. He advised that the existing waterline is a ten inch cast iron line, which is being proposed for replacement by a fourteen inch PVC line. He stated that the City currently has specific limitations because the water pressure on the cast iron pipe is limited to 70 psi. He noted that if the City gets behind producing water at the plant, staff cannot increase pressure on the line to get more water to the raw water reservoir. He stated that this grant funding must also benefit low-to-moderate income individuals. He pointed out that Elizabeth City has a 57% low-to-moderate income population as a community. He stated that the beneficiaries of the raw water line project would be the citizens of the entire community.

Mayor Pro Tem Hummer called the Public Hearing to order and inquired of the City Clerk if persons were present who wished to be heard. The Clerk responded that one individual wished to speak, and she called Mr. Ernest Askew to the podium.

Ernest Askew, 1405 W. Main Street, Elizabeth City, NC stated that the front part of his property is bordered Main Street Extended and by a stream that flows into Knobbs Creek. He stated that it was his opinion that the location of the proposed line was a bad choice because if NCDOT comes in to widen the road, the line will be torn up. He noted that at some point the road would have to be widened because of increased traffic.

Mayor Pro Tem Hummer declared the public hearing closed.

Motion was made by Councilman Tony Stimatz, seconded by Councilwoman Jean Baker to approve the following resolution and instruct staff to submit a Small Cities Community Development Block Grant for the Raw Water Transmission Main project from Wellfield Road to the end of Phase I at Knobbs Creek. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried.

**RESOLUTION # 2016-08-05
by the City Council of the City of Elizabeth City
Raw Water Transmission Main Project**

WHEREAS, Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction, replacement, or rehabilitation of water and wastewater infrastructure; and that the North Carolina Department of Environment & Natural Resources (NCDENR) Division of Water Infrastructure (DWI) was delegated the authority by the State Legislature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a) as amended by Section 5.3 of Session Law 2013-363; and

WHEREAS, the City of Elizabeth City NC has need for and intends to replace approximately 9,000 linear feet of a 70 year old existing 10 inch cast iron raw water transmission main with 14 inch PVC pipe beginning at Wellfield Road and continuing to the end of the Phase I project just north of Knobbs Creek; and

WHEREAS, the City of Elizabeth City intends to request state grant assistance for the project.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY:

That the City of Elizabeth City, (“the **Applicant**”), will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds, which will provide adequate funds for proper operation, maintenance, and administration of the system.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Mayor Joseph W. Peel, (“the **Authorized Official**”), and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Elizabeth City with the State of North Carolina for a grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted, this the 22nd day of August, 2016 at Elizabeth City, North Carolina.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- e. Hold a Public Hearing to obtain citizen comment regarding an application to North Carolina Department of Commerce Small Cities Community Development Block Grant Downtown Redevelopment Fund Grant for the Southern Hotel Building.

Mayor Pro Tem Hummer recognized Mr. Olson to provide the details of this request. Mr. Olson stated that the City received notice from the Department of Commerce several months prior that the City’s pre-application for the Southern Hotel project was approved. He said that staff is currently in the process of gathering all documents and related information required to complete the application.

Mayor Pro Tem Hummer called the Public Hearing to order and inquired of the City Clerk if persons were present who wished to be heard. Upon the Clerk’s reply that no one wished to speak, Mayor Pro Tem Hummer declared the Public Hearing closed.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to approve the following resolution and instruct staff to submit the final application for the Southern Hotel CDBG Downtown Redevelopment Fund Grant. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried.

**RESOLUTION # 2016-08-06
FOR THE CITY OF ELIZABETH CITY
APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR
THE NEW SOUTHERN HOTEL PROJECT**

WHEREAS, the City Council of Elizabeth City has previously indicated its desire to assist in economic development efforts within the City; and

WHEREAS, the City Council has held two public hearings concerning the proposed application for Community Development Block Grant funding to benefit the New Southern Hotel LLC; and

WHEREAS, the City Council wishes the City of Elizabeth City to pursue a formal application for Community Development Block Grant funding to benefit the New Southern Hotel LLC; and

WHEREAS, the City Council certifies it will meet all federal regulatory and statutory requirements of the Small Cities Community Development Block Grant Program.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Elizabeth City that the City of Elizabeth City is authorized to submit a formal application to the North Carolina Department of Commerce for approval of a Community Development Block Grant for Economic Development to benefit the New Southern Hotel LLC.

Adopted this the 22nd day of August, 2016 in Elizabeth City, North Carolina.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, CMC/NCCMC
City Clerk

6. Regular Agenda:

- a. Discussion – Administrative Directive Establishing a City of Elizabeth City Internship Program.

Mayor Pro Tem Hummer recognized Mr. Olson to provide information regarding this matter. Mr. Olson stated that the Internship Program had been discussed during the August 8, 2016 meeting; and at that time the proposal was to incorporate the policy into the personal policy manual. He said that based on feedback from the Council and staff's further research, he felt the appropriate way for the policy to be handled is as an Administrative Directive. Mr. Olson explained that Administrative Directives address many things, such as the policy for take-home vehicles, rules of conduct regarding inmate workers, ADA compliance procedures and the like. He stated that all changes requested by the Council had been made in the finished Internship Policy document.

Councilman Stimatz complimented staff on making the document "more coherent." He stated that he thought placing the policy in the Administrative Directives was a good idea. He asked if the provision that "interns are required to adhere to all City of Elizabeth City policies" is a catch-all that requires interns to abide by the Personnel Policy Manual. Mr. Olson stated that it did. Mr. Olson also noted that another issue of concern to the Council was requiring interns to pay for criminal background checks. He informed the Council that the policy had been amended to indicate that the City would pay for those reports. He also pointed out that the Human Resources Department will be responsible for the internship program.

Councilman Stimatz asked if interns would be considered employees for the purpose of investigating any wrongdoing. Mr. Olson stated that any intern wrongdoing would result in dismissal. He said that since interns are not considered employees with regard to the personnel policy manual, they would not be beneficiaries of any personnel policies, such as the grievance procedure.

Councilman Walton requested that the interns be introduced to the Councilors when hired. Mr. Olson agreed that he would do so.

b. Discussion/Consideration – Citizen Satisfaction Survey.

Mayor Pro Tem Hummer called on Mr. Olson for the background on this item. Mr. Olson stated that staff had continued to work on the proposed citizen satisfaction survey and had deleted several sections that had been discussed by the City Council. He went over the survey and explained the changes that had been made and the reasoning for doing so. He stated that staff would be able to compare the results of the various categories over time to determine if progress was being made by the City. He also noted that the survey platform would allow for reports based on demographics, which he felt would be helpful.

Councilman Walton stated that he thought the “street repair” question should be removed from the survey because the City was in the process of trying to make road improvements. He said that he thought that question would skew the results negatively. Mr. Olson stated that he understood that many road conditions were presently bad, but he hoped to be able to show positive improvement going forward.

Councilman Stimatz noted that the survey requested the polling place of the respondent, which would help staff and the Council pinpoint where the negative or positive comments were based. He said that would allow further review in order to determine what is not being done in areas receiving those negative reviews.

Councilman Stimatz stated that the progression in developing the survey was good and would serve the City well in the future. He thanked Angela Cole for her hard work on this project.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to accept the survey as presented. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried. (Baker had not yet arrived.)

c. Discussion – Flow Charts for Text Amendments and Rezoning Applications.

Mayor Pro Tem Hummer recognized City Attorney Morgan for his comments. Mr. Morgan stated that prior to the August 8, 2016 City Council meeting, he sent a memo to the Council, which provided his interpretation and thoughts regarding establishing flow charts for text amendment and rezoning application processes. He said that staff had submitted that information to the School of Government to have them either confirm or not confirm his opinions. He said a response had been received, but it was not a complete response. Mr. Morgan asked that the Council defer this matter to the September 12, 2016 meeting, at which time he hoped to have a more complete response from the School of Government.

Mayor Pro Tem invited discussion on this matter, but no comments were made.

d. Consideration – Approval of the Downtown Improvement Grant documents
(added to the agenda as a housekeeping item from the previous Work Session meeting.)

Mayor Pro Tem Hummer recognized Mr. Olson for his comments. Mr. Olson advised that the Downtown Improvement Grant process had been thoroughly discussed during the Work Session; and staff was directed to combine the Priority 2 and Priority 3 areas in the program. He pointed out that the actual documents had not been approved during that discussion.

Motion was made by Councilman Rickey King, seconded by Councilman Ray Donnelly to approve the documents. Those voting in favor of the motion were:

Donnelly, Hummer, Stimatz, King, Horton and Walton. Against: None. Motion carried. (Baker had not yet arrived.)

(Clerk Notation: Mayor Pro Tem Hummer declared a three minute recess in order to reach the 7:30 p.m. scheduled time for the Public Hearings. The Council returned to Item “e” on the Regular Agenda at 7:55 p.m.)

e. Council Conduct – *(added to the agenda by Councilman Horton)*

(Clerk notation: The minutes for the August 22, 2016 Regular Session were presented to the Council for approval during the meeting of September 12, 2016. Councilman Walton stated that his remarks regarding this agenda item were very important to him and requested that they be transcribed in a verbatim format. A motion was made by Councilman Tony Stimatz, seconded by Councilman Rickey King, to approve these minutes subject to verbatim insertion of Councilman Walton’s comments in this section.)

Mayor Pro Tem Hummer recognized Councilman Horton for his comments. Councilman Horton stated that he placed this matter on the agenda because he had some concerns that he wanted to address in a public setting. He pointed out that Elizabeth City is often referred to as the Harbor of Hospitality. He stated that he did not believe residents could be expected to show hospitality when the Councilmembers do not show hospitality to each other. He said that the City will be unable to move forward as long as there are Councilmembers who are ignorant. He described this ignorance by saying that he had been appalled and saddened at the “outrageous comments that were made by Ms. Baker to the newspaper.” He stated that he was bothered by the fact that Councilwoman Baker had not called him to discuss her concerns about the accusations being made about his driving record in the newspaper. He stated that The Daily Advance published an article about his traffic offenses and reported that he would not have his driver’s license restored until March 2017. He advised that once he took care of a few things, he had gotten his full driving privileges restored. He noted that people are quick to judge and put people down and nothing can be done about, but at the end of the day “it affects your name.” He said that the newspaper’s job is to sell papers; and by attacking him, the reporter allowed Councilwoman Baker to go on record calling for his resignation from Council. Councilman Horton stated that it was not his intention to attack Councilwoman Baker, but to let her know that he did not appreciate the effort to attack his name. Additional words were exchanged between Councilman Horton and Councilwoman Baker, which resulted in Councilman Horton requesting that Councilwoman Baker discuss privately with him any other personal or Council-related matters she may have with him.

(The following is a verbatim transcription of Councilman Walton’s remarks.)

Councilman Walton:

“Yeah, and I was kinda appalled that it happening too because in American, you know, everybody got’s different rules for different people. You should be innocent until proven guilty. Darius, I think you are guilty before proven innocent. But it’s not you. I don’t think anybody else around this table right here would have been chosen, pulled out and attacked the way you were, unless it was Brooks and myself. That’s the way I feel. You know, the Constitution was written way back when – it said we the people, we the people. But everybody didn’t write the Constitution. Wasn’t nobody black writing the Constitution, Asian or Indians. We all know who wrote the Constitution. And there’ve been some articles and amendments made since then. But the Constitution was written by white men and they had white rights. You don’t have any rights. I don’t have any rights because that’s the way, that’s the way the system has been set up. She should have allowed the criminal justice system to handle you. She handled you. She took and put a sword in your rib. She crucifies you. I read the article. I didn’t appreciate it at all. And you took a lot to hold back. When Bill West came up here and put a recorder on both tables, she thought you were going to react. I would have reacted. So I commend you for that. We go to not assume and we got to respect people if we want to be respected. We have to do that because they write in the newspaper - that opinion section - is Walton, Brooks and Horton gonna be lenient with the Council because during the election season they were

talked about. I think we have tried to be cooperative. But things like this here don't make you want to cooperate. Because when they mess with your name and try to destroy you, you got to fight back. If you don't fight back, it's your fault. If you can fight for other people, you better fight for yourself. I commend you for handling it the way you did. And I hope – pray over it, because prayer supposed to make all this other stuff go away. I'll pray for you. Thank you Ms. Hummer.”

Councilman Stimatz asked to “dissect” what had just been discussed. He stated: “We are the Harbor of Hospitality and we need to get along and need to show respect”; “She never called me to ask what was going on and accused me of things that weren't true, etc., etc.” Councilman Stimatz said that he remembered about two and one-half years ago, that Councilman Horton and another representative on the Council at that time accused the Mayor and Manager of financial wrongdoing. He said that he made a motion at that time to have an investigation of the matter because he did not believe there had been any wrongdoing. He noted that some members of Council did not believe the City Attorney was trustworthy enough to investigate the matter and insisted on an outside attorney. He said the outside attorney found no wrongdoing, but that didn't stop some members of Council, including Councilman Horton, from continuing to besmirch the Mayor's and the Manager's names. He noted that those members of Council stuck with those accusations for some time, but now they claim to be people that want to get along and respect others. He noted that when Councilman Horton was presented an opportunity to publicly exonerate the Mayor and Manager, he did not want to do so and left “a stain out there on their names.”

Councilman Stimatz stated that other Councilors express their “opinions” by besmirching other Councilmembers by inferring that they are manipulators, are in the pockets of big business and that they are “in cahoots and meet and do things and have their own agendas.” He pointed out that now, when Councilwoman Baker expressed her opinion, she is “not allowed to have an opinion.” He asked to turn the race card around and stated that “I feel she is not allowed to have an opinion because she's white.” He asked Councilman Horton if he had called Councilwoman Baker to discuss his concerns before the Council meeting to which Councilman Horton responded that he had not. Councilman Stimatz stated that he did not make a statement to the newspaper when asked, because he had subtly addressed Councilman Horton's driving issues at the last Council meeting. He noted that during the internship policy discussion, he said that he would have less of a problem hiring a felon (as an intern) who had paid his debt and wanted to turn his life around than hiring a scofflaw who didn't care about his behavior. He noted that was meant for Councilman Horton. He said that he appreciated Councilman Horton providing the opportunity for him to address his use of being a pastor to besmirch the other members of Council, because it had bothered him for some time.

(Clerk Notation: The following verbatim transcription represents remarks made by Councilman Walton. The statement made by Councilman Stimatz during which Councilman Walton's “name was called” is not included in the preceding paragraph summary, because its inclusion was not a part of the motion made to amend the draft minutes presented for approval.)

Councilman Walton:

“Since you called my name, did you not go down the steps whistling Dixie one night and Ms. Baker said oh, that's a good one? Since you want to bring up stuff. Well that's what you did, Tony Stimatz. So I don't know what that makes you. Whatever you are. For you it is. For you it is. And you want to put on a production of slavery. What are you, Tony? Since you called my name. Oh, it's funny now. That's a white right, right? We the people, man. We the people. The Constitution wasn't made for certain people. And I don't even know why Jean got into it because it wasn't made for her either, 'cause women couldn't vote after we could vote. That's the Constitution. Yeah, you're a manipulator – the best I ever seen. That's what you do. That's why you on every board in town – so you can control things. I think you did a good job at the Coast Guard. Man in the paper wrote about not being satisfied. But how the people in Elizabeth City

treat the Coast Guard people. I think you did a great job of presenting the Coast Guard. This year was the best year they have ever had. But they gonna complain about that. They want more. And when you got a command characteristic about a person, the more they get, the more they want. That's what you got in you, man – a command personality. You got to have it all. But you never gonna have me, trust me. I still don't like the song Dixie.”

Councilwoman Baker requested a meeting with the Chief of Police and the City Manager after the Council meeting to discuss a letter she had received.

7. Comments and Inquiries on Non-Agenda Items:

Councilman Donnelly stated: “an opinion is a belief or judgement that falls short of absolute conviction, certainty or positive knowledge. It is a conclusion that certain facts or ideas are probably true or likely to prove so.”

Councilman Walton stated that Commander Brown had been quoted in the newspaper as saying US Coast Guard members wanted more amenities in the City. He said that although he had nothing against the Coast Guard, the City needed to do more for everyone in the City. He expressed his opinions regarding economic development in the City, which he said was not working.

Councilwoman Baker had no further comments.

Councilman King inquired about the speed study of Halstead Boulevard and Herrington Road. Mr. Olson responded that a letter had been sent to NCDOT requesting the study, but it was not certain where in the process the study was. He stated that he would follow up and provide an answer to the Council.

Councilman Horton had no further comments.

Councilman Stimatz stated that it had been inferred earlier by a speaker during Public Comments that the City's ordinances were out of date. He said what he actually had said was that many ordinances needed to be updated, but he did not believe that the noise ordinance was one of them. He noted that no complaints regarding noise at the Masters Touch Church had been received since at least February, if not earlier, so as far as the noise issue is concerned, there did not seem to be a problem. He passed along a compliment received from First Methodist Church regarding the prompt, quality repair of a storm drain. He expressed his appreciation to Chief Buffaloe and four of the City's Police Officers who had attended the funeral in Franklin, VA of a young homeless boy for whom members of the department had taken an interest.

Mayor Pro Tem Hummer stated that she had no further comments, but reminded the City Manager that the City does have a lot of mosquitos.

8. Adjournment:

There being no further business to be discussed, Mayor Pro Tem Hummer adjourned the meeting at 8:25 p.m.

Anita Hummer
Mayor Pro Tem

Vivian D. White, CMC/NCCMC
City Clerk