

**City Council Regular Session
May 13, 2024**

The City Council of the City of Elizabeth City met in Regular Session on Monday, May 13, 2024 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Kirk Rivers
Mayor Pro Tem Kem Spence
Councilman Johnson Biggs
Councilman Joseph Peel
Councilwoman Rose Whitehurst
Councilwoman Katherine Felton
Councilman Ronnie Morris
Councilman Johnnie Walton

MEMBERS ABSENT: Councilman Javis Gibbs

OTHERS PRESENT: City Manager Montre' Freeman
City Attorney Bill Morgan
Electric Superintendent Donnell White
Interim Chief of Police James Avens
Interim Human Resources Director Anna Spence
ECDI Director Debbie Malenfant
Fire Chief Chris Carver
Deputy Fire Chief Thomas Brooks
Community Development Director Reggie Goodson
Finance Director Alicia Steward
Assistant Finance Director Brian Lewis
Public Utilities Director Dwan Bell
Parks and Recreation Director Sean Clark
Grants Management Specialist Jon Hawley
IT Director Matthew Simpson
IT Systems Analyst Pedro Holley II
City Clerk April Onley

The City Council Regular Session was called to order by Mayor Rivers at 7:00 p.m. Reverend Daniel Cenci was recognized to provide invocation, after which Councilman Biggs led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

Mayor Rivers directed the Council's attention to the prepared agenda. Councilman Peel requested that item D on the Regular Agenda – Call for a Public Hearing on the Naming of the Former Middle School Gymnasium - be removed at staff's behest. Consideration of an appointment to the Alcohol Beverage Control Board would be added in its place.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Johnson Biggs to approve the agenda as amended. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

2. Mayoral Proclamations / Recognitions:

a. Proclamation – Public Works Week;

***PROCLAMATION
NATIONAL PUBLIC WORKS WEEK
May 19-25, 2024***

"Advancing Quality of Life for All"

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Elizabeth City; and,

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers, and employees at all levels of government and the private sector, who are responsible for rebuilding, improving, and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

WHEREAS, it is in the public interest for the citizens, civic leaders and children in Elizabeth City to gain knowledge of and to maintain an ongoing interest and understanding of the importance of public works and public works programs in their respective communities; and,

WHEREAS, the year 2024 marks the 64th annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association.

BE IT NOW RESOLVED, that I, Kirk Rivers, Mayor, do hereby designate the week of May 19-25, 2024 as National Public Works Week in Elizabeth City. I urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events, and ceremonies designed to pay tribute to our public works professionals, engineers, managers, and employees and to recognize the substantial contributions they make to protect our national health, safety, and quality of life.

ADOPTED this the 13th day of May, 2024.

E. Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

Assistant Director Raymond Staten received the proclamation on behalf of the department. Assistant Director Staten advised that they will be celebrating throughout the next week and Council will be receiving an invitation within the next day or two. Beginning on May 20th, they will be delivering breakfast to various departments, hold the Touch-a-Truck event, a volleyball tournament, a cook-off and then end with the employee appreciation potluck luncheon.

b. Proclamation – Police Week;

Proclamation
National Law Enforcement Week
May 10-16, 2024

WHEREAS, in 1962 President John F. Kennedy proclaimed May 15th as National Peace Officer's Memorial Day and the week in which it fell as National Law Enforcement Week to pay special attention to those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others; and,

WHEREAS, there are approximately 800,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Elizabeth City Police Department; and,

WHEREAS, since the first recorded death in 1791, there are currently 24,067 law enforcement officers in the United States who have made the ultimate sacrifice and been killed in the line of duty; and,

WHEREAS, National Law Enforcement Week will be observed this year from May 10th through May 16th; and,

WHEREAS, all citizens of Elizabeth City should remember and recognize the men and women who serve and protect them, and keep in mind that there are law enforcement officers working in the City every hour of every day to ensure that our community and the people in it remain safe.

NOW THEREFORE, BE IT RESOLVED that I, Mayor Kirk Rivers, and members of the City Council of the City of Elizabeth City formally designate May 10-16, 2024, as National Law Enforcement Week in Elizabeth City, and publicly salute the service of law enforcement officers in our community and in communities across the nation.

Adopted this the 13th day of May 2024.

E. Kirk Rivers
Mayor

ATTEST:

April D. Onley, NCCMC
City Clerk

Interim Chief Avens thanked the Council for recognizing the Police Department in this way. He reminded the Council that Congressman Davis would be on site tomorrow at 2:00 p.m. He added that not only are they recognizing Police Week this week, but also the NC Potato Festival starts this week. We are expecting a busy week for our officers.

c. Proclamation – AKA Zeta Kappa Omega;

Mayor Rivers stated this organization had been planting trees in our community for several years in a row to help beautify Elizabeth City. They adopted River Road Middle School to ensure help students have food over weekends and holidays. They've initiated youth leadership institutes for ages 11-13 to promote independence and leadership skills in children as they transition to young adulthood. They collaborate with the City and ECSU. They have "adopted" Walnut Street and help keep the street free of litter. They advocate for social justice and uplift our community. They provide personal care items to domestic violence shelters, nursing homes and the homeless population in partnership with SOULS ministry and others.

*Proclamation Honoring
Alpha Kappa Alpha Sorority, Inc.
Zeta Kappa Omega Chapter*

WHEREAS, the Alpha Kappa Alpha Sorority, Incorporated, formed in 1908 is the oldest Greek letter organization established by college-educated African American women; and

WHEREAS, Elizabeth City's local AKA Chapter, Zeta Kappa Omega, embraces and expresses the sorority's five tenets: to cultivate and encourage high ethical standards; to promote unity and friendship among college women; to study and help alleviate problems concerning girls and women in order to improve their social stature; to maintain a progressive interest in college life; and to be of "Service to All Mankind"; and

WHEREAS, the Zeta Kappa Omega Chapter is highly visible in our community, from partnering with the City of Elizabeth City to Enhance our Environment by planting trees, to providing weekly meals through their Child Hunger Initiative Power Pack Program, ensuring that our children don't have to live with food insecurity; and

WHEREAS, these sorority members have recognized various needs in Elizabeth City and answered the call to service, from providing resources to schools and nursing homes, to assisting with special programs at ECSU and performing invaluable volunteer work with the local Food Bank and SOULS ministry; and

WHEREAS, the Zeta Kappa Omega Chapter remains an active group in Elizabeth City today and one that we are blessed to have call Elizabeth City home.

NOW, THEREFORE, I, Kirk Rivers, Mayor of the City of Elizabeth City, do hereby proclaim Monday, May 13, 2024 as

AKA Zeta Kappa Omega Chapter Day

in the City of Elizabeth City and encourage all residents to follow in the footsteps of these remarkable women in giving back to the Elizabeth City community in meaningful ways.

PROCLAIMED this 13th day of May 2024.

E. Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

Velma Blackman, the President of Zeta Kappa Omega thanked the Mayor and Council for their kind words. There are over 300,000 AKAs across the world and they are pleased to be a chapter in the organization. They do what they do not because these things aren't being done by others, but because they believe in "Service to All Mankind." They live here; their children and future children will live here and it is important to care for your community and those in it. She provided the Mayor with a check for Elizabeth City Parks and Recreation on behalf of the AKA Zeta Kappa Omega organization.

d. Recognition – Ron Boykins;

Mayor Rivers recognized Mr. Boykins and the NHS Civics class. He congratulated them and shared his excitement about 10th graders actively making a difference. He explained that recently, this class brought together seniors and encouraged them to register to vote. They had the Mayor and the Board of Elections Director come in to discuss the importance of voting and he was so proud to see young people get involved. He expected them to grow and continue improving. He thanked Mr. Boykins for teaching these students and shaping their young minds to do great things. He presented Mr. Boykins with a mayoral certificate of recognition. He presented each student who was present with the official coin of the City of Elizabeth City. He told them he was happy to know that our City, State and Nation were in good hands with kids like them coming up behind them. Mr. Boykins thanked the Council for allowing them an opportunity to come and be a part of a Council meeting. This was his 29th year in education, which started after spending eight years in the Army. His career had taken him from the University of Arizona to Atlanta to Elizabeth City. He was happy to be at NHS. Most of his time was spent as principal or superintendent, but he was excited to now work with students at this level. One of the challenges in education is the disconnect between what is taught and what students learn because we do not get to apply the learning. He looks at how to apply the learning so it becomes real. This event focused on elections, so they took it to another level to have a real impact. Sometimes the adults stand at the front, but they need to get out of the

way. Mr. Boykins introduced several of his students and had them speak about how they turned their Civics project into real life. For the past week, they worked on a class project about 12th graders as voters. They reached out to parents and the mayor. It was stressful to design and plan, but they were able to convey the weight young opinions carry and how they can influence change. On Wednesday, May 8th, 75 seniors came to their program and they gained 30 voters from the event. Multiple students came after the fact to learn more about it. They intend to begin an election bulletin board at the school so people keep voting at the forefront of the mind. They provided snacks and drinks because they felt like they'd get more people to come to the event if they had food. At first, everything was difficult to put together because they were initially responsible with getting donations coordinated as well as students at the school. They sent out an email for assistance, but everything came together at the end. Mr. Boykins told his students that on behalf of all the adults present, they made a difference. Mayor Rivers said he would be making sure a leadership summit started for students to recognize and cultivate the youth in our community because he wanted them to take their places one day.

e. Employee Retirement – Anthony Waiters;

Mr. Waiters was unable to attend the meeting.

3. Comments from the Public:

There were no public comments.

4. Public Hearings:

a. Hold a Public Hearing – Project White Eagle Building Reuse Grant;

Mayor Rivers declared the public hearing open and inquired of the Clerk if there were any speakers. Upon the Clerk's reply that there were no speakers, the Mayor declared the public hearing closed.

Motion was made by Councilman Joseph Peel, seconded by Mayor Pro Tem Kem Spence to adopt a resolution in support of a State of NC economic development incentive by way of Building Reuse Grant for Project White Eagle. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

Resolution # 2024 –05-01

Supporting an Application on Behalf of a Company to be Referred to as "Project White Eagle" to the North Carolina Department of Commerce Rural Economic Development Division Building Reuse Program

WHEREAS, The City of Elizabeth City is committed to advancing and promoting economic development in Elizabeth City, North Carolina; and

WHEREAS, North Carolina General Statute 158-7.1(a) authorizes the use of economic incentives for the purpose of private sector job creation; and

WHEREAS, Project White Eagle has pledged to create up to 23 new full-time jobs in Elizabeth City, is eligible to apply for a Building Reuse Grant up to the amount of \$200,000 through the North Carolina Department of Commerce, and requires the sponsorship of the City of Elizabeth City and Pasquotank County to make application; and

WHEREAS, the City of Elizabeth City acknowledges that, if the grant is awarded, it will be required to commit a cash match of 5% of the grant amount toward the project for a total cash match of up to \$10,000, one-half to be funded by the City of Elizabeth City to Pasquotank County; and

NOW, THEREFORE, BE IT RESOLVED by the Elizabeth City City Council that it does hereby support and endorse the application of Project White Eagle to the North Carolina Department of Commerce's Building Reuse Grant Program for a grant up to the amount of \$200,000.

ADOPTED, this the 13th day of May 2024.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

b. Hold a Public Hearing – Project White Eagle One NC Grant;

Mayor Rivers declared the public hearing open and inquired of the Clerk if there were any speakers. Upon the Clerk's reply that there were no speakers, the Mayor declared the public hearing closed.

Motion was made by Councilman Johnson Biggs, seconded by Mayor Pro Tem Kem Spence to adopt a resolution in support of a State of NC economic development incentive by way of a One NC Grant for Project White Eagle. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

Resolution # 2024 –05-02

Supporting an Application on Behalf of a Company to be Referred to as "Project White Eagle" to the North Carolina Department of Commerce Division One North Carolina Fund Program

WHEREAS, the City of Elizabeth City is committed to advancing and promoting economic development in Elizabeth City, North Carolina; and

WHEREAS, North Carolina General Statute 158-7.1(a) authorizes the use of economic incentives for the purpose of private sector job creation; and

WHEREAS, Project White Eagle has pledged to create up to 23 new full-time jobs in Elizabeth City, is eligible to apply for a One NC Fund Grant up to the amount of \$60,000 through the North Carolina Department of Commerce, and requires the sponsorship of the City of Elizabeth City and Pasquotank County to make application; and

WHEREAS, the City of Elizabeth City acknowledges that, if the grant is awarded, it will be required to commit a cash match of \$1 for every \$3 of the grant amount toward the project for a total cash match of up to \$20,000, one-half to be funded by the City of Elizabeth City to Pasquotank County.

NOW, THEREFORE, BE IT RESOLVED by the Elizabeth City City Council that it does hereby support and endorse the application of Project White Eagle to the North Carolina Department of Commerce's One North Carolina Fund Grant Program for a grant up to the amount of \$60,000.

ADOPTED, this the 13th day of May 2024.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

5. Approval of Minutes:

a. Consideration – Approve April 15, 2024 Budget Work Session Minutes;

Motion was made by Councilman Joseph Peel, seconded by Mayor Pro Tem Kem Spence to approve the minutes with any necessary corrections. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

b. Consideration – Approve April 22, 2024 Work Session Minutes;

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Johnson Biggs to approve the minutes with any necessary corrections. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

c. Consideration – Approve April 22, 2024 Regular Session Minutes;

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Johnson Biggs to approve the minutes with any necessary corrections. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

d. Consideration – Approve April 29, 2024 Budget Work Session Minutes;

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Joseph Peel to approve the minutes with any necessary corrections. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

6. Consent Agenda:

Mayor Rivers read the Consent Agenda item into the record, as follows:

- a. Consideration – Call for a Public Hearing – Text Amendment for Vape Store;**
- b. Consideration – Call for a Public Hearing – CUP for Pedal Bikes;**
- c. Consideration – Call for a Public Hearing – CUP for Commercial Low Speed Vehicles;**
- d. Consideration – Accept Offer for Bank Street;**
- e. Consideration – Adopt Resolutions for Eligible Use Policy, Non-Discrimination Policy;**

**Resolution # 2024 –05-03
RESOLUTION APPROVING ELIGIBLE USE POLICY**

WHEREAS, the City of Elizabeth City has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of HR 1319 American Rescue Plan Act of 2021 (ARP/CSLRF); and

WHEREAS, US Treasury is responsible for implementing ARP/CSLRF and has enacted a Final Rule outlining eligible projects; and

WHEREAS, the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;

2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacts industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS, the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CRF Part 200 (UG), as provided in the Assistance Listing; and

WHEREAS, US Treasury has issued a Compliance and Reporting Guidance v.2.1 (November 15,2021) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS, the Compliance and Reporting Guidance states on page 6 that:

Per 2 CFR Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

BE IT RESOLVED that the City of Elizabeth City hereby adopts and enacts the following Eligibility Determination Policy for ARP/CSLFRF funds.

ELIGIBILITY DETERMINATION POLICY FOR AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

This policy defines the permissible and prohibited uses of the Coronavirus State and Local Fiscal Recovery Funds of HR 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF) funds. It also outlines the procedures for determining how the City of Elizabeth City will spend its ARP/CSLFRF funds.

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

US Treasury issued its Final Rule regarding use of ARPA funds on January 6, 2022. (The Final Rules is effective as of April 1, 2022. Until that date, a local government may proceed under the regulation promulgated by US Department of the Treasury in the Interim Final Rule of the Final Rule.) The Final Rule (and the Interim Final Rule) identify permissible uses of ARP/CSLFRF funds and certain limitations and process requirements. Local governments must allocation ARP/CSLFRF funds no later than December 31,2024 and disburse all funding no later than December 31, 2026. Failure of an entity to expend all funds by December 31, 2026 will result in forfeiture of ARPA funds.

ARP/CSLFRF funds may be used for projects within the following categories of expenditures:

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacts industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;

4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

II. PROHIBITED USES OF ARP/CSLFRF FUNDING

The ARP/CSLRF and US Treasury's Final Rule prohibit certain uses of ARP/CSLFRF funds. Specifically, ARP/CSLFRF funds may not be used for projects within the following categories of expenditures.

1. To make a deposit into a pension fund that constitutes an extraordinary payment of an accrued, unfunded liability (Note that routine contributions as part of a payroll obligation for an eligible project are allowed.);
2. To borrow money or make debt service payments;
3. To replenish rainy day funds or fund other financial reserves;
4. To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt restricting in a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires the City of Elizabeth City to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then the costs of those otherwise ARP/CSLFRF-eligible projects are allowed.);
5. For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;
6. In violation of the conflict-of-interest requirements imposed by the award terms and 2 CFR 200.318©.
7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

The City of Elizabeth City, and any of its contractors or subrecipients, may not expend any ARP/CSLFRF funds for these purposes.

III. PROCEDURES FOR PROJECT APPROVAL

The following are procedures for ARP/CSLFRF project approvals. All City of Elizabeth City employees and officials must comply with these requirements.

1. Requests for ARP/CSLFRF funding must be made in writing and include all the following:
 - a. Brief description of the project.
 - b. Identification of ARP/CSLFRF Expenditure Category (EC) (A list of ECs in the Appendix to the US Treasury Compliance and Reporting Guidance.)
 - c. Required justifications for applicable projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARPA funding should review the Final Rule and Final Rule Overview prior to submitting a proposal.
 - d. Proposed budget, broken down by cost item, in accordance with the City of Elizabeth City Allowable Cost Policy.
 - e. A project implementation plan and estimated implementation timeline (All ARP/CSLFRF funds must be fully obligated by December 31, 2024, and fully expended by December 31, 2026.)
2. Requests for funding must be submitted to Finance Director for approval. All requests will be reviewed for ARP/CSLFRF compliance for allowable costs and other financial review.
3. No ARP/CSLFRF may be obligated or expended before final written approval by City Council approval of Project(s) and budget amendment(s).
4. If a proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.

5. Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by the Finance Director immediately.
6. Finance Director must collect and document required information for each project, for purposes of completing the required Project and Expenditure reports.
7. The Finance Director must maintain written project requests and approval, all supporting documentation, and financial information at least until December 31, 2031.

ADOPTED, this the 13th day of May 2024.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

Resolution # 2024 –05-04
RESOLUTION APPROVING NONDISCRIMINATION POLICY

WHEREAS, the City of Elizabeth City has received an allocation of funds from the “Coronavirus State Fiscal Recovery Fund” or “Coronavirus Local Fiscal Recovery Fund” (together CSLFRF funds”), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the “ARP/CSLFRF award”).

WHEREAS, CSLFRF funds are subject to the US Department of Treasury (“Treasury”) regulations, including the Final Rules, the Award Terms and Conditions, and the Title VII implanting regulation at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the City of Elizabeth City agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000D et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familiar status or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C 6101 et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

RESOLVED that the City Council of Elizabeth City of the City of Elizabeth City hereby adopts and enacts the following nondiscrimination policy, which shall apply to the operation of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

NONDISCRIMINATION POLICY STATEMENT

It is the policy of the City of Elizabeth City to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity administered by the City of Elizabeth City, including programs or activities that are funded in whole or part, with Coronavirus State and Local Fiscal Recovery Funds ("CSLFRF"), which the City of Elizabeth City received from the US Department of Treasury ("Treasury") pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (herein the "ARF/CSLFRF award").

I. GOVERNING STATUTORY & REGULATORY AUTHORITIES

As required by CSLFRF Award Terms and Conditions, the City of Elizabeth City shall ensure that each "activity," "facility," or "program" that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000D et seq.) and Treasury's implementing regulations at 31 C.R.F. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familiar status or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

II. DISCRIMINATORY PRACTICE PROHIBITED IN THE ADMINISTRATION OF THE ARP/CSLFRF AWARD

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, the City of Elizabeth City shall prohibit, at a minimum, the following practices in its administration of CSLFRF pursuant to the ARP/CSLFRF award:

1. Denying to a person any service, financial aid, or other program benefit without good cause;
2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program.
3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;

6. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
9. Discrimination against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. REPORTING & ENFORCEMENT

1. The City of Elizabeth City shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The City of Elizabeth City shall comply with information requests, on-site compliance reviews, and reporting requirements.
2. The City of Elizabeth City shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964) and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. The City of Elizabeth City shall inform the Treasury if it has received no complaints under Title VI.
3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the City of Elizabeth City in violation of this policy should contact the Offices of the Finance Director and City Manager within 180 days from the date of the alleged discriminatory occurrence.

ADOPTED, this the 13th day of May 2024.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

- f. **Consideration – Approve Budget Amendment for Flora Street Stormwater Improvement Project;**

III. The following revenue is anticipated to be available to complete this project:

[INSERT ACCOUNT #]	Golden LEAF Flood Mitigation Program	\$1,528,000
[INSERT ACCOUNT #]	Golden LEAF Disaster Recovery Grant	\$169,392

IV. The following amount is appropriated for project expenses:

[INSERT ACCOUNT #]	Engineering & Design; Construction	\$1,697,392
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V. Copies of this capital project ordinance shall be made available to the Budget Officer and Finance Director for direction in carrying out this project.

Adopted this 13th day of May, 2024.

Edward Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

j. Consideration – Adopt Resolution Directing Clerk to Investigate Sufficiency of Petition for Voluntary Annexation – 957 Body Road;

**RESOLUTION #2024-05-05
DIRECTING THE CITY CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G. S. 160A-31
PONDEROSA LANDCO, LLC
57.40 ACRES**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on May 13, 2024 by the City Council; and

WHEREAS, G. S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Elizabeth City deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth City:

THAT the City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of her investigation.

ADOPTED, this the 13th day of May 2024.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

Mayor Rivers requested the Council's pleasure on the Consent Agenda.

Motion was made by Councilman Joseph Peel, seconded by Mayor Pro Tem Kem Spence to approve the Consent Agenda. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

7. Regular Agenda:

a. Any Items Removed from the Consent Agenda;

No items were removed from the Consent Agenda.

b. Consideration – Re-Appointments to the Tourism Development Authority (By Motion and Roll Call Vote);

Councilman Walton stated that he served on the TDA and felt that both candidates for re-appointment had been doing a good job and represented the board well.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Johnson Biggs to confirm the re-appointment of Holly Audette as the TDA's joint hotel/motel representative for a two-year term. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. A roll call vote followed, which yielded the same results. Motion carried.

Motion was made by Councilman Joseph Peel, seconded by Councilman Johnson Biggs to recommend the re-appointment of James DuBose Jr. to the Pasquotank County Commissioners as the TDA's City at-large appointee. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. A roll call vote followed, which yielded the same results. Motion carried.

c. Update / Consideration – Harbor Towns;

Manager Freeman advised that staff and A.R. Chesson and Harbor Towns have been working on the proposed upgrades to Waterfront and Mariners' Wharf parks. During the last presentation, the Council requested updates as they became available. Director Malenfant stated that on January 22, 2024, the Council approved the proposed improvements being paid for by the \$2 million from the General Assembly. Those improvements included the bathrooms, the extension and renovation of the pier, construction of an octagonal pavilion, addition of community perimeter sidewalk pathways, signage, lighting service for the Albemarle Queen dinner boat, a shower facility, as well as a rollup and concession window at Mariners' Wharf. They also approved the addition of three new piers, but the team is now recommending just two new piers instead. They approved electrical and water connections at the boat docks. The renderings are all the same as they appeared in January except for image #4, which depicts two boat docks instead of three

The first ferryboat, The Penelope, was unveiled on April 18th. The dinner boat has arrived in the region and staff is being hired for operation. The construction team, AR Chesson has put together the formal designs in the plans and they have obtained estimates, but not bids. It is estimated that all the elements will fall within the \$2 million allocation, so no cuts will have to be made. Permitting, followed by the start of the work is ready to begin. During the January meeting, the Council requested they start the bathroom facility at Waterfront first. The engineering process is estimated at three months. CAMA permitting is estimated at six months. The restrooms can begin before CAMA permitting is acquired. We're looking at a timeline of about one year for completion. Harbor Towns will work with City staff and ECDI to make sure construction does not interfere with anything going on in the area. At this time, the group is requesting approval to move forward all discussed, provided all permitting is received.

Mr. Peter Thomson shared that they have a demanding schedule to try to get in, but with the help of Mr. Morris and AR Chesson, all the estimates have been done on engineering and

permitting and it can all be done within the grant allocation of \$2 million. They are very happy to report that they'll be able to do everything they initially hoped. This is the result of a few months of working with Director Clark and some of the other superintendents to make sure everything is in place. It's a great night to be present to say we can do everything you've approved. They're just looking for a final blessing to go forward with the engineering and permitting to get this done for Elizabeth City.

Councilman Biggs said he'd asked about possibly making the entrance and exit lanes to the park a bit wider because boat traffic going to the dinner boat may get congested. Mr. Thomson noted that they did look into that and it will require the engineers to tell them how much they can do. Mr. Morris believed they could soften the curve and give them what they were looking for. Councilman Biggs pointed out that when cars were coming into the park and making the turn, there's one section where it gets very tight. Mr. Morris felt that the curve being softened could alleviate that problem. Councilman Biggs stated that there's already increased traffic with the addition of the restaurant so he just wanted to make sure we weren't worsening the problem.

Motion was made Councilman Joseph Peel, seconded by Mayor Pro Tem Kem Spence to authorize Harbor Towns Cruises and AR Chesson Construction to begin the engineering, permitting and construction contingent on receipt of all required permits. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

d. Consideration – Call for a Public Hearing – Naming of Former Middle School Gymnasium *(Removed During Agenda Adjustments)*;

e. Consideration – Appointment to the ABC Board (By Motion and Roll Call Vote *(Added During Agenda Adjustments)*;

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Joseph Peel to appoint Brenda Layden to the Alcohol Beverage Control Board for a four-year term. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. A roll call vote followed, which yielded the same results. Motion carried.

f. Consideration – Declare Southern Avenue Property as Surplus;

The Clerk explained that this item was placed on the Regular Agenda for consideration, as the property in question was purchased by the City in 2002 with funding from the Hugh Cale Revitalization Strategies Grant. Two tracts were purchased at the same time: 601 Southern Avenue and 605 Shepard Street. This is a bit different from the properties we generally receive from the Sheriff's Tax Sales, and we do not currently have an offer, just interest. The Clerk asked the Council how they wished to proceed.

Councilman Biggs noted that on the tax card, there was another very small piece of land connected to these parcels that the City also owned. The property was only identified as 0000 Shepard Street. Since they were all relatively small, he said he would like to sell them together if possible so whoever purchased them would have the option to recombine and potentially build. He asked the City Attorney if that would be proper for them to do. Attorney Morgan replied that the Council could declare all three parcels surplus as a single unit, so they would be purchased together. He would not recommend the City recombine them at this time, but whoever purchased them certainly could. Beyond that, the process would follow normal surplus procedures. The Council could set an opening bid floor or just indicate that it was open for bids in general

Motion was made by Councilman Johnson Biggs, seconded by Mayor Pro Tem Kem Spence to declare 601 Southern Avenue, 605 Shepard Street, and the contiguous property labeled as 0000 Southern Avenue as surplus and advertise as a single unit comprised of three tracts for sale. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

**Resolution # 2024 –05-06
Declaring Real Property Surplus
and Authorizing Sale by Upset Bid Process**

WHEREAS, the City of Elizabeth City is the owner of real property identified on the Pasquotank County Registry as the following:

- PIN: 891308975838 and Map 26-C-3, and having a physical address of 601 Southern Avenue; and
- PIN: 891308975921 and Map 26-C-2, and having a physical address of 605 Shepard Street; and
- PIN: 891308974889 and Map 26-C-1C, and having a physical address of 00000 Shepard Street; and

WHEREAS, the City of Elizabeth City has no current or future need for these properties; and

WHEREAS, the City Council has authorized to declare these properties as surplus and available to be sold as a single unit containing three tracts; and

WHEREAS, the City Council has authorized notice to be published to solicit bids for the sale of the properties, pursuant to the upset bid process as outlined in NCGS §160A-269.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elizabeth City that the parcels of property identified on the Pasquotank County Registry as:

- PIN: 891308975838 and Map 26-C-3, and having a physical address of 601 Southern Avenue; and
- PIN: 891308975921 and Map 26-C-2, and having a physical address of 605 Shepard Street; and
- PIN: 891308974889 and Map 26-C-1C, and having a physical address of 00000 Shepard Street are hereby surplus to the needs of the City.

AND FURTHER BE IT RESOLVED that the City Clerk shall be authorized to begin the upset bid process as required by North Carolina General Statute §160A-269.

ADOPTED, this the 13th day of May 2024.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

g. Consideration – TDA Request – River City Skippers;

Motion was made by Councilman Joseph Peel, seconded by Councilwoman Rose Whitehurst to approve a TDA application for \$1,250 in funding for the River City Skippers. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

8. Closed Session – As Allowed by NCGS 143-318.11(a)(6) Discussion of Personnel;

Motion was made by Councilman Joseph Peel, seconded by Mayor Pro Tem Kem Spence to enter Closed Session as allowed by NCGS 143-318.11(a)(6) for Discussion of Personnel at 8:09 p.m. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

Mayor Rivers announced there would be a brief recess while the room was cleared.

The Council returned to open session at 9:04 p.m.

9. Adjournment:

Having no further business to be discussed, Mayor Rivers adjourned the meeting at 9:04 p.m.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

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