

**City Council Regular Session
August 24, 2015**

The City Council of the City of Elizabeth City met in regular session on Monday, August 24, 2015 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 Kem Spence
Councilman Darius Horton
Councilman Johnnie Walton

MEMBERS ABSENT: NONE

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

The City Council regular session was called to order by Mayor Joe Peel at 7:09 p.m. Mayor Peel welcomed everyone to the meeting and recognized Ernest Sutton to give the invocation, after which Mayor Peel led the Pledge of Allegiance.

(Clerk notation: The delay in calling the meeting to order was a result of the Work Session running until 7 p.m. A short break was taken between meetings to allow those citizens interested in signing up to speak an opportunity to do so.)

1. Agenda Adjustments and Approval:

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

Motion was made by Councilman Darius Horton, seconded by Mayor Pro Tem Anita Hummer, to approve the agenda as presented.

Councilman Ray Donnelly requested to reorder the regular agenda items by making Item a, Item c; Item b, Item a; and Item c, Item b.

Mayor Peel requested a vote on the motion to include the recommended changes.

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

2. Statement of Disclosure:

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

3. Tourism Report:

Mayor Peel announced that the Council failed to add the Tourism Authority Report, which was carried over from the previous Work Session meeting. He asked to do that at this point in the agenda. No one expressed opposition to this addition.

Mayor Peel recognized Councilwoman Jean Baker for her report. Councilwoman Baker stated that the TDA meeting held the previous week was the first meeting for the new chairman, Abel Sutton. She stated that after two years as chair, she is now the past chair. She announced that Rhonda Twiddy had been nominated vice-chair of the Authority and will succeed Mr. Sutton at the end of his two year term. She reported that the City had experienced a good visit from eight or nine historic Chesapeake Bay Buy Boats, which are all that are left of the wooden fleet.

4. Presentations: Mayoral Certificates of Recognition and Lifesaving Awards to Police Officers:

Mayor Peel and Chief Eddie Buffaloe presented the following Elizabeth City Police Officers with Mayoral Certificates of Recognition and Lifesaving Awards for exemplary service during two separate incidents that resulted in the saving of a person's life: Police Officer III Jeremy R. Dowdy, Police Officer III Stacey E. Rodriguez, Police Officer III Cathy J. Hewitt, Sergeant James K. Judge, Sergeant Ryan W. Boyce and Police Officer William D. Davis.

Mayor Peel stated that he oftentimes does not think of Police Officers as being in a life-saving role, but had found that their training is extensive and they possess a tremendous amount of skills in a variety of areas to keep us safe. He congratulated each of the officers for a job well done.

5. Comments from the Public:

Mayor Peel inquired if persons were present who wished to be heard. The City Clerk responded that ten persons wished to speak. Mayor Peel announced that Public Comments would be conducted until 7:30 p.m. at which time the Council would begin the scheduled Public Hearings. At the conclusion of the Public Hearings, Public Comments resumed.

Betsy Meads, 2008 Johnson Road, Elizabeth City, NC distributed information to the Council that provided average income per capita numbers for Pasquotank and its neighboring counties for 1974, 1990, 2000, 2010, 2014 and 2030 projected, which had been published by the Institute for Emerging Issues. She stated she wished to speak on the need for the InnovateNC grant versus the reasons given during an earlier Council meeting, which were "based on the name and the players." She pointed out that the information she had provided indicates a steady decline for Pasquotank County and now places the county last among the seven counties in the area. She stated that the InnovateNC grant would have provided tools and technical assistance valued at \$250,000 to help the community; and she expressed her displeasure with the fact that some members of Council seemed to be unaware of the information that had been provided to them in their agenda on the subject. She stated that she was offended by the action previously taken to deny support for the grant; and said that she thought it was "too little too late" to bring the matter up during this meeting, since the grant had already been submitted. She reported that the online petition she circulated in support of the application had received 265 signatures in a very short period of time.

Deborah Regel, 122 Ranch Drive, Elizabeth City, NC stated that she was one of the citizens who met with the Police Department on the Feral Cat Ordinance issue. She stated that another resident, Tama Glover, could not attend the Council meeting, yet Ms. Glover still had a concern with the latest version of proposed ordinance. She requested, on Ms. Glover's behalf, that the types of vaccinations required for feral cats (rabies and distemper) be listed within the ordinance text.

Joan Ellis, 1301 S. Williams Circle, Elizabeth City, NC expressed concern regarding attendance by some Councilmembers at assigned committee meetings and special meetings. She stated that the senior Fourth Ward councilman had been absent 15

times since his term began in 2014 from various Council and committee meetings. She said that Third Ward Councilmembers were running a close second. She reported that neither Fourth Ward Councilor attends the monthly Fourth Ward meetings. She expressed that Councilmembers should be prepared for meetings, given the amount of time between providing the agenda to them and the meeting being held. She suggested that they should not use the excuse that they didn't understand.

Bill Hiemer, 107 Osprey Cover, Elizabeth City, NC stated that he attends Council meetings to show support for members of Council, the Mayor and the City Manager. He said that it is a pleasure to witness when all work together for the benefit of the citizens. He thanked Councilman Stimatz for doing the homework necessary to be an extraordinary Councilman. He pointed out that for two months during the budget process, he did not remember one concern or complaint expressed by members of Council or the public regarding either the tax increase or water rate increase. He stated that now, three members of Council are claiming the budget process was rushed, which he found to be clearly untrue. He stated that August 10, 2015 was a sad day for the citizens of Elizabeth City, when the Council refused to support a \$250,000 grant application; and he credited a Fourth Ward Councilmember for leading the effort to defeat the matter. He said that it was his opinion that the ECSU-sponsored grant would have had a positive impact on many, many lives.

Holly Koerber-Audette, 609 W. Main Street, Elizabeth City, NC thanked the Councilmembers for their commitment to public service, even though the task is a difficult one. She stated that the citizens expect the Councilmembers to lead - and she pointed out that in order to lead, one must be prepared to do so. She said that the economic projections for our community are not positive, but expressed that she had no doubt that the members of Council had a genuine interest in making things better. She said that a problem arises when members of Council have a skewed vision of who the whole community is. She stated that she and other citizens are frustrated by the fact that "we seem to be paralyzed by the issues dividing us rather than progressing with the issues that unite us." She stated that the proposed InnovateNC grant could have addressed economic disparities for our citizens; and she asked how the Councilmembers, as leaders, could have looked at that opportunity and found a reason to say "no thank you - we are just fine without it." She encouraged the Council to reconsider and go on record in support of the application.

Sabrenna Protain, 158 S. Mill Dam Road, Camden, NC stated that the proposed TNR program is important to the SPCA and the community. She said that the SPCA had worked closely with the Police Department to design a TNR program for the City's feral cat population. She pledged the support of the SPCA and their caregivers to provide services to the community within the framework of the ordinance being proposed for adoption by the City Council.

Sam Davis, III, 501 Continental Drive, Elizabeth City, NC stated that having been a salesman all his life, he had the opportunity to be quick to judge by facial and body language. He said that he had witnessed City staff's excitement while visiting the proposed new public safety facility that day, because they thought they would be getting something very nice for the City. He stated that he had witnessed the opposite reaction while attending the last Council meeting from members of the Council who were unaware of an issue that had been presented for discussion. He offered that he thought some of the Council members had the opinion that "this was just another grant that would not be accepted and not be approached by the state and not be awarded to Elizabeth City." He said that "if we had known, I believe, that Mayor Peel is on the Emerging Issues Board, and had we known that we had someone so close on that board, there was a possibility that we could get this grant." He stated that citizens should unify and do the best that can be accomplished for Elizabeth City. He asked for the Council's reconsideration of the Innovate NC grant application.

Jarrett Koch, 608 W. Main Street, Elizabeth City, NC thanked the Councilors for their service. He stated that he joined others in expressing his frustration regarding the last Council meeting he attended. He stated that he saw the InnovateNC grant application as a very unique opportunity for the City; and he pointed out that there was no cost associated with the application. He stated that he did not see how the Council could go

wrong in committing \$2,500 toward the \$250,000 grant, which would only be paid if the grant was awarded. He said that he was frustrated by the issues that currently divide the Council. In referring to a Councilmember's description of ECSU becoming "elitist" during the previous Council meeting, he stated that the word "elite" reminded him of "the best, and the brightest, and the most prepared and the most well-trained;" and he said that the grant could have helped our area to provide those types of people to innovative companies wishing to come to Elizabeth City to provide our citizens with employment. He said that a university provides training at the highest level - unlike colleges and grade schools; and he pointed out that a university sounds like something that could be considered elitist. He urged the Councilmember to think about what he would truly like ECSU to be; and if it ever becomes something other than a university, he suggested that the name be changed to reflect what it is.

June Gibbs, 1918 Providence Road, Elizabeth City, NC thanked Councilman Horton, Councilman Brooks and Councilman Walton for helping to make a dream come true for a group of local girls called "Pink Pearls." She stated that due to the monetary support provided to this organization by these Councilmembers and Chief Eddie Buffaloe, the young ladies were able to travel to Washington, DC.

Lena Hill-Lawrence, 1501 Crescent Drive, Elizabeth City, NC complimented a group of local barbers, who every year prior to the beginning of school, provide free haircuts for children. She reported that these barbers stand on their feet for eight hours and provide 300 – 400 haircuts for these children. She said that although that may not seem like a lot to some people, it means a lot to those children and their parents. She requested that the City Council give a plaque to the barbers to recognize their hard work; and she suggested that if funds were not available, she would raise the money. She suggested that the Elizabeth City Police Department should also be recognized for working to provide school supplies for the City's children.

6. Approval of Minutes:

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

- a. City Council Special Meeting of August 13, 2015:

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

7. Consent Agenda:

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

Beginning of Consent Agenda:

(Clerk Notation: Items "a" through "d" were recommended for approval by the Finance Committee during their meeting of August 20, 2015.)

- a. Consideration – Approval for the Elizabeth City Police Department to accept the Governor's Crime Commission "Infrastructure & Technology Improvement" grant in the amount of \$75,000 with an \$18,750 cash match by the City; and further, adopt a budget amendment to provide for receipt of the grant and the City's match funding;
- b. Consideration – Authorization for City staff to apply for \$20,000 on behalf of SOULS from the Lowe's Community Partners Grant program to renovate the former Elizabeth City Middle School band room for the purpose of permanently housing the SOULS Feeding Ministry;

- c. Consideration – Approval of a one year lease extension with ABC Properties, the parent organization of Southgate Mall, for the City’s Mall Customer Service Office, as presented;
- d. Consideration – Authorization for the Airport Authority to issue up to \$125,000 in debt to purchase a corporate hangar at the airport; and further that the City Council’s authorization shall be effective for a period of twelve (12) months;
- e. Consideration – Call for Public Hearing to be held at 7:30 p.m. on September 14, 2015 in Council Chambers to gather citizen input on CUP 01-15 filed by Cahoon & Kasten Architects on behalf of Harbor Lights Capital Partners, LLC to redevelop property located at 112 N. Water Street.

End of Consent Agenda.

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

8. Public Hearings:

- a. Consideration – Hold a Public Hearing to gather citizen input on the Adoption of an Ordinance Amending Chapter 14 (Business Regulations) Article I (In General) Section 14-3 (Pistol Sale, exchange; license required;

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

Mayor Peel recognized City Manager Olson to provide the background for this consideration. Mr. Olson stated that this proposed code amendment actually began as a proposed zoning text amendment, but due to provisions requested by the Council to be included within the ordinance, staff determined that Section 14 of the City Code was a more appropriate place for the requirements.

Mr. Olson stated that the ordinance amendment addresses the sale of firearms and establishes rules for video surveillance equipment and other security measures. He stated that all the changes that had been requested by the Council during discussions had been made.

Councilman Stimatz stated that he was glad that the provision allowing for the lock-up of weapons had been made because it would be good for small businesses. He said that the one area that still concerned him was 14.3(a)(6) “Exemptions.” He pointed out that item “a” of that section exempted those businesses open 24 hours from having any security equipment including alarms and video, which he did not think was the intent. Mr. Olson stated that staff refers to this section as the “Wal-Mart” exemption since Wal-Mart is staffed 24 hours per day seven days a week. City Attorney Morgan suggested changing the text in that section from the word “security” to the word “barricade” in order to address that concern. Councilman Stimatz agreed with Mr. Morgan’s suggestion.

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to adopt the following ordinance amendment as presented by staff, with the correction. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

**ORDINANCE #2015-08-04
AMENDING CHAPTER 14 – BUSINESS REGULATIONS
ARTICLE I – IN GENERAL
BY THE ADDITION OF SEC. 14.3(a) SECURITY REQUIREMENTS FOR**

BUSINESSES THAT BUY, SELL, TRADE, OR OTHERWISE STORE FIREARMS

WHEREAS, numerous break-ins occurring throughout the City in recent time have resulted in the theft of 36 firearms; and

WHEREAS, due to need to safeguard citizens from having the potential of stolen firearms on the streets and in an effort to curtail violent and/or property crimes from occurring, the Council desires to formulate regulatory guidance; and

WHEREAS, security enhancements including cameras, barricades, and alarm systems are believed to reduce liability for storeowners; equip law enforcement with useful investigative tools; and greater serve the public by decreasing the probability of firearms becoming accessible to those individuals seeking to commit illegal acts.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following section be added to existing Section 14-3 of the City of Elizabeth City Code of Ordinances, as follows:

SECTION I.

“Section 14.3(a). Security requirements for businesses that buy, sell, trade, or otherwise store firearms.

Section 14.3(a)(1). Purpose.

This section is enacted to reduce the potential for situations where employees of certain businesses are exposed to potential death and/or injuries because of the actions of people with criminal intent. It is also intended to assist law enforcement with the criminal investigation of crimes that occur at certain businesses. The businesses made subject to this section have certain characteristics which may tend to increase the potential risk of criminal activity at those businesses.

Section 14.3(a)(2). Terms defined.

The definitions and provisions contained within this section shall govern the construction, meaning, and application of the following words and phrases used in this section.

“*Alarm System*” means an assembly or equipment, mechanical or electrical, or both, designed and used to signal the occurrence of an illegal or unauthorized entry or attempted entry or other illegal activity on the premises of the alarm user, which requires or solicits urgent attention and to which the police are expected to respond.

“*Alarm User*” means a person, firm, partnership, corporation, association, or other legal entity in control of a building, structure, facility, or portion thereof within the City of Elizabeth City in which an alarm system is used.

“*Barricades*” refers to devices for preventing entry through windows and doors (including bars) and also known as guards.

“*Business Establishments*” or “*Establishments*” means those establishments listed and defined in this section as follows:

- a. “*Firearm Dealer*” means an establishment required to obtain a federal firearms license to buy or sell firearms; and/or
- b. “*Pawn Broker*” means a business required to obtain a Conditional Use Permit issued by the City Council, pursuant to the Elizabeth City Unified Development Ordinance, and also covered by Chapter 45 of the North Carolina General Statutes.

“*Minimum technological standards for video surveillance systems*” means standards which are not antiquated (i.e. VHS tapes, etc.) and do not

otherwise impede the police department's ability to successfully view, retrieve, store, and/or keep video images or recordings needed for criminal investigative purposes.

"Tamper proof safe" means a lockable, secure metal storage container with a key or combination style lock, capable of housing firearms; safe must be able to prevent access to unauthorized persons during the event of a burglary or otherwise unlawful possession.

"Security enhancement", for the purpose of this section, means installation of security measures including video surveillance systems, barricades and/or tamper proof safes, and alarm systems which aid in the safeguarding of property and curtailing criminal activity, specifically crimes associated with firearms.

"Video surveillance system" (or "VSS") means a continuous digital surveillance system including cameras, cabling, monitors, and digital video recorders (DVR), which has been approved by the chief of police or his/her designee in accordance with this section.

Section 14.3(a)(3). Video surveillance system requirements.

- a. Every business establishment, as defined in this section, is hereby required to install a video surveillance system in accordance with this section. All establishments which have installed a video surveillance system prior to the effective date of this section shall ensure said systems are in full compliance with this section. All video surveillance systems shall be maintained in proper working order at all times; be kept in continuous operation 24 hours a day, 7 days a week; and meet the minimum technological standards established in this section.
- b. If a crime occurs, or any employee of an establishment believes or suspects a crime has occurred at the establishment premises, the establishment shall contact the police department immediately and the establishment shall provide the police department immediate access to the media containing the recorded event. The establishment shall retain the continuous digital images recorded by this system for no less than thirty (30) days. If the video surveillance system is web-enabled or has wireless capability, the establishment shall enable the police department to directly access the live system during incidents requiring a police response or intervention.
- c. To ensure minimum technological standards are in place, the police department shall review the video surveillance system of an establishment at least bi-annually to ensure the system is consistent with the technology needed by the police department to investigate criminal activity or suspected criminal activity.
- d. The video surveillance system shall have no less than one camera dedicated to each register or check-out, entrance/exit, loading dock, and parking lot or area designated for customer and/or employee parking use. The placement of cameras included in video surveillance systems required under this section must be approved by the police department. The chief of police or his/her designee will conduct an assessment of each site required to install a video surveillance system prior to installation of said system, and upon approval will issue an approval notice which will be placed in plain view inside the establishment premises. This approval notice will also inform customers and employees of the presence of the video surveillance system.
- e. The video surveillance system shall be subject to regular inspection by the chief of police or his/her designee, who is authorized to inspect any such system at reasonable times to determine whether it conforms to the standards established in this section. If the video surveillance system does

not so conform, the establishment in question shall take immediate steps to bring the system back into compliance, following notice of such non-compliance.

Section 14.3(a)(4). Barricade requirements.

- a. All barricades (also known as guards) shall, at a minimum, be constructed of rigid metal, free of sharp projections, edges, or rough surfaces. Barricades/guards shall be so constructed as to reject the passage of a solid twelve (12) inch sphere at every space and interval. Window barricades/guards may not be installed in the windows providing access to fire escapes. In the case of a fire escape, the guard mechanism shall be constructed to repel entry into a business after hours but not to deny exit from a building from the interior. Optional “above minimum standard precautions” include installation of a metal roll-down type door or window covering, similar to what is referred to as a roll-down hurricane shutter.
- b. All access points located below ten (10) feet above ground, including but not limited to windows, doors and those areas accessible by fire escape shall be barricaded after business hours. Barricades must be constructed to reject passage of any object more than twelve inches in diameter from any direction. Fire escape stairs and drop ladders shall be chained and locked in the up position. If the fire escape cannot be rendered reasonably inaccessible in this manner, all windows along the fire escape must be barricaded.
- c. Every licensed firearms dealer who shall buy, sell, trade, or transfer ANY type of firearm is hereby required to install “barricades or guards” on all access points of the business. The barricades shall be maintained and in proper working order at all times and meet standards as established in this section; the only exception to installation of barricades is defined in Section 14-3(a)(6)(a) and (b).
- d. The barricade system shall be subject to regular inspection by the chief of police or his/her designee, who is authorized to inspect any such system at reasonable times to determine whether it conforms to the standards as established in this section.

Section 14.3(a)(5). Alarm system requirements.

- a. Every business establishment, as defined in this section, is hereby required to install an “alarm system” in accordance with this section. All establishments which have installed an alarm system prior to the effective date of this ordinance shall ensure said systems are in full compliance with this chapter. All alarm systems shall be maintained in proper working order at all times; be kept in continuous operation 24 hours a day, 7 days a week; and be able to communicate effectively with emergency communications (i.e. E911).
- b. The alarm system shall be monitored by a monitoring company and ensure that there is always effective communication with the emergency communication center (i.e. E911).
- c. The alarm system shall be subject to regular inspection by the chief of police or his/her designee, who is authorized to inspect any such system at reasonable times to determine whether it conforms to this section. If the alarm system does not so conform, the establishment in question shall take immediate steps to bring the system back into compliance, following notice of such non-compliance.

- d. The alarm user shall maintain its alarm system in good operating condition and free of false alarms. The alarm user shall insure that all persons with access to the premises have an adequate understanding of the alarm system so as to prevent unintended activation of the alarm system. The alarm user shall provide the Elizabeth City Police Department the names of at least two persons other than the alarm user who have access to keys to the premises would be available to assist the police to secure the premises or reset a malfunctioning alarm. Any changes in the information contained on the application shall be promptly submitted to the Elizabeth City Police Department within ten days of any such change.

Section 14.3(a)(6). Exemptions.

- a. Any business establishment within the jurisdictional limits of the City of Elizabeth City, as defined in Section 14-3(a)(2) that operates 24 hours a day; 7 days a week shall be exempt from complying with the barricade requirements contained within this ordinance.
- b. Any business establishment, not staffed 24 hours a day; 7 days a week, that removes firearms each night before closing shall be exempt from the barricade requirements as defined in Section 14-3(a)(4), if all firearms are placed in a tamper proof safe.

Section 14.3(a)(7). Violations.

The chief of police or his designee is authorized to investigate all alleged violations of this section. A violation of any provision of this section by any owner or principal operator of an establishment shall result in a notice of violation from the chief of police or his/her designee to said establishment at the address provided by the establishment. The notice of violation required under this section shall be in writing, set forth the grounds for the violation, and inform the owner or principal business operator of the establishment that he/she has ten days from the date of mailing of the notice to file a written request for a hearing. A business which is otherwise required to install the security enhancements defined in this section may apply, on an annual basis, to the chief of police or his/her designee for exemption from the provisions of this section. Violators shall have thirty (30) days after receipt of the notice to provide the police department proof that the violation has been corrected. If the violation continues after the 30-day period, the chief of police or designee shall issue a citation against the violator and, subject in any event to the appeal process afforded under this chapter, the violator shall pay a civil penalty not to exceed \$500. The city attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties.

For purposes of this chapter, each day that a violation continues shall be a separate violation. In addition to the foregoing, the violation of any provision of this section shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief. A business found to be an exception to this code would be one that is open 24 hours a day and firearms are kept in a secured location where they are not readily accessible to the public. An example would be firearms locked in an impenetrable display case and a customer would require assistance from an employee in order to physically take possession of the firearm.

Section 14.3(a)(7). Temporary exemptions/extensions granted.

The city manager or his designee may exempt a business for a period of up to twelve months if he/she finds that the business has or will undertake alternative security procedures which are substantially equal to or more effective in preventing criminal activity and in assisting in the apprehension of the perpetrators of crime or for the protection of employees. In addition, the chief of

police or his/her designee may authorize alternate procedures on an experimental basis. Such an exemption shall carry a maximum duration of twelve months, and a business must either reapply for an exemption at the end of the exemption period or obtain the city's approval of security enhancements no later than 30 days prior to the end of the exemption period. The city manager or his designee may also authorize temporary extensions of time for installation when an establishment demonstrates to the satisfaction of the City that it is temporarily unable to comply for good cause shown.

Section 14.3(a)(8). Appeal process.

Any establishment found to be in violation of this chapter by the city manager or his designee shall have the right to a hearing before the city manager or his/her designee. Within ten (10) days of mailing of the written notice of violation by the chief of police or his/her designee, the owner or principal business operator of an establishment to which a notice of violation has been issued may appeal by requesting a hearing before the city manager. Such a request must be made in writing and must set forth the specific grounds for the appeal. Within ten (10) days after any timely request for a hearing, the city manager or his/her designee shall set a time and place for the hearing. That hearing shall be conducted no sooner than five days after the date of the notice which sets the hearing and no later than twenty (20) days after receipt of the request for a hearing. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine any witness against them. The decision of the city manager or his/her designee to grant or deny the appeal shall be in writing and shall be rendered within one week of the hearing. The decision shall be considered a final administrative action for purposes of further review pursuant to North Carolina law.

SECTION II. EFFECTIVE DATE: This Ordinance shall be effective upon the date of adoption.

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

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

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

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 24th day of August, 2015.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- b. Consideration – Hold a Public Hearing to gather citizen input on the Adoption of an Ordinance Amending Chapter 14 (Business Regulations) Article V (Peddling and Solicitation);

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

Mayor Peel recognized Mr. Olson to provide information regarding this request. Mr. Olson stated that an amended copy of the proposed ordinance had been provided to the Council at the beginning of the meeting. He stated that throughout the proposed ordinance, the word “license” had been substituted by the word “permit.” He said that revision is requested due to recent changes in state law disallowing the City’s authority to issue Privilege Licenses. He stated that in addition to that revision, Council members had requested additional changes, which had also been made by staff in the ordinance provided. He pointed out that the new ordinance copy distributed during the meeting addressed changes that needed to be made in the section regarding pushcarts, food trucks and trailers operating in the central business district. Mr. Olson detailed the suggested changes made throughout that section of the ordinance for the Council.

Councilman Stimatz stated, for the public’s information, that anyone who wishes to engage in door-to-door or on street solicitation must have a permit. He also pointed out that peddlers cannot go door to door selling things, unless it is a solicitation by a charitable organization. He asked for two minor corrections in the draft ordinance, as follows: in Section 14-169(a), the subsection reference should be changed to “k”; and in “w,” he suggested that a “period” be placed after the word “regulations” deleting the rest of the sentence.

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to adopt the following ordinance with the notations and corrections made. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. The motion carried.

**ORDINANCE #2015-08-05
TO AMEND CHAPTER 14 BUSINESS REGULATIONS,
ARTICLE V. PEDDLING AND SOLICITATION
IN THE CITY OF ELIZABETH CITY CODE OF ORDINANCES
TO COMPLY WITH RECENT STATUTORY CHANGES BY THE
NORTH CAROLINA GENERAL ASSEMBLY**

WHEREAS, the City Council finds that recent legislation by the General Assembly of North Carolina repealed the authority for municipalities to levy privilege license taxes; and

WHEREAS, the category of legislation authorizing the issuance of permits for peddlers and itinerant merchants was not repealed; and

WHEREAS, this category of legislation should no longer be classified in the City of Elizabeth City Code of Ordinances as a “license” and shall be changed to the term “permit”; and

WHEREAS, the City Council hereby adopts revisions as noted by deletion and addition in the following Chapter 14 Business Regulations, Article V Peddling and Solicitation of the City of Elizabeth City Code of Ordinances:

SECTION I. ARTICLE V. PEDDLING AND SOLICITATION*

DIVISION 1. GENERALLY

Sec. 14-126. Soliciting; permit required.

Persons wishing to engage in door-to-door sales or solicitation, or on-the-street sales or solicitation, shall apply for a permit to perform such sales or solicitation.
(Code 1976, § 16-2; Code 1993, § 5-112)

Sec. 14-127. Application; fee; bond.

Persons wishing to engage in door-to-door or on-the-street sales or solicitations shall file a timely application therefor with the city manager or his designee; pay such fee as may be established by the City Council, and pay a bond as may be required.
(Code 1976, § 16-3; Code 1993, § 5-113)

Sec. 14-128. Compliance with rules, regulations.

Persons wishing to engage in door-to-door or on-the-street solicitation shall, upon the granting of a permit therefor, comply with all rules and regulations of the city.
(Code 1976, § 16-4; Code 1993, § 5-114)

Sec. 14-129. Door-to-door canvassing without invitation.

(a) No peddler, hawker, itinerant merchant, transit vendor or solicitor for the sale of merchandise or periodicals, whether the same be delivered at the time of the soliciting or later delivered by mail or otherwise, shall go in or upon private residences, offices or places of business, not having been requested or invited to do so by the owner, or occupant thereof, for the purpose of soliciting the sale of merchandise or periodicals.

(b) Each day's violation of this section shall constitute a separate offense; providing nothing in this section shall apply to the sale of one's own products as a farmer or a sale by the individual of the products of his own labor.
(Code 1976, § 16-10; Code 1993, § 5-115)

*State law references—Soliciting on streets, G.S. 20- 175; charitable solicitation, G.S. ch. 131C; authority to regulate itinerant merchants and solicitation campaigns, G.S. 160A-178; authority to regulate begging, G.S. 160A-179.

Secs. 14-130—14-158. Reserved for future use.

DIVISION 2. PEDDLERS' AND ITINERANT MERCHANTS' PERMITS*

Sec. 14-159. Required.

(a) Pursuant to G.S. 160A-178, it shall be unlawful for any itinerant merchants, salesmen, promoters, drummers, peddlers or hawkers to engage in any business activities, as hereinafter defined, within the city unless permitted to do so as provided in this article.

*State law reference—City may regulate activities of peddlers, solicitors, and itinerant merchants, G.S. 160A-178.

(b) A one-time only, up to three days permit shall be issued to the entity or body organizing a "special citywide festival" or event. Said permit shall authorize the participation of itinerant vendors engaging in business activities within the geographical area covered by the festival during the festival's operation. For the purpose of determining the licensing fee to be charged, the following scale shall be used:

- (1) 1—10 vendors: \$100.00
- (2) 11—20 vendors: \$200.00
- (3) 21—30 vendors: \$300.00
- (4) 31 vendors and up: \$400.00

(c) Only those merchants as described in section 14-160 shall be counted in determining the number of vendors.
(Code 1976, § 16-12(a); Code 1993, § 5-126; Ord. of 10-7-1996, § 1; Ord. No. 03041, § 1, 4-7-2003)

Sec. 14-160. Applicability.

(a) For purposes of this article, itinerant merchants, salesmen, promoters, drummers, peddlers or hawkers engaging in business activities within the city shall mean and include all persons, who engage in or conduct in the city either in one locality or in traveling from place to place, a temporary or transient business of selling or soliciting orders for the sale of goods, wares or merchandise with the intention of continuing in said business in the city for a period not to exceed 180 days; and who rent, lease, use or occupy, either in whole or in part, for the purpose of carrying on such business, any room, building, lot or parcel of land, or motor vehicle including trucks and semitrailers for the exhibition and sale of such goods, wares and merchandise.

(b) This definition and this section shall not apply to:

- (1) Charitable activities, engaged in by representatives of a tax-exempt organization (i.e. a 501(c)(3) organization);
- (2) A farmers' market;
- (3) Sales of food or agricultural produce where stock or anticipated sales are valued or anticipated at \$1,000.00 or less per day;
- (4) Sales made to dealers by commercial travelers or selling agents in the usual course of business; or
- (5) Bona fide sales of goods, wares or merchandise for future delivery in interstate commerce where no measurements or design specifications are made, or prepared in the city, or no payment or deposit is collected in the city for placement of orders, or where no permit may be required or collected under the United States Constitution or laws of the United States.

(Code 1976, § 16-12(b); Code 1993, § 5-127)

Sec. 14-161. Application.

(a) Any person, as defined in section 14-160, who desires to engage in such business activities within the city must be permitted to do so by the city prior to commencement of such business activity in the city. Failure to secure a permit before commencing business as defined in section 14-160 is unlawful and in violation of this division. A permit may be granted to an applicant by the city upon compliance with this section.

(b) Applicant shall submit a written and verified application to the city finance director or his designee at least 20 days prior to the scheduled date to commence business in the city. This application shall set forth:

- (1) The name and address of the applicant;
- (2) The name and address of the owner of the goods, wares or merchandise to be sold;
- (3) The location and dates of the proposed business activity or sale in the city;

- (4) The name and address of the owner of the property upon which the business activity or sale will be conducted;
 - (5) Inventory of goods, wares or merchandise which applicant intends to offer for sale with quantity, wholesale cost and prices at which each item is proposed to be sold, if sales are not to be made from inventory then a copy of the catalogue or other sales materials will be furnished;
 - (6) Statement of gross receipts for all sales in the city by applicant in the preceding five years and dates of each; and
 - (7) Applicant's previous places of employment and names and addresses of previous employers during preceding ten years.
- (Code 1976, § 16-12(c)(1); Code 1993, § 5-129)

Sec. 14-162. Other requirements; bond.

(a) At the time the permit application is made, the applicant shall further furnish to the finance director or his designee the following:

- (1) Permit processing fee in an amount as set forth and made a part of the Schedule of Fees and Charges adopted by the City Council, as amended from time to time ;
- (2) Written consent of the owner of the land upon which applicant proposes to conduct business from in the city;
- (3) A certified copy of the charter or articles of incorporation of applicant, if corporate and if a foreign corporation, certified copy of authority to do business in the state and proof of legal appointment of a process agent in the state; and
- (4) Duly executed bond.

(b) The required bond shall be in the sum of \$5,000.00 or ten percent of anticipated sales, estimated from inventory furnished, whichever is greater. The surety of such bond shall be a surety company authorized to do business in this state. The bond shall be payable to the city to the extent any taxes, fees or fines as determined by the city's director of finance are not paid and upon judicial determination, to those authorized to file suit thereunder. Such bond shall be conditioned upon faithful observance of all the conditions of this section, and shall also indemnify any purchaser at such sale who suffers any loss by reason of defective merchandise or any misrepresentation in said sale. The terms of said bond shall allow any purchaser seeking such indemnification to maintain an action against applicant as the principal thereon and the surety thereon. The bond shall be effective for one year after the termination of the sale for which it is made and until all actions are concluded and any judgments satisfied, or until the amount of the bond is exhausted by payments on such claims.

(Code 1976, § 16-12(c)(2); Code 1993, § 5-130)

Sec. 14-163. Zoning considerations.

(a) The activity for which application is made according to the provisions of this division and any permit issued, shall only be lawful in a commercial zoning district in the city as determined by the official zoning ordinance of the city and the official zoning map. Failure to so locate same is a basis for denying or revoking a business permit to conduct such activity.

(b) Such activity for which application is made and any permit issued must meet a minimum 30 foot setback from any public street or thoroughfare. Failure to so meet this setback is a basis for denying or revoking a permit to conduct such activity.

(Code 1976, § 16-12(c)(3), (4); Code 1993, § 5-131)

Sec. 14-164. Issuance.

If upon review of all the information and documents filed by applicant, the finance director or his designee shall be of the opinion that applicant is of good and reputable business character and has met all requirements of this section then the finance director or his designee shall issue applicant a permit for the sale or business activity applied for which shall be valid only for the sale or business activity applied for.

(Code 1976, § 16-12(c)(5); Code 1993, § 5-132)

Sec. 14-165. Denial; appeal.

If applicant fails to timely file all the information and documents required or if upon review the finance director or his designee determines same not to meet all requirements of this division or he fails to find the applicant to be of good and reputable business character, the finance director or his designee shall in writing deny the application for permit with reasons stated for such denial. Appeal from a decision of such denial shall be to the city manager or his designee.

(Code 1976, § 16-12(c)(5); Code 1993, § 5-133)

Sec. 14-166. Revocation.

Any person who shall receive a permit as stated in section 14-161 may conduct the business activity or sale permitted, but may not vary, exceed or in any way deviate from the activity or sale originally allowed by such permit. Any variance or activity beyond the express terms of the permit shall be unlawful and shall be grounds for the city to revoke such permit.

(Code 1976, § 16-12(d); Code 1993, § 5-134)

Sec. 14-167. Expiration.

Any permit issued pursuant to this article shall not exceed or authorize such business activity for more than five days. If any person wishes to conduct such business activity for more than five days, he must submit a new application and the other fees and documents required by this article and receive a permit for each time period up to five days from the expiration of any permit issued or to be issued. If one day or more elapses between scheduled business activity during which time there is no business activity, a new and separate permit must be obtained for each time segment of scheduled business activity.

(Code 1976, § 16-12(e); Code 1993, § 5-135)

Sec. 14-168. Penalty.

Any person who shall be found to be in violation of any provisions of this article shall be guilty of a misdemeanor, and on conviction thereof shall be fined in an amount not exceeding \$500.00 for each violation or by imprisonment for not more than six months, or by both. Each day in which any such violation shall continue shall be deemed a separate offense.

(Code 1976, § 16-12(f); Code 1993, § 5-136)

Sec. 14-169. Operation of pushcarts and food trucks and trailers within the central business district.

(a) For the purposes of this section, the term "pushcart" shall be defined as a manually maneuvered cart or a self-propelled cart operating within the central business district, which shall meet the design requirements pursuant to subsection (k) of this section.

(b) Pushcarts or food trucks and trailers operating under this section (all hereinafter referred to as "vehicle") utilizing street parking within the central business district

shall be contained to one parking space and shall not impede either pedestrian or vehicular traffic.

- (c) The operator of a vehicle at outdoor locations on public property as described in this section shall first apply for and obtain a specialty peddler's permit issued by the city manager under the provisions of this section.
- (d) The fee for a specialty peddler's permit shall be in an amount as set forth and made a part of the Schedule of Fees and Charges adopted by the City Council, as amended from time to time, to be paid by the permittee at the time of issuance and annually thereafter on September 1 of each year. The initial fee shall be prorated to coincide with the city's billing cycle. The permittee may allow persons authorized by the permittee to sell food and/or cut flowers from the vehicle. The permittee shall maintain records of sales activities of the persons authorized by the permittee to engage in such activity and the permittee shall collect and remit to the state department of revenue the appropriate local and state sales taxes from all sales made pursuant to this permit.
- (e) The city manager is authorized to require, in accordance with the issuance of the permit under this section, evidence of adequate insurance for the protection of the general public in connection with the operation of the vehicle.
- (f) The city manager is authorized to require a refundable deposit to guarantee payment for any damages and for clean-up expenses incurred in connection with the vehicle's activities.
- (g) Upon approval of the permit application and payment of the fee, the applicant shall be issued a permit which should be affixed to the vehicle in a conspicuous place at all times.
- (h) Permits issued under the authority of this article shall be nontransferable either as to individuals, location or item.
- (i) It shall be unlawful to sell novelties, souvenirs or any merchandise other than food or cut flowers from a vehicle.
- (j) It shall be unlawful for any permittee to place or install on any street, sidewalk or other public property any of the contents of his vehicle for the purpose of selling or displaying same.
- (k) The director of parks and recreation or his designated representative shall have the authority to determine if the aesthetic value of the pushcart is in conformity with this regulation. The pushcart body shall not exceed six feet in length, four feet in width or five feet in height, including wheels. The bottom of the pushcart shall be at least six inches from the ground. There shall be an umbrella or canopy over the pushcart. The pushcart must have sides at least one foot high.
- (l) Food containers shall remain inside the vehicle at all times and under no circumstances are to be placed on city streets or sidewalks. At no time shall cut flowers be sold from a stand, table or any other type vehicle than that described herein.
- (m) The permittee shall have posted on the vehicle, on both sides, the prices of all food items or flowers being sold and no item may be sold for more than the posted price.

- (n) No vehicle shall be left unattended for more than 30 minutes. If a vehicle is left unattended for more than 30 minutes, it will be subject to removal by the police department to a public warehouse. If permittee wishes to claim his vehicle, he will pay a towing and storage fee in an amount established by the city manager.
- (o) Vehicles will be allowed to operate on the parking lot area of Mariners' Wharf Park and Waterfront Park. At no time shall a vehicle be located on a public street, sidewalk or grassy area of the park. If at any time a vehicle is deemed by the police department to be interfering with either pedestrian or vehicular traffic or creating a disturbance, the vehicle shall be immediately removed upon request of the police department.
- (p) The city manager is authorized to designate the number of vehicles and the location of same within the allowed geographical area.
- (q) The permittee of a vehicle shall be responsible for the removal of all garbage generated by the operation of the vehicle.
- (r) Noise-making devices such as, but not limited to, bells, whistles and gongs may not be used to advertise or announce sales.
- (s) Every person propelling a vehicle shall be subject to the provisions of a driver of any vehicle, except those, by which of their very nature, can have no application.
- (t) In the event of a citywide festival taking place in either Mariners' Wharf Park or Waterfront Park, the operator of a vehicle under this section will be disallowed from operating during the time of the festival unless authorized to do so by the organizers of the event.
- (u) The city manager is authorized to impose additional conditions and limitations on the issuance of such permit as may be necessary to protect the safety and well-being of the citizens of the city.
- (v) Any permit issued hereunder shall be revoked by the city manager for any violation by the holder, of any provision of this Code or any other ordinance of the city or whenever there is a violation by the holder of any condition, provision or qualification set forth in this section.
(Code 1993, § 5-137; Ord. No. 03082, 8-18-2003)
- (w) Operators of vehicles under this section shall comply with any and all other pertinent local, state and federal laws and regulations.

SECTION II. EFFECTIVE DATE: This Ordinance, as revised herein shall take effect immediately upon adoption.

SECTION III. FEE: The fee for a permit issued under section 14-162(1) of this ordinance shall be in the amount of \$200.00.

SECTION IV. FEE: The fee for a permit issued under section 14-169(c) of this ordinance shall be in the amount of \$250.00.

SECTION V. 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 VI. 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 VII. 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 24th day of August, 2015.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

9. Regular Agenda:

- a. Consideration – Adoption of Ordinance Revision to Chapter 6 (Animals) Article I (In General) to add a Section 6-14 Harboring of Feral Cats and Feral Cat Colonies:

Mayor Peel recognized Mr. Olson to detail this request. Mr. Olson reported that this item has come before the Council on several previous occasions. He stated that during the last Council meeting, the Council requested that staff meet with SPCA representatives and several citizens, which had been accomplished. He said that all parties had reached an agreement, with the provisions of that agreement being reflected in the ordinance being presented for consideration.

Councilman Stimatz suggested that the words “rabies” and “distemper” be added in section 4(i) to address the concerns expressed during public comment by Ms. Regel regarding the type of vaccinations required. Mr. Olson agreed to make that change.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Michael Brooks, to adopt the following ordinance. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. Motion carried.

**ORDINANCE #2015 – 08-06
AMENDING CHAPTER 6 – ANIMALS, ARTICLE I – IN GENERAL
BY ADDING SEC. 6-14 HARBORING OF FERAL CATS
AND FERAL CAT COLONIES**

WHEREAS, the City Council of the City of Elizabeth City believes that Chapter 6-Animals, Article I, In General should be amended to include a section pertaining to the harboring/caregiving of feral cats and feral cat colonies in Elizabeth City pursuant to concerns voiced by citizens; and

WHEREAS, due to the on-going problem with the feral cat population, there is a need to significantly decrease the number of feral cats in the City in an effort to reduce any potential health concerns to humans or domestic animals and pets that may result from these undomesticated felines.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Elizabeth City that the following Section 6-14, be added to the existing Chapter 6-Animals, Article I-In General to read as follows:

SECTION I: Section 6-14, Harboring of Feral Cats and Feral Cat Colonies.

Sec. 6-14(a) Feral cat caregiver requirements.

- (1) The purpose of this ordinance is to provide humane care and oversight while significantly decreasing the feral cat population within the jurisdictional boundaries of the City of Elizabeth City. Equally, the intent is to also maintain the health, safety, and welfare of our citizens and domesticated animals and pets.
- (2) A feral cat shall be defined as a domesticated cat that has returned to the wild, or the descendants of such an animal. It is distinguished from a stray cat, which is a pet cat that has been lost or abandoned, while feral cats have never been socialized. The offspring of a stray cat can be considered feral if born in the wild.
- (3) Pursuant to the stated purpose of reducing the number of feral cats in the City of Elizabeth City, it shall therefore be unlawful for any person to intentionally provide food, water, or other forms of sustenance or care to a feral cat or feral cat colony unless the person registers as a feral cat caregiver with the local SPCA shelter.
- (4) A feral cat caregiver is defined as any individual registered to feed/water feral cats and/or feral cat colonies in existence within the jurisdictional limits of the City of Elizabeth City, after having completed proper registration as defined by the following administrative and operational requirements:
 - (a) Feral cat caregivers shall annually register with the local SPCA shelter, along with their colonies. The local SPCA shelter shall use the "PetPoint" record keeping system and provide an up-to-date list of all registered feral cat caregivers to the Elizabeth City Police Department. At any time, the police department shall have access to the local SPCA shelter feral cat records upon request.
 - (b) Written permission authorizing registered feral cat caregivers to go onto a specified property so as to feed/water cats must be obtained from the respective property owner(s); said documentation must be maintained by the local SPCA shelter with copy to the Elizabeth City Police Department Administration Division. When acting in a caregiver capacity, caregivers shall maintain and carry an identification card, as issued by the SPCA, which will serve as proof of their registered feral cat caregiver status.
 - (c) No location established to feed/water a feral cat or feral cat colony shall be located within 100 feet of any residentially-zoned district.
 - (d) A standard Trap-Neuter-Release (TNR) form shall be provided by local SPCA shelter to all feral cat caregivers so as to register the cats and shall be filed at the shelter. The form shall identify all cats by colony being maintained by the caregivers. The

SPCA's TNR program, including trapping, cage monitoring, and cleanup and removal of cat food, shall be overseen and maintained by officials at the local shelter; and shall be the governing tool for administering oversight of feral cat colonies in the city.

- (e) Caregivers agree to assume responsibility and make arrangements for the feeding of their colony throughout the year, including weekends and holidays.
 - (f) Caregivers agree that to avoid nocturnal animals such as raccoons and opossums, feeding of feral cat colonies shall be restricted to daylight hours and all food must be removed by 6:00 p.m. (EST). Food can only be placed at a single feeding station, located in an area not easily accessible or visible to the public. Food shall be limited to dry kibbles and must be in plastic containers; no food will be scattered on the pavement in public places.
 - (g) Adoptable cats/kittens shall not be returned to the colony. Cats/kittens with health issues, such as signs and symptoms of rabies and/or feline panleukopenia (feline distemper) shall not be returned to any colony and will be disposed of in accordance with SPCA policy.
 - (h) Photographs of all cats/kittens shall be taken. The information shall be input into the existing SPCA records keeping system thereby assigning each cat a location, caregiver, and ID number. All necessary documentation shall be kept in one central place, by the local SPCA shelter and shall be accessible by the Elizabeth City Police Department.
 - (i) Registered feral cat caregivers agree to assume full responsibility for the medical care of all of the feral cats they oversee and will maintain proof of sterilization, vaccination for rabies and distemper and medical records, as overseen by the SPCA. Feral cats returned to the colony shall be vaccinated, sterilized (i.e. spayed or neutered) and eartipped.
- (5) Except for food placed by a registered feral cat caregiver, it shall be unlawful for anyone to place, distribute, or allow the placement of food, minerals, carrion, trash, or similar substances to feed or attract cats. It shall also be unlawful for anyone, once notified by the City of Elizabeth City, to continue to place, distribute or allow the placement of any food, mineral, carrion, trash or similar substances for any purpose if the placement of these materials results in the presence of any cats, feral or domesticated. After notification, such person shall be in violation of the law if the placing, distribution, or presence of such food, minerals, carrion, trash or similar substances continues and there is evidence of his/her wrongdoing.
- (6) The City of Elizabeth City reserves the right to seek removal or destruction of a feral cat colony or a feral cat if the colony or cat creates a circumstance, in the opinion of the chief of police or his designee, which poses or creates a threat to the health, safety or welfare of the residents of the City of

Elizabeth City or other domesticated animals within the City. Courtesy notification will be sent to the local SPCA shelter 24 hours prior to executing this provision of the ordinance.

- (7) Feeding and watering of feral cats is prohibited on any property owned, operated, or leased by the City of Elizabeth City.

Sec. 6-14(b). Annual report documenting number of feral cats/feral cat colonies.

In order to accurately determine the number of feral cats and feral cat colonies within the City of Elizabeth City, the SPCA shall provide, in writing, an annual report which details the numbers of feral cats checked at the shelter; how many cats have been trapped/neutered/released; and how many unadoptable and sick cats have been euthanized by the shelter. The annual report for the preceding year shall be provided to the police department by no later than January 30th of any calendar year.

Sec. 6-14(c). Enforcement.

The provisions of this chapter shall be enforced by the animal control officer and deputy animal control officers, and may be enforced by law enforcement officers of the police department.

Sec. 6-14(d). Tampering and altering of feral cat traps prohibited.

It shall be unlawful for any person other than law enforcement officers of the Elizabeth City Police Department or the Pasquotank County Sheriff's Office or persons authorized by either law enforcement organization to tamper, alter, move, transfer, destroy and/or otherwise interfere with the intended use of traps utilized in the capture of feral cats within the jurisdictional boundaries of the City of Elizabeth City.

Sec. 6-14(e). Penalty for violation of chapter.

Any person charged with a violation of this section for the first time shall be given a warning citation. Upon subsequent violation, the person shall be charged with such violation and, if found guilty, such person shall be subject to punishment as provided in G.S. 14-4.

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

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

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

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

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 24th day of August, 2015.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- b. Consideration – Adoption of an Ordinance providing for a Business Registration Program and establishing an initial annual fee of \$20 to be effective October 1, 2015:

Mayor Peel called on Mr. Olson to provide background for this item. Mr. Olson stated that the Public Hearing for this ordinance adoption had been held on August 10, 2015. He advised that the Council had requested at that time that staff seek guidance from the School of Government concerning a number of issues. He reported that the concern was whether the City could issue a Business Registration permit to those individuals operating in the City who are licensed by the state under NCGS § 160A-194(b). Mr. Olson stated that a legal opinion had been provided regarding that issue by Assistant Professor Trey Allen of the School of Government. He pointed out that Mr. Allen's opinion had been included in the agenda information for the Council's review.

Councilman Stimatz stated that he had read the opinion of Trey Allen, but felt there was another issue "hanging fire" – that had to do with the equal protection clause under the Constitution. He said that there are two prongs to this discussion – that the City may regulate, and the City may license. He pointed out that these authorities are in two separate sections of NCGS §160A-194. In referring to NCGS §160A-194(b), he noted that the City cannot "license" those who are already "licensed" by another entity. He stated that it was his opinion if the City chose to "license" a shoe-shine operator under the statute, the City would have the authority to do so; but would not have the right to examine or license occupations that are already licensed or examined by other entities, such as attorneys, doctors and realtors. He advised that he was okay with that, but he did not feel the statute prevented regulation of businesses. He stated that his problem was that the City should regulate everyone to do business in the City to determine if they are meeting all other requirements necessary - or risk being in violation of the equal protection clause of the Constitution. He advised that as the proposed ordinance is written, it could be interpreted that every business would be required to get a permit. He stated that he did not have a problem with the language as written. He reiterated that in his mind, the question was "what is the City going to be enforcing?" He suggested that the City should regulate all occupations, all businesses, all trades, all professions and all forms of amusement with no exceptions to the regulatory authority under the proposed ordinance as it is written.

Mayor Peel noted that one distinction is that individuals are "licensed" but businesses are "regulated."

City Attorney Morgan noted that in Mr. Allen's legal opinion, doctors, nurses, architects, attorneys, engineers and other similar types of professionals are licensed by a state board – a higher authority than a city. He pointed out that Mr. Allen had advised that cities have only those powers that are granted them by statute or that can necessarily be inferred from the wording of the statute. He stated that Mr. Allen recommends that the City follow the more conservative approach of not regulating those individuals or those businesses that operate in the City and have to answer to another board. He said that he did not think the \$20.00 registration fee would make or break a professional who is regulated by an independent board, but he thought that it is certainly clear that Mr. Allen believes the City would take a chance by doing so.

Mr. Olson stated that the Business Registration Program was originally proposed to help the City know who was operating businesses in the community. He pointed out

that under the old Privilege License law, the City was not allowed to levy a tax on professionals licensed by other boards.

Councilman Spence stated “we are paying the attorney to do the smart stuff.” He advised that he thought if the City was going to entrust the attorney to handle legal matters, and since the School of Government had advised the City to “leave it alone” in addition to the City Attorney, he was comfortable leaving it the way it is proposed.

Councilman Stimatz stated that he would offer that any business the City regulates under the program, should file suit in Federal Court that the City is violating their Constitutional right. City Manager Olson responded that no one had challenged the City’s right to issue Privilege Licenses and this program is basically mirroring that same requirement.

Councilman Walton stated that he agreed with Councilman Spence. He said “when you let local people regulate things, it’s not consistent and sometimes they do things that’s not best for the City.” He suggested that the City should follow the guidelines of the state and federal governments and stay away from local things.

Councilman Stimatz stated that he did not have a problem passing the ordinance because the language was fine – but it remained an issue of interpreting it after adoption.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Johnnie Walton, that we put this item on the table and bring it back at another time after the attorney follows up with that one specific question with the School of Government.

Councilman Stimatz stated that the language is going to stay the same; but was a question in the future regarding how the City interprets it. He stated that nothing further being said would change the language. He offered that passing the ordinance was “no big deal.”

Councilman Donnelly stated that he was willing to drop the motion. Councilman Walton withdrew his second.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Ray Donnelly, to adopt the following ordinance providing for Business Registration Program within the City of Elizabeth City with an initial fee in the amount of \$20.00 per year to be effective as of October 1, 2015. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. Motion carried.

**ORDINANCE #2015-08-07
PROVIDING FOR ANNUAL BUSINESS REGISTRATION
FOR THE CONDUCT OF BUSINESS WITHIN THE CITY OF ELIZABETH CITY**

WHEREAS, the City Council finds that NCGS § 160A-194 has been amended by the North Carolina General Assembly to provide that Privilege Registrations previously required by the City of Elizabeth City of local businesses may no longer provide for a tax; and

WHEREAS, the City Council has taken action to repeal Chapter 14 Business Regulations, Article IV Registration Taxes and Privilege Registrations in its entirety; and

WHEREAS, the newly amended statute continues to permit cities and towns to regulate and subject to registration occupations, businesses, trades, professions and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order or convenience; and

WHEREAS, the City Council finds that annual Business Registration would be prudent to assist in the management of the City’s zoning and public safety responsibilities; and

WHEREAS, the City Council hereby replaces Chapter 14, Business Regulations, Article IV Registration Taxes and Privilege Registrations by the adoption of the following Business Registration Ordinance:

Section I. ARTICLE IV Business Registration

Sec. 14.89. - Definitions.

When used in this chapter (unless the context requires a different meaning):

Administrator shall be the person designated by the City Manager to operate the Business Registration Program required by this Article.

Agent is an individual acting on behalf of "Person," as defined herein.

Business includes each trade, occupation, profession, business, and franchise subject to registration under this chapter.

City means the City of Elizabeth City.

Person includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, limited liability company, company, firm, or other legal entity.

A business is *seasonal* in nature when it is conducted for profit six months out of the year or less.

Sec. 14.90. - Construction of this chapter.

This chapter is enacted for regulation purposes only. In addition, issuance of a registration in accordance with this chapter does not excuse a person from compliance with any other applicable ordinance or statute. This chapter does not prevent the city from requiring registration for additional businesses.

Sec. 14.91 – Requirement for Registration.

Unless exempt as described in Sec. 14.94 of this chapter, each person who conducts a business within this city is subject to this chapter. One conducts a business "within the city" if one maintains a business location within the city; or if, either personally or through agents, one (1) solicits business within the city limits or (2) picks up or delivers goods or services within the city limits.

Sec. 14-92. - Period of registration; due date.

(a) *Annual registrations.* Unless the section of this chapter applicable to a particular business provides otherwise, a registration issued in accordance with this chapter is good for the 12-month period beginning October 1 and ending September 30.

(b) *Registrations for periods shorter than one year.* If the section of this chapter applicable to a particular business so provides, a registration may be issued for a period of one day, one week, or some comparable period of less than a full registration year. A person may not commence to conduct a business within the city until the business registration is obtained and may not continue such a business beyond the period for which the registration is issued.

Sec. 14-93. - Separate businesses.

A separate registration is required for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other, and are operated as a unit.

Sec. 14-94. - Exemptions.

The provisions of this chapter shall apply to all businesses within the City of Elizabeth City municipal jurisdiction unless specifically exempted or excluded from registering by this Ordinance, by the laws of North Carolina or by laws of the United States.

Sec. 14-95. – Registration Application.

A person shall apply to the Administrator for each registration required by this chapter before commencing business. The application, which shall be submitted on forms provided by the City of Elizabeth City Administrator, shall contain:

- a. The name of the owner, and if applicable the agent for the business, and a complete statement as to whether the agent is an individual, a partnership, a corporation, or some other entity.
- b. The nature of the business.
- c. The physical location of where the business is conducted.
- d. An address where notices and statements may be mailed to as required by this chapter.
- e. Whether the business is regulated by a state occupational licensing board subject to G.S. Chapter 93B, and if so, the serial number of the state registration the business or the agent for the business currently holds.
- f. Any other information the Administrator determines to be necessary to issue the registration, or otherwise regulate the business appropriately.

The application shall be accompanied by the payment of a registration fee, which is described in Section 14.99. In compliance with state law, this fee shall not exceed the cost to the city of the administrative process of the production and issuance of the registration, or to otherwise monitor the business.

Sec. 14-96. - Reasons for refusal or revocation of a registration.

The Administrator shall refuse to issue a registration or may revoke a registration for either of the following reasons:

- a. The owner or agent misrepresents a fact relevant to his or her qualifications for a registration.
- b. The owner or agent refuses to provide necessary information, as determined by the Administrator in his or her discretion.

Sec. 14-97. - Unqualified agents; right to a conference.

After receipt of the completed application, if the Administrator believes that a reason exists for refusing a registration under Section 14-96 of this chapter, the Administrator shall not issue the registration. At the agent's request, the Administrator shall in accordance with Section 14-106 of this chapter, give the owner or agent a written statement of the reason for refusing the registration. The owner or agent may, within ten days after the day the statement is received, request a conference to discuss the refusal. In the request, the owner or agent shall specify why the application for a registration should not be refused. The Administrator shall arrange the conference within three business days of receiving the request.

If the Administrator refuses to issue a registration, the owner or agent may reapply for a registration at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a registration, the Administrator shall issue the registration in compliance with Section 14-98 of this chapter.

Sec. 14-98. - Administrator to issue registration; payment of registration fee a prerequisite.

After receipt of the completed application and payment of the registration fee, if the

Administrator believes that no reason exists for refusal of a registration under Section 14-96 of this chapter, the Administrator shall issue the registration.

Sec. 14-99. - Registration Fee.

The fee required of every owner or agent for any business conducted or engaged in within the city as required by this Chapter shall be set forth and made a part of the Schedule of Fees and Charges adopted by the City Council, as amended from time to time. Notwithstanding the foregoing, the fee shall in no case be more than the maximum permitted by North Carolina law for that particular business or enterprise.

Sec. 14-100. - Revocation.

The Administrator may revoke a registration if a reason exists to revoke it as set forth in Section 14-96 of this chapter. Before revoking a registration, the Administrator shall give the person written notice of the grounds for revocation, in accordance with Section 14-106 of this chapter. The person may, within ten days after the day on which notice is mailed, request a conference with the Administrator in writing. The request shall specify the reasons why the registration should not be revoked. The Administrator shall arrange the conference within three business days of receiving the request.

If the person fails to request a conference within ten days after the day on which notice is mailed, the Administrator shall revoke the registration. If the person requests a conference, the Administrator may not revoke the registration until after the conference.

If the Administrator revokes a registration, the person whose registration has been revoked may apply for a new registration at any time thereafter. If the reason for which the registration was revoked no longer exists and if no other reason exists for refusing to issue a registration, the Administrator shall issue the registration in accordance with Section 14-98 of this chapter.

Sec. 14-101. - Form and contents of registration.

A registration shall show the name of the person, and any agent who may act on the person's behalf, the place where the business is conducted (if it is to be conducted at one place), the nature of the business and the period for which the registration is issued. The Administrator shall keep an exact copy of each registration issued.

Sec. 14-102. - Assignments

A registration may be assigned if (1) a business under this chapter and carried on at a fixed place is sold as a unit to any person and (2) the purchaser is to continue the same business at the same place. Such a change shall be reported to the Administrator in accordance with Section 14-103 of this chapter. Otherwise, each registration issued under this chapter is a separate registration and is not assignable.

Sec. 14-103. - Changes in the business conducted during the year.

A person or an assignee shall report any change in the information contained in the registration application to the Administrator within ten days after the change occurs. If information shown on the registration itself is affected, the person or assignee shall surrender the registration to the Administrator when reporting the change.

- a. Fee for change. If the change does not result in a separate registration fee, the Administrator shall reissue a registration reflecting the change upon payment of a processing fee of \$5.00.
- b. Change requiring refusal of a registration. If the change creates a reason for revoking the registration under Section 14-96 of this chapter, the Administrator shall refuse to reissue a registration and shall instead begin proceedings to revoke the registration in accordance with Section 14-100 of this chapter.

Sec. 14-104. - Administrator to furnish duplicates.

Upon satisfactory proof that a registration has been lost or destroyed, the Administrator shall furnish a duplicate for a processing fee of \$5.00.

Sec. 14-105. - Record of conferences.

The Administrator shall maintain for three years a record of each conference held in accordance with this chapter. The record shall contain the agent's and person's name, the date of the conference, and a brief statement of the issues discussed and the result reached. After three years, the Administrator may dispose of the record in accordance with G.S. 121-5.

Sec. 14-106. - Providing notice to an agent or person.

Whenever this chapter requires the Administrator to give a written statement or notice to an agent or a person, the Administrator may do so in one of three ways:

- a. By personally delivering the statement or notice to the agent or person;
- b. By mailing the statement or notice by First Class Mail to the address on the application; or
- c. By causing the statement or notice to be served on the agent or person in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

Sec. 14-107. - Duty to determine whether registration is required.

Each person or his/her designated agent has the duty to determine whether the business he or she conducts is required to be registered under this chapter, and if so, whether that registration has been obtained.

Sec. 14-108. - Administrator to investigate.

If the Administrator has reason to believe that a person is conducting a business in the city in violation of this chapter, the Administrator shall conduct an investigation to determine the status of the business.

Sec. 14-109. -Duty to permit inspection.

Each person who conducts a business, as defined in Sec. 14-91, in the city shall permit the Administrator to inspect the business premises during normal business hours to determine the nature of the business conducted there.

Sec. 14-110. - Duty to post registration.

A business shall post the registration or registrations conspicuously in the place of business registered. If the person has a regular place of business, the registration must be kept where it may be inspected at all times by the proper city officials.

Sec. 14-111. -Enforcement of ordinance.

- a. *Criminal remedies.* Conducting business within this city without a valid registration issued in accordance with this chapter, or without posting a registration in compliance with Section 14-110 of this chapter is a misdemeanor, punishable as provided in G.S. §14-4. Each day that a person conducts business in violation of this chapter is a separate offense.
- b. *Equitable remedies.* In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the city may seek an injunction against any person who conducts a business in violation of this chapter.

Sec. 14-112. Appeal

Any agent/person refused or denied a registration under this Ordinance may appeal to the City Manager for review of such refusal or denial. Such appeal shall be in writing, and shall be delivered to the City Clerk within 30 days after notice of such refusal or denial has been sent or otherwise delivered to the agent/person.

SECTION II. EFFECTIVE DATE: This Ordinance shall take effect on October 1, 2015.

SECTION III. INITIAL FEE: The initial annual and seasonal Business Registration fee shall be in the amount of \$20.00.

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

SECTION V. 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 VI. 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 24th day of August, 2015.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

c. Re-Consideration – InnovateNC Grant Application (requested by Councilman Horton):

(Clerk notation: Due to the controversial nature of this matter, most of the discussion has been prepared in a modified verbatim format.)

Mayor Peel recognized Councilman Horton for his comments. Councilman Horton stated that he had asked that this matter be placed on the agenda for re-consideration.

Councilman Horton advised that he thought it was important that the community understand the operational principles of the Council. He said that the Council has five principles that govern meetings. He announced those principles as follows: Councilors are to come to meetings prepared; Councilors are to check assumptions before taking action; Councilors are to show respect to each other, staff, and citizens in work and in the community; Councilors are to choose words carefully, but be specific; and finally, Councilors are to focus on the issues and not personalities.

Councilman Horton stated that when the InnovateNC grant application matter came up, all members of Council received the information by way of the Consent Agenda. He said that everyone had time to read over the information. He stated that the matter

seemed simple based on the information he had been provided. He pointed out that others on Council had differing opinions. He stated that one of the issues was the term “Greater Elizabeth City Innovation Council” as used in the grant application. He said that one of the problems he immediately had was that the 40-plus players identified in the application did not contain anyone from the Fourth Ward that he represents. He stated that as he read the application, he continued to find “small loopholes.” He stated that the Council did not want to go on record as not supporting the application; instead the preference at that time was to table the matter.

Councilman Horton stated that the City Manager had advised during the previous August 10 Council meeting that the Council did not have time to table the issue because of the due date of the application being August 17, 2015. He stated that he was bothered that elected officials “know information” “and they do not share that information.” He said that to have to listen to public comments by a citizen that it was too late to do anything, he thought “something fishy is going on;” and he opined that the citizen had wasted her time securing 265 signatures on a petition if it was too late. He continued by saying, if that citizen has a problem with the way the Council moves forward, she should work to ensure the Councilmembers she has a problem with are removed from office during the election - rather than “taking 265 people to sign a piece of paper.”

Councilman Horton stated that he wanted to publicly go on record to say that the Council was not saying they did not support the University. He said that if everyone in the community would “become educated” - “one discrepancy that we still have on the floor is - I asked our City Manager about this issue and he shared with me that some of the money would be cash money and some of the money would be in-kind services.” He said that “now that we’re told that our Mayor is on the Emerging Issues Board, which I don’t know that for a fact but it was brought up in the public comments, I was told that the whole \$250,000 is in-kind services. So, we still have other issues – we have other concerns. So what I’m trying to say to the public and the community is, before you are so quick – we are elected officials - we represent you all. We are supposed to be stewards of the taxpayers’ money. So before we went on record, it was very important, for me as an individual, before I vote on anything, it’s important that I fully understand it. Now that I somewhat understand it, with the exception of a couple of areas, I have no problem sending a letter of support for the grant – now that I understand it. But please don’t criticize me for wanting further information – and then, I would really like to know now that it’s come up in public comment – I want to know is the Mayor on the Emerging Board. If he is, I felt like maybe he could have enlightened us on that issue.”

Mayor Peel stated “as a matter of fact I am on that Board. You might remember that night when Mr. Walton asked Ms. Hummer a question that I tried to respond and he told me to be quiet – that he had asked Ms. Hummer.”

Councilman Walton stated “you had another chance, though. You could have done it at the end.”

Mayor Peel agreed that he could have had another chance, but didn’t try too hard. He continued “secondly, let me say for the record - so everyone knows - the first time you received any information about this grant proposal was on August 3 – that’s when staff put it on the items and sent it out. That was a week before the meeting. The next time you received information about it, was when you actually got the proposal on August 5, because we had a Finance Committee meeting on August 7 - and I don’t believe you attended that meeting. And at that meeting, Mr. Haddad and Attorney Goodsen came and did at least a 15-minute presentation about the grant and answered all kinds of questions. That’s why it was on the Consent Agenda because the Finance Committee unanimously approved it. And so, you had a lot of time to find out and get any questions answered that you had. Staff was available and they could have answered any questions. I would have been happy to answer them myself. But that’s not the way it went down that evening.”

Councilman Horton stated “Mr. Mayor, one thing I would say is that I think you need to understand that at the time, I didn’t have any questions. I was not the one – when we

had the Council meeting and other Councilors brought forth issues and no one had the answer to the issues – that’s when questions…”

Mayor Peel stated “well, when Mr. Brooks was talking about the fact that the ‘greater whatever committee’ as they called it, which sounded like the new City Council, I did respond and talk about that committee. The reason that there were no people from the Fourth Ward on the list is because most of the people on that list were people that are business people that were somehow tied to engineering and were creative and innovators in this community – were tied to government or the University or something to do with community development. So that’s where the list was generated from. One of the things you had to show on the application is that you had the capacity as a community to do something with the resources if they sent them here. So, one of the major focuses of that proposal was around that issue. And so, those were people that are business people, economic development people, to show that this community has the capacity to do something in the innovative area.”

Councilman Walton stated “yes – and those same people – a lot of those people – are your 2020 Vision – so you have the same team players. It’s like right now, if you go out there tomorrow and you see Tony Romo and Darius Bryant walking down the main street there and somebody tell you there’s a professional team in town – if that person say ‘Oh, wow, when did the Cleveland Browns get here’ – something wrong with that statement. So when certain people show up on certain areas, they on the same team – trust me. Now, you said that you didn’t have time to say anything. You have the last word. You have the last word in comments. You had a lot of time to talk about it and tell people what was going on. People out there right now, still don’t want to give you credit for doing what you did. They don’t. They looking at me and said ‘Johnnie still crazy – you need to crucify him.’ But if you don’t know what the problem is, how can you solve it y’all? They some people up here earlier talking about work smart. How can you solve a problem if you don’t know what it is? Or you don’t want to realize what it is. Y’all keep putting gas in the car y’all – check your battery – it could be the battery. Could be something else – but you want to blame the same people. Boy, I was very popular that week, man. 8-15 Jon Hawley had a article – Jones: Walton wrong – ECSU not elitist. I’m sorry the young man left back there – Mr. Koch. I think he work at the University. But somebody on that staff don’t even know what elitist mean – they say it was ‘white – white’ – when did I mean white for elitist? That’s not what I meant – they want to tell me what I mean now and what I say – I’m tell you what I mean – if you want to hear it or not, that’s up to you. On 8-16, Opinion Our View – Rejecting Innovation North Carolina Grant Foolish – Hurts EC and ECSU – that were by the publicist, I guess. 8-17-15 – back to back, comin’ at me man – they blistering me man – they don’t know I’ve got tough skin, y’all. I been through stuff like that – I am blessed and highly favored, now – God goin’ to look out for me. The third day was 8-17-15, here come Holly. Bullies Stymie City’s Future with Ignorance – Racism – Ego. Holly, you come up here and say one thing, then you put something else in the newspaper. I don’t know which one to believe. I don’t know which one to believe. I am a racist, now – just because I didn’t go along with the grant. But, I didn’t hear you say anything to Lloyd Griffin and Frankie Meads – they voted the same way I voted. They said nothing about it – but Johnnie Walton name in the paper ‘bout 15 times. They jumping all over me. That was on the 17th. On the 19th, William West – here he is – County Okays \$3,000 for ECSU grant. I’m glad they did do it, but they just cut me down some more and our Council – say we couldn’t lead – we just gave money back. You not givin’ money back – Horton just told you – in-kind means you don’t touch the money – it’s other things that go on that you’re charged for. \$125,000 over two years – man Keith Rivers, Michael Brooks and myself can talk about things that long. That’s all people gonna do – they gonna come down from North Carolina State, give you a couple seminars – in-kind y’all. You don’t touch it. You don’t touch the money. Do you remember me sayin’ that part of it yet? Rich can tell you what in-kind mean. Every year, the prisoners work in-kind, don’t they Rich? In-kind services.”

Mr. Olson stated “that’s a bad example, Councilman Walton.”

Councilman Walton stated “it’s a good example – why?”

Mr. Olson stated “because we pay the inmates to work for us.” Councilman Walton asked “how much?” Mr. Olson responded “\$1.00 per hour.” Councilman Walton said “that’s in-kind – that’s real in-kind – you work somebody for \$1.00 an hour. That’s in-kind service. Bout how much do they save us?” Mr. Olson stated “about \$400,000 per year.” Councilman Walton said “see what I’m talking about – that’s in-kind.”

Councilman Walton continued “now these people going to come back from North Carolina State, give a seminar here, talk about strategies, what we can do here, what we can do there – go back to North Carolina State for \$125,000 worth the first year. Second year, they do the same thing – ‘cause they supposed to have four seminars. I talked to the lady that’s in charge. They ain’t passing no money y’all – I know you feel kinda funny now – cause they ain’t. Elizabeth City State don’t get money in hand – they don’t get it. They still trying to justify – still trying to justify. It’s so much – so many – since there’s so many problems with this I’m gonna compromise. You asked us to reconsider, Horton. I’m gonna see how many people really love Elizabeth City State University.”

Motion was made by Councilman Johnnie Walton, seconded by Councilman Darius Horton, that we give Elizabeth City State \$10,000.

Mayor Peel asked Councilman Walton what the money is to fund.

Councilman Walton stated “I want to give \$5,000 to the band, and then \$5,000 to use as an innovative method of going out and recruiting people in the region – I’m talking about from Dare County, Currituck, Camden...”

Mayor Peel advised Councilman Walton that the item was not on the agenda and he could not make the motion. City Attorney Morgan stated that an item can be added to an agenda if it passes a super majority of the Council to do so.

Councilman Stimatz pointed out that it would have to go to the Finance Committee first.

Councilman Walton stated “no it don’t, Tony. The last week you said things didn’t have to go to - see now Elizabeth City State – now....”

Mayor Peel stated “Mr. Walton, hold on just a minute. That motion doesn’t have anything to do with what’s on the agenda.”

Councilman Walton stated “yes it does.” Mayor Peel disagreed.

Councilman Walton stated “when you crucify me in the paper four days in a row, it has...”

Councilman Horton stated “point of order. Ms. Hummer has the gavel, I believe.”

Mayor Peel stated “I will just take it back.”

Mayor Peel requested a ruling by the City Attorney.

Mr. Morgan stated that the Council would have the right to add the item to the agenda by super majority vote. He said that the other issue is if the Mayor rules the motion out of order, inasmuch as it is not related in his opinion to the item on the agenda, then the Mayor’s determination can be appealed.

Mayor Peel stated “I just ruled it out of order.”

Councilman Walton stated “it was not his call if Ms. Hummer had the gavel. I made that motion under Ms. Hummer.”

Mayor Peel stated “that’s correct. Ms. Hummer, you get to rule.”

Mayor Pro Tem Hummer stated that she would hand the gavel back to the Mayor since the issue was not clear to her.

City Attorney Morgan stated that inasmuch as Mayor Peel was not engaged in debate at the time the motion was made, he believed the gavel belonged to Mayor Peel.

Mayor Peel stated “the attorney has ruled that the gavel was mine, so I am ruling the motion out of order, it’s not on the agenda.”

Councilman Brooks stated that he wanted to applaud those who spoke before Council because he knew it was a hard thing to do. He said some of the comments were good and he could take them. He stated that since the discussion had been heated, he would take the time to fill in the gaps. He said that he was under the impression that once it had been voted on, that was it. He stated that no one came to him directly, and talked about the InnovateNC grant. He said he had gotten more information during this meeting than he had during the last meeting to help him make a responsible and accountable decision. He said that during the previous meeting, members of Council had asked to table the issue, but they were told that to table the matter would not have met the requirements for the short timeframe for grant submission. He stated that the minutes from the August 10 meeting would show that he asked about having a Special Meeting in order to get the information he needed to make “an accountable, knowledgeable decision.” He said that information had come out that “we voted against Elizabeth City State University getting money.” He stated “that wasn’t the vote. It was said specifically it was in-kind money, it don’t go directly to Elizabeth City State University.” He said “it bothered me because I am very passionate about Elizabeth City State University. I’m passionate for those that came before me – the struggle and the work they did that the generations that follow them can get a decent education.” He said “for those that came up there and spoke so eloquently, again I will fill in the gaps, ‘cause there’s certain things that it seems that everybody failed to realize.”

Councilman Brooks stated “in grades 1 – 7, I was educated at H. L. Trigg Elementary School. And then I went to P. W. Moore Junior High School.”

Mayor Peel stated “Mr. Brooks, does this have anything to do with the InnovateNC Grant.”

Councilman Brooks stated “if you will let me go through it the way I want to Mr. Mayor - I didn’t stop anybody. Now I’m talking and I’m filling in - and now you want to interrupt me and stop it. I’m right on point with what I’m talking about. I’m talking about Elizabeth City State University Innovative Grant. See – that’s the kind of stuff – that’s the division. Everybody got a chance to say something. I haven’t said anything the whole meeting. Now I’m explaining Innovation Grant and where I stood and why we voted and he tried to shut me down and I have the floor. Now you see why sometimes I go to the top – that’s what it is – you can shake your head, though. You listen at the same meeting that they listen at on TV.”

Mayor Peel stated “Mr. Brooks...”

Councilman Brooks stated “no, no, no Mr. Mayor – no, I have the floor. I have the floor. Let me finish, let me...let me say this. If I’m talking about the Innovation Grant, I’m talking about – when you’re dealing with Elizabeth City State University, if you let me go into it the way I want to go into it, not the way you want me to – everything will be fine.”

Mayor Peel stated “go ahead. I just want to make sure you’re on task. That’s all.”

Councilman Brooks “you know - and then we have a calm meeting. I’m on task. I’m good. Okay. So let me finish. Yeah, P. W. Moore Junior High and H. L. Trigg in time was a segregated school system. All my teachers had one thing in common – Elizabeth City State University – is that all right with you? Elizabeth City State University. They understood what the term Viking Pride meant. They understood what Viking Pride meant. They made sure that we read and understood what we read. And all my reading, somewhere I read - my people perish for the lack of knowledge. Somewhere I

read – in all you're getting you should get an understanding. Somewhere I read – there is no greater love than to lie down your life for a friend. That's exactly what the teachers at H. L. Trigg School and P. W. Moore Junior High School did under the title of Viking Pride. To the teachers who taught me at H. L. Trigg School and P. W. Moore Junior High School with their heart filled with Viking Pride, there is no greater love that I have for you – no greater love that I have than the love you showed in making sure that we get a decent education. And I want to give high marks to those who sacrificed for us and the generation to follow. Those like Hugh Cale – you see a lot of people don't understand – Hugh Cale sponsored Bill 383, which established Normal Teaching School for teaching and training teachers of colored race to teach in the common schools of North Carolina. The Bill passed and the origin of Elizabeth City State University was born. I share knowledge with some and remind others of a legacy again called Viking Pride. It is crazy for anyone to believe that blacks who benefited from the hard work from those who came before them, would vote against the University. There must be something else to it. There'd have to be something else to it. Especially when they know that the first leader was called principal, subsequent leaders would be called president then chancellor. We know about P. W. Moore Elementary School, which when I was coming up, was P. W. Moore High School. P. W. Moore, whose name was Peter Wedderick Moore, he was the first leader – he was then called principal – of Elizabeth City State University. And, under his tenure he increased the roll from 23 to 355. This is information that we need to know so we know what happened there – because he was in the depression – someone should think why did the four blacks on Council vote against that in-kind monies – that's what it was – in-kind monies – it wasn't so much a grant. It had nothing to do with something against the University, 'cause it wouldn't make sense. It wouldn't - it doesn't make sense at all. And I found it amazing because during my tenure on Council, whenever I go to fight for a black – normally they would call me racist. But then they found out a lot of stuff about me – they don't use that term anymore. But when I vote against Elizabeth City State University and I will give you all high marks – because nobody really mentioned my name in it. They didn't mention my name. And I don't want to go on and on, Mr. Mayor – the reason why I was – went in that direction, because H. L. Trigg School also was one of the leaders of Elizabeth City State University. Harold Leonard Trigg – you know – and that has some meaning – it has some meaning and impact. So I wouldn't vote against anything – those who know my voting record know that people come up here and express their concerns, I normally try to go with what the people say. That's my M. O. That's my M. O. But when I hear comments about the – that's untrue – that talks about we denied Elizabeth City State University grant money. Now again, I'm going to end what I'm saying and I probably won't do the comments because I feel good if we can get out of here before 12 tonight. My concern is that when we have all these people here – and it's very good – do you understand – do you understand what we see – what I see anyway – on this side of Council. When they talked about putting – I'm offbeat a little bit Mr. Mayor, but you understand where I'm coming from..."

Mayor Peel stated "we need to get going."

Councilman Brooks stated "when they talked about \$400,000 of cement in ditches at Oak Grove – where was everybody at then? \$400,000 worth of cement in ditches."

Mayor Peel stated "alright, Mr. Brooks."

Councilman Brooks stated "no, no, no, no"

Councilman Donnelly stated "oh, you're not finished?"

Councilman Brooks stated "no, no, no, no, no, no, no, no, no. Now, you can say no and yes – that's when you hit the gavel because if we can't respond to them, they shouldn't respond to us. That's when the gavel should be hit. Ever since I started talking Mr. Mayor, the first thing you tried to do is shut me down from the beginning. And if you try to shut me down, now – I'm talking about Elizabeth City State University. If I'm not mistaken, we're talking about Elizabeth City State University Innovation Grant and I keep dipping in that. I can't help if you don't like the way I address the situation. When you was talking, I might not like the way you address it, I didn't say Mr. Mayor, hold it – I

didn't do that. You know what happens is, you try to stop Johnnie and you got to understand, so let me go into it the way I want to 'cause you mess my flow up. You mess my flow up. Now I'm all over the place – I don't know where to go now – I got all these notes and I don't know where to go. But I say this, since he messed me up, 'cause I wanted to address the - this thing here – and I will leave it alone – 'cause I can say Mr. Mayor – you got me, because I don't know, I'm, all....I don't know where I'm at. I don't have a clue. But I want to say this, it was good – I picked up the article 'County okays \$37,000 for ECSU grant' and I read it and I got a little disturbed when you have someone that sit on County Commissioners - and I can read it 'cause the article's right here – it says Dixon said the Council's vote indicated to him that our elected municipal officials across the street are confused. He emphasized that the grant ECSU is seeking is not designed to benefit the University. So, I'm trying to figure out where everybody keep telling us that we denied a grant to Elizabeth City. This what Jeff Dixon said – he sit on the board if I'm not mistaken with Mr. Peel. This is what he said – this is not what Brooks is saying. I'm not sitting on the board. So, if you get all you're information, you will find out it makes sense – we didn't vote – we voted – that vote that we did the other day was because they didn't want to call a special meeting to give us all the information. And the reason why I went in that direction – I can tell you specifically – and then I'll really be quiet – 'cause, the reason why I didn't – in February 25, 2013, a grant was written for – to do hot spots – where you have a high crime rate. And they tried to use Roanoke Avenue – well I live off Roanoke Avenue. Now the grant was supposed to consist of \$1 million. And this why we tried to do a special meeting to get all the information before we approve that in-kind monies that everybody saying a grant that was denied for Elizabeth City State University. I need to slow down, 'cause I'm getting excited. Now, I took the time myself, 'cause I live over there – and being a hot spot and a crime-ridden area, I didn't see it. I'm over there all – I live there. So, what I did was, I went and got a copy of the grant. I went and got a copy of the grant. And they kept telling us that \$1 million was going over there 'cause it was a hot spot. When I read the grant, 80% of the money or better was going in salaries and preps. Wasn't no money going in that area – and I found that amazing to me that they was trying to pimp the community – they were trying to pimp the community. So, holding fast to those who came up to speak for, I was being accountable for the taxpayers' money. I was being accountable. All we ask for was information. We tried to call a special meeting before the deadline of the grant – that's what we wanted to do all that. So that's what that was all about. So, when you come up here, make sure you have information. Understand what happened. Like I said, I wish that those that came up before Council had came up there the night that we had that vote and gave us as much information as you are giving us tonight – and the information that Councilman Horton gave us – I'm sure he didn't know that information the night we voted on that money in-kind. He didn't know of it. You know. So I'm tired of people talking 'bout we denied Elizabeth City State University this – we denied Elizabeth City State University that – it's not true. It's not true. Now the information you heard tonight – that's the fact. Go read the newspaper – they'll tell you a lot of information as to a good reason why it went the way it went. It wasn't because that we are anti-Elizabeth City State University – that would be ludicrous. It doesn't make sense. We can reason better than this. So, anyway, thank you Mr. Mayor.”

Mayor Peel stated “do we have a motion on this item?”

Motion was made by Councilman Darius Horton, seconded by Councilwoman Jean Baker, that we send a letter of support to the Institute for Emerging Issues at North Carolina State University in support of this Innovative NC Grant; and if approved, we fund the grant \$3,000.

Councilman Spence asked if it was too late to grant the money. Mayor Peel stated that the City would not need to provide the money if ECSU doesn't get the grant.

Councilman Donnelly stated that it was his perception, and his opinion, that he had heard a lot of revisionist history going on during the meeting. He stated that bothered him, but he could live with it. He said that what had really impressed him was that Chancellor Jones had done a great job explaining how the perception of some people on the Council was wrong.

Councilman Walton stated that everybody has an opinion. He asked Councilman Donnelly, "What is perception of how the meeting went?" He said "you still want to give passes to certain people - nobody can do anything wrong. Some people – now I want hear – I want to see in the paper tomorrow how much Holly put the facts in there. The facts are – the Mayor had an opportunity because he is on the Board –that North Carolina State – and he never told us the information. Do y'all understand that yet? Man, we are dazed. We just don't care what he does. That's not good. Everybody should be accountable. And when you – and when a City Council-Manager's, Mayor type of government, that's what we need to go by. Y'all don't even care nothin' 'bout our Charter. Why don't we put it on the election day agenda – let's change our Charter – let the Mayor be the man. 'Cause that's what you makin' him."

Mayor Peel stated "Mr. Walton, we are talking about the Innovation Grant."

Councilman Walton stated "yeah – but that's what the Innovation Grant is about – you not giving up the information when you should have. He didn't give it to us y'all – I want the information. Now you still don't want to give it to us – that's sad."

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

Councilman Brooks stated "I think what Councilman Walton was saying with that is we have a Charter, ladies and gentlemen, we have a Charter. And over the years – what I was saying is, if we go by the Charter, you will find out that a lot of the things that we do on Council – and I think it's online – read the Charter. Read the Charter. My sister gets at me quite often and say 'you keep quoting the Charter and there's no one listening.' We have a City Council-City Manager type government – and that's what we talking about there. We don't – when we talking 'bout the form of government – what we're saying is that the information is not – is supposed to be passed to the Council."

Councilman Stimatz asked for a point of order. He stated "we have a motion on the floor about giving grant support."

Mayor Peel advised Mr. Brooks he could make those comments at the end of the meeting.

Councilman Brooks stated "okay, then I'll finish my flow, since you all won't let me talk, I will finish my flow. I'm going to finish my flow. I'm going to finish it. Now everybody's that's all of a sudden no matter I say, I'm not on beat, because I guess you're afraid that you can't control what I say, but I'll deal with it in the comments section. That's okay. It's okay, I'll go that route if that's what you want me to go, I'll go that route. No, no, no – don't touch me – don't say nothing to me."

Mayor Peel stated that there was a motion on the floor and a second.

Councilman Walton stated "you know it is almost moot to give them \$3,000 now, because there were eighteen counties that put money in. I hate to tell you, somebody used the – Holly – we are not the 18th poorest county in this state, we're the 26th. And, giving them \$3,000 now will only – okay 15 times 5 – I mean 15 times 5 cities or counties that's \$75,000, you know? That's not in-kind money, that's money going to somebody. When I looked up the proposal, man, they talking 'bout they want to you donate – every time you look up there – turn over a page – it says donate – Silver is \$20,000, a Bronze - send \$50,000 – this is a private entity – they want to raise money. The money doesn't go to Elizabeth City State y'all – and I tried to get us to give Elizabeth City State something that's tangible – that they can touch – everybody didn't want to do it. So that tells you how much love we got for Elizabeth City State. It's not there."

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

Councilman Horton stated "Mr. Mayor, before we go on, I just want to make sure for the record - my motion was that we give them the \$3,000 if the application is approved."

Mayor Peel called for a vote on the motion.

Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and Walton. Against: None. Motion carried.

10. Comments and Inquiries on Non-Agenda Items:

Councilwoman Baker requested to give her comments first. She stated that she wanted to thank everyone for prayers and good wishes. She said that she would be going to surgery the following Wednesday and would appreciate everyone's continuing prayers. She stated that she hoped she would be back in time for the Council's next meeting cancer free. Councilwoman Baker asked to be excused from the meeting in order to make her travel commitment. Mayor Peel advised that she was excused.

Councilman Brooks stated that he first wanted to deal with the City's form of government. He said "we have a City Council-City Manager type of government. What that means is that the City Council give the City Manager the direction and what the City Manager does...." He stated "I used to read it but I don't read it anymore because it seemed to be moot. It seemed to be moot. I sit there for the whole Council meeting – and you keep saying I'm off beat – and I heard them chatter – and I heard them as loud as what I'm talking now, I heard them – and you never hit your gavel one time and said 'order.' I found that amazing, but you want to try to direct in what I say and how I say it – how I lead into something. That's not good. Now I backed off of this approach for a long time – because what happens is – when you keep telling me - for the whole Council meeting I didn't say a word to the end and when I start talking, the first thing you try to say is – and I – the first thing you try to say is that I were off beat in what the topic was. No matter how I lead into it. You know, I hate to be giving a sermon and you out there – and I talk about something to lead into it and you're telling me to be quiet. But we have a City Council-City Manager type government. We don't have an executive mayor. We don't have an executive mayor. It seem like people should be concerned when we took \$360,000 and put it in the weatherization program and paid \$10,000 to have a house weatherized, which is a mansion, you know? And no one living in it. But they come up here and act like they concerned about in-kind money that Elizabeth City State University probably wouldn't get. Wouldn't get. I find it amazing. To me, come up - let's talk about the impact that they have on our children. With all this war going on, people come up to the podium and throw at Council, then Council go at each other, and some Council members don't like what another one say, they go after them. We are fighting a civil war amongst ourselves. That's what it is – a civil war amongst ourselves, 'cause everybody want to be in control. Everybody want to – nobody want to abide by the Charter – no one want to abide by the Charter. And it's online. You'll find out that – matter of fact – you be surprised that the Charter says that the mayor does as directed by Council also. You be surprised that that's in the Charter. No one even knew that – you think you got an executive mayor – he's not an executive mayor. You know. And that's the problem that we're having. You know. The City Manager does things as the Council direct with a majority vote through his department heads. That's how it supposed to work. I been on Council eight years. I haven't seen him work like that too many times. You know. So when people see me talk like this, they think – they he go again. Go read the Charter for yourself. Go read it for yourself. Now, when I was talking about P. W. Moore and H. L. Trigg School, in my travel and the education that I had through the high school and the university and stuff, I rank the teachers that I had from the first through seventh grade as the best teacher that I ever had to tutor me in my whole life. They actually cared about their students. If you messed up to bad, they would show up at your home. You know? So, there's no way, no way, that you can tie someone up with supposedly – and I don't like the way it's worded – but it keeps saying on a continuous basis that we deny Elizabeth City State University money. It sounds bad until you put it out there like it is. It's in-kind money and it has a different approach. Now that's just the media using a divisive tactic. Let's call it what it is. Don't try to make it look like, oh, bad on them. And then, when you talk about division again – the same people that get up and walk out – you got to understand this – you're not saying - they not listening to the truth. They have their mind made up when they come here – what they think and how it's supposed to go. I tell them – stop not exercising good judgement – oh I use – I've start using another word – but I use that – stop exercising

bad judgment and go read what the Charter says. I'm really easy – I'm flexible – I bend, if I'm wrong, if the Charter says – I, I apologize – I'm wrong. I do that easily. But, let's always, if we have a tendency - if we treat all Councilmembers the same way. I been on Council – I've been cursed at and cursed out. Right on Council. No one have come up there and said – Wow, it was bad how you was cursed out – they don't say that. But when I try to help somebody they don't want me to help, they come up there and say something about that. That's the life of a Council person. That's it. So I receive it as that. I'm okay with it. The people votes me in – if they don't vote me in – I'm okay with that too, because this is who I am. Before I ran for Council, I was the same way. Out on the streets trying to help people. And, and - I was asked and they keep - brought this up and I didn't get a chance to address it, I keep hearing that when we did the budget, there was no objection to the tax increase or the water increase and all that. That's not true. Read the minutes. Read the minutes – that's not true. That's not true. Why say it – I know I said it – that's not true. Read the minutes. And then, they keep talking about it was a long timeframe that we had to come to a decision about that in-kind money for Elizabeth City State University. Read the minutes. Read the minutes. Don't listen at someone tell you something, when you can read it yourself and find out what the facts are. And I'm...I didn't want to get into this mode, because I had 'bout a page that I wanted to talk to – the mayor kept on interrupting me – and it just – I was all over the place. But, when the charter school went over on Elizabeth City State University Campus, I didn't understand that. It was – had a STEM curriculum. They have a STEM curriculum at Northeastern High School that's working perfectly. It's working perfectly. And the problem now – opened the paper today and it says that the school system might not be able to employ some of the teachers' assistants. We already got a economic downfall in our budget. So how do we answer it? And I heard no one go into this mode – how do we answer it? We do a charter school with a STEM curriculum on Elizabeth City State University Campus – and the students that go there – I don't know the figure – I think it's \$7,000, goes with them if they decide not to go and come back to the public school system, that's \$7,000 still missing. And you gonna get at us for in-kind grant? You know – all this doesn't make sense to me. And I want you to go home and listen to what I'm saying and don't take my word for it – look it up. And if I'm wrong, come back to me and say 'Brooks you're wrong, this and that' and I'll say 'I didn't know – I apologize – I mis-read, or whatever I have to say. But I'm telling you, sometimes we get off beat and I know you all see the same thing I saw – I hadn't said nothing for the whole Council meeting – and when I start talking, the first thing the Mayor start saying – Mr. Brooks, Mr. Brooks – and I was amazed with Tony Stimatz, 'cause normally Tony Stimatz, he give me direction – he be guiding me through stuff over here. But he said the same thing. That kinda bothered me. So what are you trying to do – control me? From what? Control me from what? You know – out of all the Council people that talk, you know – and I say this – the night that – I forgive you for it Donnelly – that Donnelly used that – cursed – you got to understand is that – it was okay. Mr. Mayor didn't hit his gavel and said – 'Councilman Donnelly' ”

Councilman Donnelly stated “yes he did.”

Councilman Brooks stated “wait a minute. Wait a minute. See...they got something to say. So, what I'm saying is that if you treat me the same way you treat other people it would have been fine. When Mr. Mayor first got on Council – this is what he said – I was the reason why there's no jobs coming to Elizabeth City. Read the minutes. Read the minutes. Read the minutes. If I have that much power, Elizabeth City will be a little L.A. or something – it would be booming. That's what's in the minutes. How am I supposed to receive that? Is that a direct attack on Brooks? When the Mayor started his position as mayor – when he was elected mayor – we were a Tier 2 County. We was a Tier 2 County. When he became mayor and I think – you did well – we are a Tier 1 County now. There is no Tier 0 County. We at the bottom. I'm not blaming it on Mr. Mayor because the Council people are accountable for the decisions they make. But that's where we have gone. So, if we were a Tier 2 County, when I was on Council ramping and raging so much – and then he gets on Council and for a while there I didn't say nothing 'bout four or five months. And we go to a Tier 1 County? I got a lot of power that I don't know about. You know, read the minutes. If you read some of them minutes, you will be surprised. Read the minutes when we went through Special Elections and talking about hold-overs. Read those minutes. Read what the Council did

and what the Charter and our Ordinance say we supposed to do. And then you'll say, well maybe Brooks might know what he's talking about. If I don't know what I'm talking about, then the Charter don't know what it talking about and neither do the ordinance. Come on y'all. Come on y'all. And I'll be quiet after this – I don't – I always get upset because they used to do me like that – and talk about me in the paper and all that kind of stuff – but I think it's unfair the way they attack Councilman Walton. And I think it's very sad when you have the County Commissioners talking about the City Councilors like they got it all right. They are the ones that voted – they the ones voted to have the Charter School and all these people collectively – they're making bad decisions with the information to make a right decision. So, we don't make a decision because we don't think we have enough information and then everybody come up here and attack us. Go to the County Commissioners and tell them what they're not doing right. And Councilman Walton made a good point – you had two people on Commissioner that voted also not to give Elizabeth City the in-kind money. I didn't see no article about them. Nothing. So what message are we trying to send? And I tell you this – and I'll leave it like this – there's a war going on. It's not just dealing with that Confederate flag. There's a war going on and the casualties are our children and our children's future. So you can tell old Brooks is established – I'm good. I'm established – I'm good. I'm rooted and washed in the blood and I'm not afraid what anybody say about me. What you say about behind my back, I guarantee it will come back to you full circle. I can guarantee you that. That's the faith that I have, you know. And I say this – when we was voting, when they was trying to eliminate prayer before the meeting – you called this when you tried to shut me up, because I can go wherever I want to go with it now – when we tried to have prayer – they tried to eliminate prayer before the meeting – if you read the minutes, you know – I was told that we have 100 churches in the Elizabeth City-Pasquotank area – we not counting those that are licensed ministers – that's a lot of people that consider themselves men and women of God. But yet, when the issue came up whether to have prayer or say in Jesus' name or in the name of Mohammad or in the name of Buddha – all of a sudden everybody will answer – 'cept for Mr. Dowdy, he came up here, I got to give him his props - now when I see people go to the podium, when I'm in their church, oh, they wide open – In Jesus Name! – In Jesus Name! – then they come up here and – in His Holy Name I pray – or in His Name I pray. I don't understand it. Now I believe that everybody should have an opportunity to pray to whatever you want to worship. I believe that. That's a religious right. But, if we gonna invoke God's presence, don't have someone come to that podium that say they atheist. You an atheist, you don't believe in God, you can't invoke God's presence. You know? And all this stuff is in the minutes, what I'm saying. So you wonder sometimes when I start ramping like that – you might not like – go read the minutes. I tell, when new Council people come on Council, the first thing I tell them, you don't have to listen to what Brooks say, go and read the minutes. And again, I want to thank everybody that came up here and addressed Council about the in-kind money, Innovative Grant, whatever you want to say. I want to thank y'all because it takes a lot of courage to come up there and do that. And y'all have shocked me – not only did Mr. Peel threw me off my game – but y'all threw me off my game 'cause y'all didn't talk about me – y'all didn't set that fire to me. You know? So, y'all did good and I learned a lot from what y'all said and I receive what was said. Thank you, Mr. Mayor.”

Councilman Stimatz stated that Mayor Peel did take Mr. Donnelly seriously to task when he spoke out, because he remembered it very well. He stated that he would not bother to correct a lot that had been said during the meeting because it was not worth it. He suggested that people could go on the City's website and look at the minutes as well as view the meeting videos and make up their own minds about what's going on. Councilman Stimatz stated that he appreciated the fact that people came and spoke on the grant issue and voiced their concerns, because that is what representative government is all about. He thanked Councilman Horton for placing the item back on the agenda. He said that the final result is what “we had hoped to do the last time.” He noted that at the time staff placed the item on the Consent Agenda, normally it's things they think are non-controversial and pretty simple. He said the City has done hundreds of grant applications for things like that and never engendered the level of intensity of discussion that was brought out in this particular one. He pointed out that the Council does have short timeframes sometimes, and he had often voiced concern regarding receiving ordinances on Thursday for adoption on Monday. He said on the face of it,

ECSU was attempting to do something on their own and needed support. He said that all the Council had to do was indicate its support and decide the monetary level of support, if the grant was extended. He said everyone does not always agree and that is what government is about. He said what the papers do with it is what the papers do with it. He stated that how the citizens feel, on the other hand, is very important. He said that he hoped everyone had a wonderful Coast Guard Day. He advised that as much as he would like to see "Coast Guard City" on the proposed new City entrance signs, he thought it was important that everyone understand that we are a City of many wonderful and worthwhile things to promote.

Councilman Horton thanked all the residents for coming out and sharing their concerns and various points of view. He reminded everyone that recently a City family suffered the loss of a family member through a shooting. He complimented the Police Department for supporting the family during their hour of bereavement. He stated that although everyone has a different viewpoint, in order for the City to move forward, everyone needed to work together. He stated that he and his church family would be praying for Councilwoman Baker. He asked everyone to keep returning students in their prayers.

Mayor Pro Tem Hummer stated that she welcomes criticism and she appreciated everyone coming to share their opinions. She stated that she wanted to know when the citizens are not pleased with her performance. She stated that she thought this was one of the worst meetings the Council has had since she had been a member and she apologized to the citizens. She stated that she wanted to clear up a couple misconceptions and she advised that the Finance Committee cannot approve anything other than sending each agenda item to the full Council. She stated that during the last meeting, the last vote was to send the application for the Innovate NC grant on with deferred payment until the Council learned if it had been awarded. She stated that three Councilmembers, she, Mr. Donnelly and Mr. Stimatz had voted for that motion and she was concerned that there was some confusion regarding that.

Councilman Walton stated that he hated to tell Councilman Brooks that he was wrong. He said "it's more than \$7,000 – Mr. Peel will let you know exactly how much funding will be given per kid. At the end, he'll be given the opportunity because he has the last word. And, he had the last word the last time we met. He's trying to say I shut him down from telling the truth – I can't do that. He had an opportunity to do it himself. So – and during the budget process, Kem, didn't you ask if you could table the process? Because you were not clear on certain issues. We asked that and they told you 'no' we got to hurry up and do this. Is that what they did? Now, look – right now the state still trying to pass their budget. Is the federal government going to shut them down? No, they're not. So, you know, people keep saying you are rushed to do something because they don't want you to make a good decision. We need to get all the information we can get before we make decisions like that. Now in case people don't know about the Finance Committee, the Finance Committee meet – the rest of the Council does not need to meet along with the Finance Committee. That's why we have a Finance Committee. But being the Finance Committee supposed to come back and bring us accurate information so we can make a good decision. Now, those two people, Russ Haddad and the attorney, at the University, they went to the County and gave a presentation. But they never came to full Council – they went to the Finance Committee. Now, if we don't get all the information, it's not our fault. Somebody should have given us better information. They should have given us better information. Now, the newspaper is saying how they try to crucify one person just to sell some papers. Like I said, I can handle that. But, every now and then, by and by tell the truth. Tell the truth, if you want to unite people. You tossed my name all under the bus – I'm trying to duck all kinds of ways – Tuesday, Wednesday, Thursday and Saturday. Came at me today, somebody – I don't know who it was. But it's in there. Now, if I'm that powerful, one of those articles – was it you Jon – if we don't get this grant Johnnie Walton is responsible for no jobs not coming here. I don't know which one of y'all it was, but one of those groups. Cause they got writers all over the place that I guess they go in the huddle – let's get Johnnie Walton today – Ready, Break! That's not right. But I can handle it. But every now and then – like the truth. We have suppressed information. Suppressed mean it was not given to us. It was held on by certain people. I need to

read that in the paper – the truth. Need to have the truth in there every now and then. Call me racist. To me, it's racist on their part. It's racist on their part. They jump all over me – Mike, the three stooges – but then two guys on County Commissioners voted the same way we did. Now, let's take the entire vote. Five voted here, two over there – that's seven people. Okay on the other side, two voted here and four voted the other way on the other side. If you combine both groups – both teams – you got seven to six. And then the Mayor supposed to break the tie. But, nah, he shouldn't break the tie – he should be recused from the voting because he's on the board that sent the application out. He suppressing evidence and telling you he doing the right thing. You talked about the charter school, Mike. They gave him a number – 120 kids. He tell them – first year I'm going to do 120, next year I'm going to do 300, next year I'm going to do 4 – I'm just using numbers, you know, you know how we do. But then, they done gave him some more kids this year already. So he's not going to be satisfied 'til he get all of it. Everything that he wants. And people right in this room will get right behind him and walk. They will march right in unison with it. Not miss a beat. Not miss a beat. Right foot go down at the same time his would – left foot same time. That ain't right. If you trying to do the right thing, when you found out you've done something wrong, you should correct it. If you don't correct it, you're wrong. Thank you, Mayor. He will let you know though, Mike what those numbers are, I'm sure.”

Councilman Spence stated that one thing he had learned since being on Council is that with some decisions he makes, someone would not be happy; and with other decisions he makes, others will not be happy. He said he appreciates everyone who came to the meeting and stated their case. He stated that one thing he could honestly say about himself is he doesn't vote on anything blind. He said that he had questions and concerns about the grant and he was not clear on it, so he did not vote on it. He stated that he does that with everything. He stated that he does not like being put on one side or the other because there should not be sides. He said that he was “straight down the middle.” He stated that before every Council meeting, he prays before every decision he makes. Councilman Spence announced that on August 23, fourteen barbers provided free haircuts for youth during the annual Back to School Bash. He stated that this was the fifteenth year doing this for the kids. He said that the barbers spent eight hours providing 232 haircuts, distributing school supplies, clothing and toiletries. He read the names of the barbers who had volunteered. He also acknowledged the Police Department for their work during the event, as well as Human Resources Director Katherine Felton. He stated that he agreed that the barbers should receive some kind of recognition for their service.

Councilman Donnelly stated that he wanted to go on record that the STEM school is a great opportunity and provides parents and children an opportunity for a different selection – a new way to try out education, in his opinion. He said he was not against giving opportunities and options to kids so that they can do what they want to do. He said that he was glad that the Council had voted for the InnovateNC grant to go through “even though the train had left the station.” He pointed out that the grant is for technical assistance, which apparently is an issue.

Mayor Peel stated that he wanted to thank everyone who came and spoke. He pointed out that Ms. Meads had the same documents that the Council did regarding the InnovateNC grant and obviously came to a different conclusion. He said that the actual money received by the charter school varies depending on where the kids come from, as different counties provide different money. He stated that the STEM school is unlike any other school in the State of North Carolina except one at NC State. He said that it is an opportunity for children in this community that is unique and will give them an advantage. He said that he was proud of the school population, which is right at 40% minority and 66% first-generation college students and he stated that there is a representative group of kids from all across the region. He said what the Council had during the last meeting was a good example of people who got something a week before the meeting started, got it again several times, didn't come to meetings when they should have been there to learn about what was going on and then came to the meeting with personal agendas rather than thinking about what was best for this community. He said that “anytime that we don't do our homework and come with

personal agendas, we make mistakes that are not in the best interest of the citizens of this community.”

11. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 9:40 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

DRAFT