

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

The City Council of the City of Elizabeth City met in regular session on Monday, November 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 Kem Spence
Councilman Darius Horton
Councilman Montravias King

MEMBER ABSENT: Councilman Michael Brooks

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
Assistant Public Utilities Director Larnetta Brothers
Fire Chief Larry Mackey
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 Tim Stallings to offer 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 Peel reminded everyone that the Closed Session scheduled to be held during the previous Work Session had been added to the agenda.

Councilman Darius Horton requested to add “policy and procedure” 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, Spence, 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. Comments from the Public:

Mr. Winfred E. Simpson, Sr., 1608 Dellaire Drive, Elizabeth City, NC thanked those Councilors who voted for his rezoning request during the November 10, 2014 meeting and also thanked those members who did not vote for his rezoning. He said that he had spoken with his First Ward Councilpersons and found them to be very open and advised him of things about which he was unaware. He stated that his reason for appearing before the Council was to address the procedure for signing in to speak. He reminded the Council that he was unable to speak during the previous meeting because of the Council's policy requiring sign-in. He stated that his complaint was that he did not know he had to sign in because he had spoken with several City staff members prior to the proceedings; and although they explained the rezoning process and his ability to speak, he was not advised to sign up beforehand. Mr. Simpson suggested that a sign be placed or an announcement be made alerting those wishing to speak of the registration requirement.

4. Approval of Minutes:

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

a. City Council Regular Session October 27, 2014

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Darius Horton, to approve the minutes of the October 27, 2014 Regular Session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Spence, Horton and King. Against: None. The motion carried unanimously.

b. City Council Regular Session November 10, 2014

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Darius Horton, to approve the minutes of the November 10, 2014 Regular Session. Those voting in favor were: Baker, Donnelly, Hummer, Stimatz, Spence, Horton 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. Consideration – Recommendation from the Finance Committee to authorize the City Manager to execute the Agreement for Professional Engineering Design and Survey Services with Hyman and Robey for \$42,500 for the Road Street Utilities Project (between Elizabeth Street and Ehringhaus Street);
- b. Consideration – Authorization for the Elizabeth City Fire Department to Conduct Live Fire Training on the structure located at 423 Elcinoca Drive;
- c. Consideration – Authorization for the Elizabeth City Fire Department to Conduct Live Fire Training on the structure located at 708 Riverside Avenue.

End of Consent Agenda.

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

6. Regular Agenda:

- a. Consideration – By Motion and Roll Call Vote, appoint Mr. William “Bill” Hiemer to serve the unexpired term of Mr. Robert Thorne on the Board of Zoning Adjustment ending September 30, 2016.

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

Motion was made by Councilwoman Jean Baker, seconded by Councilman Darius Horton, to appoint Mr. William “Bill” Hiemer to serve the unexpired term of Mr. Robert Thorne on the Board of Zoning Adjustment.

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

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

The motion carried unanimously.

- b. Consideration – By Motion and Roll Call Vote, re-appoint Dr. David Kleinschuster to serve an additional term on the Parks and Recreation Advisory Board to expire December 31, 2016.

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

Motion was made by Councilman Kem Spence, seconded by Councilman Montravias King, to re-appoint Dr. David Kleinschuster to serve an additional term on the Parks and Recreation Advisory Board to expire December 31, 2016.

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

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

The motion carried unanimously.

- c. Consideration – Designation of Voting Delegate and Alternate Voting Delegate for the NCLM Advocacy Goals Conference and instruct staff to submit the information to the League, as required.

Mayor Peel announced that both he and Councilman Stimatz planned to attend the conference.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Kem Spence, that the Mayor be the Primary and Mr. Stimatz be the Alternate to the Goal Setting Conference. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Spence, Horton and King. Against: None. The motion carried unanimously.

- d. Addition to agenda by Councilman Horton – Policy and Procedure:

Mayor Peel recognized Councilman Horton for his comments.

Councilman Horton stated that he wanted to bring this matter up for discussion. He said as elected officials, one of the most important entities available is the voices of constituents. He advised that he had, on several occasions, heard from individuals who were not aware of the Council's policy regarding making public comments. He inquired of the City Attorney if it would be acceptable when the Mayor calls meetings to order if he could announce that if persons were present who wished to speak, they should see the Clerk to sign in.

City Attorney Morgan stated that he knew of no reason why the Mayor could not do that and in fact thought it would be appropriate.

Councilman Horton asked if a motion was needed to place that provision in the policy.

Mr. Morgan stated that if the Council wanted it to be a mandatory rule, it probably should be included in the policy. He continued by saying that if it was the will of the Council that it be done, he was certain the Mayor would follow the will of the Council.

Mayor Peel stated that he would be happy to do that.

Mr. Morgan stated that he did not think the procedures needed to be amended necessarily, as long as that was the understanding.

Councilman Stimatz stated that it is sometimes confusing, but if people have read the procedures, persons are not required to sign in before they speak; rather, they are required to sign in before they leave because it is a bookkeeping requirement.

Mr. Morgan pointed out that paragraph two of the Council's Rules for Public Participation addressed both Public Comment and Public Hearings. He stated that one other thing he would like to point out is that the three-minute limitation only applies to public comment and not to speakers during public hearings, subject to the Mayor's right to run the meeting as he sees fit.

Councilman Stimatz commented that he thought it would suffice if the Mayor, on his own, would remind people - along with a posted announcement.

Councilman Spence inquired about Mr. Simpson during the previous meeting not being able to speak. Councilman Stimatz responded that he was ruled out of order because he interrupted another speaker. Councilman Spence pointed out that Mr. Simpson had raised his hand at the end of the speaker's comments and was told he could not speak. Councilman Spence stated that it was his opinion that the Council was out of order in that instance.

Mayor Peel stated that it had been his intent to bring this matter up during his comments at the end of the meeting. He recognized City Manager Olson to share with the Council what had been discussed to clear up this matter.

Mr. Olson stated that under Section 8-1(e) of the UDO, the Planning Department is instructed not to accept an application for rezoning on the same property more than once in a twelve-month period without a special waiver of the City Council. He stated that the special waiver could be granted by the Council following a recommendation of the Planning Commission on one of the following grounds: material changes in conditions, clerical correction, newly discovered evidence of adverse impact, or substantial change in the zoning request. Mr. Olson summarized this information by saying that City staff cannot accept another application on Mr. Simpson's property for a period of one year unless the City Council determines that there is reason for a special waiver of those rules. He said all procedures would have to be accomplished as if it were a new rezoning request.

Councilman Spence stated that he knew there was a rezoning application fee and inquired if Mr. Simpson would have to pay that again. Mr. Olson responded that if the City Council believes there is a special waiver, in all likelihood, the Council could waive that fee. Mr. Olson said that he wanted to state for the record that City staff could not do anything unless the Council directs it.

Motion was made by Councilman Kem Spence, seconded by Councilman Darius Horton, that the Council do a special waiver to waive his (*Winfred Simpson*) twelve-month application and fee.

Assistant to the City Manager Angela Cole pointed out that the recommendation has to come from the Planning Commission and afterwards, the Council can make that determination.

City Manager Olson stated that if the City Council is not opposed, staff could take the matter back to the Planning Commission. He said that he believed a waiver would be pursuant to UDO "Subsection 4-Substantially Changed Zoning Request" because he thought Mr. Simpson would look at a different type of zoning classification, in all likelihood.

Councilman Spence withdrew his motion.

Mayor Peel inquired if all that was needed is to send the matter back without a motion. Mr. Olson stated that the matter must first go to the Planning Commission and will then come back to the Council for the special waiver. Mayor Peel commented that process did not seem to be a logical progression. Mr. Olson stated that City staff could not process anything until the City Council issues a special waiver.

Councilman Spence stated "even if it's our error?"

City Attorney Morgan stated that the Council would open a whole new problem in trying to go back and undo a Public Hearing that has already been completed. He said that even though the process is cumbersome and not what anyone likes, the UDO must be followed to make sure the City is on firm ground legally. Mr. Morgan said that it was debatable or not as to whether an error occurred. He stated that if the Council wanted to pass a motion directing staff to send the matter to the Planning Commission as soon as possible, there would be nothing wrong with that and it would send the type of message the Council intended.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Darius Horton, that we request staff to take this issue back to the Planning Commission to further review and resubmit to the full Council based on their recommendations.

Councilman Stimatz asked Councilman Donnelly if he would accept a friendly amendment to waive the fee. Councilman Donnelly accepted.

Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Spence, Horton and King. Against: None. Motion carried.

7. Comments and Inquiries on Non-Agenda Items:

Councilman Stimatz advised that he had come across a copy of the 2003 parking study while going through his files. He suggested that it is a document that may need to be updated. He inquired of the City Manager if there had been a request by the County to

address the parking issue brought forward by Commissioner White. Mr. Olson responded that there had been no request to date.

Councilman Horton thanked everyone for attending the meeting and wished the residents of the Fourth Ward a Happy Thanksgiving. He wished all City merchants good sales and revenue during the holiday season.

Mayor Pro Tem Hummer reminded everyone about the holiday garbage collection schedule.

Councilman King thanked everyone for attending the meeting and thanked Rev. Stallings for his invocation. He welcomed IT Director Matthew Simpson to the City staff. He wished everyone a happy Thanksgiving.

Councilwoman Baker wished everyone a happy Thanksgiving and safe travels for those travelling.

Councilman Spence said that it is important to take care of the City's employees. He stated that he tries to recognize a department for their good work during each meeting. He noted that Assistant Public Works Director Larnetta Brothers was present for the meeting and thanked her for her hard work in the Public Works Department.

Councilman Donnelly wished all the citizens a happy and safe Thanksgiving.

Mayor Peel advised that one of the things that Assistant to the City Manager Cole is working on with the downtown committee is taking a look at parking. He stated that staff had been reviewing the 2003 parking study mentioned by Councilman Stimatz. He wished everyone a happy Thanksgiving and announced that Mayor Pro Tem Hummer would be "flipping the switch" for the Grand Illumination on his behalf.

8. Closed Session added from Work Session Agenda, as allowed by:

- a. NCGS 143-318.11(a)(1) (*to prevent the disclosure of information that is privileged and confidential*) and further referenced as pursuant to NCGS 132-1.7 (*sensitive public security information*); and
- b. NCGS 143-318.10(e) – Approval of Closed Session Minutes.

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Darius Horton, to go into Closed Session as allowed by NCGS 143-318.11(a)(1) (to prevent the disclosure of information that is privileged and confidential) and further referenced as pursuant to NCGS 132-1.7 (sensitive public security information); and NCGS 143-318.10(e) – Approval of Closed Session Minutes. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Spence, Horton and King. Against: None. The motion carried.

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

Motion was made by Councilman Tony Stimatz, seconded by Councilman Kem Spence, to approve the closed session minutes as presented. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Spence, Horton and King. Against: None. The motion carried.

9. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 8:12 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk