

**City Council Regular Session
July 11, 2016**

The City Council of the City of Elizabeth City met in regular session on Monday, July 11, 2016 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Joe Peel
Councilwoman Jean Baker
Councilman Ray Donnelly
Mayor Pro Tem Anita Hummer
Councilman Tony Stimatz
Councilman Michael Brooks
Councilman Rickey King
Councilman Darius Horton (*arrived at 7:10 p.m.*)
Councilman Johnnie Walton

MEMBERS ABSENT: None

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planning Director June Brooks
Deputy Police Chief John Young
Electric Department Superintendent Karl Clow
Assistant to the Manager Angela Cole
Public Utilities Director Paul Fredette
Energy Officer Dennis Gordon
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 Councilman Michael Brooks to give the invocation, after which Mayor Peel led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

- a) Mayor Peel announced that there was one item that needed to be included on the Regular Agenda under appointments to the Joint Animal Control Board: to appoint Ann Hoffman to replace Nancy Lamb as the SPCA representative.
- b) Councilman Stimatz requested to remove the following items from the Regular Agenda to be brought back during the August 8, 2016 meeting:
 1. Discussion/Consideration – Citizen Satisfaction Survey; and
 2. Consideration - Internship Program Policy
- c) Councilman Brooks requested to add "Community Relations Committee."
- d) Councilman Walton requested to remove the following items from the Consent Agenda and add them to the Regular Agenda for discussion:
 1. Consideration – Award of Bid for water and sewer main replacement on Road Street between Grice Street and Elizabeth Street to RPC Contracting in the amount of \$974,630.90 and authorize the City Manager to execute the construction contract with RPC; and
 2. Consideration – Approval/Adoption of the following documents required for CDBG Grant Funding:
 1. Fair Housing Plan
 2. Language Access Plan

3. Analysis of Impediments
4. Citizen Participation Plan
5. Citizen Complaint Procedure
6. Residential Anti-Displacement & Relocation Assistance Plan
7. Section 504 Compliance Self-Evaluation Survey

Mayor Peel requested a vote to approve the agenda as amended. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, and Walton. Against: None. The motion carried. (Councilman Horton 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:

- a. Michael A. Laborde, 205 Charles Street, Elizabeth City, NC expressed his serious concerns regarding apparent speeding on Charles Street. He stated that vehicles coming off Hughes Boulevard do not slow down to the posted speed limit and are going much too fast in this very congested area. He stated that cars, trucks, semi-trucks, cement trucks and all other kinds of vehicles large and small use Charles Street as a cut through. He noted the number of pedestrians in the area and expressed his fear that a tragic accident was going to occur. He asked that the City Council look into the matter and do something to find a solution.
- b. (*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 July 11, 2016 meeting, five 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
 2. Pastor Timothy Stallings, Jr., 99 Seagull Drive, Elizabeth City, NC 27909
 3. Raquita Etheridge, 496 New Road, Elizabeth City, NC
 4. Hercules Etheridge, 496 New Road, Elizabeth City, NC
 5. Eric Staten, 99 Seagull Drive, Elizabeth City, NC 27909

4. Consent Agenda:

(Clerk Notation: Items "a" through "c" recommended for approval by the Finance Committee during their meeting of July 7, 2016.)

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

Beginning of Consent Agenda:

- a. Consideration – Authorization to submit application to the American Police and Sheriffs Association to receive a donation for five Tasers to be used by Elizabeth City Police Department Officers;
- b. Consideration – Authorization to accept donation from Paths of Pasquotank to purchase two benches and three trash receptacles for the walking/biking trail along Halstead Boulevard;
- c. Consideration – Call for a Public Hearing to obtain citizen input on possible applications to the NC Department of Commerce Small Cities Community Development Block Grant Infrastructure Program for City water and sewer projects, said hearing to be held on August 8, 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;

- d. Consideration – Call for a Public Hearing regarding the City’s CAMA Access Grant Application for the Griffin Shipyard Property, said hearing to be held on August 8, 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;
- e. Consideration – Adoption of Ordinance declaring street closings involving state roadways within the City’s limits for the 2016 National Night Out event, as follows;

**ORDINANCE #2016-07-01
AN ORDINANCE DECLARING A ROAD CLOSURE
FOR THE ANNUAL NATIONAL NIGHT OUT EVENT**

WHEREAS, the City Council of Elizabeth City acknowledges a long tradition of providing an annual National Night Out for the pleasure of its citizens; and

WHEREAS, the City Council of Elizabeth City acknowledges its citizens realize a financial and public safety benefit from holding the annual National Night Out event; and

WHEREAS, the City Council of Elizabeth City acknowledges the festival event requires approximately three hours to install signing and traffic control, amusement and entertainment structures and equipment, food and other retail vendors, and other attractions, and also requires approximately two (2) hours for removing same, and litter;

NOW THEREFORE BE IT ORDAINED, by the City Council of Elizabeth City pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day(s) and times set forth below on the following described portion of a State Highway System route:

Date:	Tuesday, August 2, 2016
Time Duration:	1:00 p.m. until 11:00 p.m.
Route Description:	E Ehringhaus Street (US Business Highway 17) from the S McMorrine Street intersection, eastward to the S Water Street (SR 34/1164) right-of-way S Water Street/Southern Avenue (SR 34/1164) – Shephard Street intersection westward along Shephard Street to the Museum of the Albemarle egress driveway S Water Street (SR 34/1164) from the Shephard Street intersection, north to the E Church Street intersection

This ordinance to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to guide through vehicles around the event site.

SECTION I. EFFECTIVE DATE: This Ordinance shall take effect immediately upon adoption.

SECTION II. 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.

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 11th day of July, 2016.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- f. Consideration – Approval of request submitted by Sharon Riddick to transfer her one taxicab franchise to Bobby C. Riddick; and direct staff to complete the transfer process as outlined in the City Code.

End of Consent Agenda.

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

(Mayor Peel moved the agenda forward to the Regular Agenda in order to come back to the public hearing at the advertised time of 7:30 p.m.)

5. Public Hearing:

- a. Hold a Public Hearing to receive comment on the adoption of an ordinance ordering adoption and publishing of the City's new Code of Ordinances.

Mayor Peel declared the Public Hearing open at 7:37 p.m. and inquired of the City Clerk if persons were present who wished to be heard. Upon her reply that no one had signed up to speak, Mayor Peel declared the Public Hearing closed.

Mayor Peel inquired if there was a motion to adopt the ordinance that had been prepared by staff.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Ray Donnelly, to adopt the ordinance ordering adoption and publishing of the City's new Code of Ordinances.

Mayor Peel opened the floor for discussion.

Councilman Stimatz stated that he did not know how many of his colleagues had read the new Code of Ordinances. He stated that he had spent a significant amount of time in February 2016, sent six emails and provided over 100 comments on things that needed to be changed. He said that some of the changes were things he had documented over eight years ago. He stated that no action was taken on any of his comments because he knew there were at least 80 to 100 comments that were specific, germane and important that has not been addressed. He noted that "sexual orientation" was not protected from discrimination in the Code; and he advised that it is a requirement of federal law. He said that "definitions are all over the place" and that descriptions of property are not adequate. He said "there are all kinds of holes in here and definitions that address one thing, but not another." With regard to this statement, he noted that the code addresses bicycles but not tricycles. He opined that there remains a lot to be done in the document that he considered minor; things that were consistent with what is supposed to be done in a codification. He offered copies of his emails to members of the City Council for their review.

Councilman Stimatz requested that the Council table action on this matter until the next meeting in order that his issues could be addressed. He stated that he would make that in the form of a motion. Councilman Walton seconded the motion.

Councilman Walton stated that any document made by man could be changed and he suggested that the Council make the changes to which Councilman Stimatz referred.

Councilman Donnelly stated that he saw the Code document as an evolutionary type of document that grows and expands. He said that to table it would be to “nitpick it” that much more. He stated that the process would have to be done again in a year and suggested that the Council should “let it evolve.”

Councilman Brooks stated that he agreed with Councilors Walton and Stimatz, because he had an issue with the code as it relates to Councilors not talking directly or indirectly to City employees in order to tell them something to do. He stated that he believes that a disclaimer should be included in that section of the Code to state “during duty hours.” He described a personal situation he had with a City employee that resulted in a Court ruling in order to support his opinion. He said that without the disclaimer, the Code “tied the hands of the employees with a legitimate problem who are being represented by a Council person.”

Councilwoman Baker stated that the Code document should be updated annually, but it had not been done for the last eleven years. She noted that there were bound to be changes and things that were overlooked or not changed when they should have been over that period of time. She suggested that all members of Council should share their lists of changes with the City Clerk in order to get the Code as close to accurate and current as can be accomplished.

City Clerk White asked to speak on the matter and provided an explanation of the recodification process as being the inclusion of all ordinances adopted, the deletion of all ordinances repealed, and the inclusion of all amendments made since the last codification. She pointed out that all of those actions had been subject to separate public hearings. The Clerk also stated that the Council could make changes to correct grammatical and typographical errors, to change other things considered minor in nature, and to update the code to new federal and state laws. She stated that the Council is not permitted to drastically change the document because individual public hearings are required in order to make major changes. She advised that staff agreed that there were changes that needed to be made, but maintained that public hearings should be held to solicit public comment before making those changes.

City Attorney Morgan stated that he agreed with the City Clerk. He said that the new Code could not make drastic changes to the prior Code without going through the formal public hearing process. He noted that Councilman Stimatz had provided several pages of very good suggested changes, but those changes, in his opinion, needed to be brought about through the process of having public hearings. He said that there are several changes that are high priority; and he was of the understanding that staff would be working diligently to bring those back to Council quickly. He stated that he and City staff had assessed every one of the comments made over several hours of meetings whereby every section of the Code was reviewed. He advised that staff realizes it is not a perfect document, but it is one that will be evolving through the proper process.

Councilman Walton suggested that the Council should use Councilman Stimatz for this process “because that’s something he does best.” He stated that he appreciated Councilman Stimatz for that and noted that every Council person had their own “pluses.”

Councilman Stimatz stated that he understood and agreed with the Clerk’s explanation of the codification process, but he still felt that most of the things he had asked for fit the stated parameters. He said that the biggest issue he had was with the lack of definitions in the Code. He provided, as an example, that the word “minor” was not defined. He noted that personal vehicles were also not defined and that emergency vehicles were not clearly defined.

Councilman Stimatz stated that he had sent his first email in February and never heard a word from staff until he received the new Code. He stated that none of his changes were included, not even the one that addressed discrimination based on sexual orientation. He pointed out that the Code also does not define department heads, even though the Council has to approve those positions. He noted that there was a policy

about where department heads may live; and if the definition of department heads is not clear, he believed the residency policy was not clear. He provided an additional example using the definition of the word “tense.” He stated that he was not certain why the definition was even in the Code, but it made no sense to him as defined. He stated that for that reason, he felt the Code “needed to go back for staff to take another look at it.” He noted that the sheer number of changes he had suggested would probably make another Public Hearing necessary.

Councilman Brooks stated that he thought the word that was confusing everyone, as it related to changes to the Code, was the word “drastic” He stated that “being specific is not being drastic.” He said that he did not think that his suggestion was drastic, but it was specific.

Councilman Donnelly called for the question.

Mayor Peel asked if a member of Council who had not spoken on this subject wished to speak. Hearing none, he called for a vote on the motion to table the matter.

Those voting in favor of the motion to table were: Baker, Stimatz, Brooks, King, Horton and Walton. Against: Hummer and Donnelly. Motion carried.

Mayor Peel advised that this matter would come back to the first meeting in August.

City Manager Olson requested clarification regarding what the Council wanted staff to do. He stated that his concern, as manager, was that a lot of the comments he saw were major changes to the structure of the document. He agreed that there were still a lot of changes that needed to be made. He stated that he agreed with most of the suggestions made by Councilman Stimatz; but he felt that the changes needed to follow the normal process of public hearings and not be changed as part of the recodification. He noted that what the Council is dealing with is the process.

Mayor Peel stated that his take-away from this discussion is that there are two separate processes; one being the recodification of the document and the second being changing the additional things that remain to be changed within the document.

Councilman Stimatz asked to clarify what he would like to have done. He stated that he would like to have an answer to his email with explanations regarding what needs to be done to make the changes he suggested. Mayor Peel asked “since everyone agrees that there are changes to be made, what is a reasonable time to expect staff to bring forward those changes?” Councilman Stimatz replied that he could probably find 25 minor changes that could be made now (before the codification is adopted), but he understood that some additional changes would have to go through the process. He stated that his big problem was the bad definitions in the document.

City Clerk White asked to make a statement. She said “what we have now is the old 2005 Code. You have before you a proposed new Code book that is the codification. Without adopting that, we really don’t have a point on which to start building the new changes that you want to have done in order to call for a public hearing.”

Councilman Stimatz responded “yeah, we do, the old 2005 – the one we’ve been sitting on for 11 years. As long as that’s the only one passed, that’s the one you build on. That’s the one I commented on, so don’t tell me there is no basis.”

City Manager Olson stated that staff needs a starting point; and if the Council wants to use the 2005 Code as the starting point, the City had spent \$12,000 that should not have been spent. He said that the starting point should be the new codification that the Council had before them. He noted that if the 2005 Code is used, everything that has been done so far “goes out the window and we have to start all over again.”

Councilman Stimatz stated that what he had been reviewing was the new codification document.

Mr. Olson advised that staff would provide a detailed response to Councilman Stimatz’ email to the members of the City Council for discussion during the next Council meeting.

Councilman Donnelly stated that he believed that the City needed to build on what it has, because it is an evolving process. He said that the Council has a 2016 document; and that the phraseology about “bad language” is subjective in and of itself. He asked the City Attorney for his opinion on Mayor Peel’s summary of this situation.

Mr. Morgan stated that the Code is an evolving document. He said that his use of the word “drastic” in describing changes was probably wrong. He said a better word to use would be “substantial” changes. He stated that, in his opinion, if the Council is changing a definition, that is a substantial change. He agreed that staff would go back and revisit every one of Councilman Stimatz’ comments and analyze the thought process they used again. He assured the Council that when staff met to review the comments several months ago, every suggestion was looked at and staff tried to act appropriately on all of them.

Mayor Pro Tem Hummer stated that she thought it would be a much more productive use of the Council’s and staff’s time that if a Council member does not receive something asked for, they should not wait and allow it to keep building until there are 100 items to be changed. She suggested that Councilors could request something to be placed on the agenda for a re-write and then call for a public hearing without trying to make each other look bad. She noted that staff is spending all of its time on one person’s changes and the situation leaves her at a loss to understand.

Councilman Stimatz requested to move the agenda. Mayor Peel directed Council’s attention back to the Leadership Elizabeth City discussion at 8:11 p.m.

6. Regular Agenda:

- a. Consideration – Appointments to Joint Animal Control Board:
 - 1. Reappointment of Deborah Lynn Regel to serve an additional two-year term on the Joint Animal Control Board to expire June 25, 2018.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Rickey King to reappoint Deborah Lynn Regel to serve an additional two-year term on the Joint Animal Control Board to expire June 25, 2018. Those voting in favor of the motion by roll call vote were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- 2. Appointment of Ann Hoffman to serve as the SPCA’s representative on the Joint Animal Control Board replacing Nancy Lamb (no term expiration). *(Added to agenda by Mayor Peel)*

Motion was made by Councilman Rickey King, seconded by Councilwoman Jean Baker to approve the recommendation of the SPCA Board to appoint Ann Hoffman to replace Nancy Lamb on the Joint Animal Control Board. Those voting in favor by roll call vote were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- b. Consideration – Appointments to Senior Citizens Advisory Committee
 - 1. Appointment of Mary E. Walker to serve a three-year term on the Senior Citizen Advisory Committee to expire June 30, 2019.

Motion was made by Councilman Rickey King, seconded by Councilman Tony Stimatz to appoint Mary E. Walker to serve a three-year term on the Senior Citizen Advisory Committee to expire June 30, 2019. Those voting in favor of the motion by roll call vote were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- 2. Reappointment of Donna O. Hassell to serve an additional two year term on the Senior Citizen Advisory Committee to expire June 30, 2018.

Motion was made by Councilman Tony Stimatz, seconded by Councilwoman Jean Baker to reappoint Donna O. Hassell to serve an

additional two year term on the Senior Citizen Advisory Committee to expire June 30, 2018. Those voting in favor of the motion by roll call vote were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

c. Consideration – Program Guidelines for Leadership Institute:

Mayor Peel asked to be allowed to summarize the proposed leadership program for members of the Council. He advised that during the last meeting of the Council, Councilman Walton had raised a concern regarding participants of the program not living in Elizabeth City or remaining in Elizabeth City after their training was received. Mayor Peel stated that a change had been made on the application to ask how long the applicant projects they will be in the community in order to address this concern. He stated that when applications are evaluated, the response to that question would be taken into account, with those planning to be in the community the longest receiving more points on their application score.

Mayor Peel also advised that Councilman Brooks had expressed a concern regarding younger people not being eligible for the program. He pointed out that to address this concern, the guidelines of the program had been changed whereby exceptions could be made for persons aged 18 and older to apply.

Councilman Brooks stated that he had read over the application and guidelines, and still believed that if a person wanted to be trained, their age, race and sex should not be a factor. He stated that he also did not think that where a person is employed, or even if they are employed, should be a factor in the application process. He said that he was “totally in” with the leadership program, but these items were his “pet peeves.” He said that he wanted the program to be totally inclusive, because there are “bright minds” living in struggling economic conditions and he wanted those persons to have an opportunity, too.

Mayor Peel responded that he could not agree more with Councilman Brooks on those points. He stated that the reason employment is mentioned in the application is because classes will be held during the work day. He noted that the application also asked if help was needed by the applicant in order to be excused from work for the classes. He said that employment was not a requirement to participate in the institute.

Mayor Peel stated that the questions about sex and gender were important, in his opinion, because the City should make certain that the institute has a very diverse group of people participating. He advised that diversity is one of the things that he hoped to push for so that the City can have participants from all walks of life and all parts of town. Councilman Brooks stated that he would not have a problem if the class consisted of “all male” or “all female” individuals, because if persons applied, they wanted to be there.

Councilman Donnelly stated that he felt that asking about job experience was discriminatory (in question number five of the application) and he suggested that the question be re-worded to read “Elaborate below on one specific life challenge that demonstrates your maturity, judgment, initiative and/or character.” He also stated that question six which reads, “Have you held any specific leadership positions or been involved in a project to better the community?” also concerned him because he thought it may exclude someone from the program. Councilman Donnelly stated that he also thought the requirement to attend all classes was restraining. He acknowledged that exceptions to attendance were included in the guidelines, but said “they are pretty tight.” He said that the Confidentiality Policy read well to him, but he thought it would not be realistic to keep the media from being involved.

Councilman Walton stated that he had the same mindset about the program that he had prior to the meeting. He said that it was his opinion that the City should not fund the program’s \$3,500 appropriation because Pasquotank County officials had declined to participate. He stated that it was his opinion that the program is a means for the Community Relations Commission to be able to say they are doing something to help the community. He stated that the things that were happening around the world “should put a different mindset on all of us.” He said that the Council acted as if nothing had happened, but he felt there were things that needed to be talked

about. Councilman Walton said that he thought that the program was being designed so as persons going through the institute would be “helped at election time.” He said “that’s why we are putting this institute together – so we can put people’s names in the hat that will go along with what we put out there.” He also questioned why the guidelines for the program would include a Confidentiality Policy. He stated that the City was spending “good citizens’ money for unnecessary things.”

Mayor Peel stated that the Council needed to begin the public hearing at this time (7:37 p.m.) and advised that the discussion would come back to this matter after that hearing.

(Clerk Notation: The Council resumed discussion of this matter at 8:11 p.m.)

Mayor Peel inquired of the Council members if anyone had additional suggestions regarding the Leadership Elizabeth City documents. There were no further comments.

d. Update/Discussion – Departmental Staffing Levels:

Mayor Peel recognized Mr. Olson for his comments on this matter. Mr. Olson explained that he had provided a memorandum to the Council members, which addressed staffing levels and current vacancies for each City department. He noted that he had provided an update to the original agenda staff write-up, which reflected the recent reorganization of the Police Department. He advised that currently there are five entry level police officer positions, three positions in Public Utilities, one in Parks and Recreation, one in the Finance Department and one in the Planning Department. He reported that staff is actively recruiting to fill those positions.

Councilman King mentioned that the Fire Department had no listed vacancies; and he asked the City Manager if the department was adequately staffed. Mr. Olson responded that the Human Resources Department had not listed any current vacancies for that department. Councilman King stated that a previous discussion during budget preparation left him with the impression that the Fire Department was not adequately staffed. Mr. Olson stated that the issue of adequate departmental staffing was a separate issue from the vacancies currently being advertised. He pointed out that when taking into account the number of budgeted positions for the City, the vacancies reported to the Council are the only ones currently open. Mr. Olson suggested that before adding additional personnel in the Fire Department, he felt the major pay compression issue of those currently working needed to be addressed. Mr. Olson advised that he recently participated in a webinar regarding fire department staffing and had written the City’s Fire Chief with a request for the department’s needs and training issues. Mr. Olson explained that there are many variables to consider when staffing a truck for fire scene response.

Councilman King requested that the City Manager provide to the Council an analysis of staffing levels per shift for fire department personnel.

Councilman Walton inquired if persons within individual departments were adequately trained to take over in the event of absences. Mr. Olson responded that some departments had that ability, while others did not. Mr. Olson noted that staff was looking a succession planning at the present time and stated that some departments had strong individuals who could step in and other departments were not in that position. Councilman Walton stated that it was important for the City to be prepared and encouraged additional training for employees.

e. Consideration – Policy with regard to Nepotism in Hiring:

Mayor Peel recognized Mr. Olson to begin the discussion of this matter. Mr. Olson stated that at the request of the City Council, City staff had reviewed the City’s current nepotism policy and had drafted a modification to that policy. He compared the differences between the existing policy, as found in paragraph five (5) of page three (3) of the Personnel Policy Manual, and those changes being recommended for the Council’s consideration, as follows:

It is the City's nepotism policy that a person is ineligible for hire in the same department where a relative is employed by the City. For the purpose of this policy, a relative shall be defined as: spouse, mother, father, guardian, child, sister, brother, grandparents, grandchild plus the various combinations of half, step, in-law, and adopted relationship that can be derived from those named. However, the City recognizes that a strict nepotism policy may adversely affect the operation of City departments, and thereby the citizens of Elizabeth City. Therefore, the City Manager shall have the right to deviate from this nepotism policy if it has been determined that staffing levels within a given department adversely affect the overall mission of the department. The Department Director shall provide a finding of fact to the City Manager that staffing levels are critically below, as determined by the City Manager and Department Director, the levels necessary to carry out the mission of the respective department. Said finding shall include recruitment challenges prohibiting selection of non-related individuals. Upon receipt of the finding of fact, the City Manager may, at his/her discretion, deviate from this nepotism policy and hire an individual who is related as defined herein. If the nepotism policy is deviated from, the following safeguards shall be followed without exception:

- a. Individuals may not work under the supervision of a relative, as defined herein.*
- b. Any City working relationship shall not create an actual or perceived conflict of interest.*
- c. The relative shall have no input on evaluations, merit pay or disciplinary action associated with the individual.*
- d. If the relative appears in the chain of command, he/she must recuse himself/herself from all employment actions. By doing so, any action will advance to the next step in the process without a finding.*

Mr. Olson stated that the amended policy requires an overreaching public purpose to deviate from the City's existing policy and puts the needs of the City and its citizens first, instead of the needs of individuals seeking employment.

Councilman Stimatz stated that he thought staff had done a good job on the amended policy, because it allowed some flexibility for the city manager and put safeguards in place to make sure staffing needs can be met. He noted several changes that he would like to have made, as follows.

1. Councilman Stimatz stated that the term "department director" should be changed to "department heads" to reflect the correct term for the City;
2. He stated that the phrase "*Upon receipt of the finding*" should be changed to "upon validation of the finding." He pointed out that "receipt" means "when you get it, you have to do it," while "validation" means that the finding had to be validated before a decision is made.
3. He asked if, in section "d," the word "above" should be included as follows: "If the relative appears above in the chain of command..." Mr. Olson stated that he believed the inference was taken for granted because a person "below" is not in the chain of command.
4. Councilman Stimatz stated that he would also like to add a requirement that when the finding of fact is made and a deviation from the policy takes place, a report be made to the City Council for information purposes.

Councilman Brooks asked City Attorney Morgan what the difference would be with regard to the policy allowing persons to marry and the hiring of a relative that is not in the direct line of supervision. Mr. Morgan responded that the policy as it currently stands does not allow for the hiring of the relative; while the City cannot legally prevent two people from marrying who may happen to work together. Councilman Brooks responded that it was his opinion that as long as employees were not in the direct line of supervision it should not matter if they had relatives working for the City. He noted that at issue is the loss of the City's young people to other areas in order to find work.

Mr. Olson stated that the amended policy will be incorporated into the City's Personnel Policy Manual making it necessary to adopt it by resolution. He stated that staff will prepare a resolution for adoption during the next City Council meeting.

Mr. Olson noted that he would also prepare an advance resolution to accompany the proposed Internship Policy that will be discussed during that same meeting.

f. Discussion/Consideration – Flow Charts for Voluntary Contiguous Annexation, Rezoning and Text Amendment Processes:

Mayor Peel called on Mr. Olson to provide the background for this discussion. Mr. Olson stated that staff had prepared, at the request of Councilman Stimatz, flow charts to reflect the processes involved with Voluntary Contiguous Annexation, Rezoning Applications and Text Amendments.

Mr. Olson stated that the annexation process is an internal process and that the flow chart would be included in the packet of information provided to applicants. He noted that the other two flow charts (rezoning and text amendments) will need to be adopted into the Unified Development Ordinance. He advised that the process for UDO inclusion was to first forward the documents to the Planning Commission for review and recommendation after which the Council would call for and hold a public hearing.

Councilman Stimatz stated that the annexation flow chart was very clear and noted that an annexation process was accomplished recently without significant issues. On the other hand, he stated, there had been issues with a rezoning process recently especially in relation to the Planning Commission's role and the City Council's role. He noted that any recommendation received by the City Council, from either staff or a committee, is subject to changes made by the City Council. He noted that the question at hand is whether or not the changes have to be referred back to the recommending committee prior to holding a public hearing and adopting them. He stated that the reason for having the flow charts available is to avoid Council debates as had occurred over the last six to eight months.

Councilman Stimatz provided additional flow chart information that he had prepared that he felt should be inserted in the rezoning and text amendment flow charts prepared by staff. He stated that the additional information reflected the guidance the Council had been given by the School of Government regarding these processes. He requested that the additional information be included in the flow charts.

Councilman Stimatz also suggested that the flow charts be prepared using standard flow chart design, whereby items of decision are indicated by a triangular box. He noted that the information was available on the internet.

Mr. Olson stated that staff would bring back new rezoning and text amendment flow charts during the next City Council meeting that would include Councilman Stimatz' suggestions.

Councilman Stimatz stated that he had asked that a discussion of process improvement between the Planning and Inspection Departments be included on the agenda, but staff failed to do so. He stated that it was important for people to understand when they come in the door what is involved when applying for licenses, permits, inspections and the like. He noted the recent Island Breeze issues as an example of the need for this exercise. He stated that he wanted to "renew the call" for the consideration of this issue and advised that it is not about flow charting the process, but is about spending some money to engage people to assist with a work flow planning improvement process. He advised in addition, that as the City progresses in automating its systems, if bad practices are automated it only makes "bad practice faster." He asked staff to bring back some proposals on how this goal can be accomplished during the 2016-2017 fiscal year.

g. Consideration – Modifications to Weatherization Program with Regard to Price Per Square Footage and Allowance for Foam Insulation:

Mayor Peel called on Mr. Olson for a review of this consideration. Mr. Olson reported that he was not in attendance during the last City Council Work Session when this matter was first discussed. He stated that staff had informed him of a number of issues that needed to be emphasized to members of the Council.

Mr. Olson pointed out that of the approximate \$4,000 spent to weatherize a home, only \$900 - \$1,000, or about 25%, is spent on the insulation installed in the home. He noted that the majority of the expense is for caulking and the intensive labor involved in alleviating air intrusion and/or extrusion. He reminded the Council that during the previous Work Session presentation, Dennis Gordon has provided information regarding the types of insulation used by the City's contractors in the weatherization process.

Mr. Olson stated that the concern that had been expressed by Councilman Stimatz was that the City did not offer foam as a means to insulate. He advised that Mr. Gordon had informed him that only about 2% of the City's weatherization clients would benefit from some type of foam insulation. He reported that foam insulation is very expensive and reviewed the cost estimates for the various types of insulation in use, such as rolled, batts and blown. He stated that the purpose behind the City's program is to help the most people with the limited resources available.

Mr. Olson stated that staff recognizes that there are times when foam insulation is the appropriate choice, but did not believe that the City should pay 100% of the cost. He suggested that a way to accomplish this would be in the development of the weatherization scope of work, the cost for foam insulation would not be included, but the work would include all other items such as caulking and weather stripping. He stated that if the property owner wanted foam insulation, the City could provide a \$900 allotment once the work was completed and inspected. Mr. Olson noted the absence of contractors available locally that can perform foam insulation work.

Mr. Olson addressed questions regarding the cost differential for an R value of 30 and 38 and advised that there is very little difference. He reported that the recommended R value for this area by the Department of Energy is R38.

Mr. Olson advised that even though the City Council had removed income guidelines as a requirement to participate in the program, 45% of those served are still considered low to moderate income by HUD guidelines. He noted that many local residents of low to moderate income live as tenants and do not own their home. He pointed out that unless the City receives permission by the property owner to do weatherization work, tenants are not being reached by the program. He noted that all residents pay the same electrical rate and the weatherization program's expenses are paid by the Electric Fund, not the General Fund. Mr. Olson referred the Council to a July 2015 memo he had prepared, which explained how all residents of the City benefit from the Weatherization Program due to decreased overall demand charges.

Councilman Stimatz inquired if the City's intention is to spend \$4 per square foot as the staff recommendation had suggested. He provided an example of a 1500 square foot home to illustrate that the \$4.00 allowance would equate to \$6,000. Mr. Olson stated that in the City's previous experience, some homes cost less and some cost more; but the average cost equates to \$4,000 per structure. Councilman Stimatz commented that a maximum per home should be established for the weatherization program at an amount to be determined.

Councilman Walton inquired as to the reason why the City does not weatherize trailers since many low income individuals live in these structure. He said that taxpayers living in trailers should receive the same benefit as all other taxpayers.

Mr. Olson explained the structural constraints involved with weatherizing trailers and asked Energy Officer Dennis Gordon to come forward to further explain the reasoning. Mr. Gordon stated that there are definite challenges involved with retrofitting a mobile home. He said that the roof area is only about twelve inches, which would require that

the roof be “peeled off,” thus creating a liability for the City. He noted that once the roof is pulled back, should it begin to leak, it becomes the City’s responsibility. He stated that most mobile homes are on axles and typically do not have floor joists. He pointed out that generally the trailer’s air distribution equipment is located down the center of the floor, which makes it a further challenge to access. In summary he stated “you can do a mobile home, but the liability issues are just too overwhelming.”

Councilman Walton stated that citizens had to now sign waivers in order for weatherization work to be done. Mr. Gordon responded that the waiver is only for removing floored attics. Councilman Walton stated “a liability is a liability and if they sign it over, they can do nothing to you.”

Mr. Olson noted that there is a big difference between a mobile home and a manufactured home under the building code. He stated that the City does weatherize manufactured homes. Mr. Gordon stated that most mobile homes would not stand up under the de-pressurization test that is performed.

Councilman Donnelly stated that the major point of the weatherization program is that it saves the resident money and it saves the City money. He noted that anything that creates a savings is good, in his opinion.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, that the Council amend the City’s weatherization policy to provide for a \$900 reimbursement after inspection for those citizens who have their home weatherized by the City but prefer to engage a home insulation contract for their insulation work. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Councilman Stimatz reiterated that staff would work on a number to establish a maximum and bring it back for the Council’s consideration.

Councilman Stimatz asked if there was a level of air exchange in cubic feet per minute (CFM) whereby the City would not weatherize a home. Mr. Gordon responded that any home with a reading of 7000 CFM or less would be acceptable to weatherize. Councilman Stimatz asked if there was a lower limit whereby it would not be cost effective to weatherize the home. Mr. Gordon responded that the lower limit would be 450 CFM. Mr. Gordon stated that he looks at the overall thermal integrity of the structure when preparing the scope of work.

h. Community Relations Committee – *(Added to agenda by Councilman Brooks)*

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks read a prepared statement to express his distress over recent events across the Country whereby unarmed black men have been shot by police officers and citizens have retaliated by killing members of law enforcement. He described these events as senseless. He stated that he wanted to encourage the Community Relations Commission (CRC) to become more involved in improving local race relations. He said that although racial unrest exists in other parts of the country and the world, it also exists in Elizabeth City.

Councilman Brooks recounted several events of past racial injustice and the turbulence that erupted because of it and made an impassioned plea that peaceful protest by citizens should be allowed and not suppressed. He stated that even though some people thought that we are living in a post-race society, his opinion of reality is that is not true. He stated that racism is alive and well and there needed to be a conversation initiated to prevent the same types of racially-motivated events from happening in Elizabeth City.

Councilman Stimatz thanked Councilman Brooks for reminding everyone that there is still a long way to go. He stated that he had served as the Council’s ex-officio representative on the CRC for five or six years and would be willing to yield his place as that ex-officio representative to Councilman Brooks to allow him to be a part of that

group on a regular basis to work with them to create a dialog. Councilman Brooks stated that he did not have all the answers but he would be very happy to be a part.

Councilman Walton stated that he did not believe the CRC should be about putting together a leadership conference. He said it should be about coming together and making sure that everybody is included. He noted that the racial mix of employees within the City had not changed since 2012 and he requested that the City Manager provide the current employee breakdown by race. Councilman Walton stated that it appeared to him that people did not want to talk about race, but it was important to do so because everyone is significant.

Councilman Stimatz stated that he had tried for several years to encourage the Council and the County Commissioners to provide direction to the CRC, but the best that had been done was to appropriate a minimum amount of funding with no direction. He complimented the members of the CRC and stated that they had done a lot for the City “on their own dime in their own time, with no reward.”

Motion was made by Councilman Tony Stimatz, seconded by Councilman Rickey King, that he (Stimatz) would yield his seat to Mr. Brooks on CRC. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- i. Consideration – Award of Bid for water and sewer main replacement on Road Street between Grice Street and Elizabeth Street to RPC Contracting in the amount of \$974,630.90 and authorize the City Manager to execute the construction contract with RPC. *(Removed from Consent Agenda by Councilman Walton.) (Clerk Notation: This item recommended for approved by the Finance Committee during their meeting of July 7, 2016.)*

Mayor Peel recognized Councilman Walton for his comments. Councilman Walton asked for an update regarding where this matter stood. He stated that his concern was based on information that had been provided by email earlier from the City Clerk to members of the Council. Mr. Olson responded that he had provided a memo by email, a copy of which had been provided for the meeting, advising that staff had no concerns with RPC being awarded the contract for Phase III of the Road Street project. He stated that staff’s recommendation remained the same as had been provided in the agenda write-up. He noted that RPC, a local asphaltting company, had hired a sub-contractor, Envirotech, to do the actual water and sewer line work. He said that the City had worked with Envirotech on several previous projects and found their work satisfactory.

Councilman Stimatz asked if the RPC contract contained a warranty clause. Mr. Olson responded that a standard warranty period of one-year is included.

Councilman Donnelly inquired if there would be supervision of the work as it is performed. Mr. Olson stated that the City had hired Eastern Carolina Engineering to do the construction administration for the project and they would have a resident inspector present.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Rickey King, to award Phase 3 of the water and sewer main replacement on Road Street between Grice Street and Elizabeth Street to RPC Contracting for \$974,630.90; and further authorize the City Manager to execute the construction contract with RPC Contracting, Inc. as described. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

(Clerk notation: The two bids opened on July 6, 2016 for this project were as follows: Geo. Raper & Son \$1,017,878.00; RPC Contracting \$974,630.90.)

- j. Consideration – Approval/Adoption of the following documents required for CDBG Grant Funding. *(Removed from Consent Agenda by Councilman Walton)*
 1. Fair Housing Plan
 2. Language Access Plan

3. Analysis of Impediments
4. Citizen Participation Plan
5. Citizen Complaint Procedure
6. Residential Anti-Displacement & Relocation Assistance Plan
7. Section 504 Compliance Self-Evaluation Survey

Mayor Peel recognized Councilman Walton for his comments. Councilman Walton asked the City Manager to explain the process for these plans in order to allow the people in the audience to understand what needs to happen. Mr. Olson stated that HUD and the Department of Commerce require certain standard plans to be adopted annually by the City Council in order for the City to be eligible to receive Community Development Block Grant funding. He advised that the Department of Commerce had provided standard templates for most of the plans, which City staff had amended to include Elizabeth City's specific information.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Rickey King, adopt the updated Fair Housing, Language Access, Analysis of Impediments, Citizen Participation, Citizen Complaint, Residential Anti-Displacement, and Section 504 plans as presented by staff. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

7. Comments and Inquiries on Non-Agenda Items:

Councilman Brooks stated that he had talked about race in his earlier comments, but wanted to say additionally that he did not use the term "African-American." He said that he used the term "black" because everyone born in America is an American. He shared several incidents that had happened to him personally to further illustrate the trials of being a black man living in America. He stated that he felt there was racism in the court system, and that racism was everywhere, but it could not be said that all of one race is racist. He suggested that those talking about the Black Lives Matter movement should put themselves in others' place. He reiterated that there had to be a discussion on this issue.

Councilman Stimatz stated that the brick-laying job on Selden Street appears to be going well. He asked if it had been determined what caused the road to sink. Public Utilities Director Paul Fredette responded that settlement of sewer work had caused the problem.

Councilman Horton had no further comments.

Mayor Pro Tem Hummer had no further comments.

Councilman King had no further comments.

Councilwoman Baker stated that her grandchildren had visited recently and she wanted to express what a great park the City has in South Park. She reported that her grandsons had thoroughly enjoyed the batting cages. She stated that she was very proud of the park for the City's youngsters.

Councilman Walton requested that the Council observe a moment of silence to recognize what's going on in the world. He stated that he, too, had experienced racial discrimination at a local retail establishment in the past week and said "black lives do matter."

Councilman Donnelly commended City staff on the job they did on the 4th of July celebration. He noted that the fireworks were spectacular.

Mayor Peel also commended and thanked staff for the 4th of July celebration. He requested that the Councilmembers observe a moment of silence to reflect on what is going on in the world and to ask for a way to come together and address these issues without using violence.

8. Closed Session as allowed by NCGS §143-318.11(a)(3) Consultation with City Attorney and NCGS §143-318.11(a)(6) to discuss personnel.

Mayor Peel requested a motion for the Council to retire into Closed Session.

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to go into Closed Session as allowed by NCGS §143-318.11(a)(3) Consultation with City Attorney and NCGS §143-318.11(a)(6) to discuss personnel matters. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Mayor Peel declared a five minute recess at 10:05 p.m., after which the Council reconvened in Closed Session.

Motion was made by Councilman Stimatz, seconded by Councilman Horton to come out of Closed Session. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

The Council returned to Regular Session at 10:43 p.m.

10. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 10:44 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk