

**City Council Regular Session
January 12, 2015**

The City Council of the City of Elizabeth City met in regular session on Monday, January 12, 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 Montravias King

MEMBER ABSENT: Councilman Darius Horton (*Unable to attend due to illness*)

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 City Manager Angela Cole
ECDI Director Rebecca Cross
Human Resources Director Katherine Felton
Public Utilities Director Paul Fredette
Deputy Fire Chief Barry Overman
IT Director Matthew Simpson
Inspections Director Stanley Ward
Parks and Recreation Director Bobbi White
City Clerk Vivian White

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

1. Agenda Adjustments and Approval:

Mayor Peel called for any adjustments to and approval of the agenda.

Mayor Pro Tem Hummer requested to add an additional Closed Session discussion with the City Attorney regarding other matters.

Councilman Brooks requested that two of the Calls for Public Hearings be removed from the Consent Agenda and added to the Regular Agenda as follows:

Consideration – Calls for Public Hearings to be held on January 26, 2015 at 7:30 p.m. in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue for the following: (i) To receive comment regarding the adoption of a proposed ordinance requiring residency for City department heads; and (ii) To receive comment regarding the closeout of CDBG Grant 11-C-2352, S. Road Street Infrastructure.

Councilwoman Baker requested to add a Closed Session discussion as allowed by NCGS 143-318.11(a)(6) to discuss personnel matters.

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilwoman Jean Baker, to approve the agenda with any necessary adjustments. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. The motion carried unanimously.

2. Statement of Disclosure:

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

3. Comments from the Public:

No one present requested to be heard.

4. Approval of Minutes:

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

a. City Council Regular Session of December 8, 2014:

Motion was made by Councilwoman Jean Baker, seconded by Councilman Montravias King, to approve the Regular Session minutes of December 8, 2014. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. The motion carried unanimously.

5. Consent Agenda:

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

Beginning of Consent Agenda:

a. Recommendation from the Finance Committee:

(i) Consideration – Adoption of various budget amendments as required for accounting purposes, as follows:

BUDGET AMENDMENTS

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following

amendments be made to the annual budget ordinance for fiscal year ending June 30, 2015:

SECTION I. That the General Fund Balance Appropriated (103990.0000) be increased by \$3,713, the NC Governor's Crime Commission Grant (103490.5111) be increased by \$11,137.50, and the Police Departmental Expenses (105100.3300) be increased by \$14,850.50.

(To record grant to purchase 33 Glock handguns and City's 25 percent match.)

SECTION II. That the General Fund Retained Earnings Appropriated (103990.0000) be increased by \$1,298, the Senior Center Grant (103490.6301) be increased by \$3,893, and the Senior Center Grant Expenditures (106300.7401) be increased by \$5,191.

(To record Senior Center Grant for signage at Senior Center and City's 25 percent match.)

SECTION III. That the Electric Retained Earnings Appropriated (303990.0000) and Tanglewood Capital Improvements (308300.7314) be increased by \$295,643.

(To record electric improvements for Tanglewood Project.)

ADOPTED, this 12th day of January 2015.

Joseph W. Peel, Mayor

Vivian D. White, CMC/NCCMC, City Clerk

- b. Consideration – Call for Public Hearing to be held on January 26, 2015 at 7:30 p.m. in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue for the following: To receive comment regarding the closeout of CDBG Grant 11-C-2372, Elizabeth City Middle School Renovation.
- c. Consideration – Authorization for the Elizabeth City Fire Department to conduct Live Fire Training on the structure located at 211 Elliott Street owned by Pasquotank County.

End of Consent Agenda.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Ray Donnelly, to approve the Consent Agenda as amended. Those voting

in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. The motion carried unanimously.

6. Public Hearing:

- a. Consideration – Hold a Public Hearing to Adopt a Resolution Authorizing the Filing of an Application with the Local Government Commission.**

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

Mayor Peel requested the pleasure of the Council regarding this consideration.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Michael Brooks, to adopt the following resolution authorizing the filing of an application for approval of a financing agreement authorized by North Carolina General Statute 160-20. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. Motion carried unanimously.

RESOLUTION # 2015-01-01

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the City of Elizabeth City, North Carolina desires to purchase property for future aviation projects; and

WHEREAS, the City of Elizabeth City desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the City of Elizabeth City, North Carolina, meeting in regular session on the 12th day of January, 2015, make the following findings of fact:

1. The proposed contract is necessary or expedient because of future development.
2. The proposed contract is preferable to a bond issue for the same purpose because the City is able to finance the land acquisition from cash on hand.

3. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because the City of Elizabeth City is able to finance the land acquisition from cash on hand.
4. The City of Elizabeth City's debt management procedures and policies are good because the City is able to finance the land acquisition from cash on hand.
5. The increase in taxes necessary to meet the sums to fall due under the proposed contract will be 0 cents per \$100 valuation and is not deemed to be excessive.
6. The City of Elizabeth City is not in default in any of its debt service obligations.
7. The attorney for the City of Elizabeth City has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Manager is hereby authorized to act on behalf of the City of Elizabeth City in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 12th day of January, 2015.

Joseph W. Peel, Mayor

ATTEST:

Vivian D. White, CMC/ NCCMC, City Clerk

7. Regular Agenda:

- a. Consideration – Re-appointment of Mr. Charles R. Koch to serve a two year term on the Fireman's Relief Fund Board to expire January 31, 2017. (*Requires roll call vote*)

Mayor Peel requested the Council's pleasure regarding this appointment.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Montravias King, to reappoint Mr. Charles Koch to serve a two-year term on the Fireman's Relief Fund Board to expire January 31, 2017.

Mayor Peel requested the vote on the motion by roll call, which is recorded as follows:

Mr. Donnelly – Yes
Mr. Spence – Yes
Ms. Baker – Yes
Mr. King – Yes
Ms. Hummer – Yes
Mr. Stimatz – Yes
Mr. Brooks – Yes

The motion passed unanimously.

- b. Consideration – Call for Public Hearing to be held on January 26, 2015 at 7:30 p.m. in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue for the following:
To receive comment regarding the adoption of a proposed ordinance requiring residency for City department heads.
(Removed from Consent Agenda for discussion.)

Mayor Peel recognized Councilman Brooks for his comments regarding this matter.

Councilman Brooks expressed concern regarding this item. He stated that on September 9, 1996, the Council passed an ordinance, which required the City Manager to inform any newly hired department directors that they must reside in the City limits. He pointed out that since that time, all department directors have been required to establish residency within a reasonable amount of time. He stated that he thought the policy should remain intact and expressed his concern regarding the staff write-up mention that read “required residency may limit future applicant pools”. He said he disagreed with that statement and stated that he thought department heads should live within the City limits. Councilman Brooks requested clarification of the request.

Mr. Olson responded that the proposed ordinance, as presented, requires all department directors who are hired after the adoption of the ordinance to live within the City. He said that the statement regarding a possible applicant pool limitation was staff’s opinion only and that it was not reflected in the proposed ordinance.

Councilman Stimatz provided an example that someone currently living within a short commute of the City might like to be a department head of the City and would not mind commuting but would not apply because they would be required to move.

Mr. Olson stated that at least two department directors hired since he has served as City Manager have left the City’s employ because of the residency requirement.

Mayor Peel commented that all the Council is considering at this time is to call for a public hearing.

Councilman Stimatz pointed out that this item is being presented in order to correct the erroneous repeal of an ordinance and expressed his concern regarding anything else that may have been repealed by mistake during the last codification of the City Code of Ordinances. He asked what the current policy entails and questioned what the City Manager’s responsibility is.

Mr. Olson responded that the manager's only discretion is to determine what a reasonable amount of time is for a newly hired department head to establish residency. He stated that every offer of employment letter he has issued has included the contingency provision of residency in the City within a reasonable amount of time.

Councilman Stimatz pointed out that the City's citizens expect the people who work at that level to "share their pain and their wonder, whichever it may be".

Councilman Brooks stated that the reason he pulled the item from the Consent Agenda remains that he does not think residency limits the applicant pool, because people understand they must relocate if they want a job. He said what is being dealt with is the timeframe to find residency within the City. He stated that, in his opinion, a year to relocate would be much too long a period.

Motion was made by Councilman Michael Brooks, seconded by Councilman Tony Stimatz to call for a public hearing on January 26, 2015. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. Motion carried.

- c. Consideration – Call for Public Hearing to be held on January 26, 2015 at 7:30 p.m. in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue for the following: To receive comment regarding the closeout of CDBG Grant 11-C-2352, S. Road Street Infrastructure. (*Removed from Consent Agenda for discussion.*)

Mayor Peel recognized Councilman Brooks for his comments on this item.

Councilman Brooks pointed out that staff's agenda memo stated that there had been no complaints reported to the City regarding the S. Road Street project. He said that he lives in the Third Ward and a part of S. Road Street is also located in the First Ward. He stated that he is tired of people calling him because they are unable to reach their Councilmembers. He stated "Call your Councilmembers". He pointed out that citizens attempt to reach their Councilmembers; and when they cannot, they call him back and not the City. He said he wished to tell the Councilmembers of the First and Fourth Wards specifically to "make sure that your number is available and you can be reached for the people that you are supposed to represent". He said he would not take the responsibility of all the Wards by himself. He stated that he had tried that and "it doesn't work". Councilman Brooks expressed that he did not know what was going on in the First and Fourth Wards; and he pointed out that the right side of S. Road Street is the Third Ward and the left side is in the First Ward. He said if the Council "was as adamant about the convenience store, we should be as adamant about S. Road Street".

Councilman Brooks stated that when the S. Road Street infrastructure project was covered up, "it looked like a dirt trail with some rocks on it". He continued by saying "then someone had the nerve to ride down it and put some double yellow lines in the middle of that mess". He stated that he was "making his deal in 2015, and if the residents don't call or don't mention it" he was "not going to fight for people that won't

fight for themselves”. He requested that citizens not come to him and tell him how bad the roads are and not also provide their concerns to the City Council. He stated that he was “only one vote and one voice”. He expressed that he could say that because he had been fighting for a long time for people who would not fight for themselves. He stated that “he would not be talking this year” because “he was getting it all out right now”. He said that since people “have not been coming up here” and he had a “concern with the conditions of that road”, he would not make the motion. He stated that if people do not come to the public hearing, he would vote along with the rest of the Council to close the grant as completed and satisfied. He stated that he knew people “out there” are listening because they see him and stop him on the road. He stated that he did not want to hear that the people did not know anything about it. He reiterated that if citizens are not satisfied with the condition of S. Road Street, they should come before the Council and express their concerns during the Public Hearing.

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer to call for a Public Hearing to be held on Monday, January 26, 2015 at 7:30 p.m. in Council Chambers to receive comment regarding the closeout of CDBG Grant 11-C-2352, S. Road Street Infrastructure. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. Motion carried unanimously.

Mayor Peel requested clarification from Mr. Olson and stated that he understood this particular grant was for water and sewer lines. Mr. Olson responded that the grant did cover the water and sewer lines; and due to a limited budget and available CDBG funding, the City had to patch S. Road Street rather than do a street project as was completed on N. Road Street. Mr. Olson stated that City staff is working with NCDOT for their next summer program to mill and overlay the street to make a “whole new road”. He cautioned that work is strictly up to NCDOT, because it is their roadway.

Councilman Brooks stated that he thought the money had been budgeted for S. Road Street once N. Road Street was completed. Mr. Olson stated that S. Road Street was a priority - based on a “given dollar amount” - but the funding had been expended due to the extensive work that had to be completed for the water and sewer project. He pointed out that to completely re-do the street as needed, it would have cost in the ballpark of \$250,000. He stated that it is hoped that NCDOT will be able to complete the street work in their next fiscal year using some of their secondary funds.

Councilman Brooks inquired about the poor condition of Brooks Avenue since the recent repaving work. Mr. Olson stated that before the repaving work began, the City had to do spot repairs on several hundred feet in given areas because the sewer line had collapsed. He said that subsequent to the repaving, the contractor will be doing some additional work to improve the ride-ability of the road. He stated that work is scheduled to be completed after the Church Street project is finished.

Councilman Spence asked why the street had been marked in certain places. Mr. Olson responded that those marked places are the areas that will be milled and overlaid with a patch. Councilman Spence questioned if the spots marked for repair will address

the condition of the street. Councilman Spence stated that his concern is that “if the road was torn up all the way to the rock and supposedly fixed, and a month later it’s like a roller-coaster, that means something wasn’t done right”. Mr. Olson responded that there was settlement associated with the spot repairs that were done by another company. Mr. Olson stated that the contractor, RPC, would cost share with the City in doing the repairs. Mr. Olson said that he would provide the Council with a copy of a detailed memo regarding the Brooks Avenue project that had earlier been presented.

Councilman Donnelly stated that RPC had been granted a lot of money to do a lot of different jobs throughout the City and he thought RPC was “failing us – they are taking the money and running”. He said that the City needs to hold their “feet to the fire”. He said that Church Street is a mess along with Brooks Avenue and he was bothered by the situation. He pointed out that the City only has a certain amount of money to take care of the roadways and infrastructure and the City “has been working with RPC and they don’t seem to be working with us”.

Mr. Olson stated that since attorneys are involved, the only thing he could say is that RPC has been a struggle to work with.

Councilman Brooks stated that he was “elated” that Councilman Spence and Councilman Donnelly brought up the same issues that people had been coming to him about.

8. Comments and Inquiries on Non-Agenda Items:

Councilman Brooks had no further comments.

Councilman Stimatz wished everyone a Happy New Year and commented that a lot of things are going on in the City in January and over the next year. He referred to the recent newspaper article regarding the Council’s goals and invited anyone with ideas about how the City’s economic, civil and cultural climate can be improved to share their suggestions with the City Council. He stated that the Council is here to listen regarding what can be done better and how it can be done better.

Mayor Pro Tem Hummer stated that a lot of conversation had occurred regarding infrastructure improvements and the problems associated with those improvements. She stated that as 2014 goes into the history books, she wanted to take the opportunity to thank the City Manager and City staff for going after grants that made all the projects possible. She also thanked the citizens for being patient with the inconveniences caused by all the construction projects. She stated that as the Council enters a new year and a new budget season with grants drying up, the Council will need to work diligently to continue to make needed improvements.

Councilman King wished everyone a Happy New Year. He stated that it is a new year and a new opportunity for the Council to work together to make the City greater than it has ever been. He stated that all the Councilors realize that it takes a group effort to get things done; and he pointed out that sometimes you “learn the hard way that it is not all about you”. He said that as a Council, there is a collective responsibility and duty to serve the citizens of the City. He reported that as he looks back on 2014, despite the

bumps and grumps, there was a lot for the Council to be proud of. As examples, he pointed to the continued development of the Halstead Corridor and the addition of a \$25 million shopping center, new restaurants opening, new businesses opening, the continued revitalization of downtown, continued infrastructure projects – despite their pain and frustration, the decrease in crime across the City, the Police Department’s great job with Community Policing, new houses being built, and a new apartment complex in the works. He concluded that Elizabeth City is stronger than ever. Councilman King stated that none of this would be possible without the hard work and commitment of the City Manager and his staff; and said that he had grown to appreciate the job that Mr. Olson is doing. He said that the City is strong because of the 300-plus employees that work every day to make the City a better place for everyone and he thanked them for their hard work and dedication. He expressed that despite the growth experienced over the last year, many people still struggle; and he cautioned that the “least of those” cannot be forgotten when budget sessions begin shortly. He stated that it is imperative that the programs and initiatives designed to better educate and train our citizens must be supported to help them be prepared for the higher paying jobs already available in the City and for the ones that are on the way. He said that it is for that reason that he supports the initiatives that are outlined in Vision 2020 and he urged his colleagues on Council to support them in the coming fiscal year. He expressed to those who have wondered, he has not “checked out”, is “still here” and has the same constituent number that is available on the City’s website, along with his email address. He pledged that he would respond as quickly as he could to all requests. He pointed out that, unlike his colleagues, he had to transition from being a fulltime college student to being gainfully employed, while also serving on the City Council. He expressed condolences to the family of Commissioner Cecil Perry on the passing of his brother, James. He implored citizens by urging that participation in “their government” is absolutely critical in 2015; and stated that “together we can and together we will accomplish great things in this City”. Finally, he thanked Mayor Peel and his Council colleagues for working together to help keep the doors of Elizabeth City State University open.

Councilwoman Baker thanked Councilman King for his comments. She inquired of the City Manager regarding the timing delay issue on the traffic light located at Church and Road Streets and said that it is very frustrating for motorists. Mr. Olson responded that the issue had been reported NCDOT, but he had not yet received a response. She stated that the Camden Causeway eastbound lanes appear to already be sinking. Mr. Olson responded that this is a NCDOT issue of which they are aware. He said that the NCDOT geo-technical people in Raleigh are discussing the problem. She shared that her home was victim to one of the many break-ins experienced in the City. She advised everyone to take pictures to document their belongings, secure their doors – especially glass doors, record serial numbers, not leave keys in two-sided deadbolts, report people to the Police Department who look like they do not belong in the neighborhood, join the Police Department’s Facebook page and make certain insurance coverage is understood. She advised that no one is exempt from this horrible crime.

Councilman Spence wished everyone a Happy New Year. He stated that a pioneer of the City had passed away that day – Ms. Leola Morgan. He said that she was a very

powerful, smart lady and would be greatly missed. He asked that everyone keep the Morgan family in prayer.

Councilman Donnelly stated that if any of his constituents could not reach him by phone or through City contacts, they could call Councilman Brooks and he would make sure that he gets the message. He announced an upcoming lecture being held at the Witherspoon Library on the philosophy and theology of Rev. Dr. Martin Luther King, Jr. presented by Rev. Lena Hill-Lawrence. He reminded everyone about the upcoming annual MLK Day Breakfast at the K. E. White Center. He stated that he was impressed with the number of organizations that expressed interest in utilizing the Hugh Cale Center and was optimistic about full utilization of the Center as soon as possible. He said that oftentimes, “we get caught up in the letter of the law in dealing with businesses, organizations, renters, homeowners” – and thinks that “we cannot lose the spirit of the law”. He said that “sometimes we need to be considerate of the spirit of the law in deliberating about what our ordinances are doing”. He advised that these comments are directed toward the Zoning Board at the present time. Finally, he pointed out that with the opening of Planet Fitness, he had noticed that the traffic light guiding left turns out of the parking lot at Port Elizabeth Centre is an issue. Mr. Olson responded that the light is a NCDOT issue that would be investigated and reported.

Mayor Peel joined members of the Council in wishing everyone a Happy New Year. He stated that he was looking forward to 2015 and all the issues on the Council’s plate. He thanked everyone for their hard work in all that was accomplished in 2014 and said that he is excited about the coming year’s potential. He pledged to work hard to continue to make good things happen.

9. Closed Session as allowed by: NCGS 143-318.11(a)(3), Consultation with City Attorney in re Pasquotank County Water Dispute Lawsuit and other matters, NCGS 143-318.11(a)(6) to discuss personnel matters and NCGS 143-318.10(e), Approval of Closed Session Minutes.

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilwoman Jean Baker, to go into Closed Session as allowed by NCGS 143-318.11(a)(3), Consultation with City Attorney in re Pasquotank County Water Dispute Lawsuit and other matters, NCGS 143-318.11(a)(6) to discuss personnel matters and NCGS 143-318.10(e) Approval of Closed Session Minutes. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. The motion carried unanimously.

Mayor Peel declared a five minute recess at 7:51 p.m. after which the Council reconvened in Closed Session.

Motion was made by Councilman Kem Spence, seconded by Councilman Michael Brooks, to come out of Closed Session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. The motion carried unanimously.

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to approve the Closed Session minutes as presented. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence and King. Against: None. The motion carried unanimously.

10. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 8:47 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk