

**City Council Regular Session
August 28, 2017**

The City Council of the City of Elizabeth City met in regular session on Monday, August 28, 2017 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
Councilman Johnnie Walton
Councilman Ray Donnelly
Mayor Pro Tem Anita Hummer
Councilman Tony Stimatz
Councilman Darius Horton
Councilman Michael Brooks

MEMBERS ABSENT: Councilman Rickey King (*Excused – Illness*)
Councilwoman Jean Baker

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Interim Finance Director Evelyn Benton
Police Chief Eddie Buffaloe
Electric Department Superintendent Karl Clow
Assistant City Manager Angela Cole
Interim Human Resources Director Monica Cole
Energy Officer Dennis Gordon
Public Utilities Director Joe Pearce
Deputy Chief Chris Carver
ECDI Director Debbie Malenfant
Interim City Clerk April Onley
Community Development Director Matt Schelly
IT Director Matthew Simpson

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 he led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Tony Stimatz, to approve the agenda as presented.

Mayor Peel reminded the Council that a consideration for approval of the interlocal agreement for law enforcement services for the Department of Social Services would be added to the Regular Agenda, as they did not have time to reach it during the Work Session. Councilman Horton requested that a discussion on the confederate monument also be added to the Regular Session.

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

2. Statement of Disclosure:

The Interim City Clerk read the Statement of Disclosure. No conflict of interest disclosures regarding items listed on the agenda were made.

3. Presentations:

a. Food Bank of the Albemarle

Mayor Peel welcomed Carolyn Anderson of the Food Bank to the podium. Mrs. Anderson expressed her gratitude on behalf of the Food Bank for the allocation of funds given by the City Council to the local chapter. She stated that an additional 80,000 meals would be distributed thanks to the Council.

b. Arts of the Albemarle – Introduction of Executive Director Larry Giddens and Splash Presentation

Mayor Peel introduced Larry Giddens and invited him to address the Council. Mr. Giddens thanked the Council for their annual funding allocation. Representatives from Arts of the Albemarle's upcoming SPLASH invited the Council to visit downtown during the week of October 30th to November 4th to celebrate with artists and art lovers from all over the United States.

4. Comments From the Public:

Joseph Persico – 406 West Church Street, Elizabeth City, NC – Mr. Persico appeared on behalf of the NENC Progressives. He gave support to the NAACP and urged the Council to pass a resolution to remove the confederate monument from the courthouse green.

Sarah Lane – 107 Hawthorne Drive, Elizabeth City, NC – Mrs. Lane expressed her concerns regarding the City's utility disconnections. She stated that her utilities had been disconnected the prior week and she had never received a disconnection notice.

Keith Rivers - 104 Grandview Drive, Elizabeth City, NC – Mr. Rivers opined that confederate monuments were akin to Nazi monuments and should be removed. He requested that the Council petition the County to remove the confederate monument from the courthouse lawn.

Faith Long – 205 East Burgess Street, Elizabeth City, NC – Mrs. Long stated that her group, Enough is Enough has been "fixing the City's problems" on their Facebook page. She opined that people should not be disconnected until the City completely corrects the conversion problems. She added that "the 12-month plan is a joke."

Kate Carpenter – 313 Selden Street, Elizabeth City, NC – Mrs. Carpenter offered her support for removal of the confederate statue at the courthouse.

Dawn Teachy – 111 Chappell Gardens Drive, Elizabeth City, NC – Ms. Teachy stated that she moved to Elizabeth City in September 2016 and did not receive a bill until December, which was for the incorrect usage.

Matthew Jarvis – 1704 Weeksville Road, Elizabeth City, NC – Mr. Jarvis advised the Council that he was representing the ECSU chapter of the NAACP. He opined that confederate monuments are "symbols of hate." He stated that he felt ECSU was one of the primary driving forces of the City and the university, as a whole, wanted the statue removed. He added that if the City did not "take the necessary steps, we will organize and do what we have to to get this statue moved."

Christina Persico – 406 West Church Street, Elizabeth City, NC – Mrs. Persico advised the Council that she was the president of NENC Progressives and was present to urge the Council to pass a resolution urging the Council to remove its confederate statue. She opined that "the racial divide still exists in this County."

5. Approval of Minutes:

a. City Council Special Meeting – August 3, 2017

Motion was made by Councilman Tony Stimatz, seconded by Councilman Horton to approve the August 3, 2017 minutes. Those voting in favor of the motion were: Donnelly, Walton, Hummer, Horton, Stimatz, and Brooks. Against: None. Motion carried.

b. City Council Regular Session – August 14, 2017

Motion was made by Councilman Stimatz, seconded by Councilman Ray Donnelly to approve the August 14, 2017 minutes.

Councilman Walton stated that he felt that the August 14, 2017 meeting was one of the most important meetings of the year. He asked that the section of the minutes concerning the audit be transcribed in modified verbatim.

Motion was made by Councilman Walton, seconded by Councilman Horton to have the portion of the minutes concerning the audit recorded in modified verbatim. Those voting in favor of the motion were: Donnelly, Walton, Hummer, Horton, and Brooks. Against: Stimatz. Motion carried.

6. Consent Agenda:

(Note: Items “a” and “b” recommended for approval by the Finance Committee during their meeting of August 24, 2017)

Mayor Peel recognized City Manager Olson to read the items on the Consent Agenda into the record. Those items were as follows:

- a. Consideration – Approval of Chemical Bids for Water and Wastewater Treatment Facilities;**
- b. Consideration – Authorize City Staff and ECDI to Apply for the Main Street Solutions Fund on Behalf of ECBC, LLC;**
- c. Consideration – Approval of the Food Bank of the Albemarle CRDP Agreement;**

Mayor Peel asked the Council’s pleasure on the Consent Agenda.

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

7. Regular Agenda

- a. Discussion / Consideration – Approval of Enfield Skate Park RFQ;**

Mayor Peel recognized City Manager Olson to begin the discussion. Mr. Olson advised the Assistant City Manager Cole would provide an overview on the matter. Mrs. Cole stated that one firm, Artisan Skateparks, Inc. (teamed with Pillar Design Studios) had responded to the City’s RFQ. She advised a team had scored the proposal, which had scored highly and was heavily supported by staff. She noted that Artisan’s proposal had come in at an estimated \$180,000, which was well within the City’s allocated budget of \$200,000. Mrs. Cole pointed out that the City had hoped for a completion date during the month of March; although Artisan’s original completion date was scheduled for May, they agreed to modify their timeline to satisfy the City’s request.

Councilman Walton asked if there was some form of payment plan associated with the skate park. City Manager Olson confirmed that staff was looking at an installment purchase for debt repayment, which would most likely be presented during the next meeting.

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Hummer to award construction of the Enfield Skate Park to Artisan Skateparks, Inc.; and to future authorize the City Manager to negotiate and execute a construction contract with Artisan Skateparks, Inc. based on their submitted proposal. Those voting in favor of the motion were: Donnelly,

Walton, Hummer, Horton, Stimatz, and Brooks. Against: None. Motion carried.

b. Update / Discussion – Customer Service Policies and Procedures Handbook;

Mayor Peel recognized City Manager Olson to present the topic to the Council. Mr. Olson stated that a rough draft of the Customer Service manual had been provided to the Council in add / delete format, which had been reviewed by a team including Evelyn Benton, Interim Finance Manager, Kim Hankins, Customer Service Manager, April Onley, Interim City Clerk, and himself. He noted that the approved models used by ElectriCities and NCUC had been closely adhered to during the review. Mr. Olson advised the Council that Councilman Stimatz had provided lengthy comments, which were provided to the staff to take into consideration.

Councilman Stimatz stated that email and text messages needed to be used as a means of communication because “door hangers and the post office don’t always work.” He urged that both a residential focus group and a commercial focus group be created to offer comment and suggestions on creation on the new manual.

Councilman Walton concurred with Councilman Stimatz that there should be a “grassroots” contribution of the citizens for the customer service manual.

Mayor Peel agreed that other means of reaching customers should be involved other than simply just the mail. Mr. Olson advised that between 3,200 and 3,300 disconnection notices were mailed each month; the City prepares and delivers these to the post office for bulk mail distribution. He noted that the City simply does not have a way of controlling what happens beyond that point.

Mayor Peel asked that a letter be distributed in the next month’s bill that explained the City’s disconnection process.

Councilman Horton asked if it was common for staff to hear that a customer did not receive their notice of disconnection. Mr. Olson responded that it often came up every time there was a disconnection; however, a bill is due every month, regardless of whether or not a customer receives it. Mr. Olson continued that the City is not the only organization that requires a monthly payment, and that customers are encouraged to call or come in if they have not received a bill. He advised that staff could confirm that bills are generated, but not whether or not they end up in a mailbox after the post office delivers them. He added that the Logics system simply did not have the capability of more advanced technology for contacting the customers, but staff would make that a priority in the search for a new utility billing system.

Councilman Donnelly stated that the main complaint he heard time and again was that no one in the Customer Service Department answered the phone. City Manager Olson agreed that the calls going unanswered was a point of concern for him. He advised Councilman Donnelly that the City only had one switchboard operator and often the call volume could reach more than 500 per day, which was simply overwhelming the staff. He added that staff had been actively seeking a solution for this problem.

Councilman Brooks interjected that the Council used to have a Personnel Committee to deal with problems such as these. He expressed his frustration that the Committee had been disbanded several years ago because it was found to “micro-manage the City Manager.” He opined that if the Committee were still in place, things like this would not happen. Councilman Walton added that he had called the Customer Service office numerous times and had not gotten a response.

Councilman Horton asked what the Council could do to solve the immediate problem of the phones going unanswered. City Manager Olson responded that as of August 1st, the City began performing disconnections again for the first time since the going back to Logics. He advised the Council that it was not a matter of having unqualified representatives, it was just simply that the calls were nonstop and the volume was more than the representatives could handle at any given time. He pointed out that staff ran

short when they took lunches and more so when people called in sick, as two had done earlier today. He added that the sheer call volume alone could not be handled with one or two additional employees or switchboard operators; and many of the calls were in depth and required 10 or 15 minutes of the representatives' time. He continued that five additional representatives would have to be hired to handle the calls, based on call volume alone.

Councilman Horton asked if the call volume was a recent problem or had it always been this high. Mr. Olson responded that although call volume is often high during a disconnection period, this is the highest amount of calls that the City had ever incurred. Councilman Brooks asked whether a call number queue system, which would robotically alert a customer to their number in line and potential wait time might be beneficial. Mr. Olson stated that he would be happy to look into a system that could offer those messages, although he was not sure if it would be available with our current phone system.

Councilman Stimatz stated that he knew of multiple companies that offered "call center" services that could take messages to distribute to the Customer Service Department for callbacks. He agreed with Councilman Brooks' suggestion of sending "robo-calls" or an answering machine.

Motion was made by Councilman Stimatz to have each member of the Council, including the Mayor, nominate two members of the community to be on the customer service manual review committee, one from the residential sector and one from the commercial sector. Mayor Pro Tem Hummer seconded the motion.

Councilman Brooks opined that "too much is being thrown out there at one time; it's not going to get accomplished." He added that more consideration needed to go into the matter and not just an "overload" of half-considered ideas. He asked "where do we cross the line with the citizens?" He reiterated that there still must be separation as to not give the impression of micromanaging that plagued the Personnel Committee.

Councilman Walton reminded the Council that they were less than two months away from an election period and the makeup of the Council could be shifting entirely. He suggested that they wait until the new Council came on board with fresh ideas.

Councilman Donnelly stated the idea of forming a citizen's committee was premature. He continued, "I don't want to go and pick two people and have them come look at an incomplete document." Councilman Stimatz stated that his motion was not about a time table; it was simply a decision on how they would select members of the public for their viewpoint.

Mayor Peel reminded the Council that a motion and a second had been made and asked if members were satisfied with the discussion and prepared to vote.

Those voting in favor of the motion were: Donnelly, Hummer, and Stimatz. Against: Walton, Horton, and Brooks. The result was a tied vote. Mayor Peel broke the tie by voting in favor of the motion. Motion carried.

c. Update / Discussion – Utility Billing;

Mayor Peel recognized City Manager Olson to provide an overview on the utility billing update. Mr. Olson briefly updated the Council on the number of customers currently eligible for disconnection, as follows: Cycle 2 had 126; Cycle 3 had 194; Cycle 4 had 408; Cycle 1 did not have an estimate at the time because the due date had yet to pass. He added that the agreements totals as of earlier in the morning were Cycle 2 at 268; Cycle 3 at 521; Cycle 4 at 607; and Cycle 1 at 368. He estimated the amount of all agreements was roughly \$1 million with 39% of that total coming from Cycle 4 customers. He explained to the that the City currently had a total of 1,224 customers who were considered late; however, 217 of those were called "first time late", which meant that they were not eligible for disconnection during this cut off cycle. He noted that 27 of the delinquent accounts were commercial, owing a combined total of \$28,856.

Mr. Olson stated that since the City had begun disconnecting services, many customers who had not previously set up agreements had been motivated to come into the office and do so. He referenced a statement made during the public comment period, where a citizen mentioned the City only offered a 12-month payment plan. Mr. Olson pointed out the inaccuracy in that statement, noting that the City had been extremely flexible with its agreements; some customers were offered as much as three years, interest free, to pay the City for their utilities. He added that staff had been advised to work with the customer on what they could afford; making sure that no particular agreement was set up for more than \$100 a month.

Councilman Brooks stated that he found the late fees very concerning. He noted that he had recently received a disconnection notice that he believed to be in error. He declared to City Manager Olson “if you turn my lights off, I’ll sue you.” He continued that he had pulled all his billing history and believed that he’d received a disconnection notice for a bill he already paid. He added, “It’s called embezzlement and stealing. I’ve got the records from the City that backs it up.” City Manager Olson stated he’d be happy to look at any receipts Councilman Brooks had. Mr. Brooks responded, “Y’all have the receipts. The citizens are paying for something the City caused.” He opined that citizens making agreements were not all justified. He furthered, “It’s not correct. I just explained it to you. I am not going to come up here and discuss it anymore. I’m going to wait for you to cut my lights off, so I can sue you.” He stated that he wanted the money that he paid back and for it not to be “explained away when I have documents in front of me ... If you cut me off, I promise you, I’ll pay \$1,000 to make a \$174 embezzlement charge correct. I have no problem doing that. I thought I would bring it up in front of the camera, so it would be in the minutes. I have no problem paying \$1,000 to keep the City from embezzling \$174 from me. I have no problem doing that.”

City Manager Olson stated that both he and a member of the staff had gone over Councilman Brooks’ bill and found it to be correct, but he would be happy to review it again. Mr. Brooks continued that, “You can’t convince me that out of all the customers, I’m the only one experiencing it. I might be the only one that will talk about it, but I’m not the only one experiencing it.”

d. Consideration – Interlocal Agreement for Law Enforcement Services with DSS (Added to the Regular Agenda from the Work Session’s carryover);

City Manager Olson recognized Chief Buffalo to introduce the item. Chief Buffalo stated that City and County staff had met concerning law enforcement services at the County’s Department of Social Services office. He noted that the agreement would allow a City police officer to serve the County in full capacity, as the County did not have the staff necessary to cover such a service. He advised the Council that the compensation had been calculated by taking the average salary of a Police Officer I and Police Officer II (\$26.081) and adding a 10% administrative fee, which resulted in an hourly rate of \$28.96.

Councilman Brooks questioned what “sparked” the Interlocal agreement to be necessary. City Manager Olson responded that there had been a series of violent incidents throughout the state at social services offices, which is why part of the funding for the officer would be reimbursed. He noted that although this would be offered to the City’s officers as an “off-duty assignment, a police officer is never truly off-duty, so they may have to report back to the City in the event of an emergency.

Councilman Walton asked if there had been any altercations at the local DSS office. Chief Buffalo responded that although there had been calls for service, there had been no major problems. Councilman Stimatz opined that if the officers incurred overtime as a result of being stationed at the DSS office, it should be paid for by the County and not the City. He stated that he would not vote for the item as it stood without a rate schedule being included.

Motion was made by Councilman Brooks, seconded by Councilman Horton, to accept the Interlocal agreement as presented.

Councilman Walton asked Chief Buffalo and City Manager Olson if they believed the agreement to be satisfactory. Both Mr. Olson and Chief Buffalo concurred that the bulk of the agreement was to their liking; however, Mr. Olson did note that several minor details might need to be ironed out. Councilman Donnelly asked if City Labor Attorney John Leidy had reviewed the document; and Mr. Olson confirmed that he had both written and reviewed it.

Councilman Walton called for the question.

Mayor Peel stated that the question could not be called for yet, as others were waiting to make comment.

Councilman Stimatz made a procedural motion to add three amendments to the original motion, including that the City's administrative fee be 10% and overtime be counted as an extra inclusion; that a rate calculation schedule be included as an appendix; and that the hourly work accounting procedures be clarified within the document.

Mayor Peel inquired as to whether there was a second to Councilman Stimatz's amendments; no second was affirmed.

Procedural motion died for lack of a second.

Mayor Peel asked the Council's pleasure on the original motion made by Councilman Brooks, seconded by Councilman Horton to approve the Interlocal agreement as presented.

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

e. Discussion – Confederate Monument (*Added to the Regular Agenda by Councilman Horton*);

Mayor Peel recognized Councilman Horton to lead the discussion on the monument, as he requested its addition to the agenda. Councilman Horton opined that members of the Council had a political and civic duty to respond to the confederate monument discussion. He stated that he was not in favor of the monument being located on "any federal, state, city, or county-owned property." He urged the Council to take action against slavery, racism, segregation, white supremacy, or anything that brings hatred and diversity. He stated that, "as a Council person, we need to promote unity, honesty, and love for one another."

Motion was made by Councilman Horton to adopt a resolution in support of moving any confederate statues from any property in Pasquotank County and give them to the appropriate agency. Councilman Walton seconded the motion.

Mayor Peel asked if it was the Councilor's intent to have them removed from any public property. Councilman Horton stated that he would like them removed from any property, public or private. City Attorney Morgan interjected that the City did not have any authority to ask for statue removal from private property. Councilman Horton stated that he did not feel the statues should be anywhere within the City, but for the sake of the motion, he agreed to clarify "property" as "public property."

City Attorney Morgan stated that as he understood there was only one statue on public property, which was located at the courthouse, he asked that the resolution be directed to Pasquotank County since it would constitute as on their property. He noted that as the statue was not on City's property, the City did not have the power to forcibly remove or direct another entity to remove the statue; however, the City could submit a resolution respectfully urging the County to consider removing it.

Councilman Walton suggested to “leave the County out of it” and direct the resolution to the Governor’s Initiative. Councilman Horton concurred; and asked that staff have the resolution ready by the next meeting.

Councilman Walton asked whether a resolution or a proclamation would be better for this instance. City Attorney Morgan responded that in his opinion, a resolution carried “more weight” than a proclamation because it was an official action of the Council. He added that typically, proclamations were used to recognize someone for something they had done or achieved.

Councilman Stimatz asked that the original motion be restated for clarification.

Mayor Peel restated the motion as follows: Motion was made by Councilman Horton, seconded by Councilman Walton to draft a resolution to support the Governor’s Initiative to remove confederate statues within the City from public property.

Councilman Brooks stated that if people believed confederate statues were a symbol of heritage, they should all be placed in museums. He opined that confederate flags are battle flags; and these symbols of hate are only present in America. He offered his support Councilman Horton’s motion for a resolution.

Councilman Walton suggested that the motion be amended to include sending two resolutions; one to the Governor and one to the County. He read the results of a poll featured in the Daily Advance about removing the statue, and expressed concern that no black individuals were questioned about whether they wanted it removed. He stated “the Daily Advance needs to do a better job.”

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

Motion was made by Councilman Walton, seconded by Councilman Horton, to send a copy of the resolution to the Pasquotank County Commissioners, directly specifying the confederate monument on the courthouse lawn. Those voting in favor of the motion were: Donnelly, Walton, Hummer, Horton, Stimatz and Brooks. Against: None. Motion carried.

8. Comments and Inquiries on Non-Agenda Items:

Councilman Brooks had no further comments.

Councilman Stimatz had no further comments.

Councilman Horton offered prayers for those individuals suffering the aftermath’s of the previous storm.

Mayor Pro Tem Hummer had no further comments.

Councilman Walton stated that he would like to have another Town Hall meeting prior to the election. He added that “people need to speak up and say what they support and what they don’t support; the audience and the customers need to know.”

Motion was made by Councilman Walton to hold a Town Hall meeting on September 18, 2017 so the public could interact with the Councilmembers to determine who they wanted to elect.

Mayor Peel remarked that a Town Hall meeting could not be conducted for that purpose. Mayor Pro Tem Hummer stated that campaigning served the purpose of public interaction and questions about particular Councilor’s platforms; it would not be a legitimate reason to call for a special meeting.

The motion was seconded by Councilman Horton.

City Manager Olson declared for the record that he would be unable to be present during the Town Hall meeting under its current purpose, as he was barred under his code of ethics from going attending any campaign-related events. He suggested that the Council change the purpose of the meeting to “utility billing concerns.”

Councilman Stimatz stated that a special-called Town Hall meeting was not the proper forum for campaigning. He opined that there may even be legal issues against permitting a meeting for that purpose. City Attorney Morgan stated that a Town Hall meeting was limited to specifically stated purposes; and campaigning would not qualify.

Councilman Brooks opined that “the ethical issue is just blowing smoke.” City Attorney Morgan stated that there was no problem with calling the special meeting, but it was the law to have a specific, clearly defined purpose limited it. Councilman Brooks stated that he had never seen a Town Hall meeting with a specific topic. Mr. Morgan responded that a regular Town Hall campaign meeting and a special meeting of the City Council were two different things; special meetings must have a purpose. He stated “we are duty-bound by our own procedures as well as those of the state.”

Councilman Stimatz suggested that a Town Hall meeting could be called for the purpose of receiving public comment. He pointed out that citizens could address any topic they felt compelled to, but if it did not apply to the Council, they would not be required to answer. He added that the regular rules of public comment should apply.

Councilman Walton interjected that he didn’t want “just comments. I want interaction.”

Mayor Peel deferred to the City Attorney for comment. Mr. Morgan stated that a meeting for the purpose of discussing utility billing and receiving comments from the public would be suitable. Councilman Walton pointed out that he still did not like the “comment” wording; he wanted all Councilmembers held accountable to answer question and not be able to “play dodgeball.”

Mayor Peel asked if the Council was clear on the purpose and the aforementioned motion; and asked for their vote.

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

Councilman Walton suggested the Museum of the Albemarle, if available, or the Arts of the Albemarle for a possible location.

Mayor Peel asked Councilman Donnelly if he had any further comments on the evening’s meeting. Mr. Donnelly expressed his pleasure at the Council taking the “moral high ground” by offering to create and send a resolution to both the Governor and the County. He added “sometimes we do the right thing, and this time we did.”

9. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 9:33 p.m.

Joseph W. Peel
Mayor

April D. Onley
Interim City Clerk