

**City Council Regular Session
April 25, 2016**

The City Council of the City of Elizabeth City met in regular session on Monday, April 25, 2016 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 Rickey King
Councilman Darius Horton
Councilman Johnnie Walton

MEMBERS ABSENT: None

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planning Director June Brooks
Police Chief Eddie Buffaloe
Electric Superintendent Karl Clow
Assistant to the Manager Angela Cole
Human Resources Director Katherine Felton
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
ECDI Director Wade Nichols
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 Dr. Walter Smith of Cornerstone Missionary Baptist Church to give the invocation, after which Mayor Peel led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

Mayor Peel requested Council's pleasure regarding adjustments to and approval of the prepared agenda.

Mayor Peel announced that the Committee Reports scheduled for the previous Work Session agenda were added to the Regular Session agenda.

Motion was made by Councilman Michael Brooks seconded by Councilman Rickey King, to remove the Discussion/Consideration of an Amendment to the City's Noise Ordinance with Regard to Churches/Places of Worship from the Regular Agenda. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against: Horton. Motion carried.

Councilman Darius Horton requested to move the Consideration of Award of Bid for Cemetery Maintenance from the Consent Agenda to the Regular Agenda for discussion.

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

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. Presentations/Consideration:

- a. Presentation of Certificate Honoring the Memory of Former Mayor Roger Allen McLean, Sr. to His Family:

Mayor Peel read and presented to the family of former Mayor Roger McLean the following Certification of Appreciation honoring his memory. He expressed gratitude for his service and sympathy on behalf of the City Council. The certificate was accepted by Mrs. Wanda Hunt McLean, who was accompanied by members of her family.

CERTIFICATE OF APPRECIATION HONORING THE MEMORY OF
ROGER ALLEN MCLEAN, SR.
OCTOBER 24, 1949 ~ MARCH 30, 2016

WHEREAS, Roger Allen McLean, Sr. served this community and its citizens well as a dedicated, tireless and enthusiastic public servant and as Mayor of the City of Elizabeth City from December 2009 to December 2011; and

WHEREAS, Roger Allen McLean also served our country as an internal auditor with the United States Army Auditing Agency, holding the distinction of receiving the Sustained Superior Performance Award; and

WHEREAS, his Army service was followed by service to his native State of North Carolina, as an internal auditor for the North Carolina Department of State Auditors; and

WHEREAS, in 1974 he made Elizabeth City his home when he embarked on a career with Elizabeth City State University serving in the capacities of Comptroller and later Vice Chancellor of Business and Finance, which provided the opportunity for him to oversee expansion of the University to include the K. E. White Graduate Center, the Marion D. Thorpe Administration Building, the Industrial Arts Building, the Campus Police Facility, Roebuck Stadium, the Education and Psychology Building, the Information Technology Building, the Student Commuter Building and Bowling Alley, the Jimmy R. Jenkins Science Building and numerous residence structures; and

WHEREAS, his participation in and service to countless charitable, civic, fraternal and church organizations earned for him the respect of a multitude of area residents representing all ages and walks of life; and

WHEREAS, the exemplary conduct and sense of fairness he demonstrated in all his activities furthered the cause for better understanding and has been an influence for good in the growth and progress of our community.

NOW THEREFORE, I, Joseph W. Peel, by virtue of the authority vested in me as Mayor of the City of Elizabeth City and speaking on behalf of the entire City Council and our citizens, do hereby tender to the family of Roger Allen McLean, Sr. this CERTIFICATE OF APPRECIATION extending our deep gratitude for his distinguished and honorable service throughout his lifetime to the citizens of this community, our state and our country.

PRESENTED, this the 25th day of April 2016

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- b. Consideration – Adoption of Resolution Awarding Gun and Badge to Retiring Police Officer:

Motion was made by Councilman Tony Stimatz, seconded by Councilman Rickey King, to make presentation of service weapon and badge to retiring Police Captain John Etheridge. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Mayor Peel read the following Resolution and invited Captain John Etheridge and Chief Eddie Buffaloe to join him at the podium.

**RESOLUTION #2016-04-01
AWARDING BADGE AND SERVICE SIDEARM
TO RETIRING POLICE OFFICER**

WHEREAS, G.S. 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality; and

WHEREAS, G.S. 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member; and

WHEREAS, Captain John Etheridge served as a member of the Elizabeth City Police Department for a period of 18 years and will retire from the City of Elizabeth City on May 1, 2016.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Elizabeth City, North Carolina that the badge and service weapon worn and/or carried by Captain John Etheridge be awarded to him on the occasion of his retirement.

ADOPTED this 25th day of April 2016.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- c. Presentation of Service Weapon and Badge to Retiring Police Captain John Etheridge:

Mayor Peel and Chief Buffaloe made presentation of Captain Etheridge's badge and service weapon. Captain Etheridge thanked Mayor Peel and the City Councilmembers for the opportunity to have served the citizens of Elizabeth City.

Mayor Peel thanked Captain Etheridge for his years of service and thanked his family members for allowing his service over many years to the City of Elizabeth City.

4. Comments from the Public:

- Susan Matousek (Registered to speak through Chief Eddie Buffaloe, no address given)

Ms. Matousek encouraged the City's support of persons suffering disabilities, both physical and mental.

- (*Clerk Notation:* For several weeks, supporters and members of The Master's Touch Church have been speaking during the Public Comments portion of the

Council's agenda to encourage the Council to amend the City's Noise Ordinance to exempt churches. During this April 25, 2016 meeting, three individuals spoke in support of the Master's Touch Church request to exempt churches from the Noise Ordinance. These speakers are listed by name and address, as follows :)

1. Pastor Timothy Stallings, Jr., 99 Seagull Drive, Elizabeth City, NC
 2. Pastor Rahtina Stallings, 99 Seagull Drive, Elizabeth City, NC
 3. Kerita Snowden, 1203 Southern Avenue, Elizabeth City, NC
- Keith Rivers, P. O. Box 211, Elizabeth City, NC 27909

Mr. Olson called attention to a hand-out that had been provided for the Council entitled "Closing the Coverage Gap in North Carolina in 2016." Mr. Rivers stated that he was president of the Pasquotank County Branch of the National Association for the Advancement of Colored People. Mr. Rivers requested that the City stand with the NAACP and other organizations across the state to support Medicaid expansion in the form of a Resolution. He provided information and data regarding North Carolina's declination to expand Medicaid eligibility for low-income residents and the resulting cost to the state and Pasquotank County.

Mayor Peel inquired of Mr. Rivers if he had a sample resolution available. Mr. Rivers responded that he had provided one to the City Manager for the Council's consideration.

5. Consent Agenda:

(Note: Items "a" through "c" recommended for approval by the Finance Committee during their meeting of April 21, 2016)

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

Beginning of Consent Agenda:

- a. Consideration – Adoption of the following Budget Amendment in the Amount of \$2,663.25 for Channel 11 Equipment Upgrade;

BUDGET AMENDMENT

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance for fiscal year ending June 30, 2016:

SECTION I. That the General Fund Balance Appropriated (103990.0000) and Legislative Capital Outlay (104100.7400) be increased by \$2,663.25

(To complete the proposed equipment upgrade with City's broadcast equipment.)

General Fund Balance Appropriated increase means fund balance is being used.

Adopted, this the 25th day of April, 2016.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

- b. Consideration – Approval of Five-Year Lease of an approximate 9,000 square foot portion of property located at 300 Shepard Street to Corner Stone Missionary Baptist Church for \$1.00 per year;

- c. Consideration – Authorization for the Elizabeth City Police Department to Submit an Application to the Department of Justice Body Worn Camera Grant program;
- d. Consideration – Adoption of the following Ordinance Declaring Street Closings for the 2016 Independence Day Celebration Event hosted by the City of Elizabeth City:

**ORDINANCE #2016-04-01
AN ORDINANCE DECLARING A ROAD CLOSURE FOR
THE ANNUAL INDEPENDENCE DAY CELEBRATION**

WHEREAS, the City Council of Elizabeth City acknowledges a long tradition of providing an annual Independence Day Celebration for the pleasure of its citizens; and

WHEREAS, the City Council of Elizabeth City acknowledges its citizens realize a financial benefit from holding the annual Independence Day Celebration event; and

WHEREAS, the City Council of Elizabeth City acknowledges the festival event requires approximately two hours to install signing and traffic control, amusement and entertainment structures and equipment, food and other retail vendors, and other attractions, and also requires approximately two (2) hours for removing same, and litter;

NOW THEREFORE BE IT ORDAINED, by the City Council of Elizabeth City pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day(s) and times set forth below on the following described portion of a State Highway System route:

- Date:** Monday, July 4, 2016
- Time Duration:** 4:00 p.m. until 11:00 p.m.
- Route Description:** E Ehringhaus Street from the S McMorrine Street intersection, eastward to the S Water Street (SR 34/1164) right-of-way
S Water Street/Southern Avenue (SR 34/1164) intersection at Riverside Avenue intersection, including access from the Charles Creek Bridge
N Water and S Water Street (SR 34/1164) from the E Main Street intersection, south to Riverside Avenue/Shephard Street intersection
700 block of E Main Street from the Water Street (SR 34/1164) intersection, eastbound to Moth Boat Park/Pasquotank River
West intersection of E Church Street and S Water Street (by The Daily Advance building)
West intersection of E Fearing Street and S Water Street (by The Daily Advance building)

This ordinance to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to guide through vehicles around the event area.

SECTION I. EFFECTIVE DATE: This Ordinance shall take effect immediately upon adoption.

SECTION II. SEVERABILITY CLAUSE. If any section, or part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 25th day of April, 2016.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

End of Consent Agenda.

Motion was made by Councilman Rickey King, seconded by Councilman Ray Donnelly to approve the Consent Agenda as presented. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

6. Public Hearing:

- a. Public Hearing to Receive Comment on Adoption of an Ordinance Prohibiting Through Trucks on SR 1164 (portions of Water Street, Southern Avenue, Parkview Drive and River Road)

Mayor Peel announced the specifics of the Public Hearing and declared the public hearing open at 7:30 p.m. He inquired of the City Clerk if persons were present who wished to be heard. Upon her reply that no one wished to speak, he declared the Public Hearing Closed.

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

Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly, to adopt the ordinance to amend Chapter 46, Article 3, Section 46-61 of the City Code of Ordinances as presented.

Mr. Olson stated that staff is requesting that a change in the ordinance be made with regard to the effective date, based on information received by staff before the Council meeting. He asked that the effective date be changed to June 1, 2016, rather than immediately, as indicated.

Councilman Stimatz and Councilman Donnelly accepted the suggested change to the motion.

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

**ORDINANCE # 2016-04-02
AN ORDINANCE TO AMEND
City of Elizabeth City Code of Ordinances
Chapter 46 Motor Vehicles and Traffic
Article III Operation of Vehicles
Section 46-61 Restrictions on Operating Certain Commercial Trucks**

WHEREAS, the City of Elizabeth City has received NCDOT TEAAS Ordinance Report for Ordinance Number 1070467 from the North Carolina Department of Transportation, which adopts the provision that through trucks are prohibited on SR 1164 (between Ehringhaus Street and Asbury Drive); and

WHEREAS, the City Council of the City of Elizabeth City desires to adopt a concurring local ordinance to aid the Elizabeth City Police Department in the enforcement of NCDOT Ordinance Number 1070467; and

WHEREAS, the required public hearing was held to gather citizen input on this matter on April 25, 2016.

NOW THEREFORE BE IT ORDAINED THAT the City Council hereby adopts revisions as noted by "deletion and/or addition" to Section 46-61 of the City's Code of Ordinances, as follows:

SECTION I.

Sec. 46-61. Restrictions on operating certain commercial trucks.

A. When signs are erected to give notice thereof, no person shall operate any commercial vehicle exceeding 2 ½ tons gross weight, at any time, upon any of the streets or parts of the streets so designated, except that such vehicle may be operated thereon for the purpose of delivering or picking up material or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding no further than the nearest intersection thereafter.

B. No through trucks shall be permitted on State Road 1164 between Ehringhaus Street and Asbury Drive, also known as portions of Water Street, Southern Avenue, Parkview Drive and River Road, in concurrence with North Carolina Department of Transportation Ordinance Number 1070467 (Pasquotank County, Division I). For purposes of this subsection, "truck" shall mean any motor vehicle designed, used or maintained primarily for the transportation of property, including "truck tractors," "road tractors," "trailers," "semi-trailers," "pole trailers," and "special mobile equipment." A person commits an offense under this subsection if the person willingly operates a truck between Ehringhaus Street and Asbury Drive, unless said truck is an authorized emergency truck or the road is the only route to a destination. Any person who shall violate any provision of this subsection shall be fined an amount pursuant to G.S. 7A-148. Each violation shall constitute a separate offense.

SECTION II. EFFECTIVE DATE: This Ordinance, as amended herein, shall take effect on June 1, 2016.

SECTION III. CODIFICATION. The provisions of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable after its adoption.

SECTION IV. SEVERABILITY CLAUSE. If any section, or part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION V. All ordinances and sections of the Elizabeth City Code of Ordinances, and parts thereof, inconsistent herewith be and the same hereby are repealed to the extent of such inconsistencies.

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 25th day of April, 2016.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

7. Regular Agenda:

- a. Discussion/Consideration – Amendment to City’s Noise Ordinance with Regard to Churches/Places of Worship

Clerk Notation: *This item was removed from the agenda during approval of the agenda.*

- b. Committee Reports (*carried over from previous Work Session*):

- a) EC-PC Economic Development Commission: Mayor Pro Tem Hummer, Councilwoman Baker, Councilman King and Mayor Peel

Mayor Pro Tem Hummer reported that the Budget and Finance Committees had met to review the proposed budget. She noted that the only increase was in health insurance. She stated that the By-laws Committee had also met and discussed several needed revisions.

- b) Central Communications Advisory Board: Councilman Brooks

Councilman Brooks had no report.

- c) Fireman’s Relief Fund Board: Councilman Brooks

Councilman Brooks had no report.

- d) NC Eastern Municipal Power Agency: City Manager Olson and Mayor Peel

Mr. Olson reported that the meeting for the month was cancelled.

- e) Elizabeth City Downtown, Inc.: Councilman Donnelly

Councilman Donnelly stated that the Potato Festival would be held May 20-23, 2016 and both funding and volunteers were needed. He noted that new plantings on Main Street were being discussed. He stated that the Mariners’ Wharf film festival would be held in June and July.

- f) Elizabeth City Area Chamber of Commerce Board: Mayor Peel

Mayor Peel reported that the big news for the Chamber was the resignation of the Executive Director. He said that the Chamber Executive Board is advertising the position and has begun a search for a replacement.

- g) Finance Committee: Mayor Pro Tem Hummer, Councilman Donnelly, Councilman Horton and Mayor Peel

Mayor Pro Tem Hummer reported that all items discussed by the Finance Committee had been forwarded to the Council for consideration.

- h) Parks and Recreation Advisory Board: Councilman Walton

Councilman Walton stated that he was unable to attend the meeting.

- i) Elizabeth City/Pasquotank County Airport Authority: Councilman Stimatz

Councilman Stimatz stated that the next meeting would be held on April 27, 2016. He reported that an offer had been received from the Coast Guard for purchase of the land, which was being reviewed by City staff.

- j) Storm Water Advisory Board: Councilman Stimatz, Councilman King and Councilman Brooks

Councilman Stimatz reported that the Board would meet in mid-May.

k) Tourism Development Authority: Councilwoman Baker

Councilwoman Baker stated that the next meeting of the TDA would be held on April 28, 2016. She stated that the Authority would be soon announcing some marketing changes.

End of Committee Reports.

- c. Consideration – Award of Bid for Cemetery Maintenance for Fiscal Year 2016-2017 to Sunshine of Elizabeth City in the amount of \$38,400: *(Recommended for approval by the Finance Committee during their meeting of April 21, 2016. Removed from Consent Agenda by Councilman Horton.)*

Mayor Peel recognized Councilman Horton for his comments. Councilman Horton inquired if Sunshine of Elizabeth City was the company that formerly took care of the cemetery grounds. Mr. Olson responded that the company was the previous caretaker three years ago.

Councilman Horton commented that when K-9 Lawncare took over the contract three years ago, he noticed a significant improvement in the appearance of the City's cemeteries. He noted that Sunshine had bid the contract for less than K-9, but worried that the maintenance would not be as good. He asked if the City had to go with the lowest bidder in this case.

City Attorney Morgan responded that because of the bidding requirements the City has, the City is required to accept the low bid when it is a qualified bid. He stated that there was nothing to disqualify the bid entered by Sunshine. He stated that the City's contract contained grounds under which the City could terminate the contract for poor performance.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton, to award the cemetery mowing contract for fiscal year 2016-2017 to Sunshine of Elizabeth City in the amount of \$38,400 for the maintenance of the eight cemeteries described with the proviso that staff insure that the quality of service does not decline. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

8. Comments and Inquiries on Non-Agenda Items:

Councilman Brooks commended members of the US Coast Guard for volunteering with Meals on Wheels.

Councilman Stimatz reminded everyone about the homestead exemption available for senior citizens and the disabled. He encouraged anyone who may be eligible to contact the Pasquotank County Tax Department before June 1, 2016.

Councilman Horton requested that City staff put back on the agenda for the next meeting the issue as it relates to the noise ordinance for the Masters Touch Church. He encouraged pastors to come together for the cause of freedom to worship freely.

Mayor Pro Tem Hummer inquired if staff would look into federal funding that may be available to combat the Zika virus.

Councilman King had no further comments.

Councilwoman Baker: *(Clerk Notation: Councilwoman Baker's comments are transcribed in a modified verbatim format.)* "I just have comment to make about the comments I made at our last meeting regarding HB2. And, I'd like to apologize to friends and anyone I may have offended by my not clarifying my objection to the part of the bill that troubled me mostly, which was the bathroom section, which I thought would encourage pedophiles and other like people to access any gender bathroom. I have since learned that our bathroom laws are no different than they were before Charlotte

introduced this bill. So, I now more clearly understand a fact that if Charlotte had not introduced this and passed the bill – and then the state Legislature expanded the bill, we wouldn't be in this mess. But I've learned more things and will share them at future meetings. I've learned why we do things and why Charlotte did things they do going through the state Legislature to get approval. We've done it ever since I've been on Council – I just never knew it was called the Dillon Rule. So, Tony, I don't know why you didn't correct me. Anyway, more information should come as I learn it. And I apologize again to anybody I may have offended." Councilman Stimatz: *(Modified Verbatim Format)* "May I respond Mayor? You and Anita are the two older stateswomen on here. I would defer to your longevity."

Councilman Walton commented that Elizabeth City is not like Charlotte and needed to do things differently than urban areas. He said that Elizabeth City is a community and pointed out that the last letters of community spell "unity." He stated that unity was needed to move the City forward. He commended the Board of County Commissioners for compromising on the water lawsuit.

Councilman Donnelly requested that staff provide a resolution in support of Medicaid expansion for Council's consideration during the next meeting. He stated that he felt it was important that all citizens of the community be supported, including those that the North Carolina Legislature and Governor discounted.

9. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 7:55 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk