

**City Council Regular Session
November 27, 2023**

The City Council of the City of Elizabeth City met in regular session on Monday, November 27, 2023 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
Councilman Javis Gibbs
Councilwoman Rose Whitehurst
Councilwoman Katherine Felton
Councilwoman Barbara Baxter
Councilman Johnnie Walton

MEMBERS ABSENT: None

OTHERS PRESENT: City Manager Montre' Freeman
City Attorney Bill Morgan
Electric Director Donnell White
Chief of Police J. Phillip Webster
Human Resources Director Montique McClary
Fire Chief Chris Carver
ECDI Director Debbie Malenfant
Finance Director Alicia Steward
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 7:13 p.m. Councilwoman Gibbs provided the invocation, after which Councilman Biggs led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

Mayor Rivers asked the Council's pleasure on the prepared agenda. He asked to add the Approval of the Lease Addendum with Betsy Town Flats and the Amendment to the Policy Language for the Employee Manual to the Consent Agenda, as determined in the Work Session.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton 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 Recognitions:

a. Employee Retirements;

Mayor Rivers advised that Don Edward was retiring from the City after 14 years of service. He was not present, but we did have a plaque for him and would make sure he received it.

3. Comments from the Public:

There were no comments from the public.

4. Public Hearings:

a. Hold a Public Hearing – Rezoning Case RZ #01-23 as Filed by Homelink Properties for the Parcel Located Between Culpepper, Spellman and Grice Streets;

Mayor Rivers declared the public hearing open and inquired of the Clerk if there were any speakers who wished to be heard. Upon the Clerk's reply that there were none, Mayor Rivers closed the hearing.

Mayor Rivers advised the Council that staff had received notice from the applicant earlier that day that they would not be able to attend this meeting and would like the Council to delay action. Councilman Biggs said since the Community Development Director is here and ready to present, we should let him go ahead and then we can decide what we'd like to do. Director Goodson explained that RZ 01-23 is a request to rezone property zoned as O&I to General Business. This small block has about 16 single-family homes on it and one lot zoned O&I, which is being used as a parking lot. To the east of the lot is a single-family home. This is basically a residential lot. The existing zoning allows office, institutional, business and limited retail uses. The proposed business district allows multi-family developments and automobile rental and leasing, auto repair, auto towing, blacksmith, boat repairs, carwash, equipment rentals and repair, large appliance and repair service, ABC stores, bar and nightclubs (with SUP), convenience stores, fuel and oil sales, restaurants with and without drive-through, and taxi terminals amongst other things. There are two types of rezonings, and this is a general use rezoning, which means that anything just listed could go on the property. It was discussed that the applicant may submit conditional rezoning instead, which would give the Council the option of listing conditions they would prefer to see there, but to date, they have not done that. In addition, the applicant is not the owner. What makes this site not suitable for General Business is that 95% of it is residential. It is not that the land use recommendation is wrong; it's just that it's not the right time. When he looked at the site and saw all the residential homes, he asked himself if he'd like to live next to such a use and the answer was no. They had to analyze the adverse impacts on properties if rezoned. The comprehensive plan does support it, but it is not a regulatory document like the UDO so we do not have to comply with it. NCGS 160-D allows us to not comply with certain rezonings as long as a statement is issued saying why. The Planning Board had a 2-1 vote to approve, and not all members were present. It's rare that you see a Planning Board and Planning staff have opposing recommendations, but it does happen on occasion and this is one of those times.

Mayor Pro Tem Spence stated that he'd spoken with someone who owned a vacant lot but did not live there and he was concerned with the affect this might have on the residents. What if they opened a car detailing service or a tire dealership? That noise in a residential neighborhood would not go over well. The Community Development Director is the expert.

Motion was made by Councilman Joseph Peel to deny the rezoning request for RZ 01-23.

Councilman Peel noted that in addition to the residential concerns, the property was also too small for the requested rezoning purpose.

Mayor Pro Tem Kem Spence seconded the motion for denial.

Councilwoman Felton pointed out that this property was in the Third Ward and with this being a residential area, she was opposed to the rezoning as well. Director Goodson noted that when the Council votes to deny this, they would be voting to change the comprehensive plan from General Business if that is their belief. He said they could state that the lot size is too small and the area is primarily residential, and that would be reasonable for their denial.

Councilman Walton asked if he'd heard correctly that only four members were present during the Planning Board meeting. Director Goodson said that was correct. Councilman Biggs said he had served on the Planning Board before and wanted to make sure they knew the Council was not going blatantly against their decision. The Planning Board goes along with what's written in the plan and sometimes their hands are tied. The Council has a little bit of judgement and room to wiggle.

Those voting in favor of the motion to deny were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

5. Approval of Minutes:

- a. Consideration – Approve November 13, 2023 Regular Session Minutes;

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton 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.

6. Consent Agenda:

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

- a. Consideration – Authorization to Apply for PAL Mentoring Grant for FY2024;
- b. Consideration – Approval of Amendment to Lease Addendum with Betsy Town Flats for ECMS / ECHS Gymnasium (*As Added During Agenda Adjustments*);
- c. Consideration – Approve Amendment to Language in Employee Personnel Policy Manual (*As Added During Agenda Adjustments*);

**RESOLUTION #2023-11-02
CITY OF ELIZABETH CITY
PERSONNEL POLICY MANUAL AMENDMENT
SECTION 6.0 – POLITICAL ACTIVITY**

WHEREAS, the City of Elizabeth City’s Personnel Policy Manual was last revised and adopted in July 2014; and

WHEREAS, the manual requires regular revision in order to be in compliance with state and federal statutes; and

WHEREAS, it has been determined that Section 6.0 – Political Activity is out of alignment with state statute and requires revision: and

WHEREAS, our City attorney has provided a legal opinion that the aforementioned amendment will bring Section 6 into compliance with current statute.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elizabeth City hereby adopts the revision to Section 6 – Political Activity as detailed in Elizabeth City Personnel Policy Manual.

ADOPTED, this the 27th day of November 2023.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

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

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

7. Regular Agenda:

a. Any Item Removed from the Consent Agenda;

There were no items removed from the Consent Agenda.

b. Consideration – Authorization to Submit Modified Application to Golden LEAF for Park-Dawson Canal Project;

Motion was made by Councilman Johnson Biggs, seconded by Mayor Pro Tem Kem Spence to authorize staff's modified application to Golden LEAF for the Park-Dawson Canal Project. Those voting in favor of the motion were: Biggs, Peel, Gibbs Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

8. Adjournment:

Having no further business to be discussed, Mayor Rivers adjourned the meeting at 7:33 p.m.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

