

The City Council of the City of Elizabeth City met in regular session on Monday, July 10, 2017 in Council Chambers, located on the 2<sup>nd</sup> 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 Johnnie Walton

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

OTHERS PRESENT: City Manager Rich Olson  
City Attorney Bill Morgan  
Interim Finance Director Evelyn Benton  
Police Chief Eddie Buffaloe  
Electric Department Superintendent Karl Clow  
Interim Human Resources Director Monica Cole  
Parks and Recreation Director Dexter Harris  
Fire Chief Larry Mackey  
ECDI Director Debbie Malenfant  
Deputy City Clerk April Onley  
Public Utilities Director Joe Pearce  
Assistant Public Utilities Director Larnetta Brothers  
Community Development Director Matt Schelly  
IT Director Matthew Simpson  
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 gave 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 with any necessary adjustments.**

Councilwoman Baker requested that a presentation to the City be added to the agenda.

Councilman Stimatz asked that an item addressing the Council's Goals and Objectives be added to the agenda. He also requested that item "d" be removed from the consent agenda.

Councilman Walton requested that a discussion on the Daily Advance newspaper articles be added to the agenda.

Mayor Peel requested a vote on the motion to approve the agenda with the additions.

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

#### **a. Recognition of Retirees - Donald Gibbs and Paul Fredette**

Mayor Peel recognized Mr. Donald Gibbs and requested that he join him at the podium. He advised the public and the Council that Mr. Gibbs was a Sanitation Supervisor and had been employed by the City of Elizabeth City since July 31, 1986. He stated that Mr. Gibbs' retirement date would be July 31, 2017. He praised Mr. Gibbs' work ethic, identifying him as "a leader and a coach for those around him." He commended the fact that Mr. Gibbs "gave extra effort for the good of the citizens." Mayor Peel thanked Mr. Gibbs for the contributions he gave to the success of the Sanitation Division and wished him enjoyment in his retirement. He presented him with a plaque on behalf of the City.

Mr. Gibbs greeted the Council and thanked his mother for instilling his strong work ethic. He noted that he enjoyed his 31 years of working for the City. Mr. Gibbs expressed gratitude for Mayor Pro Tem Hummer's presence in the department throughout the years. He added that he regularly saw Councilors Brooks, Walton and Stimatz checking on the department, as well. He thanked the City for the opportunity to serve the City and its citizens.

Mayor Peel recognized Mr. Paul Fredette and requested his presence at the podium. He stated that Mr. Fredette had been the Public Utilities Director since February 12, 2007. He noted that Mr. Fredette's goal upon joining City staff had been to "leave Elizabeth City better than he found it." Mayor Peel pointed out that Mr. Fredette had accomplished that goal in numerous ways, including: infrastructure projects, such as the Hughes Boulevard water and sewer improvements; the Knobbs Creek sewage pump station; the Wellfield Expansion Project; the coordination with NCDOT on Elizabeth Street utility and drainage improvements; the Road Street water and sewer replacement project; phases two and three of the Roanoke Avenue drainage project; and the changes he made to the "band-aid" method of infrastructure repairs in favor of long-term repairs. He wished Mr. Fredette the best during his retirement and thanked him for his contributions to the City. He presented him with a plaque on behalf of the City.

Mr. Fredette stated that he hoped his efforts and service "did right by the City." He thanked the City Council for their participation in assisting with the infrastructure grants. He continued by thanking City Manager Olson for all of his help and support throughout the years. Mr. Fredette expressed gratitude for having the chance to serve the City and offered his best wishes for a bright future.

Mayor Peel stated that he would be remiss not to recognize City Clerk Vivian White and thank her for her 20 years of service.

#### **b. Presentation to the City**

Mayor Peel recognized Councilwoman Baker to lead the presentation. Councilwoman Baker stated that she had completed the first five books containing newspaper clippings and information regarding the City Council since she joined the Council in 2001. She noted that by December she would have a book for each year completed. She pointed out that the books would be beneficial to City Hall for information and historic purposes.

### **4. Comments from the Public:**

**Elizabeth Shakin, 708 Raleigh Street, Elizabeth City, NC** stated that she felt the City's recent press release implied that the Enough is Enough group is "something more than it is." She pointed out that she joined the group because she received her September utility bill late, and then did not receive another bill until January. She opined that the City should have given citizens more information. She continued that she believed there was a lack of communication between the City and its customers. She alleged that the City had billed her incorrectly.

**John Shakin, 708 Raleigh Street, Elizabeth City, NC** advised the Council that he "loves all of you." He asked the Council if "you know how good it feels for me to still love you after all you've done." He related a parable, stating, "I am not here to represent myself ... but the widows that you have trampled on." He continued that

“justice is coming ... not by my hand, but by my mouth and the gifts that the Lord has given me.”

**Stephanie Miller, 208 Harrell Street, Elizabeth City, NC** displayed a stack of utility bills declaring they were “something of a joke.” She asked “why has it been allowed to go this far.” She stated that as a taxpayer, she did not feel like she was getting her money’s worth from the City. She questioned how much the City had lost due to “uncollectable” late fees and penalties from the utility bills. She advised the Council that “I do not appreciate the way you are spending my money.”

**John Bannow, 106 Tiara Court, Elizabeth City, NC** greeted the Council and stated that he was representing the Enough is Enough group. He opined that the Council should not have picked the Raftelis group for the utility audit since they had worked with the City previously. Mr. Bannow continued that the Council elected not to terminate the City Manager based on needing to complete the budget and fix the utility bills; he asked if these would be the same reasons now that these items were corrected. He questioned why the “outside” IT expert was picked to investigate the software conversion several months back. Mr. Bannow stated “I do not trust a word that comes out of the City Manager’s mouth and I do not trust who he picked to do the audit.” He pleaded with Councilors Brooks, Horton and Walton to run again, adding that “if you fight for us, we will fight for you.”

**James Cathcart, 211 Harney Street, Elizabeth City, NC** stated that his concern was rising crime within the City. He listed drugs, prostitution and shooting as his primary worries. Mr. Cathcart suggested that the City hire more police officers and increase the retirement for the current ones, in order to keep them.

**Autumn Henderson, 107 Pinelake Drive, Elizabeth City, NC** stated that she was “starting to not respect you guys anymore.” Mrs. Henderson commended Councilors Stimatz and Horton for speaking with the citizens after the last meeting. She asked Councilman Stimatz why he was “signing off on the budget every year” if he “didn’t know what debits and credits are.” She questioned why deadlines are given and not enforced. She advised the Council that she believed that she was “missing \$900 worth of payments.”

#### **5. Approval of Minutes:**

Mayor Peel requested the Council’s pleasure regarding the draft minutes presented.

- a. City Council Special Meeting - April 13, 2017

**Motion was made by Councilwoman Jean Baker, seconded by Councilman Tony Stimatz, to approve the minutes of the April 13, 2017 Special Meeting. Those voting in favor of the motion were: Donnelly, Walton, Baker, Hummer, Horton, Stimatz and Brooks. Against: None. Motion carried.**

- b. City Council Budget Work Session – May 2, 2017

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the May 2, 2017 Budget Work Session. Those voting in favor of the motion were: Brooks, Stimatz, Horton, Hummer, Baker, Walton and Donnelly. Against: None. Motion carried.**

- c. City Council Budget Work Session – May 15, 2017

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the May 15, 2017 Budget Work Session. Those voting in favor of the motion were: Brooks, Stimatz, Horton, Hummer, Baker, Walton and Donnelly. Against: None. Motion carried.**

- d. City Council Budget Work Session – June 5, 2017

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the June 5, 2017 Budget Work Session. Those voting in favor of the motion were: Donnelly, Walton, Baker, Hummer, Horton, Stimatz and Brooks. Against: None. Motion carried.**

e. City Council Regular Session – June 12, 2017

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the June 12, 2017 Regular Session. Those voting in favor of the motion were: Donnelly, Walton, Baker, Hummer, Horton, Stimatz and Brooks. Against: None. Motion carried.**

f. City Council Work Session – June 26, 2017

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the June 26, 2017 City Council Work Session. Those voting in favor of the motion were: Brooks, Stimatz, Horton, Hummer, Baker, Walton and Donnelly. Against: None. Motion carried.**

g. City Council Regular Session – June 26, 2017

**Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to approve the minutes of the June 26, 2017 City Council Regular Session. Those voting in favor of the motion were: Brooks, Stimatz, Horton, Hummer, Baker, Walton and Donnelly. Against: None. Motion carried.**

## **6. Consent Agenda:**

*(Note: Item “a” recommended for approval by the Finance Committee during their meeting of July 6, 2017)*

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 – Call for a Public Hearing to be held at 7:30 p.m. (or as soon as the agenda allows) on August 14, 2017 in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue; and adopt a Resolution authorizing staff to submit to the Division of Water Infrastructure a Community Development Block Grant for the Raw Water Transmission Line Replacement from Wellfield Road to the end of Phase 1 at Knobbs Creek;
- b. Consideration – Call for a Public Hearing to be held on Monday, August 14, 2017 at 7:30 p.m. (or as soon as the agenda allows) in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue to gather citizen input regarding SUB 02-17;
- c. Consideration Adoption of the following Resolution calling for ratification of the Equal Rights Amendment;

### **Resolution # 2017 – 07-02 Calling for Ratification of the Equal Rights Amendment**

**WHEREAS**, the U.S. Constitution does not explicitly guarantee that all of the rights it protects are held equally by all citizens without regard to sex, and the only right

it specifically affirms as equal for women and men is the right to vote, guaranteed by the 19<sup>th</sup> Amendment in 1920; and

**WHEREAS**, the proposed Equal Rights Amendment (ERA) to the Constitution affirms that “Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex”; and

**WHEREAS**, the ERA was written by suffragist leader Alice Paul and introduced in Congress in 1923, was passed by Congress in 1972 with a seven-year time limit, and after Congressional extension of the time limit to June 30, 1982, has been ratified by 36 of the 38 states necessary to put it into the Constitution; and

**WHEREAS**, Supreme Court Justice Antonin Scalia has said that the Constitution does not prohibit sex discrimination and the 14<sup>th</sup> Amendment’s equal protection clause has never been interpreted to guarantee equal rights in case of sex discrimination with the highest level of strict scrutiny that is applied to cases of discrimination based on race or religion; and

**WHEREAS**, Article V of the Constitution imposes no time limit for ratification of amendments; Supreme Court decisions have recognized the power of Congress to determine the mode of ratification; and the 1992 ratification of the 27<sup>th</sup> (“Madison”) Amendment 203 years after it was first proposed supports the premise that state ERA ratification votes since 1972 are sufficiently contemporaneous; and

**WHEREAS**, two processes are being proposed for ratification of the ERA: (1) the traditional Article V passage by two-thirds votes in the Senate and the House of Representatives followed by ratification by three-quarters of the states, and (2) the “three-state strategy” of overriding or removing the time limit via judicial and/or statutory action and declaring the ERA to be part of the Constitution when two more states ratify.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Elizabeth City to call on all members of the North Carolina General Assembly to co-sponsor, support, and pass into law Senate Bill 85 and House Bill 102; and

**BE IT FURTHER RESOLVED**, that the City Council of the City of Elizabeth City, North Carolina affirms its strong support of the Equal Rights Amendment and its commitment to participate in effective legislative and advocacy actions at federal and state levels in order to place the Equal Rights Amendment into the Constitution.

**ADOPTED**, this 10<sup>th</sup> day of July 2017.

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Joseph W. Peel  
Mayor

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Vivian D. White, CMC/NCCMC  
City Clerk

**END OF CONSENT AGENDA.**

Mayor Peel requested the Council’s pleasure regarding the Consent Agenda.

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

**7. Regular Agenda:**

**a. Discussion – Update on Utility Billing**

Mayor Peel recognized City Manager Olson to provide an update on the utility billing progress. Mr. Olson advised the Council that he had emailed all Councilors a document on July 7, 2017 that illustrated where the utility billing issues had arisen. He confirmed that all utility work orders were processed and that the 400 remaining adjustments should be completed by the following Friday. He pointed out that utility billing cycles were back on their normal schedules. Mr. Olson noted that the disconnection process would resume on August 1, 2017; and that any customer with an outstanding balance would be eligible to set up a payment arrangement. He added that normal procedures would apply for nonsufficient payments. He also noted that 228 payment agreements had been established and the average balance was \$1,000. He said that a "Question and Answer" section had been added to the City's website.

Mayor Pro Tem Hummer stated that she had received several questions on behalf of her constituents, including: "why wasn't the mall office open until 7:00 p.m.?" and "how were customers with large balances expected to pay them?" City Manager Olson responded that the mall office had offered extended hours until June 15, 2017. He said an analysis was conducted to determine if the 7:00 p.m. closing time was beneficial. He stated that, on average, only three customers per day visited the location between 5 p.m. and 7 p.m.; and 11 days saw no customers at all. Mr. Olson pointed out that the extended hours did not prove to be an effective way to manage staff time. He addressed Mayor Pro Tem Hummer's second question, stating that customers with large balances would be encouraged to meet with Customer Service staff to set up a payment arrangement.

Mayor Pro Tem Hummer asked if this information would be available on the website. Mr. Olson confirmed that it would be compiled in the new "Question and Answer" section.

Mayor Peel asked if the customers would be receiving a notice explaining the information with their next billing. Mr. Olson agreed that he could arrange for an insert to be included. He noted that some information had already been relayed on the bills. Mayor Peel opined that a letter detailing the situation and advising the customers to visit the Customer Service offices would be best.

Mayor Pro Tem Hummer asked if there was a particular customer service representative that customers interested in payment agreements needed to speak with. She pointed out that many customers, particularly young adults, did not have much money. Mr. Olson stated that they would be able to speak with anyone in the Customer Service department to set up a payment agreement. He added that he had notified staff not to exceed \$100 per month on payment plans.

Councilman Stimatz stated that he had graphed the Electric Fund's cash flow over the last 10 months. He pointed out that "we've crept back, slowly." He asked City Manager Olson if he had a prognosis on when balances should return to normal. Mr. Olson advised Councilman Stimatz that the City's cash balance as of July 10, 2017 was \$5,546,000. He noted that the City had billed \$3,362,000 in utilities and had established \$300,000 in agreements. He pointed out that there were no major expenditures for the week, aside from payroll. He said the cash balance for the following Monday was expected to be at \$7,100,000; and it would drop back to \$6,000,000 on July 31<sup>st</sup> after the City's electric payment.

Councilman Walton asked for clarification on the number of agreements the City had. Mr. Olson stated there were 228 agreements at this time. Councilman Walton said that he felt the utility billing schedule that was provided for the Council was confusing. He pointed out the deviation from the dates that bills were scheduled to go out and when they actually did go. He opined that the due date fluctuation caused difficulties for the customers. Mr. Olson explained that the fluctuation was based on the City's rule to have bills due 15 days after their mailing date; and billing delays caused this date to change dramatically from one month to the next. Mr. Olson pointed out that the 15-day allowance for payments was a long-standing policy of the City Council.

Councilman Brooks confirmed that the agreement payments would be required in addition to the customers' regular bill payments. He stated that he wanted to stress to the public that if they paid their regular bill and failed to make the agreement payment they would "still get cut off." He asked how much money the City received in late fees and reconnection charges prior to the Edmunds conversion. Mr. Olson stated that \$500,000 was budgeted last fiscal year for penalties and fees; and this year's budget reflected half that amount due to the utility billing issues. Councilman Brooks asked to which fund these monies were credited; and if the loss would affect the City's operation. Mr. Olson responded that the funds went to the Electric Enterprise Fund, and that a newly unrealized decrease in electric rates for the City's customers would offset that loss.

Councilman Brooks reiterated the necessity for customers to pay both the regular electric bill and the agreement payment. He opined that citizens who are struggling to pay their bills are the ones being assessed late fees and penalties. He stated that he felt "since the City created the mess, and we did create the mess, we should have been more citizen-friendly." He continued that "three votes is less than five votes – we saw this way back then, but if you don't have but three votes ... three votes don't apply the same pressure that the citizens applied."

Councilman Horton asked what the time frame was for most of the agreements. He stated that he was aware that they would vary by customer, depending on the balance. Mr. Olson pointed out that he worked with one customer on an agreement that would extend for 32 months. Councilman Horton asked if the agreement was voided if a customer missed a payment. Mr. Olson stated that the City would work with the customer to get the agreement back on track. Councilman Horton asked if there was specific policy in place for missing agreement payments. City Manager Olson advised that the customer must satisfy the current bill and any missed agreement payments to continue with the original arrangement.

Councilman Walton asked the City Manager to reiterate the cash balance totals. Mr. Olson clarified the Electric Fund cash balance and the process used for arriving at the projected total. He pointed out that the City was usually fairly accurate in its projections.

Councilman Stimatz explained that the agreements could be thought of in the same scope as loans.

Councilman Stimatz requested an update on the revision of the Customer Service Policy and Procedures handbook. City Manager Olson stated that no work had been done on it as of yet, although he intended to begin over the course of the next month. He notified the Council that the revised handbook would not be ready to be presented for approval for 60-90 days. Councilman Stimatz reiterated his call for citizen participation in the process.

City Attorney Bill Morgan offered an update on the utility billing audit. He stated that Raftelis had entered all of the billing data into their system; and they expected to begin generating bills and analyzing information within the week. He advised the Council that he'd requested that Raftelis give him a telephone update weekly. He pointed out that the initial report would be provided during the next Council meeting.

Councilman Horton requested clarification regarding how much work Raftelis had completed to date. Mr. Morgan explained that all of the data had been collected and entered into Raftelis' system in order to recreate the utility bills. Councilman Horton opined that using Raftelis was a conflict of interest and that "it's a waste of time even doing an audit."

**Motion was made by Councilman Darius Horton, seconded by Councilman Johnnie Walton, to suspend the utility billing audit.**

Councilman Brooks asked if there was a timeframe in which the audit needed to be completed. City Attorney Morgan stated that there would be a draft available by August 9, 2017, with a completed version by the August 14, 2017 City Council meeting.

Councilman Brooks asked Councilman Horton to clarify why he felt there was a conflict of interest in using Raftelis. Councilman Horton expressed that he felt the City should have used a company that it had no previous involvement with. He pointed out that Raftelis previously provided a letter, which helped the City win a lawsuit against Pasquotank County. He stated that it detracted from the City's transparency to utilize a company the City had already dealt with. Councilman Brooks stated that he was in agreement with Councilman Horton on the matter. He expressed concern that Raftelis might "tilt the scales to our advantage ... I think they still lean toward the client."

Councilman Walton stated that he believed Councilman Horton had originally asked for more than one company name when the audit was requested. City Attorney Morgan noted that he had advised the Council that he had found one company, but would seek others on Council's request. Councilman Walton expressed concern that the suggested company "came from within the organization," since the name was provided by Public Utilities Director Joe Pearce. He asked IT Director Matthew Simpson if he believed it would be possible to audit a new account, or an account that was not active but being paid on. Mr. Simpson stated that there would be a record of any funds the City received. Councilman Walton asked what the Council expected out of the audit.

Mayor Peel asked if the contract with Raftelis had already been signed. City Manager Olson confirmed that it had been signed.

Councilman Brooks asked what the City was looking for in the audit. Mr. Olson reminded the Council that a detailed scope of work had been provided during the last meeting. Councilman Brooks asked if the scope had been determined by Raftelis or by the Council. Mr. Olson stated that it was provided by Raftelis based on the general parameters that they were given. Councilman Brooks stated that he found it "suspicious" that the company decided what they would do without input from the Council. Mr. Olson opined that deciding if the bills were correct was the most important task and that was included in the scope of work that Raftelis provided.

Councilman Brooks stated that "no one asked us" what the Council wanted in terms of the audit. He asked why the City was having an audit. Mr. Olson declared that the principle was to insure that the bills were correct. Councilman Brooks pointed out that "the tail keeps wagging the dog." He continued that "not only should we tell you what we want the auditors to look for, but I refuse for the auditors to tell us what we need to look for." He opined that the reason the utility situation became "unbearable" was because the work the Council required of the City Manager to perform was being done by department heads.

Councilman Stimatz reminded the Council that it received a letter on June 21, 2017 from Raftelis proposing the scope of work based on problems they identified through discussions with staff. He read aloud the following statement from Raftelis' scope of work: "The primary goal of the billing audit is to find inaccuracies; rectify problems or process failures; and ultimately, in turn, restore customer confidence in the City's billing." He pointed out that Raftelis intended to verify the validity of both the bills and the billing system. He noted that Raftelis would be analyzing every utility account. He furthered that if the data was "still off," the item would still be open for discussion.

Councilman Stimatz stated that Raftelis had given the City three options for the audit; and the City Council chose the \$35,000 option. He advised the Council that what Raftelis says "is not gospel"; it's still up to the City and the customers to ultimately determine. He suggested the City "clean-up" the way the bills look and the way payments are reflected. He added that the Council decided on Raftelis and voted to use their services. He continued that he thought their scope of work was "rational and reasonable." He pointed out that members of the Council were "impugning the integrity of an auditing firm" by suggesting that the firm would sway data in the City's favor simply because the City had worked with them before. He advised the Council that Raftelis has a good reputation and had to adhere to state-mandated auditing practices. He opined that stopping the audit did not make sense.

Mayor Pro Tem Hummer stated that one of her constituents had contacted her after receiving notice that her account had been audited. Mr. Olson replied that the company

that had contacted her was not Raftelis; the City was having its yearly auditors review accounts, as well. Mayor Pro Tem Hummer noted that she had suggested that the City's yearly audit include the utility bills.

Councilman Walton asked if IT Director Matthew Simpson had read the Raftelis proposal; and Mr. Simpson stated that he had not. Councilman Walton opined that Mr. Simpson should have been included on the decision since it's his "area of expertise."

Councilman Horton asked if having the yearly audit include a sampling of utility accounts was costing the City additional money. Mr. Olson stated that the auditors always include a sampling of utility bills; the City had simply requested that they compile a larger sampling this year. Councilman Horton asked why the current auditors didn't conduct the utility billing audit. Mr. Olson replied that the City's yearly audit only included a sampling of accounts; the Raftelis audit would include every account. Councilman Horton continued that he had a "major concern about the way this is being conducted." He stated that he was not questioning the integrity of Raftelis; he was questioning the integrity of the Council in choosing to use them. He opined that it was a "waste of \$35,000" because the citizens will feel that choosing Raftelis was "underhanded."

Councilman Brooks stated that the situation was about ethics. He said he felt the issue was that the citizens have lost trust in the integrity of their governing body. He opined that a Special Meeting should have been called to discuss the Raftelis proposal. He asked from which fund the City intended to pay for the audit. Mr. Olson stated that payment would come from the Enterprise Funds, which did not receive property tax revenue. He furthered that the Enterprise Funds were self-sufficient. Councilman Brooks opined that the Council wasn't trying to question the integrity of Raftelis, only present a united front.

Councilman Stimatz advised that the idea of an audit didn't come from the Council; it came from public commenters. He stated that just because a firm has done business with the City previously "doesn't mean they're in bed with us; it doesn't mean that I, as a Councilperson am influencing them." He pointed out Raftelis' answer isn't "the be-all, end-all answer." He reminded the Council that a meeting was held to discuss hiring Raftelis; and the issue had been discussed in detail.

Councilman Walton stated that he had suggested the audit before the citizens. He opined the audit was a "waste of time and a waste of money." He questioned why IT Director Matthew Simpson was not involved in the audit. Mr. Olson responded that while Mr. Simpson was a very capable individual, he had never dealt with utility billing.

Councilman Walton continued that if nothing was expected from the audit, he didn't understand why the City was conducting it.

Councilman Horton asked if the Council decided to suspend the audit, would the City still be liable to pay Raftelis the full \$35,000. City Attorney Morgan replied that he would need to analyze the contract and contact Raftelis.

Councilman Brooks questioned if the City would be in breach of contract if they withdrew from the audit. Mr. Morgan told him that if the City paid Raftelis, the contract would not be breached. He cautioned the Council that the conversation was bordering on legal advice, which he preferred not to give during open session.

Councilman Walton advised Councilman Horton that he should rescind his motion and "let these people show what kind of heart they really have on this Council."

**Councilman Darius Horton withdrew his motion to suspend the utility audit. Councilman Walton, who had seconded the motion, agreed.**

- b. **Discussion/Consideration – Recommended Changes to the Downtown Improvement Grant Program:** *(recommended for approval by the Finance Committee on July 6, 2017).*

Mayor Peel recognized City Manager Olson to lead the discussion of this matter. Mr. Olson advised the Council that ECDI Director Debbie Malenfant would present the item. Ms. Malenfant stated that the City was in its fourth year of the Downtown Improvement Grant (DIG) program. She noted the primary goal of the program was to increase occupancy of the City's Downtown. She reminded the Council that during its June 26, 2017 meeting, staff presented a list of recommended changes to the program in response to a request from City Council. She stated that the program was modified to give more consideration for businesses outside of the Downtown area. She stated that the Council had requested more information on the DIG program's historic data, which staff had compiled and presented as a handout. Ms. Malenfant pointed out that 24 DIGs had been awarded, totaling \$300,414; and \$771,504 had been invested in downtown properties as a result of the grants. She noted that of the 24 grants awarded, 17 properties remained occupied. She stated that over 128 jobs had been created due to the DIG program. She furthered that 47% of the DIGs scored received more than 50 points; while 64% received more than 40 points.

Ms. Malenfant advised the Council that staff kept many of its recommendations from the June 26, 2017 meeting, including: designating \$60,000 for Downtown businesses and \$20,000 for businesses outside of the Downtown area; two phases of competitive rounds; a first round deadline of September 1; a second phase deadline of December 31; a third round of funding, if available; allowing work to commence prior to City Council approval, at the risk of not being funded; defining an eligible structure as one that has been vacant for 60 days; Fire Inspector and ECDI Director included in initial review; and removal of roof repair and HVAC units from eligible projects. Ms. Malenfant listed the changes to the program, as follows: requiring an average score of 40 points during the first round for consideration; limiting the grant awards to one per individual or business; and requiring the ECDI Director in the initial review of all DIGs, not just for those submitted by downtown businesses.

ECDI Director Malenfant advised the Council that staff felt a minimum score should be required for grants. She clarified that applicants with a signed lease were eligible for a maximum of 100 points; applicants without a lease were only eligible for 50.

**Motion was made by Councilman Ray Donnelly, seconded by Councilwoman Jean Baker to approve the changes made to the DIG program.**

Councilman Stimatz suggested qualification language be added under the score on the rubric. He asked how staff intended to keep "big box" businesses from applying for the grant. He expressed his concern that limiting grant applications to one per business owner was unfair to people that owned more than one property. Ms. Malenfant stated that the new program outlines allowed for people with multiple businesses to apply for multiple grants, as long as they only applied for one grant per business. Councilman Stimatz declared that to be satisfactory and reiterated his question about how staff intended to detract large businesses from applying for the grant. He suggested size of the space or sales limits might be beneficial.

Councilman Walton stated the "mission" may need to be changed to include another entity since the program is no longer limited to Downtown. He noted that "one person could swallow up the whole \$20,000." He questioned how the City could recoup its money if a grant was awarded to a business that decided not to stay. ECDI Director Malenfant pointed out that there was nothing in the DIG program guidelines addressing recoupment of funds unless a property is sold within a 36-month period. Councilman Walton suggested that wording be included in the guidelines to address time specifications for the tenant.

Councilman Donnelly noted that "in the long run," the Council will make the decision on how much it's willing to give any applicant.

Councilman Brooks pointed out that the Council didn't want "the big businesses to eat up the small businesses." He stated that he felt the document would be "pretty much perfect" if staff could include wording that would qualify applicable business size.

Councilman Walton opined that he didn't feel like it should be the Council's decision about which businesses received funding because "people form circles." He stated that he believed something should be in place specifying who is eligible to get what.

Councilman Stimatz stated that he could vote for the revised guidelines as long as changes were implemented on the application itself regarding business size. City Manager Olson noted that staff had struggled with determining the best way to identify business size. Councilman Stimatz suggested that sales volume could be a quantifying factor. He stated that he did not want to get to the point where the Council had to turn down applications because large franchises were getting through. He pointed out that the DIG program was geared at helping entrepreneurs and small business owners. He noted that the City had a different program in place for assisting large businesses.

Mayor Peel suggested that it might be appropriate to add the word "local" to help determine eligibility.

Councilman Brooks stated that he "loved the conversation" that the Council was having about the program. He asked Mr. Olson if he felt that staff would have a problem finding the language to keep "the big fish from eating up the small fish." Mr. Olson replied that he believed staff could produce what the Council wanted in the application.

Being no further discussion, Mayor Peel called for the vote.

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

c. **Discussion/Consideration – Call for a Public Hearing to Consider Adoption of an Ordinance relating to the "Brunch Bill" passed by the General Assembly:**

Mayor Peel recognized City Manager Olson to provide the background on this matter. Mr. Olson advised the Council that the General Assembly approved certain changes to the Alcoholic Beverage Control Laws during its 2017 session. He stated that the Legislature determined that cities may establish the time that alcohol sales may commence on Sundays. He pointed out that current law did not allow any sales prior to noon on Sundays; but through adoption of an ordinance, cities may now allow sales to begin at 10:00 a.m.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Michael Brooks, to call for a Public Hearing to consider adopting an Ordinance related to the "Brunch Bill."**

Councilman Walton stated that he wanted to deny the call for a Public Hearing. He opined that the City did not have a problem with alcohol "yet." He asked if "this is what this brewery thing is all about."

Councilwoman Baker advised the Council that the Brunch Bill legislation came from the state, not from within the City.

Councilman Walton stated that "we're supposed to be this Christian community; we don't need no alcohol sold earlier than twelve o'clock." He continued "I know what alcohol can do to you. It's not good."

Being no further discussion, Mayor Peel called for the vote.

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

Councilman Brooks asked if the purpose of the Brunch Bill was only to move alcohol sales from noon to 10:00 a.m. Mayor Peel confirmed that was its purpose. He pointed out that the vote on the table was only to call for a Public Hearing on the item.

**A roll call vote was requested by Councilman Walton, which revealed the same results.**

**d. Discussion – Naming of Enfield Splash Pad:**

Mayor Peel recognized City Manager Olson to lead the discussion. Mr. Olson reminded the Council that Councilman Brooks had suggested changing the name of the Enfield Splash Pad during the June 5, 2017 Budget Work Session. He advised the Council that staff had provided a copy of the approved naming policy, and highlighted some of the pertinent points: property may only be named after an individual or organization that has made exceptional contributions to the City; the Council must consider its naming in open meeting and call for a Public Hearing with proper notice; and additional public input may be submitted.

Councilman Brooks recalled when former Mayor Roger McLean became mayor; the splash pad was an item of utmost importance to him. He remembered Mayor McLean's concern that the children in the community didn't have anywhere to play. He noted that Mayor McLean had worked "tirelessly" toward creating a splash pad and felt it would be fitting to consider naming it after him. He stated that it would be "an honor to his efforts."

Councilman Horton concurred with Councilman Brooks' suggestion to name the splash pad after former Mayor McLean.

**Motion was made by Councilman Darius Horton, seconded by Councilman Michael Brooks, to call for a Public Hearing to consider naming the Enfield splash pad after Roger McLean. Those voting in favor of the motion were: Donnelly, Walton, Baker, Hummer, Horton, Stimatz and Brooks. Against: None. Motion carried.**

**e. Discussion – City Council Compensation:**

Mayor Peel recognized City Manager Olson to lead the discussion on this item. Mr. Olson advised the Council that this matter had been discussed during the Finance Committee meeting of July 6, 2017. He pointed out that Mayor Pro Tem Hummer had asked to have the item added to the City Council meeting agenda.

Mayor Pro Tem Hummer advised the Council that her intent was to get a policy in place in order to streamline meetings. She stated that she believed it would be "too complicated" to apply the policy to all standing board and committee meetings; it would be best to use it for regular meetings and work sessions. She noted that staff had researched whether or not other cities had such policies in place and determined that they did not. She pointed out that her main concern was having a means of verifying that Council would have a quorum in advance of regular meetings and work sessions. She continued that a simple policy outlining the difference between an excused absence and an unexcused absence should be the extent of what was needed.

Councilman Stimatz asked "to what end would we have this policy." He asked for clarification since compensation and absenteeism were two different things.

Mayor Pro Tem Hummer stated that she would like to have a policy that divvied Councilmembers' pay up per meeting; if a Councilmember had an unexcused absence, they would not be paid for the meeting that they missed.

Councilman Stimatz asked if she was proposing a compensation schedule that was prorated based on Councilmember attendance. Mayor Pro Tem Hummer confirmed that she was. Councilman Stimatz pointed out that a policy determining what was considered an excused absence would need to be developed.

Councilman Donnelly stated that item "f" on the agenda tied into this discussion. He advised the Council that he had brought up the idea of "telephonic voting" several years back. He pointed out that the Council had not taken the idea under advisement. He

opined that a phone call to the City Clerk's office notifying that a Councilmember would not be able to attend a meeting would suffice.

**Motion was made by Councilman Ray Donnelly to have a five to ten percent reduction from a Councilors' stipend for unexcused absences from meetings.**

City Attorney Morgan declared that he wasn't sure if ten percent would be the limit, but he acknowledged that any policy would need to be approved by the Council before docking pay was discussed. He advised the Council that staff could draft a policy and present it for consideration during the August 14, 2017 meeting.

Mayor Pro Tem Hummer stated that her intent was to have staff draft a policy for the Council's approval. She advised the Council that in researching policies, she found that the Council is able to decrease its compensation for meetings, but cannot increase compensation unless it's in conjunction with the approval of the budget.

Councilman Brooks opined that "I think it's kind of ridiculous to even put it up here." He stated that "with all the issues that we have, this is the last thing that we need to be discussing." He continued that "we don't need to start messing with something that's not broken." He pointed out that it could cause strife among the Councilors to try to determine what constituted an excused absence. He added that "sitting on Council is not just attending this meeting." He opined that the issue was immaterial.

Councilman Walton opined that the idea was "ticky tacky." He expressed displeasure with the format an absentee record had been compiled and presented. He declared that the Council needed to help the citizens with problems and not worry about which member was absent from which meeting.

Councilman Donnelly reiterated the importance of attending meetings and that citizens were helped by the Councilors being present to work on their behalf. He pointed out that calling in advance to advise of an absence was not a lot to ask.

Councilman Stimatz stated that he felt the conversation needed to be addressed with the next group of Councilors. He added that many other boards and committees that he was a part of allowed for telephone meetings. He said being able to call in provided an ability to vote and partake in a conversation they wouldn't be able to otherwise.

**Councilman Donnelly withdrew his motion to reduce Councilmembers' pay based on attendance at meetings.**

Mayor Peel reiterated that if the Council wished to consider the matter, policy would need to be established first.

**Motion was made by Councilman Ray Donnelly, seconded by Mayor Pro Tem Anita Hummer, to have staff draft a policy on attendance for the Council to evaluate. Those voting in favor of the motion were: Hummer and Donnelly. Against: Brooks, Stimatz, Horton, Baker and Walton. Motion failed.**

Mayor Pro Tem Hummer stated that she wanted her constituents to know that she addressed the issue on their behalf.

f. **Discussion – Councilmember Attendance at Various Meetings:**

Mayor Peel recognized Councilman Donnelly and asked if he wanted to further address this issue. Councilman Donnelly responded that he was dissatisfied with the outcome of the conversation, but that he did not wish to readdress the topic since it had been interwoven into agenda item "e."

g. **Council Goals and Objectives:** *(added to the agenda by Councilman Stimatz)*

Mayor Peel recognized Councilman Stimatz to lead the discussion on this matter. Councilman Stimatz stated that the Council had elected to add a goal, item “5i” to its Goals and Objectives in March and it had not been updated yet. He pointed out that maintaining a Goals and Objectives list that was updated quarterly was, in itself, a goal. He expressed concern that he’d been requesting the item to be added since May and it would likely not be updated until August. He added that the Goals and Objectives was considered the Council’s “report card” and should be addressed regularly.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Darius Horton, to add to the item “5j” – update, approve and promulgate the Customer Service Policies and Procedures manual – to the Council’s Goals and Objectives. Those voting in favor of the motion were: Baker, Horton, Hummer, Stimatz, Walton, Brooks and Donnelly. Against: None. Motion carried.**

**h. Consideration – authorize the following for the Dawson Street Pump**

**Station Gravity Sewer Improvement Project:** *(removed from the Consent Agenda by Councilman Stimatz. Recommended for approval by the Finance Committee during their meeting of July 6, 2017.)*

- The City Manager to enter into a construction contract with George Raper & Son, Inc. for \$1,153,850;
- The City Manager to enter into a contract with Eastern Carolina Engineering, PC for the construction administration and inspection of the project for \$59,500; and
- The City Manager to enter into other project contingency contracts up to \$115,850.

Mayor Peel recognized City Manager Olson to give an overview of the item. Mr. Olson advised the Council that the City had received a grant from DENR several months ago in the amount of \$995,000 in order to complete improvements on a project previously called the Herrington Road Sewer Project. He stated that the bid opening was June 16, 2017 and the City received no bids. He continued that the bid was re-advertised and opened on June 28, 2017 at which time the City received two bids. He pointed out that the low bid was George Raper and Son at \$1,153,850; factoring in the added contingency and engineering would bring the project total to \$1,341,385. He noted that the City was over-budget on the project by \$346,000. He advised the Council that the majority of the funding had come from the State. He stated that, as it is the beginning of the fiscal year, several items had been identified to remove from the budget in order to make up the additional funding necessary to complete the project, including: the finish water pumps at \$290,360; water main improvements at \$200,000; and a truck replacement at \$27,000. He said that these items could also be done as installment purchases, if the City did not wish to delay them. Mr. Olson added that staff was also seeking additional funding from DENR.

Councilman Stimatz stated that denying this project would cause problems, and he didn’t want to do that. He asked what the impact of delaying the other projects would be. City Manager Olson noted that all items were critical issues; the option the City had was to complete the water pumps and water main improvements as installment purchases.

Councilman Stimatz asked what the Finish Water Pump Project consisted of and what issue it was fixing. Mr. Olson stated that it was a critical part of the water treatment plant and dealt with the high-surface pumps. He recognized Public Utilities Director Joe Pearce to elaborate. Mr. Pearce stated that the City had four pumps in total; of those, two were down. He noted that one pump was in good condition, while the other would require an expensive repair or replacement for a failed valve. He said the project was meant to install a new wet well and pumps.

Councilman Stimatz asked what the problem was that the project was trying to prevent. Mr. Pearce responded that if the pumps failed, there would be no water going to the water towers or being distributed throughout the city. He stated that in addition to the bad valve, one pump had a bad bearing. He noted that there was one large pump that could be turned on, but the pressure could damage old water lines. He pointed out that

old infrastructure was part of the problem. Mr. Pearce stated that repair would require less funding than replacement and would get the City through the year.

Councilman Stimatz pointed out that the way the document was presented, it sounded as if the Dawson Street Project was completed, the City would have to forego the Finish Water Pumps Project. He suggested that creative financing options should be considered to complete both projects. Mr. Pearce noted that “some version” of the Finish Water Pumps Project would be done; repair or replacement depending on funding, as the item was critical.

Councilman Stimatz asked for a further explanation of the water main improvements. Mr. Pearce advised the Council that the water main lines were two-inch lines that were experiencing calcium buildup. He stated that if they became nonoperational, homes would lose water pressure. He advised that the project involved replacing the two-inch lines with six-inch lines, which would alleviate the calcium-carbonate buildup. Councilman Stimatz confirmed that this project was not critical; the “worst thing” that could happen would be unscheduled maintenance due to a line clog.

**Motion was made by Councilman Tony Stimatz, seconded by Councilman Ray Donnelly to approve the Dawson Street Pump Station Gravity and Sewer Improvement Project, on the condition that the Water Pump Project also be undertaken.**

Councilman Walton asked what a “contingency contract” entailed. City Manager Olson stated it allowed leeway for unexpected changes. Councilman Walton opined that the amount of money associated was a large balance, and stated that he felt a special meeting should be called before the Council gave the City Manager the right to use that much money.

Councilman Stimatz pointed out that “typical engineering contracts,” including many that had been previously approved by the Council, have a ten percent contingency line item. He advised the Council that it was strictly for the purpose of making sure that “you have enough money in the bank in case something happens and you need to do it; it doesn’t mean you’re going to spend it.” He wondered why it was being questioned now when the City had given the City Manager and Public Works Director “many, many multi-million dollar contracts” to handle in the same manner.

As there was no further discussion on the matter, Mayor Peel called for the vote.

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

**i. Daily Advance Articles** *(added to the agenda by Councilman Walton)*

Mayor Peel recognized Councilman Walton to lead the discussion on this matter. Councilman Walton opined that the Daily Advance “protects some people and knocks down other people.” He stated “the three amigos always catching it.” He added that he felt that during election time “the Daily Advance always pulls for certain people that they put in their circle, and the other ones, they knock them down.” He declared that the last Council meeting was “awesome,” yet nothing had been written about it in the newspaper. He read several recent, unrelated headlines from the Daily Advance to the Council, opining that the news the paper reported was not the big picture of Elizabeth City.

Councilman Walton expressed concern that IT Director Matthew Simpson was not being utilized in the utility billing audit. He stated that should have been an item that the Daily Advance reported. He added that he felt that he and Councilman Brooks were painted as “bad guys” in the newspaper. He opined that “we don’t get a true picture of what really happens.” He continued that “racism is here; alive and well.” He voiced displeasure for a comparison that Daily Advance columnist Holly Koerber Audette had drawn between the Mayor and Bill Lehman. He stated that “they just put anything in the paper, and they don’t put the important things in there.” He said that he hoped the children in the City did not pick up on the adults’ habits.

## **8. Comments and Inquiries on Non-Agenda Items:**

Councilman Brooks thanked the Enough is Enough group and the citizens who came to meetings to voice their concerns. He stated that he respected them because he knew “how difficult it is sometimes to come in front of that podium; these are not friendly faces to look at.” He opined that the citizens “started the process of making a difference.” He praised the splash pad as a City success. He reiterated his praise for the Enough is Enough group and advised them to “stick to it and hold people accountable.” He opined that running for City Council without having attended meetings and addressing concerns was “not good.” He stated that being on the Council was “a serious position because you’ve got the people’s livelihood in your hand.” He said that it “hurt” when Sarah Ownley came in and explained what she was going through when her utilities were disconnected. He added that some members of the Council had been “attacked in ways you can only imagine.” Councilman Brooks continued that many young people do not see Elizabeth City as a place to make a permanent home. He opined that the Daily Advance should refrain from using the word “Council” unless it applied to all the members.

Councilman Stimatz noted that he had sent several requests for information on the weatherization program and not received any follow-up from staff. He advised the City Manager that he needed the link from the DOE website, and asked if the City’s standard for weatherization was the NEAT manual.

Councilman Horton reminded the Council that its purpose was to represent the people of the City. He stated that he did not support many of the decisions that the Council has made. He continued that “I feel like we’re leading the City in the wrong direction.” He added that he believed City Clerk Vivian White to be “a woman of integrity” who he admired and respected. He added that he would miss working with her and wished her continued blessings.

Mayor Pro Tem Hummer thanked City Clerk White. She stated that Ms. White had worked many hours and had been of the upmost help to her.

Councilwoman Baker thanked City Clerk White and said “she worked a whole lot harder than most people knew.” She reminded the Council that in 2001 there were 23 people running for nine seats and hoped that this year’s election would bring the same enthusiasm.

Councilman Walton stated that “if a person tells you what you want to hear, they’re not a friend.” He added that he loved all of the Council members. He referred to the Council as “internal customers” and urged the members to build off one another. He encouraged the citizens to vote and stay abreast of issues.

Councilman Donnelly stated that City Clerk Vivian White was a “go-to” person, and that she had been helpful during his tenure on the Council. He thanked the citizens for attending the meeting. He told the Department Heads that he was sorry they had to “listen to a lot of the malarkey that goes on up here.”

Mayor Peel thanked Ms. White for her years of service. He thanked the citizens that attended the Council meeting.

## **9. Adjournment:**

There being no further business to be discussed, Mayor Peel adjourned the meeting at 10:17 p.m.

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Joseph W. Peel  
Mayor

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Vivian D. White, CMC/NCCMC  
City Clerk