

**City Council Regular Session  
May 8, 2023**

The City Council of the City of Elizabeth City met in regular session on Monday, May 8, 2023 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 E. Kirk Rivers  
Mayor Pro Tem Kem Spence  
Councilman Johnson Biggs  
Councilman Joe Peel  
Councilwoman Rose Whitehurst  
Councilman Jarvis Gibbs  
Councilwoman Katherine Felton  
Councilwoman Barbara Baxter  
Councilman Johnnie Walton

MEMBERS ABSENT: None

OTHERS PRESENT: City Manager Montre' Freeman  
City Attorney Bill Morgan  
Electric Department Donnell White  
Interim Chief of Police J. Phillip Webster  
Deputy Chief of Police James Avens  
Human Resources Director Montique McClary  
Fire Chief Chris Carver  
ECDI Director Debbie Malenfant  
Finance Director Alicia Steward  
Assistant Finance Director Brian Lewis  
Interim Community Development Director, Reggie Goodson  
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 Kirk Rivers at 7:00 p.m. Mayor Rivers welcomed everyone to the meeting and recognized Councilman Gibbs to provide the invocation, after which Councilman Biggs led the Pledge of Allegiance.

**1. Agenda Adjustments and Approval:**

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

He asked that after the mayoral certificate of recognitions, there be space allowed for a report from WolfeStein.

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

**2. Mayoral Recognition:**

**a. Ervin Jones – National PAL Mentor of the Year;**

Mayor Rivers said that Mr. Jones works diligently to help our kids who are struggling academically via homework sessions, even on the weekends, and he does not hesitate to answer calls from parents about their children. Parents have called about their kids not wanting to attend school, and Mr. Jones is always right there. He attends conferences and has now been recognized as the National PAL Mentor of the year. Deputy Chief Avens said it was an honor to recognize Mr. Jones and thanked him for his dedicated service to our youth. He stated that we need more people like him in our community. Our children need someone to mentor

them and give them tough love and Mr. Jones has done that. Mr. Jones thanked the Council and the City of Elizabeth City for honoring him. Manager Freeman noted that Mr. Jones got the honor of PAL mentor of the year and we're looking to expand on that initiative within the police department.

**b. J'vonn Davis - BUMP;**

Mayor Pro Tem Spence noted that Mr. Davis had a business called BUMP and he was extremely active in the community. He went out and saw what he and Mr. Jones did from time to time and the kids respected them greatly. He did lockdowns in the schools for young men and provided them with meals and training. He would be doing it again this Friday. He encouraged any young men who had an interest in helping the youth to get in contact with Mr. Davis. Mayor Rivers presented Mr. Davis with a mayoral certificate of recognition on behalf of the City Council. Mr. Davis said he was nothing without God, who gave him everything he needed. He thanked the City for their support and for believing in him. He'd started the organization in 2017 in honor of his grandfather, with the idea of helping kids get into college, get scholarships, jobs. He couldn't have his sons in a world where he wasn't doing his part to make it better.

**c. Captain Dan Smith – Maritime Ministries;**

Not present – Mayor Rivers noted he would hold this until next time.

**d. Amicae;**

***PROCLAMATION***  
***Amicae of Elizabeth City***  
***75<sup>th</sup> National Anniversary***  
***May 13, 2023***

**WHEREAS**, as early as 1940, chapters of the Zeta Phi Beta Sorority realized the importance and valuable contributions of women who chose a different educational path than college; and

**WHEREAS**, in 1948, Zeta Phi Beta Sorority's Grand President Lullelia Harrison reported that chapters should be allowed to organize auxiliaries and that such auxiliaries should be known as Zeta "Amicae", the Friends of Zeta; and

**WHEREAS**, the Amicae auxiliaries offer opportunities for professional women to be affiliated with Zeta and assist the sorority with providing community service and support, both nationally and internationally; and

**WHEREAS**, Zeta greatly values the Amicae and firmly believes in the value of all women, no matter their educational level, and supports them in reaching their full potential in all areas of their lives; and

**WHEREAS**, Amicae auxiliaries are now in all eight regions of the Zeta Phi Beta Sorority, and continue to render invaluable community service and monetary support to Zeta Phi Beta Sorority so that they may extend their outreach to their communities where they live and serve; and

**WHEREAS**, the City of Elizabeth City is proud to announce the Amicae of Elizabeth City's 75<sup>th</sup> National Anniversary, which will be celebrated on May 13<sup>th</sup> at the Weeksville Lion's Club, and offers our most profound well wishes and support for these women and their world-class service to the community.

**NOW THEREFORE**, I, E. Kirk Rivers, Mayor of Elizabeth City, do hereby proclaim the 13<sup>th</sup> day of May as Zeta Amicae Day in Elizabeth City.

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E. Kirk Rivers  
Mayor

**d. WolfeStein** (*Added During Agenda Adjustments*);

Mr. Steinburg noted that it had been an interesting week. They'd been planning on making the trip up to Raleigh, but unfortunately no one was in session, so they pushed it back to the following week. The House of Representatives had come up with a budget, but there were no appropriations in the budget. The actual appropriations have not been made as of yet. The Senate is working on getting their numbers straight. Assuming the Senate passes their budget, the Senate and the House will get together and begin talking about specific appropriations. He said he was expecting that conference process to occur between May 22-May 25, with hopes of a final budget no later than June 20<sup>th</sup>. The chance of the General Assembly having a veto of the budget stand is fairly remote. He did not feel the Governor would veto the budget as part of it was Medicaid expansion, which the Governor was definitely in favor of. He recognized Councilman Biggs, who he'd been speaking with several times a week at least. He'd put together a document that illustrated the needs of the Council and Elizabeth City, which would go into the hands of members. The emphasis of the General Assembly this year would likely be on water and sewer projects, which he felt would bode well for us as we had many water and sewer projects. Representative Ward had many of these projects submitted on the portal for us and the Speaker of the House assured him that they were going to do everything they could to address those wants. He said he was optimistic and would keep pushing to make as much happen as possible. Obviously, we wouldn't get everything that we asked for, but he felt confident that we had some strong possibilities. One of the bills that did not make crossover was the inspections on individuals' properties. It's not dead, but it did not make crossover, which meant it would not be voted on in this session, so it would go to the next session. In speaking with Representative Ward, the realtors lobby are really pushing back on it. Representative Ward has assured him that he's working with others to try to come up with some comprised language to perhaps make it more palatable to the realtors' association but that's where the pushback is coming from. He noted that we may also be interested in HB545, which was addressing the discharge of weapons in municipal areas. He believed there was support for that bill on the Senate side. The gun groups that he was familiar with did not appear to have a lot of pushback on this particular bill, which was good. The language in the bill would increase the penalty to an E felony from where it is right now, which has some "teeth" and should help. He hoped the legislature would get it through. Mayor Rivers thanked Mr. Steinburg and Councilman Biggs for being the point of contact and said he appreciated everything that was being done. Mr. Steinburg said we had a lot to be proud of us and we were making a lot of progress and he felt confident that we were moving in the right direction and working well as a team.

**3. Comments from the Public:**

**Debbie Regel – 122 Ranch Drive, Elizabeth City, NC** – Concerned about the pond and the pond maintenance in reference to the Ranch Drive rezoning request. Worried there would be a lawsuit if it was determined that the rest of the residents had to support the pond.

**Tama Glover – 148 Ranch Drive, Elizabeth City, NC** – Has lived on Ranch Drive for about 18 years. Had to rescue her children out of mud that was excessively deep. Opposed to homes being built, and believed it would be detrimental to change the zoning. The homes surrounding the area were built in the 60s. Since the 2000s, all the homes built were under R-15, and she and her neighbors built with that knowledge. R-15 keeps the equity of the homes the same. Building R-10 on smaller plots of land will bring equity down. She also had an issue with the road and felt that additional homes being built would bring problems with traffic safety. You cannot take an evening stroll on the right-of-way and it will likely not change due to it being a state-maintained road. It is also a road used by the DMV for road tests. Dealing with nine new homes will be hard enough, but more than that would be excessive. New homes requiring an HOA to deal with the pond maintenance leads her to believe it would be a large fee.

**Mary Reynolds-Lykins – 123 Ranch Drive, Elizabeth City** – Noted she was adjacent to the pond in question and has lived there for 25 years. Irrigation previously flowed across and down Ranch Drive to prevent flooding. When the pond was put in, it affected and exacerbated the issues. The pond caused the flooding, which has become a big issue. Phase one was never completed because the pond was supposed to have a fountain to deter mosquitos, which was never put in. They've tried to contact the state to have the ditches maintained, but most of the time she and her husband have broken down and cleaned them out to keep overflow to a minimum. If they put in more houses, traffic becomes a safety risk. Additionally, children go down to the pond unsupervised. The pond is not stabilized and has no signs. It will not hold any more water. It will be flooding into their yards. If this must be done, they would like it done with the least amount of building

**Jay Regel – 110 Ranch Drive, Elizabeth City, NC** – Mr. Regel said he was here about responsibility. He felt the pond was a problem. There were only two drains across the street, which were only slightly larger than the drains that go under their driveway. The water has nowhere to go. When the pond fills up, it has to go behind the houses to get to the low land. There are a lot of retired, disabled people in the area and cleaning the ditches out is an issue. There is a fence that separates the development from Planet Fitness and the old Walmart. Who cleans the fence? It's overgrown with vines. He keeps his side clean, but it takes a lot of effort and money to keep it taken care of. There's no battling it as a retired person or a disabled person to be able to deal with it. There's a half-acre of water that's already struggling to get where it needs to go and the people at the end of the street are struggling. If you develop, there will be more water getting there quicker, so the street will flood worse and higher up. He felt the responsibility should be that we take this into consideration before we build. The water is already struggling to get where it should go. The responsibility is to the people who already live there before we build more and drown the neighborhood.

The Clerk noted that she had received one emailed comment as well. Mayor Rivers advised the Council that although they were out of COVID protocols and no longer accepting emailed comments to be read into the record, he would have the Clerk send the comment on to the full Council for consideration.

#### **4. Approval of Minutes:**

**a. Consideration – Approve April 24, 2023 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, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.**

**b. Consideration – Approve April 24, 2023 Regular Session Minutes;**

**Motion was made by Councilwoman Katherine Felton, 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, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.**

#### **5. Consent Agenda:**

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

- a. Consideration – Donate Surplused Watchguard Equipment to Camden Sheriff's Department;**
- b. Consideration – Grant Project Ordinance – Ray Street Water and Sewer Replacement Project;**

### **RAY STREET WATER AND SEWER REPLACEMENT**

**GRANT PROJECT ORDINANCE  
#2023-05-01**

**BE IT ORDAINED**, by the City Council of the City of Elizabeth City, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1. The project authorized is the Ray Street Water and Sewer Replacement Project, consisting of sub-projects Part A and Part B, to be financed with grant funds,

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant documents and the budget contained herein,

Section 3. The following revenues are anticipated to be available to complete this project:

<u>Ray Street, Part A (Water Replacement Only)</u>	
CDBG-I Award 19-I-3648	\$224,274
<u>Ray Street, Part B (Water and Sewer Replacement)</u>	
CDBG-I Award 21-I-4004	\$705,451
<u>Total Available Revenues:</u>	\$929,725

Section 4. The following amounts are appropriated for the project:

<u>Ray Street, Part A</u>	\$224,274
<u>Ray Street, Part B</u>	\$705,451
<u>Total Appropriation:</u>	\$929,725

Section 5. Copies of this grant project ordinance shall be made available to the Budget Officer and Finance Director for direction in carrying out this project.

ADOPTED this, the 8<sup>th</sup> day of May, 2023.

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E. Kirk Rivers  
Mayor

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April D. Onley, NCCMC  
City Clerk

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

**Motion was made by Councilman Johnson Biggs, seconded by Councilman Joseph Peel to approve the consent agenda. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Spence, Whitehurst, Felton, Baxter and Walton. Against: None. Motion carried.**

**6. Regular Agenda:**

**a. Any Item Removed from the Consent Agenda;**

There were no items removed from the Consent Agenda.

**b. Consideration – Rezoning CASE NO: RZ-03-23 filed by Jason Mizelle with the Timmons Group on behalf of West Bank Development for property located on between 119 and 123 Ranch Drive;**

Mayor Rivers said he'd yield for a moment for the Council to have a few minutes to read the emailed public comment the Clerk had just forwarded. Attorney Morgan asked that we also allow Mr. Goodson to speak as he has a wealth of knowledge on the legal issues that may be involved with this case. Mayor Rivers said that would be fine. He asked the Council if they had any additional questions.

**Mayor Pro Tem Kem Spence said that in light of listening to all the residents in the area, he'd like to make a motion to not approve the rezoning and ask that the Council not approve the request. The motion was seconded by Councilwoman Katherine Felton.**

Interim Director Goodson advised that any time we vote to deny a request that is in compliance with our comprehensive plan, we must have a statement declaring why.

Councilman Walton said he felt it would be redundant for us to go along with the motion without the statement as to why. He knew when the land use maps were drawn, it was a different time and things were happening in this world that had to be reassessed. Each development needed to be looked at in a different way because things were happening in communities. Things are erratic and you need to be careful about how close you put people to one another. You don't want overcrowding. He felt that the seven-foot setback was just too close together. If the community said they accepted the original zoning, you're still looking at plenty of homes, but they're making it too tight now and we're not serving the ones who are there. If you ask the state to do something for you, you go on a waiting list that you don't know how long it's going to be. These people need to be satisfied with what they've had for the last 25 years. Northeastern is over there too. A lot of things are going on in the schools too. We have to look at the way the world is trending now and protect everyone. Public safety is one of our number one goals. To put all those houses in that community, we're overstepping ourselves. He agreed that we should give a reason and he felt some of those points could encompass that reason.

Councilwoman Felton said they'd already heard the sentiments of the residents and their opposition to the rezoning, and she couldn't vote yes on something that would bring hardships on them. Her reason for denying it was that she wanted to keep with the wishes of the residents.

Mayor Rivers asked if the stated reason should be something along the lines of flooding and safety? Mr. Goodson said flooding, traffic congestion, any of those could be reasons for the denial. Mayor Rivers asked Mayor Pro Tem Spence to restate in his motion and include those items

**Mayor Pro Tem Kem Spence made the motion to not approve the rezoning from R-15 to R-10 due to the abundance of traffic, the flooding, the congestion and the hardships that it would bring upon the citizens there on fixed incomes and disability. The motion was seconded by Councilwoman Katherine Felton. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.**

**c. Update / Discussion – Alternate Traffic Calming Methods;**

Director Bell said during the last meeting, there was a request to bring back some alternatives for the speed bumps. He had not yet heard back from the asphalt companies, but he'd heard a few other ideas from one of our vendors. The speed mats were an example that he'd included and they were about \$40,000 for six. Last year, he'd presented what the asphalt would cost, and at that time, the cost was \$2,000 for each bump. The installation of an asphalt speed table would run \$8,000 to \$9,000 each. These quotes came from an asphalt company and he believed this would be higher now.

**d. Consideration – Board Appointments (By Motion and ROLL CALL Vote);**

Mayor Rivers advised there were two board appointments, as there are two openings for the Board of Zoning Adjustment, and these would need to be voted on separately. He called for the vote on the first appointment for Mr. Louis Francis.

**Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton to appoint Mr. Louis Francis to the BZA. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. A roll call vote followed, which yielded the same results. Motion carried.**

Mayor Rivers called for the vote on the second appoint, Johnny Finch Jr.

**Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Jarvis Gibbs to appoint Mr. Johnny Finch Jr. to the BZA. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. A roll call vote followed, which yielded the same results. Motion carried.**

Manager Freeman thanked the Coast Guard for having them on site for the most recent Transacting to Transform initiative. The month of June will be the Chamber of Commerce. He said he also wanted to comment on bank reconciliations because there'd been some questions. As of right now, bank reconciliations have been done through February and they are now working on March. We are in fiscal year 2022. So if something happens that affects that, that could possibly impact where we are in bank reconciliations. It's a work in progress because we're working two years at the same time. He said there was a pause of service between the city and the Greg Isley firm. They found out what it was and it was not a breach and they've been able to reestablish everything and are back up and running. Lastly, they are still looking at how best to go forward with restructuring and will continue to do that and he'll be having more conversations with how to set up the city.

**7. Closed Session – As Allowed by NCGS 143-318.11(a)(3) Consultation with City Attorney and NCGS 143-318.11(a)(6) Personnel;**

**Motion to enter closed session as allowed by NCGS 143-318-11(a)(3) and NCGS 143-318-11(a)(6) was made by Councilman Joseph Peel, seconded by Mayor Pro Tem Spence at 8:06 p.m. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.**

The Council returned to open session at 9:32 p.m.

**8. Adjournment:**

Having no further business to be discussed, Mayor Rivers adjourned the meeting at 9:32 p.m.

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E. Kirk Rivers  
Mayor

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April Onley, NCCMC  
City Clerk

