

**City Council Regular Session
February 24, 2014**

The City Council of the City of Elizabeth City met in regular session on Monday, February 24, 2014 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 Montravias King

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
Electric Department Superintendent Karl Clow
Assistant to the City Manager Angela Cole
ECDI Director Rebecca Cross
Human Resources Director Katherine Felton
Public Utilities Director Paul Fredette
Deputy Fire Chief Dale Smith
Inspections Director Stanley Ward
Parks and Recreation Director Bobbi White
City Clerk Vivian White

The City Council regular session was called to order by Mayor Joe Peel at 7:00 p.m. Mayor Peel welcomed everyone to the meeting and recognized Councilman Brooks to give the invocation, after which all in attendance recited 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 remove from the Consent Agenda the consideration of approving a Downtown Improvement Grant to Shingle Landing and to place the item on the Regular Agenda for a short discussion;

Councilman Brooks requested to add a discussion of personnel in Closed Session as allowed by NCGS 143-318.11(a)(6).

Councilman Brooks requested to add “workplace violence” to the agenda.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Montravias King, to approve the agenda as amended. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried.

2. Comments from the Public:

Johnnie Walton, 401 New York Avenue, Elizabeth City, NC stated that he is thankful for what the Council does because he knows it is not an easy job. He said that he appreciated the decision made during the previous work session regarding the homeless shelter. He stated that he had noted “disturbances” in the broadcast of the last two Council meetings and indicated that the viewing public could not hear what is being said. He said that he hoped the sound was not being blocked at this time, because he had a few words he wanted to say. He said he attended a recent Board of Education meeting whereby an agenda item included Mayor Peel presenting the Vision 2020 report. He stated that the Mayor had opted out of the meeting, but he did not know why. He said that if the Board of Education was being isolated from the area of education in Vision 2020, then “we are not doing what we are supposed to do”. He said he would give Mayor Peel a pass on some of the areas of Vision 2020 for which he is not an expert, such as “downtown, youth, jobs and family”. He said he thought creating committees for those types of discussion was a great idea. But with regard to education, he stated that if everyone is not on the same page, he questioned how it would go in the right direction. He said that services did not need to be duplicated and he pointed out that he thought the Board of Education thought they were doing their job the correct way. He questioned suggestions made by Vision 2020 to do things another way without the School Board’s input. He said that in his opinion, that is not the way it should be done. He suggested that those responsible should be allowed to do what they are supposed to do without creating other problems. He charged that if “you are not unifying the whole City, you are dividing it”. He stated that he sees a lot of division because “we can’t see it but one way” and “we are not going to change our way unless it goes our way”. He charged that downtown improvement grants are not needed because “we look out for the haves and don’t look out for the have nots”. He stated that the Council was not doing their job correctly. He suggested that the tenant should receive money from the downtown improvement grant process to help operate because they have hardships too.

Mayor Peel responded to Mr. Walton that the reason he did not attend the School Board meeting was because he was asked not to come at that time due to some board members not being able to attend the meeting.

3. 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. Consideration – Authorization to submit a Smart Communities Grant request to ElectriCities in the amount of \$4,000;
- b. Consideration – Adoption of Budget Amendments to 1) record insurance proceeds for damage to a police and fire vehicle that were repaired and one police vehicle that was totaled; and 2) record insurance proceeds for damage to electric distribution vehicle, 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 the fiscal year ending June 30, 2014:

SECTION I. That the General Fund Insurance Proceeds (103350.8300) be increased by \$16,548, the Police Department Maintenance and Repair to Vehicles (105100.1700) be increased by \$4,179, the Police Department Capital Outlay (105100.7400) be increased by \$6,785, and the Fire Department Maintenance and Repair to Vehicles (105300.1700) be increased by \$5,584.

(To record insurance proceeds for damage to a police and fire vehicle that were repaired and one police vehicle that was totaled.)

SECTION II. That the Electric Fund Insurance Proceeds (303350.8300) and Electric Distribution Maintenance and Repair to Vehicles (308300.1700) be increased by \$4,936.

(To record insurance proceeds for damage to electric distribution vehicle.)

Adopted, this 24th day of February 2014.

Joseph W. Peel, Mayor

Vivian White, NCCMC
City Clerk

- c. Consideration – Call for a Public Hearing to be Held on March 10, 2014 at 7:30

p.m. in Council Chambers, 306 E. Colonial Avenue regarding the Adoption of Concurring Speed Limit Ordinances as requested by NCDOT;

d. Consideration - Call for a public hearing regarding TA-01-14 to be Held at 7:30 p.m. on March 10, 2014 in Council Chambers, 306 E. Colonial Avenue.

End of Consent Agenda.

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

4. Regular Agenda:

a. Consideration – Appointment of Peggy O. Davenport to serve a three-year term on the Board of Zoning Adjustments ending February 2017 (*Requires Roll Call Vote*).

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

Motion was made by Councilwoman Jean Baker, seconded by Councilman Ray Donnelly, to appoint Peggy O. Davenport to serve a three year term on the Board of Zoning Adjustments ending February 2017.

Mayor Peel called for a roll call vote, which is recorded as follows:

**Brooks – Yes
Stimatz – Yes
Horton – Yes
Hummer – Yes
King – Yes
Baker – Yes
Spence – Yes
Donnelly - Yes**

The motion carried.

b. Consideration – Authorization for Mayor Joseph W. Peel to execute fire Mutual Aid Agreement by and between the City of Elizabeth City and the City of Chesapeake.

Mayor Peel recognized City Manager Olson for the staff report on this item.

Mr. Olson stated that this consideration is to approve a Mutual Aid Agreement with the City of Chesapeake. He said that the agreement is a standard Mutual Aid Agreement, such as the City has with other surrounding fire departments. He said that the agreement is for five years and involves the City of Elizabeth City and the City of Chesapeake providing assistance to each other if and when requested. He stated that the City Attorney had reviewed the agreement and found it satisfactory.

Councilman Stimatz asked if the agreement only covered major events. Mr. Olson responded that the agreement provided for response when called upon.

Deputy Chief Dale Smith commented that the agreement would allow the Emergency Management Coordinator to call on the City of Chesapeake without going through various state agencies. He stated that the City has an automatic Mutual Aid Agreement with all the surrounding County departments, such as Perquimans, Currituck, and Dare.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Kem Spence, to authorize the execution of the City of Elizabeth City-City of Chesapeake fire-emergency medical-emergency management response Mutual Aid Agreement. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. The motion carried.

c. Discussion – Update from City Attorney on Investigation of Mayor and City Manager.

Mayor Peel recognized City Attorney Morgan for his report.

Mr. Morgan stated that during the last City Council meeting, he was instructed to make contact with officials at the School of Government and the North Carolina League of Municipalities to determine if either of those groups could provide counsel to conduct the investigation that has been discussed by the City Council. He stated that he called Dr. Frayda Bluestein of the School of Government, since she had been the City's primary contact since the retirement of Dr. Fleming Bell. He said he left a very detailed message on the voicemail of Dr. Bluestein, but did not receive a call back. He stated that he also left a voicemail for Steve Lee with the League to see if in-house League counsel could handle this matter; but likewise, did not receive an affirmative response from Mr. Lee. He said that he thought it was important that the Council realize that Mr. Olson serves on the Board of Directors for the League, so in order to avoid any potential conflict with the League providing counsel, he thought it best that not be considered as an option.

Mr. Morgan stated that he had provided the Council with the names of two individuals who had been recommended by the League, both of whom are attorneys. He said one is Donna Rascoe who practices in Raleigh and the second is Norwood Blanchard, who practices in Wilmington. Mr. Morgan stated that Mr. Blanchard has previously represented the City in a personnel issue some eight to ten years ago. He said Ms. Rascoe had indicated her hourly rate would either be \$200 or \$225, while Mr. Blanchard had indicated he would perform the work for \$150 per hour. He said inasmuch as there is a fairly wide range in the hourly rate of the two attorneys, Mr. Morgan recommended that Mr. Blanchard be allowed to perform the work. He stated that if the Council wanted to cap Mr. Blanchard's work at \$5,000 or at least report back once that figure is approached, then he would be happy to do that.

Councilman Donnelly asked if a length of time for the investigation had been discussed. Mr. Morgan stated that each of the attorneys had indicated that they thought 30 days would be sufficient time to conduct the investigation.

Motion was made by Councilman Kem Spence, seconded by Councilman Darius Horton, to use Mr. Norwood Blanchard from Wilmington to conduct the investigation that the Council had voted unanimously for.

Councilman Stimatz stated that he would like to be informed when the \$5,000 threshold is being reached and questioned if it should be a part of the motion. He asked if Councilman Spence would accept a friendly amendment to require Mr. Blanchard to report back when he reaches 30 hours, which would be \$4,500.

Councilman Spence accepted the friendly amendment.

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

d. Item removed from Consent Agenda: Consideration – Approval of a Downtown Improvement Grant Program request to Shingle Landing, LLC in the amount of \$11,638, for a total project cost of \$23,276;

Mayor Peel recognized Mayor Pro Tem Hummer for her comments. Mayor Pro Tem Hummer stated that she wanted to mention that she had received several calls and emails after an article appeared in the newspaper regarding the guidelines for the Downtown Improvement Grant. She said it appeared that people thought the grants were geared more toward aesthetics of buildings. She suggested that the Council revisit the guidelines during the next fiscal year budget because the vacant downtown buildings need to be filled and the guidelines should make it inviting for people to purchase and make improvements to these vacant buildings. She stated that would also bring jobs.

Councilman Stimatz stated that if he was not mistaken, tenants could apply for these grants. Mr. Olson responded that was correct as long as the tenant received the owner's permission.

Motion was made by Councilwoman Jean Baker, seconded by Councilman Ray Donnelly to approve Shingle Landing, LLC's Downtown Improvement Grant Program request in the amount of \$11,638.00, for a total project cost of \$23,276.00. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. Motion carried.

e. Addition by Councilman Brooks – "Workplace Violence"

Councilman Brooks stated that he had placed this item on the agenda due to an employee situation, but noted that since the employees did not “show up in numbers to support themselves” he wanted to quote Frederick Douglass - “A man that won’t fight for himself when he has the means should not be fought for by others”. He said he intended to talk about workplace violence but had made up his mind that if the employees did not show up, he would not fight for them. He stated that he did not want to discuss the issue.

5. Comments and Inquiries on Non-Agenda Items:

Councilman Donnelly stated that he had attended an event in Edenton that featured the film “Racial Taboo”. He reported that the film was a wonderful experience that was well attended and he wanted to pass along a suggestion that something along this line may be worthy of consideration by the newly formed collegiate affairs group.

Councilman Spence inquired about the progress in addressing the ride-ability of the Brooks Avenue paving job. Mr. Olson stated that staff was looking into what could be done to address the situation. Councilman Spence challenged anyone in the City with a non-profit organization status to consider partnering with the City to run the homeless shelter.

Councilwoman Baker thanked True Images Salon for decorating the City’s table at the Annual Chamber of Commerce Banquet. She said the table was really nice and she appreciated their efforts. She congratulated COA and Currituck County for receiving the NC Community College Distinguished Partners in Excellence Award. She reported that she had received a call from a Crescent Drive resident regarding a drainage issue with the new paving job and requested that the City Manager investigate the issue.

Councilman King thanked everyone for attending the meeting. He stated that the CIAA Tournament begins this week in Charlotte and he wished the ECSU Vikings the best of luck. He said that he had been told that to be a good politician, you had to go with the flow. He stated that he was not a politician, but a public servant and he could not understand a decision not to care for the City’s homeless population. He asked the Council to think very carefully about all the decisions to be made.

Mayor Pro Tem Hummer requested that the City Manager include in the upcoming budget preparations revisiting the Downtown Improvement Grant Program in order to make an effort to fill some of the vacant buildings and bring in some jobs.

Councilman Horton asked the City Manager how the City obtained the property located at 709 Herrington Road. Mr. Olson responded that the City purchased the home from Elizabeth City Neighborhood Corporation for the appraised value at the time of approximately \$92,000. He stated that the City previously rehabbed the structure with CDBG money. Councilman Horton asked if the property was obtained for the purpose of a homeless shelter to which Mr. Olson responded in the affirmative. Mr. Olson pointed out that the facility is a restricted facility and can only be used for individuals of low to moderate income. Councilman Horton stated that after considering the situation, he felt the Council should look into keeping the homeless shelter because everyone is

“one major situation away, one circumstance away perhaps from being homeless”. He stated that it could happen to anyone and stated that he was not asking the City to fund the shelter, but he felt the Council should keep its attention on the shelter.

Councilman Stimatz stated that he wanted to address the drainage issue in Rosewood by saying that additional work had to be completed and the weather had not been cooperative. He encouraged the residents to understand that the City is working as hard as it can to address all concerns. He stated that he was glad to see that the sidewalk work on S. Hughes Boulevard is progressing.

Councilman Brooks stated that he had always been taught to help those who could not help themselves – not with a handout but a hand up. He said that as an elected official and minister he had acquired a servant attitude. He said he had learned the hard way that you cannot help those who won't help themselves. He requested that the Closed Session he requested for Personnel Matters be pulled from the agenda. The City Attorney responded that there is one item he would like to discuss that is personnel-related and he requested that the closed session for personnel remain on the agenda.

Mayor Peel thanked everyone for their comments and requested a motion to go into closed session.

6. Closed Session – as allowed by NCGS 143-318.11(a)(3) Consultation with City Attorney; NCGS 143-318.11(a)(4) To Discuss Matters Relating to the Location or Expansion of Industries and Other Businesses in the Area Served by the Public Body and NCGS 143-318.11(a)(6) Personnel:

Motion was made by Councilman Kem Spence, seconded by Councilwoman Jean Baker to go into Closed Session as allowed by NCGS 143-318.11(a)(3) Consultation with City Attorney, NCGS 143-318.11(a)(4) Matters Related to the Location of Business and NCGS 143-318.11(a)(6) – Personnel. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Spence, Horton and King. Against: None. Motion carried.

Mayor Peel declared a five minute recess after which the Council reconvened in Closed Session.

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

7. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 8:45 p.m.

Joseph W. Peel
Mayor

Vivian D. White, NCCMC
City Clerk