

**City Council Regular Session
February 27, 2017**

The City Council of the City of Elizabeth City met in regular session on Monday, February 27, 2017 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
Councilman Ray Donnelly
Mayor Pro Tem Anita Hummer
Councilman Tony Stimatz
Councilman Michael Brooks
Councilman Rickey King
Councilman Darius Horton
Councilman Johnnie Walton

MEMBER ABSENT: Councilwoman Jean Baker

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Assistant City Manager Angela Cole
Interim Human Resources Director Monica Cole
Public Utilities Director Paul Fredette
Parks and Recreation Director Dexter Harris
Fire Chief Larry Mackey
ECDI Director Debbie Malenfant
Community Development Director Matt Schelly
IT Director Matthew Simpson
Inspections Director Stanley Ward
City Clerk Vivian White
Deputy Chief of Police John Young

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 Darius Horton to give the invocation, after which Mayor Peel led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King, to approve the agenda with any necessary adjustments.

Councilman Walton requested to add "public restrooms."

Councilman Brooks requested to add "noise ordinance."

Councilman Walton requested to remove items "a," "d," and "h" from the Consent Agenda and place them on the Regular Agenda for discussion.

Mayor Peel called for a vote on the amended agenda:

Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. The motion carried.

2. Statement of Disclosure:

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

3. Proclamation for American Red Cross Month:

Mayor Peel invited Carolyn Self of the American Red Cross to join him at the podium. Mayor Peel read and presented a proclamation dedicating the month of March 2017 to all those who support the American Red Cross mission of preventing and alleviating

human suffering in the face of emergencies; and proclaimed March as American Red Cross Month in Elizabeth City by encouraging all citizens to support the organization and its noble humanitarian mission.

Mrs. Self spoke briefly about the services provided by the American Red Cross and expressed her appreciation to the Council for this recognition.

4. Comments from the Public:

Jason Schubert, 912 W. Church Street, Elizabeth City, NC stated that he was co-chair of the Community Relations Commission (CRC) and had served for two years. He said that he had also had an opportunity to participate in the recently formed Unity Group. He noted that the mission of the CRC was to identify areas of discrimination and seek to overcome the division that exists within the community. He noted that a lot of overlap existed with the mission of the Unity Group and the CRC, but it appeared the Unity Group was succeeding in many ways that the CRC had been unable to do. Mr. Schubert stated that, in view of the current situation, he would request the Council to evaluate the role of the CRC going forward and advise how the Council sees the Commission fitting into the overall vision of overcoming discrimination in the community.

5. Consent Agenda:

(Note: Items "a" through "d" recommended for approval by the Finance Committee during their meeting of February 23, 2017)

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

Beginning of Consent Agenda:

- a. **Consideration – Award of Audit Contract to S. Preston Douglas & Associates, LLP in the total amount of \$76,000 for fiscal years 2017-2018, 2019 and 2020;**
- b. **Consideration – Authorization to Submit Golden LEAF Foundation Disaster Recovery Grants Program Application for the Herrington Road Sewer Project;**
- c. **Consideration – Acceptance of Vehicle Donation to the Police Department by Toyota of Elizabeth City; and declare surplus a 1998 Toyota Camry with 210,000 miles currently being used in the Police Department fleet;**
- d. **Consideration – Award of Bid for Underground Electrical Distribution Line from Tanglewood Parkway to Wellfield Road to Lee Electrical in the amount of \$400,450.11;**
- e. **Consideration – Authorize Pasquotank County to be the lead agency for seeking funds under FEMA/NC Emergency Management Mitigation Program HMGP-DR-4285; and authorization for City staff to provide support to Pasquotank County during the mitigation process associated with Hurricane Matthew.**

End of Consent Agenda.

Motion was made by Councilman King, seconded by Councilman Donnelly to approve the Consent Agenda. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

6. Regular Agenda:

a. Consideration – Three Re-appointments to the Elizabeth City Planning Commission:

Mayor Peel requested the Council's pleasure regarding the following reappointments to the Planning Commission. He conducted a roll call on each reappointment, with the votes recorded as follows:

- (1) Re-appoint Ignazio (Sonny) DiGirolamo to serve an additional four-year term on the Elizabeth City Planning Commission to expire February 27, 2021.

Those voting in favor of this appointment were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None.

- (2) Re-appoint Carlton O'Neal to serve an additional four-year term on the Elizabeth City Planning Commission to expire February 27, 2021.

Those voting in favor of this appointment were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None.

- (3) Re-appoint Ernest Sutton to serve an additional four-year term on the Elizabeth City Planning Commission to expire February 27, 2021.

Those voting in favor of this appointment were: Donnelly, Hummer, Stimatz, Brooks, King, and Horton. Mr. Walton abstained, which is recorded as a yes vote. Against: None.

b. Consideration – Appointment to Central Communications Advisory Board:

Mayor Peel requested the Council's pleasure regarding the following appointment to the Central Communications Advisory Board.

- (1) Appoint Mr. Jesse Stallings to serve a two year term on the Central Communications Advisory Board expiring February 28, 2019.

Motion was made by Councilman Stimatz, seconded by Councilman Donnelly to appoint Mr. Stallings.

Mayor Peel conducted a roll call on the appointment, with the votes recorded as follows:

Those voting in favor of this appointment were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None.

c. Consideration – Adoption of Budget Meetings Calendar for FY 2017-2018 *(Recommended for approval by the Finance Committee during their meeting of February 23, 2017:*

Mayor Peel recognized Mr. Olson for his comments on this matter. Mr. Olson reviewed in detail the proposed budget calendar for the Council and offered to answer any questions. Hearing none, Mayor Peel called for a motion.

Motion was made by Councilman King, seconded by Mayor Pro Tem Hummer to approve the following proposed budget calendar for fiscal year 2017-2018 as presented and instruct staff to make arrangements to have these special meetings televised. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

[Continued on following page]

Meeting Date	Action
March 13, 2017 – 5:30 p.m.	Pre-budget work session
May 2, 2017 – (Tuesday) 5:30 p.m.	Present staff budget
May 15, 2017 – 5:30 p.m.	Review General Fund
May 22, 2017	Review Enterprise Funds during Work Session and Call for Public Hearing during Regular Session
June 5, 2017 – 5:30 p.m.	Review City Council Changes
June 12, 2017	Hold Public Hearing during Regular Session
June 19, 2017 - 5:30 p.m.	Additional Budget Meeting, if needed
June 26, 2017	Adopt Fiscal Year 2017-2018 Budget during Regular Session

d. Consideration – Approval of Added Text in Subsection 150.55(c) of Ordinance #2017-02-02 Downtown Maintenance Code Revisions adopted on February 13, 2017 to be effective February 27, 2017:

Mayor Peel recognized Assistant City Manager Cole to present this item to the Council. Ms. Cole stated that during the February 13, 2017 Council meeting, staff presented an ordinance amending the Downtown Maintenance Code for the Council’s consideration. She reported that the Council requested that staff include an additional amendment to the proposed Downtown Maintenance Code’s revisions, whereby the ordinance would explain the courtesy process in handling complaints already undertaken by staff. Ms. Cole stated that staff had inserted Subsection 150.55(c) to accommodate the Council’s directive to add this language. She also noted that an introductory phrase had been added to Subsection 150.54, which read “Subject to the exception noted in 150.55(C)” that called attention to the correlation between the two subsections.

Councilman Stimatz pointed out that in Subsection 150.55, staff had introduced the phrase “official notice of violation.” He asked if “complaint” and “official notice of violation” were one and the same. Ms. Cole responded that the official notice of violation is not the complaint; rather it is the notice sent to the citizen. He suggested that at some point the Council may want to amend that language for clarity.

Councilman Walton inquired how long a citizen would have to comply after a ruling by the Board of Adjustment. Mr. Morgan responded that typically the Board’s ruling requires compliance within 30 days.

Motion was made by Councilman Stimatz, seconded by Councilman Donnelly, to adopt the changes in the ordinance as presented by staff. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

**ORDINANCE #2017-02-02
TO AMEND CHAPTER 150 BUILDING REGULATIONS,
DOWNTOWN MAINTENANCE CODE SECTIONS 150.50 THROUGH 150.99
IN THE CITY OF ELIZABETH CITY CODE OF ORDINANCES**

WHEREAS, the City Council believes that the historic commercial district is an important asset to our community and should be a source of community pride; and

WHEREAS, the intent of the Ordinance by way of Code Enforcement is to improve the safety, health and welfare of all citizens within the city’s jurisdiction; and

WHEREAS, the City Council has identified several goals and objectives, including improving the quality and safety of all neighborhoods by developing aesthetic-based ordinances to address blight in neighborhoods; and

WHEREAS, the City Council confirmed their support of furthering preservation and redevelopment by adopting the initial Downtown Maintenance Code in March of 2016; and

WHEREAS, during early December 2016 staff received interpretation from the School of Government regarding the specific terms of the ordinance, indicating that the City

should incorporate another step in the appeal process; and

WHEREAS, the School of Government recommends that the initial appeal from Code Enforcement be directly handled by the Zoning Administrator / Planning Director, an appeal from the decision of the Zoning Administrator / Planning Director would go to the Board of Adjustment, and if not satisfied with the Board of Adjustment decision, the land owner would have the right to appeal the decision to Superior Court; and

WHEREAS, the School of Government indicates that our ordinance is satisfactory as written, but incorporating the suggested modification will improve standing, if challenged; and

WHEREAS, the City Council hereby adopts revisions as noted by deletion and addition in the following Chapter 150 Building Regulations, City of Elizabeth City Code of Ordinances:

SECTION I. CHAPTER 150 SECTION 150.50

Sec. 150.50. Short title.

This division shall be known as the "Downtown Maintenance Code" and may be cited as such. (Code 1993, § 4-76; Ord. of 4-6-1998)

SECTION II. CHAPTER 150 SECTION 150.51

150.51 Scope and Applicability.

The City recognizes that it has an obligation to protect its citizens from conditions in and about commercial properties which threaten or may be injurious to public health, safety and welfare. In addition, the City recognizes that Aesthetic considerations may constitute a valid basis for the exercise of police power if the public benefit outweighs private harm including: protection of property values, preservation of the character and integrity of the community, promotion of the comfort, happiness, and emotional stability of area residents.

(A) The provisions of the subchapter shall apply to all commercial premises, buildings, structures and accessories thereto within Elizabeth City's Central Business District zoning classification. The Minimum Housing Code for the City of Elizabeth City shall apply to residential structures; for combination structures, both codes will apply, with the more restrictive provision controlling in case of a conflict between the two. This code establishes minimum standards for the initial and continued occupancy and/or use of all such buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration, preservation or use of the building, equipment or facilities subject to the code.

(B) It shall be the responsibility of the owner of all buildings, structures, and/or premises to ensure that said buildings, structures, and/or premises are maintained in compliance with all applicable provisions set out here. Abatement of the following violations below may require varying levels of conformance with the Historic Preservation District Overlay of the Elizabeth City Historic Preservation Commission (HPC) and, in turn, requiring varying levels of review and approval that may include the National Register of Historic Districts and standards for historic preservation set out by the Secretary of Interior.

(C) The provisions of this code apply whether the structure or building is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by the owner (or their representatives or any party in interest) to reasonably prevent the entry of unauthorized persons or the occurrences of damage creating conditions not permitted by law.

(D) In the event any provision, standard or requirement of this subchapter is

found to be in conflict with any provision of any other ordinance or code of the city or state, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health, safety, or welfare of citizens and the peace and dignity of the city shall control.

(Ord. 2016-03-02, passed 3-28-2016)

SECTION III. SECTION 150.52

Sec. 150.52. Maintenance Standards for Downtown Commercial Structures.

(A) All commercial premises shall be maintained in a state of good repair that prevents further decay from wind, rain, and external weather and reasonably secures the building from any unauthorized entry by humans, animals or birds. All commercial premises shall be free of nuisances and any hazards to the safety of occupants, customers or other persons utilizing the premises or to pedestrians and/or vehicles passing thereby, and shall remain in compliance with all enforceable state and/or local building and fire codes. Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be a violation of this section and must be corrected:

(1) Such damage by fire, wind or other causes as to render the building unsafe;

(2) Dilapidation, decay, unsanitary conditions or disrepair, which is dangerous to the health, safety and welfare of the occupants or other people in the city;

(3) Defects significantly increasing the hazards of fire, accident or other calamities; **or**

(4) Any violation of the city fire prevention code which constitutes a condition which is unsafe and/or especially dangerous to life;

(B) To facilitate and ensure that the conditions listed above are satisfied, all owners and/or tenants of commercial premises shall be required to comply with the following:

(1) *Commercial waste.* Control the accumulation of garbage, trash, or rubbish, which creates health and sanitation concerns. All garbage and solid waste, including cigarette butts, shall be disposed of in approved containers in a safe and sanitary way;

(2) *Sidewalks.* Remove ice, snow, leaves, dirt or other natural waste from sidewalks on a regular basis. All waste shall be disposed of in approved containers or neatly placed at the back of curb for sanitation service pick up;

(3) *Structures.* Remove all broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other dangerous objects or similar hazardous conditions immediately. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and shall be repaired or replaced with like or similar material according to its original use. Approval must be received from the Elizabeth City HPC for historical structures with proposed material changes; Prompt repairs of broken glass to previous or original condition, wooden frames or hard surface materials should be completed in short term to maintain the appearance and safety of the building;

(4) *Loose building objects and appurtenances.* Objects and elements protruding from building walls, roof and environs which are unsafe or not properly secured or which can create a hazard must be removed. For example, abandoned electrical boxes and conduits, wires, sign brackets, advertising sign structures, attached or freestanding awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a safety hazard to the occupants, pedestrians or other residents of, or visitors to the city;

(5) *Exterior porches, balconies, and fire escapes.* All exterior porches, landings, balconies, stairs and fire escapes shall maintain the bannister height required by applicable fire and/or building code. They shall be maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair and free of defects;

(6) *Storm water appurtenances.* Loose gutters and downspouts shall be replaced or repaired as necessary and shall be appropriately located so as not to drain across the sidewalk, or cause a hazard to pedestrian, vehicular traffic or adjacent or nearby property;

(7) *Secondary structures.* Attached or unattached accessory structures shall be kept in good repair and not cause a safety hazard;

(8) *Windows.* Loose windows must be repaired and have sashes of proper size and design and shall be free from rotten wood, broken joints or broken or loose mullions. Broken or cracked glass that could be in danger of falling or shattering shall be removed. Covering an opening left by broken glass with sheets of wood will not be permitted for more than 30 days. Temporary boarding materials, including wood and paper, shall be replaced immediately, unless a valid building permit has been issued for the property and renovation activity has occurred within 30 days, as noticed by the building inspector and/or code enforcement officer.

(9) *Walls.* Where a wall of a building has become exposed as a result of demolition of adjacent buildings, said wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked so as ~~not to~~ **to render the wall no longer a potential threat to the public health, safety and welfare and to ensure that the wall does not** detract from the aesthetics and value of adjacent property and weatherproofed, if necessary, due to the construction or construction material to prevent deterioration of the wall. The party causing the exposure of the wall shall bear the obligation of compliance with this division.

(10) *Painting.* All exterior surfaces which have been painted shall be maintained free of peeling and flaking. Where 10% or more of the aggregate of any painted surface shall have peeling or flaking or previous paint worn away, the entire wall shall be repainted.

(2005 Code, § 10-87) (Ord. passed 4-6-1998; Ord. 2016-03-02, passed 3-28-2016)

Cross-reference:

Cleaning sidewalks, see § 152.12

SECTION IV. SECTION 150.53.

Sec. 150.53. Investigation.

The City Manager or his designee is hereby designated to have the authority and powers provided in N.C. General Statute Section 160A-149 (b) and to conduct any investigations hereunder. The Zoning Administrator is hereby designated as the person responsible for conducting any hearing under Section 150-54, which hearing shall be conducted as specified in N.C. General Statute Section 160A-439(c). Whenever it appears to the code enforcement officer that a nonresidential or mixed use building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public may be jeopardized for failure of the property to meet the minimum standards established by § 150.52, the code enforcement officer shall undertake a preliminary investigation. If entry into the structure for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant by the courts or with permission of the owner, the owner's agent, a tenant, or other person legally entitled to permit entry. The code enforcement officer shall have permission to inspect all exterior areas of the building, structure, or premises as allowed by § 95.41, Right of entry.

(Ord. 2016-03-02, passed 3-28-2016)

SECTION V. SECTION 150.54.

Sec. 150.54. Complaint and hearing.

Subject to the exception noted in 150.55(C), if the preliminary investigation discloses evidence that a building is in violation of the minimum standards, the code enforcement officer shall issue and cause to be served upon the owner of ~~such building~~ and parties in interest in the nonresidential building or structure a complaint stating the charges and containing a notice that a hearing will be held before the ~~Board of Adjustment per the Board's rules~~ Zoning Administrator at a place within the County scheduled not less than 10 days nor more than 30 days after the serving of the complaint. The owner shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings under this section but any evidence received must be relevant and material. Following the hearing, the ~~Board~~ Zoning Administrator shall dismiss the complaint if no violation is determined. If the ~~Board~~ Zoning Administrator finds that violations of this subchapter exist, the ~~Board~~ Zoning Administrator shall order compliance setting forth a maximum of up to 90 days within which to correct the violations.

Any order issued following the hearing shall state, in writing, findings of fact in support of the Zoning Administrator's determination and shall be served upon the property owner.

Any orders issued under this section shall be subject to the procedures and limitations set forth in N.C. General Statute Section 160A-4399(e), which is incorporated herein by reference as of set forth herein verbatim.

(Ord. 2016-03-02, passed 3-28-2016)

SECTION VI. SECTION 150.55.

Sec. 150.55. Service of complaints and orders.

(A) Complaints and all orders issued ~~by the code enforcement officer~~ **under this chapter** shall be served by the code enforcement officer upon persons either personally or by certified mail. When service of a complaint or order is accomplished personally or by certified mail, such service is hereby deemed to be complete on the day of delivery to or receipt by the person served. When service is made by certified mail, a copy of the complaint or order shall also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused and/or the regular mail is not returned by the post office within ten days after mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(B) If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the ~~code enforcement~~ **appropriate City** officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail and the ~~code enforcement~~ officer makes an affidavit to that effect, then the serving of such complaint or order upon the owners or other persons may be made by publication in a newspaper of general circulation in the city at least once per week **for** two successive weeks. When service is made by publication, a copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order; in the case of the complaint, it must be posted at least ten days prior to the hearing.

(C) Unless the noted violation presents an imminent threat to public safety, the code enforcement officer shall after having conducted a site inspection and recorded the apparent violations, communicate with the property owner(s) by sending a Courtesy Letter informing him or her of said violations. The courtesy communication shall offer the opportunity for a meeting at a mutually convenient time to discuss the noted violations and attempt a reasonable timetable for the property owner to voluntarily correct the noted violations. The courtesy communication period, including the opportunity to meet, shall not extend longer than 15 business days from the date of the Courtesy Letter. Neither the Courtesy Letter nor the aforementioned voluntary abatement period shall extend the abatement period specified in any Official Notice of Violation.

(Ord. 2016-03-02, passed 3-28-2016)

SECTION VII. SECTION 150.56.

Sec. 150.56. Failure to comply with orders.

~~—(A) If the owner fails to comply with an order to repair the building or structure, the code enforcement officer may cause such structure to be repaired, and pending such repairs, may order the building to be vacated and closed.~~

~~—(B) The actual cost incurred by the city in remedying the threat or potential violation of this article shall be charged to the property owner as and in the manner provided for liens listed in the county tax supervisor's office. In addition, the city shall include a fee of administration, investigation, researching, travel and monitoring of the cleanup in an amount as set from time to time by the City Council which shall also be paid by the property owner, or charged as a lien against the property.~~

~~—(C) If charges for the removal or abatement of a violation are not paid within 30 days after the receipt of a statement of charges, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.~~

~~—(D) Each day such threat or potential violation of this subchapter exists after notification to the property owner and/or any other person in possession of, or any other person in control of, or any person responsible for such condition upon such property shall constitute a separate and distinct misdemeanor punishable by law. This remedy shall be in addition to any abatement action taken by the city.~~

~~—(E) Each day that a violation continues after notification that such violation exists shall constitute a separate and distinct offense for purposes of the penalties and remedies set forth in this section.~~

~~—(F) This subchapter may be enforced by any one, all, or any combination of the remedies authorized in the code and under applicable North Carolina law.~~

(A) Action by City Council upon Failure to Comply With Order.

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the City Council may adopt an ordinance ordering the Chief Building Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Zoning Administrator found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Chief Building Inspector may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Chief Building Inspector may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the City Council may adopt an ordinance ordering the Chief Building Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Zoning Administrator found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the City Council. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Chief Building Inspector may cause the building or structure to be removed or demolished.

(B) Action by City Council upon Abandonment of Intent to Repair.

If the City Council has adopted an ordinance or the Zoning Administrator has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the City Council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or

safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the City Council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the City Council may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Zoning Administrator shall effectuate the purpose of the ordinance.

(C) Liens.

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Chief Building Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(3) If the nonresidential building or structure is removed or demolished by the Chief Building Inspector, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Chief Building Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. 2016-03-02, passed 3-28-2016)

SECTION VIII. SECTION 150.57.

Sec. 150.57. Appeals.

Appeals may be taken from any decision or order of the Zoning Administrator to the City's Board of Adjustment, in which event the requirements of N.C. General Statute Section 160A-388 and Article VII of the City's Unified Development Ordinance shall control the appeal.

SECTION IX. SECTION 150.99

Sec. 150.99. Penalty.

~~—(A) A violation of any provision of this chapter shall be deemed a misdemeanor, subjecting the offender to a fine of not more than \$500 and/or imprisonment for not more than 30 days.~~

~~(2005 Code, § 10-3)~~

~~—(B) Violation of § 150.35 of this chapter shall constitute a misdemeanor punishable by a fine of not more than \$500 and/or imprisonment for not more than 30 days.~~

The failure to comply with any order entered pursuant to the provisions of the Downtown Maintenance Code shall subject the owner of any property not in compliance with such order to a civil penalty not to exceed \$100.00 per day for every day such property remains in violation following the issuance of such order.

SECTION X. EFFECTIVE DATE: This Ordinance, as revised herein shall take effect on February 27, 2017.

SECTION XI. 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 XII. 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 XIII. 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 13th day of February, 2017 (contingent upon the drafting of subsection 150.55(c) for review and approval by the City Council on February 27, 2017).

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

e. Consideration – Adoption of Resolution Opposing HB 64 and SB 94 as they Pertain to Municipal Elections:

Mayor Peel recognized Mr. Olson to provide the background on this consideration. Mr. Olson stated that a bill had been introduced in the Legislature as SB 94 that would supersede the authority of municipalities by making all local elections partisan beginning

January 1, 2018. He noted that HB 64 had also been introduced and would require municipal elections to be held in even-numbered years beginning in 2022. He pointed out that the City's municipal elections have historically been held in odd-numbered years.

Mr. Olson reported that there were municipalities in North Carolina that held elections in even-numbered years; and said that there were also some that held partisan elections. He reported that special legislation had been received in those instances.

Mr. Olson stated that it was his opinion that these types of decisions should be made at the local level by the City Council and not dictated by the State of North Carolina.

Motion was made by Councilman Stimatz, seconded by Councilman Donnelly to submit the resolution opposing House Bill 64 and Senate Bill 94 to the State Legislature.

Councilman Stimatz suggested that the phrase "since 1923" be added to the fourth paragraph rather than using the word "historically." He noted that those not registered as Republican or Democrats would be left out of the primary process if the elections were held on a partisan basis.

Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

**RESOLUTION # 2017-02-01
OPPOSING HOUSE BILL 64 AND SENATE BILL 94**

WHEREAS, Municipalities in North Carolina have a longstanding history of being well managed without gross mismanagement of power; and

WHEREAS, the Elizabeth City Councilors care deeply for the health, safety and well-being of our citizens and the property encompassed within the City's corporate boundary; and

WHEREAS, we believe that as local officials who live and work daily in the communities we represent, we can best determine the specific needs of our citizens and our communities; and

WHEREAS, since 1923, the City's Charter and its subsequent revisions enacted by the General Assembly, have required the City of Elizabeth City to hold its municipal elections on a non-partisan basis in odd-numbered years; and

WHEREAS, of North Carolina's 533 cities, only eight have chosen to have partisan elections; and

WHEREAS, Municipal elections are purposely held in odd numbered years in order to separate partisan national and state elections from local government elections; and

WHEREAS, the separation of national and state elections from municipal elections allows citizens to focus on the issues and candidates that are of singular importance to their individual neighborhoods and communities.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Elizabeth City is opposed to House Bill 64 and Senate Bill 94 for the following reasons:

1. Permitting municipal elections to be conducted in odd-numbered years allows our citizens to be informed regarding local issues and the municipal candidates they believe can best serve their communities;
2. Municipal elections should be free from the issues created by party affiliation, bias, and/or designation;
3. Citizens should retain local control of municipal elections without interference from state authorities;
4. If moved to even-numbered years to coincide with national and state elections, municipal elections would unnecessarily be influenced by partisan issues and candidates.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be provided to all members of the Senate Committee On Rules and Operations, the House Committee on Elections and Ethics Law, Representatives Hunter and Steinberg and Senator Cook.

Adopted this 27th day of February, 2017.

ATTEST:

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

f. Discussion/Consideration – City Council Salary Increase: *(requested by Councilman Brooks).*

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks stated that he had received calls from his constituents telling him that they did not understand the City Council's decision to not support a raise for the Council as discussed during the previous Council meeting.

Councilman Brooks stated that the Council authorized spending \$175,000 to build restrooms at Mariners' Wharf Park that were not even open every day, but would not vote themselves an increase in salary.

Councilman Brooks requested that a discussion of the City Council salary increase be included on the Council's agendas until he was no longer on Council. He said that he would release and review all his research information on this matter at a future meeting and ask that his comments be transcribed verbatim.

g. Discussion – Community Relations Commission: *(requested by Councilman Brooks).*

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks responded to the citizen speaker, Mr. Schubert, and explained that the CRC and the Unity Group were two distinct organizations. He stated that when President Obama was elected, many people thought that we were living in a post-race society. He opined that even though "we've come a long ways, we don't live in a post-race society." He suggested that very little had changed and noted that people must engage the "grass roots" to come along in the efforts. He complimented the Unity Group as a "good thing" and stated that the Community Relations Commission should come up with activities that the Council and the Commissioners could get behind. Speaking as a member of the CRC, Councilman Brooks asked that people "give it a chance."

Councilman Brooks requested that a discussion of the CRC be placed on the next Council meeting agenda.

Mayor Peel commented that the Council could count on Councilman Brooks to help the CRC formulate a plan of action and bring it back to the Council in time for budget discussions.

Councilman Walton stated that there was a race problem all over the country, but no one wanted to be called a racist.

h. Discussion – Public Restrooms *(added by Councilman Walton):*

Councilman Walton requested an explanation regarding why the public restrooms at Mariners' Wharf Park had been closed. Mr. Olson responded that he was responsible for the decision because there had been illicit activities occurring at the facility. He noted that there is not a lot of use in the wintertime, but lately there had been some using the facility to get warm, to wash their clothes and bathe in the restrooms. He reported that the bathrooms were also being used as a place to "get high."

Mr. Olson stated that as the weather warms, the facility will be opened again for the patrons of the parks as well as for visiting boaters.

Councilman Walton stated that he thought the Council should have been involved in the decision to close the bathrooms. He pointed out that some people downtown had no other place to go. Mr. Olson responded that there was a sign posted on the facility directing people to secure a key from the ECDI office.

Councilman Brooks stated that the reason this discussion came up is because the Council had to “scuffle” to find the money. He requested that the City Clerk pull the minutes that contained the discussions about the Mariners’ Wharf restrooms development and provide them to him. He stated that he wanted to address it again along with the salary increase, because it appeared the Councilors could throw money at what they wanted. He pointed out that anything the Council directs, the City Manager is supposed to carry out through the department directors. He opined that it did not work that way. He advised that Elizabeth City has a City Council-City Manager form of government; and noted that he had “seen some crazy stuff going on.” He provided an example of the Barclift situation on US 17 South and how he fought adamantly for the residents at the time. He asserted that the City Council had voted unanimously to close the Barclift ditch up and it wasn’t closed yet. He asked “what happened?” He said the point he was trying to make is that the Council discussed the Mariners’ Wharf bathrooms thoroughly, including the “what-ifs” and possibilities. He noted that the boaters only come during certain months and “we have a bathroom just sitting there for the winter months not being used – taxpayer dollars.”

Mr. Olson pointed out that the City received a CAMA grant to provide waterfront access at Mariners’ Wharf Park that included funding to provide bathrooms for boaters. He said that there were some budget overruns; and stated that he would check the records and provide that information to the City Council.

Mayor Peel stated that what he was hearing during the discussion was that there had been problems with the bathrooms, but a process had been put in place whereby if someone legitimately needed to use the bathroom, they could walk 40 feet around the corner and get the key.

Councilman Stimatz stated that he wanted to correct something that had been said. He said that the motion regarding the Barclift property on US 17 South was specific to direct staff to find funds to replace the rip rap. He noted that the problem that the City ran into was that the City had no authority to give NCDOT money to do that work. He said “we didn’t tell staff to fix the problem.” He stated that staff did what the Council directed in that situation.

Councilman Brooks asked the City Clerk to pull the records regarding the Barclift matter and provide them to him. He stated that he disagreed with Councilman Stimatz and advised that it was his recollection that the Council voted unanimously to close the ditch; and then found out later that the City had no jurisdiction to perform the work. He said “because Council voted unanimously to close that ditch up with rap rap or whatever, it’s supposed to have been done and we’re supposed to send DOT the bill.” He stated that when the City Clerk provides the records about the matter, he wanted an apology from Councilman Stimatz.

i. Discussion – Noise Ordinance *(added by Councilman Brooks):*

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks stated that he was still hearing complaints regarding excessive noise coming from the Master’s Touch Church. He stated that he had spoken with Chief Buffalo and learned that the sound level is not violating the noise ordinance. He suggested that whoever was calling and complaining about the church needed to “stop their mess.” He asked if the City had any recourse on the people calling in false reports.

City Attorney Morgan stated that it is a crime to knowingly turn in a false report, but if the property owner truly believed that the ordinance was being violated and makes a report to that effect, he did believe the City could do anything.

- j. Consideration – Adoption of Various Budget Amendments Needed for Accounting Purposes;** *(recommended for approval by the Finance Committee during their meeting of February 23, 2017; removed from Consent Agenda by Councilman Walton.)*

Mayor Peel recognized Councilman Walton for his comments. Councilman Walton requested clarification on the foreclosure at 821 Park Street. Mr. Olson stated that the City received four notices of foreclosure from Pasquotank County and learned that someone was living in the 821 Park Street address after the fact. He noted that the individual had been living at the address for a period of time and was not paying rent to anyone. He reported that staff had sent a letter advising that the house had to be vacated by March 15, 2017; and the individual had advised Chief Buffalo that she would meet that deadline. Mr. Olson briefly reviewed the terms of the Interlocal Agreement with Pasquotank County that covered this matter.

Motion was made by Councilman Stimatz, seconded by Mayor Pro Tem Hummer, to adopt the following budget amendments as presented. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Hummer and Walton. Against: None. Motion carried.

BUDGET AMENDMENTS

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendments be made to the annual budget ordinance for fiscal year ending June 30, 2017:

SECTION I. That the General Fund Employee Reimbursement (103350.0100) and the Police Professional Services (105100.0400) be increased by \$635.

(Police recruit reimbursed the City for pre-employment psychological examinations when he chose not to pursue employment with Elizabeth City Police Department.)

SECTION II. That the General Fund Insurance Proceeds (103350.8300) and Police Maintenance & Repair to Vehicles (105100.1700) be increased by \$2,701.37.

(To record insurance proceeds for police vehicle involved in accident.)

SECTION III. That the General Fund Balance Appropriated (103990.0000) be increased by \$5,674; the Delinquent Taxes: Ad Valorem Revenue (103020.2015) be increased by \$16,243; Lot Clearing Revenue (103920.0010) be increased by \$7,417; Demolition Revenue (103920.0020) be increased by \$8,101; Administrative Fees Revenue (103920.0000) be increased by \$8,489; and Foreclosed Property Expenditure (104600.4600) be increased by \$45,924.

(To record purchase of four (4) foreclosed properties and return of taxes and special assessments.)

This amendment will decrease General Fund Balance by \$5,674.

SECTION IV. That the General Fund Balance Appropriated (103990.0000) and Taxes Paid on Foreclosed Property (104600.4601) be increased by \$3,490.

(To record payment of taxes on foreclosed property. The City is required to pay taxes the first year of acquiring foreclosed property until becoming tax exempt.)

This amendment will decrease General Fund Balance by \$3,490.

ADOPTED, this 27th day of February 2017.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

- k. Consideration – Authorization for Mayor Peel to execute the contract to purchase a 1.85 acres parcel known as 706 Catalina Avenue from the Boys and Girls Club, to further authorize Mayor Peel to execute all other documents associated with the purchase; and adopt a budget amendment to record Tourism Development Authority funding in the amount of \$60,000: (recommended for approval by the Finance Committee during their meeting of February 23, 2017; removed from Consent Agenda by Councilman Walton.)**

Mayor Peel recognized Councilman Walton for his comments. Councilman Walton stated that Assistant City Manager Cole had been assigned the task of developing a master plan for the Enfield Park area. He said that he wanted to point out that a dog park had no fit with the splash pad. He said that a playground would work.

Councilman Brooks stated his agreement with Councilman Walton that the Enfield area was the wrong place to put a dog park. He said that he thought the liability issues were too great.

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the item as presented. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

BUDGET AMENDMENT

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance for fiscal year ending June 30, 2017:

SECTION I. That the General Fund Tourism Development Authority Grant (103180.0000) be increased by \$60,000 and Non-Departmental Land Acquisition (106600.7301) be increased by \$60,000.

(To purchase Boys and Girls Club property.)

ADOPTED, this 27th day of February 2017.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

- I. Information Only – Update on Waterfront Master Plan: (removed from Consent Agenda by Councilman Walton)**

Mayor Peel recognized Councilman Walton for his comments. Councilman Walton stated that even though the waterfront plan is important, he thought the Council should spend the least amount possible on the study. He noted that there was not a lot of property left that had not already been developed.

Mr. Olson advised that the point of developing a master plan is to determine the types of land uses that can be permitted. He said that the update on the subject had been provided at the request of the City Council, but the project was unfunded at the present time.

7. Comments and Inquiries on Non-Agenda Items:

Councilman Brooks complimented the presentation given by Eastern Shore Communications during the Work Session and thanked them for their intention to hire locally. He expressed his frustration that the new owners of Southgate Mall were laying off maintenance people and bringing in their own people.

Councilman Stimatz welcomed “all the new faces in the departments.” He said that he was looking forward to them taking the City to new heights.

Councilman Horton had no further comments.

Mayor Pro Tem Hummer had no further comments.

Councilman King thanked everyone for coming out to the Unity Group’s community worship service. He opined that it was good to see such a diverse group of people in attendance.

Councilman Walton stated that the Unity Group gathering was very good and he complimented Father Chip Broadfoot and Pastor “Hipp” Barclift for their vision in creating the group.

Councilman Donnelly agreed that the Unity Group service was excellent.

Mayor Peel complimented the Unity Group service and stated that it was a powerful time.

8. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 8:22 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk