

THURSDAY – 4:00 P.M. APRIL 19, 2012 SPECIAL CITY COUNCIL

The City Council of the City of Elizabeth City held a Special City Council Meeting on the above date and time in the City Council Chambers of the Municipal Administration Building with Mayor J. W. Peel presiding. Members of Council attending were: J. M. Baker, R. T. Donnelly, L. M. Hill-Lawrence, L. A. Hummer, K. K. Spence, J. A. Stimatz and J. B. Walton. Councilman M. E. Brooks was absent. City staff members attending were: City Manager R. C. Olson, City Clerk D. S. Pierce-Tamplen and City Attorney W. H. Morgan.

Mayor Peel established a quorum was present and called the meeting to order at 4:00 p.m. He observed a moment of silent reflection after which he led the Pledge of Allegiance to the Flag of the United States of America.

1} APPROVAL OF THE AGENDA:

Mayor Peel called for approval of the prepared agenda.

A motion was made by Councilwoman L. A. Hummer, seconded by Councilman J. A. Stimatz to approve the agenda as presented.

Mayor Pro Tem J. B. Walton stated the Attorney made reference in the memo that he sent out that said; "Rather than discussing it in this memo all of the specifics of my concerns with the votes on April 9th, I would be happy to discuss the issue with you individually or collectively. I will also be happy to review the tape of the proceedings with you." He thinks when we have open meetings we need to discuss issues as much as we can and then if we have to go behind individually to discuss something we can. He has complained about this issue for weeks. We are becoming a council of moments of silence as we do things in other areas and other committees. Some things need to be brought in front of Council so it will not happen again because if you work things out in the back room, people don't know what is happening. People need to know as much transparency as possible.

Mr. Morgan asked if he could address that. He has not had any member of Council ask him about his opinion regarding this issue. The reason he put that last paragraph in his memo was so he wouldn't have to recount all of his concerns as he watched the tape. He made some notes as he was watching the tape so he will be happy to address it if you would like. He just thought rather than creating a three page memo that spelled out all of his concerns he would

just make the statement that if you would like for him to discuss it he would be happy too.

Mayor Peel called for the vote on the motion to approve the agenda as presented.

Those voting in favor of the motion were: Hummer, Stimatz, Baker, Donnelly, Hill-Lawrence, Spence and Walton. Against: None. Motion carried.

2} **CONSIDERATION – RESOLUTION DECLARING THAT THE FINANCING OF THE CONSTRUCTION OF A SECOND DELIVERY POINT WILL HAVE NO MATERIAL ADVERSE EFFECT ON REVENUES OR THE OPERATION OF THE CITY’S ELECTRICAL DISTRIBUTION SYSTEM:**

Councilman J. A. Stimatz made a motion to adopt the following resolution that the City of Elizabeth City is declaring that the financing of the construction of a second delivery point will have no material adverse effect on revenues or the operation of the City’s electrical distribution system. Councilman R. T. Donnelly seconded the motion.

Councilwoman L. A. Hummer stated she had two concerns and she has expressed this before and she really thought for the benefit of transparency in the public that we should have done this after the public hearing on the 23rd. The other thing is there again we are being very specific saying that it will not have any material adverse effect on the revenues or the operation of the city’s electrical distribution system or materially increase the operation and maintenance expense of our electric distribution system. However, in the resolution it says the City shall adjust its retail electric rates as needed to insure that there is no material adverse effect on the revenues or operation of the City’s electrical distribution system. That should have been all out there at the same time. There are a lot of people who think this won’t have any affect on their electric rates. It is just not exactly clear to some of our citizens.

Mayor Peel said one of the reasons we are here today is one of the questions that was asked at our last meeting was if we could hold off on it. At that time Sarah responded that she thought that we could. Since that time we have found out that this resolution should have been sent to them Tuesday. All this resolution is stating that if we go forward it is guaranteed that it will not have an impact. It is not obligating us to do anything at this point in time.

City Manager Olson asked to say that this resolution does not obligate us to issue debt. It does not do that. It is just one of the items that is needed for the LGC and also the Eastern Agency as part of the packet that we submit to the LGC for approval. That packet has to be submitted by May 5th for the June 5th LGC meeting. That date of the LGC is critical because of the purchase of the Lowry property and the closing on that property is scheduled for the first of May. Council may remember that earlier you passed a resolution of reimbursement allowing us once the debt is issued to go back and reimburse us for expenses we have already incurred. One of those expenses is the \$450,000 for the property. If we wait until July to issue the debt then our fund balance in the Electric Fund is now at \$3 million and it is a major issue. That is why we need the LGC to review it and the debt issued in June instead of July because our year end closes on June 30th. It infers that we are going to have to raise our utility rates when you issue the debt.

City Manager Olson explained the concerns and steps that we are required to follow in order to obtain 160A Financing.

Mayor Pro Tem Walton stated when we do our budget it should be a forecast and we can only sign on to that budget because of what is being told to us from the people we are putting our trust in. We are talking about that we may not be able to pay our July payment. He has never heard such a thing as not being able to pay our July payment because our budget should have taken us to a point where we don't even have to think about July because the July payment is paid after we have received revenue from the customers. We are talking about raising funds to pay a bill before that bill is even sent out. He doesn't quite understand that either.

Mr. Olson said he will try to address that. The power we are selling right now we won't receive payment for that until probably the end of June. We are lagging behind but the power that we are selling today we will have to pay Electricities for that by May 15th. We have a cash flow issue because we don't even start billing until the first of May. That is part of the problem. If you look at our electric revenue especially in the winter months we always take a dip in January and February because we are paying out the large electric bills but we haven't received the revenue back yet.

Councilman Spence said he wanted to say that he is new at this but tonight he has learned a lot from the way this has been explained. He would like to have this explained at Monday's meeting as he feels if it is explained to our citizens the way it has been explained here tonight that they will get an entirely new look at the reasons for an increase. They would understand why we are raising the rates.

City Manager Olson stated that City Council is the sole body that determines the electric rates. What we are doing tonight is authorizing him to submit a resolution to Electricities saying we are in concurrence with the Power Sales Agreement of 1981 and that we are willing to take the steps necessary to insure that we won't affect their asset. We owe them \$90 million. They want to make sure that we don't do anything that will devalue their asset. Their asset is our distribution system. That resolution then goes into the LGC packet to get permission to issue the debt. That is all that we are asking. We are not asking you to raise the rate at this time but you need to know if you pass the resolution you will have to raise the rates because we lost revenue last year.

Mayor Pro Tem Walton said that is what concerns him. He doesn't want to tell the citizens that the increase is going to be five percent and then six months down the road it will be seven more percent.

Councilwoman Hummer asked to go on record that she is voting against it because she does not want public perception to be that she voted on a document that will allow us to raise electric rates before we hold the public hearing.

Mayor Peel called for a vote on the original motion.

Those voting in favor of the motion were: Stimatz, Donnelly, Baker and Hill-Lawrence. Against: Hummer, Spence and Walton. Motion carried.

Resolution No. 2012-06
Resolution of the City of Elizabeth City Declaring that the Financing of the Construction of a Second Delivery Point Will Have No Material Adverse Effect on Revenues or the Operation of the City's Electrical Distribution System

WHEREAS, the City of Elizabeth City has engaged the services of Progressive Engineering Consultants, Inc. to provide consulting engineering services for the construction of a second delivery point; and

WHEREAS, Progressive Engineering Consultants, Inc. has recommended that the City construct a second delivery point connected to the Dominion system for the following reasons:

1. Eliminate the existing capacity deficiency, which would result from a single transformer failure by providing redundancy for such an event;
2. Reduce the normal loading on the existing single delivery point;

3. Provide greater load switching capability for outages and system maintenance;
4. Reduce system losses during normal system operation; and

WHEREAS, the City intends to finance this project by borrowing funds and securing the loan by granting a security interest in favor of the lender in the property and equipment that will comprise the second delivery point, all in accordance with the provisions of 160A-20 of the North Carolina General Statutes and;

WHEREAS, the provisions of Section 6(d)(2) of the Project Power Sales Agreement dated as of September 28, 1981, between the City and the North Carolina Eastern Municipal Power Agency provides, in part, that the City may encumber a portion of its electric system upon making a determination that; taking into account past and current operating results of the City's electrical distribution system, the encumbrance proposed to be placed on the improvements to secure the financing of the construction of the improvements will not have a material adverse effect on the revenues or the operation of the City's electric distribution system, or materially increase the operating and maintenance expenses of its electric distribution system.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City that the City hereby authorizes the following directives:

1. After thoroughly reviewing the details of the project and the financing thereof, and after reviewing the recommendation and opinions of Progressive Engineering Consultants, Inc. concerning the project, the City Council hereby finds and determines that, taking into account past and current operations results of the City's electric distribution system, the encumbrance proposed to be placed on the property and equipment that will comprise the second delivery point will not have a material adverse effect on the revenues or operation of the City's electrical distribution system, or materially increase the operating and maintenance expense of its electrical distribution system.
2. The City shall adjust its retail electric rates as needed to insure that there is no material adverse effect on the revenues or operation of the City's electrical distribution system.
3. The City Council hereby directs the City Manager to provide a copy of this resolution to the North Carolina Eastern Municipal Power Agency with the request that the Power Agency concur in the determination made by the City Council.

ADOPTED, on motion of Councilmember J. A. Stimatz, seconded by Councilmember R. T. Donnelly this 19th day of April, 2012.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

3} ADJOURNMENT:

There being no further business to come before the Council at this time, Mayor Peel entertained a motion for adjournment.

A motion was made by Councilman J. A. Stimatz, seconded by Mayor Pro Tem J. B. Walton to adjourn the meeting. Those voting in favor of the motion were: Stimatz, Walton, Baker, Donnelly, Hill-Lawrence, Hummer and Spence. Against: None. Motion carried.

Mayor Peel adjourned the meeting at 4:53 p.m.

Dianne S. Pierce-Tamplen, MMC
City Clerk

Joseph W. Peel
Mayor