

**City Council Regular Session
September 22, 2014**

The City Council of the City of Elizabeth City met in regular session on Monday, September 22, 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 Darius Horton
Councilman Montravias King

MEMBER ABSENT: Councilman Kem Spence

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
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
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 Rick Lowery to give the invocation, after which all in attendance recited the Pledge of Allegiance.

1. Approval of Agenda:

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

Motion was made by Councilman Darius Horton, seconded by Councilwoman Jean Baker, to approve the agenda as presented. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Horton 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. Proclamations:

- a. Hospital and Health-System Pharmacy Week in Elizabeth City - October 19-25, 2014

Mayor Peel read and presented a proclamation declaring October 19-25, 2014 as Hospital and Health-System Pharmacy Week in Elizabeth City. The proclamation urged all citizens to acknowledge the valuable services of the pharmacists and pharmacy technicians who work in inpatient, outpatient, home-care, and long-term-care settings; and to recognize all they do to help patients make the best use of their medicines. The proclamation was accepted by Jennifer Burgess, representing the pharmacists and pharmacy technicians at Sentara Albemarle Medical Center.

- b. Domestic Violence Prevention Awareness Day – October 9, 2014

Mayor Peel read and presented a proclamation declaring Thursday, October 9, 2014, as Domestic Violence Prevention Awareness Day in Elizabeth City. The proclamation urged all citizens to speak out against domestic violence and support local efforts to assist victims of these crimes in finding the help and healing they need. The proclamation was accepted by Sheila Lee. She stated that an event would be held in recognition of Domestic Violence Prevention Day at the K. E. White Graduate Center on October 9.

- c. Elizabeth City State University Month – October 2014

Mayor Peel read and presented a proclamation declaring October 2014 as Elizabeth City State University Month. The proclamation encouraged all citizens to recognize the profound impact the university has on the success and health of Elizabeth City, Pasquotank County and Northeastern North Carolina; and called upon educators, public officials, professional organizations, corporations, and all citizens to observe the month of October with appropriate programs, ceremonies, and activities that acknowledge the countless contributions this institution and its alumni have made. The proclamation was accepted by Interim Chancellor Charles L. Becton. Chancellor Becton stated that the proclamation was warmly and deeply appreciated as it symbolized the ongoing and ever-growing partnership between the university and the City.

4. Comments from the Public:

No one present requested an opportunity to be heard.

5. Approval of Minutes:

- a. City Council Regular Session September 8, 2014

Motion was made by Councilman Darius Horton, seconded by Mayor Pro Tem Anita Hummer, to approve the regular session minutes of the City Council for September 8, 2014. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Horton and King. Against: None. The motion carried unanimously.

6. Consent Agenda:

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

Beginning of Consent Agenda:

- a. Consideration – Assignment of Interest in Business Investment Program Grant Agreement from Thompson Thrift Development, Inc. to Tanglewood Parkway Elizabeth City, LLC (“Assignee”) and Inland Tanglewood Parkway, LLC (“Conditional Assignee”);
- b. Consideration – Authorization for Elizabeth City Fire Department to apply for various grants;
- c. Consideration – Acceptance of grant agreement terms and conditions from the North Carolina Governors Crime Commission for the purchase of 33 Glock 9 mm handguns;
- d. Consideration – Authorization to execute Interlocal Agreement for the collection of solid waste fees on behalf of Pasquotank County;
- e. Consideration – Authorization to execute Interlocal Agreement with Pasquotank County for Opticom System;
- f. Consideration – Authorization to execute Temporary Occupancy Agreement for a one year lease extension with ABC Properties for Southgate Mall Customer Service Office;
- g. Consideration - Call for a public hearing to be held on Monday, October 6, 2014 at 7:30 p.m. in the City Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue for consideration of Conditional Use Permit CUP-01-14, a request by Elizabeth City Pawn & Jewelry for a pawnshop.

End of Consent Agenda.

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

7. Public Hearing:

- a. Consideration – Public Hearing to adopt resolution authorizing the filing of an application for approval of a financing agreement authorized by NCGS 160-20 for the Penny Drive sewer and water project.

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

Mayor Peel recognized City Manager Olson to provide the background for this consideration. Mr. Olson stated that during the City Council meeting held on August 11, 2014, the Council awarded the bid for the construction of the Penny Drive Sewer and Water Project to the low bidder, Eastern Carolina Construction. Mr. Olson advised that it is a legal requirement that before entering into an installment purchase contract involving real estate, a public hearing must be held prior to the LGC's consideration of the application but after financing proposals have been received. He requested that the Council adopt the resolution presented in order to allow staff to submit the application to the LGC for consideration.

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

RESOLUTION # 2014 – 09-01

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 make sanitary sewer and waterline improvements for Penny Drive; 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 160 A, 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 22nd day of September, 2014, make the following findings of fact:

1} The proposed contract is necessary to provide adequate water and sewer service to the citizens and customers of Elizabeth City.

2} The proposed contract is preferable to a bond issue for the same purpose because the cost to issue general obligation bonds would be greater.

3} The sums to fall due under the contract are adequate and not excessive for the proposed purpose based on estimates received by engineering firm McDowell & Associates, P.A., 1889 Weeksville Road, Elizabeth City, North Carolina 27909.

4} The City of Elizabeth City's debt management procedures and policies are good because policies are carried out in strict compliance with the law and adequate debt management will continue to be provided as directed by the Local Government Commission.

5} There will be no tax increase required to raise sums to fall due under the contract.

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.

8} The probable net revenues of the Project to be financed will be sufficient to meet the sums to fall due under the proposed contract.

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 22nd day of September, 2014.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

8. Regular Agenda:

a. Appointments to various boards, committees and commissions:

1. By motion and roll call vote, appoint Mr. Joseph Stuter to serve a four-year term on the Senior Citizen Advisory Committee to expire June 30, 2018;
2. By motion and roll call vote, appoint Ms. Donna O. Hassell to serve a two-year term on the Senior Citizen Advisory Committee to expire June 30, 2016;
3. By motion and roll call vote, re-appoint Mr. Richard J. "Rick" Boyd to serve a second, three-year term on the Elizabeth City Historic Preservation Commission to expire April 30, 2017;
4. By motion and roll call vote, re-appoint Ms. Peggy Watts to serve a second, two year term on the Joint Animal Control Board expiring June 25, 2016.

Motion was made by Councilman Tony Stimatz, seconded by Councilwoman Jean Baker to suspend the rules for roll call vote on all four appointments. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Horton and King. Against: None. The motion carried.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to adopt all four appointments: Mr. Joseph Stuter to the Senior Citizen Advisory Committee; Ms. Donna Hassell to the Senior Citizen Advisory Committee; Mr. Richard J. Boyd to the Historic Preservation Commission; and Ms. Peggy Watts to the Joint Animal Control Board. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Horton and King. Against: None. The motion carried.

- b. Consideration – Designation of Voting Delegate for 2014 NCLM Business Meeting.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton to nominate Councilman Kem Spence as the Voting Delegate and Councilman Montravias King as the Alternate. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Horton and King. Against: None. The motion carried unanimously.

- c. Consideration – Adoption of Resolution to Award Financing Bid for Penny Drive sewer and water project to BB&T.

Motion was made by Councilman Montravias King, seconded by Councilman Darius Horton to adopt the following resolution to award financing bid for Penny Drive Sewer and Water Project to BB&T Bank. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Brooks, Horton and King. Against: None. The motion carried unanimously.

**Resolution # 2014 – 09-02
Approving Financing Terms**

WHEREAS: The City of Elizabeth City, North Carolina (the “City”) has previously determined to undertake a project for the financing of water and sewer line improvements, (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company (“BB&T”), in accordance with the proposal dated September 12, 2014. The amount financed shall not exceed \$275,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.08%, and the financing term shall not exceed 5 years from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer’s satisfaction. The Finance Officer is authorized to approve changes to any

Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's general fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of the City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 22nd day of September, 2014.

Joseph W. Peel
Mayor

ATTEST:

Vivian D. White, NCCMC
City Clerk

9. Comments and Inquiries on Non-Agenda Items:

- Councilman Donnelly stated that he is very pleased with all the improvements taking place at the waterfront; and said that the enhancements will serve to

compliment the new Charles Creek Pavilion. He thanked City staff and the City Manager for making it happen.

- Councilwoman Baker stated that she had attended Dr. Stacey Franklin Jones' introduction at the ECSU Fine Arts Center and complimented the event and its attendance. She wished Dr. Jones the best of luck and congratulations. She provided information regarding the 18th Annual Ghost Walk featuring World War II in the Albemarle that is scheduled for October 10-11, 2014.
- Councilman King thanked everyone for attending the meeting. He advised that due to a scheduling conflict, the Fourth Ward Town Hall Meeting would be rescheduled and information would be advertised as to the new date.
- Mayor Pro Tem Hummer stated that she had attended the ribbon cutting for the new home of the Boys and Girls Club and Police Athletic League and said that the facility is beautiful. She said that she is happy the building is being preserved and thanked everyone that helped with the project. She thanked the City Manager for mosquito control and requested that it be continued.
- Councilman Horton thanked everyone for attending the meeting. He stated that he had also attended the welcome ceremony for the new ECSU Chancellor and is excited about the bright future ahead for the university. He especially thanked the City Manager for working on a solution for the police department pay issue and the Public Works Director for the progress being made on the City's streets.
- Councilman Stimatz requested that City staff provide a list of all Conditional Use Permits. He said he attended a 9-11 event on the former Middle School grounds; and suggested that the documentary on HBO "A Good Job" about FDNY was well worth viewing. He reminded everyone that Veterans Day is coming in November and stated that a ceremony will be held at the waterfront. He requested that City staff provide an update on the City's future Veterans Park and suggested that it was time to start looking at designs and ideas for the park.
- Councilman Brooks had no comments.
- Mayor Peel stated that he also attended the ribbon cutting at the former Middle School and said that the great new facility will allow the Boys and Girls Club to expand its programming to serve the young people of the City and County. He said that the project was an example of what can be accomplished when private volunteers and government officials come together. He said that the Police Athletic League will also enjoy a much better environment for the young folks they serve; and he thanked the Police Department for the time and energy they devote in helping the young people of the City. He said that one thing he had come to appreciate was the quality of the people working for the City and the pride they take in their jobs. He thanked the employees for what they do. He reminded everyone of the movie "Racial Taboo", which will be shown at Museum of the Albemarle, which is being put on by the Community Relations Commission and the Hope Group.

10. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 7:33 p.m.

Joseph W. Peel
Mayor

Vivian D. White, NCCMC
City Clerk