

**City Council Regular Session
November 28, 2016**

The City Council of the City of Elizabeth City met in regular session on Monday, November 28, 2016 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Joe Peel
Councilwoman Jean Baker
Councilman Ray Donnelly
Mayor Pro Tem Anita Hummer
Councilman Michael Brooks
Councilman Rickey King

MEMBERS ABSENT: Councilman Tony Stimatz
Councilman Darius Horton
Councilman Johnnie Walton

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planning Director June Brooks
Police Chief Eddie Buffaloe
Electric Superintendent Karl Clow
Assistant City Manager Angela Cole
Human Resources Director Katherine Felton
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
ECDI Director Debbie Malenfant
Inspections Director Stanley Ward
Parks and Recreation Superintendent Michael Barcliff
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 Council's pleasure regarding approval of the prepared agenda.

Mayor Peel announced that Item "g" on the Regular Agenda should be removed at the request of staff.

Motion was made by Councilman Rickey King, seconded by Councilwoman Jean Baker, to approve the agenda with any necessary corrections. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks, and King, Against: None. The 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. Comments from the Public:

Mr. Curtis Chambers, 1031 Northside Road, Elizabeth City, NC stated that he had read an article in the Daily Advance November 8, 2016 edition re-addressing consideration of a raise in salary for members of the Council. He stated that he did not believe that raising Council salaries in mid-year would be a fiscally responsible decision by the Council. He suggested that a decision such as salary increases should be made during

the budget cycle. He also suggested that Council salary increases could be tied to performance measures such as decreasing taxes or bringing in businesses and jobs.

4. Approval of Minutes:

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

- a. City Council Regular Session of March 14, 2016:

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the City Council Regular Session minutes of March 14, 2016. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

- b. City Council Regular Session of April 11, 2016:

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the City Council Regular Session minutes of April 11, 2016. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

- c. City Council Regular Session of April 25, 2016:

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the City Council Regular Session minutes of April 25, 2016. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

- d. City Council Regular Session of June 27, 2016:

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the City Council Regular Session minutes of June 27, 2016. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

5. Consent Agenda:

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 – Assignment of Interest in Business Investment Program Grant Agreement by Tanglewood Parkway Elizabeth City LLC to Inland Tanglewood Parkway LLC;
- b. Consideration – Call for Public Hearing at 7:30 p.m. in Council Chambers of the Municipal Administration Building on December 12, 2016 on Adoption of an Ordinance establishing current 'no parking' sign placement and to establish regulations for the installation of future 'no parking' signage in the City.

End of Consent Agenda.

Mayor Peel requested the Council's pleasure regarding approval of the Consent Agenda.

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

6. Regular Agenda:

Mayor Peel stated that the following proposed appointments would require a motion and a roll call vote. He reviewed each of the recommended appointments for the Council.

a. Consideration – Re-appointments to Urban Forestry Commission:

1. Robb Davis to serve a three-year term expiring December 31, 2019

Motion was made by Councilwoman Baker, seconded by Mayor Pro Tem Hummer, to approve Robb Davis to serve a three year term expiring December 31, 2019. Those voting in favor of the motion by roll call were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

2. Kent Luton to serve a three-year term expiring December 31, 2019

Motion was made by Councilwoman Baker, seconded by Councilman Donnelly, to approve Kent Luton to serve a three year term expiring December 31, 2019. Those voting in favor of the motion by roll call were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

b. Consideration – Appointment to Urban Forestry Commission:

1. R. Michael Cox to serve the unexpired term of Christopher Pittarelli expiring July 1, 2018.

Motion was made by Councilwoman Baker, seconded by Mayor Pro Tem Hummer, to appoint Michael Cox to serve the unexpired term of Christopher Pittarelli expiring July 1, 2018. Those voting in favor of the motion by roll call were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

c. Consideration – Re-appointments to Historic Preservation Commission:

1. Georgene Ticknor Falcon to serve a three year term expiring November 30, 2019

Motion was made by Councilwoman Baker, seconded by Councilman Donnelly, to approve Georgene Falcon to serve a three year term expiring November 30, 2019 to the Historic Preservation Commission. Those voting in favor of the motion by roll call were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

2. Doris Jean Johnson to serve a three year term expiring September 30, 2019

Motion was made by Councilwoman Baker, seconded by Mayor Pro Tem Hummer, to reappoint Doris Jean Johnson to serve a three year term on the Historic Preservation Commission expiring September 30, 2019. Those voting in favor of the motion by roll call were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

d. Consideration – Award of Bid and Adoption of Resolution for Financing of Radio System for Fire Department:

Mayor Peel recognized Mr. Olson for his comments. Mr. Olson stated that the fiscal year 2016-2017 budget included migration to the State VIPER 800 MHz radio system for the Police and Fire Departments. He advised that Police and Fire Department personnel had been evaluating the type of radios needed for this transition. He stated that the Fire Department had chosen Kenwood radios from Radio Communications

Company. He reported that all radios are to be purchased off State contract. He reported that staff had requested bids for 59 months installment purchase contracts and had received two very favorable bids, one from BB&T and one from Southern Bank. He advised that the low bidder was Southern Bank at an interest rate of 1.74% with no fees. He stated that the purchase price of the Fire Department equipment is \$235,879 and the total payback will be \$246,279.57. He reported that staff's recommendation is to award the bid to Radio Communications Company and adopt the required resolution to have Southern Bank do the financing for the Fire Department radios.

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the contract with Radio Communications Company in the amount of \$235,879 and adopt the following resolution authorizing financing with Southern Bank at an interest rate of 1.74%. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

**Resolution # 2016 - 11-02
Approving Financing Terms**

WHEREAS: The City of Elizabeth City, North Carolina (the "City") has previously determined to undertake a project for the financing of radio system for the Fire Department, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Southern Bank & Trust Company ("Southern Bank"), in accordance with the proposal dated November 16, 2016. The amount financed shall not exceed \$235,879, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.74%, and the financing term shall not exceed five-nine (59) months from closing.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as Southern Bank may request.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).
5. The City intends that the adoption of this resolution will be a declaration of the City’s official intent to reimburse expenditures for the Project that is to be financed from the proceeds of the Southern Bank financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City’s general fund, or any other City fund related to the Project, for Project costs may be reimbursed from the financing proceeds.
6. All prior actions of the City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 28th day of November, 2016.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

- e. Consideration – Award of Bid and Adoption of Resolution for Financing of Radio System for the Police Department:

Mayor Peel recognized Mr. Olson for his comments. Mr. Olson stated that this item is a companion item to the previous Fire Department radio purchase. He stated that the Police Department wants to migrate to the State VIPER 800 MHz trunk radio system and had decided to use a State contract price. He requested that the Council award the bid for Harris multiband radios to Communications International. He reported that the total purchase price would be \$460,017 to be financed by a 59 months installment purchase contract. He noted that the City had received two bids for this financing, one from BB&T and one from Southern Bank. He reported that the low bid was from Southern Bank at an interest rate of 1.74%. He noted that the total payments would total \$480,021.23.

Motion was made by Councilwoman Baker, seconded by Councilman King to award the contract with Communications International in the amount of \$460,017 and adopt the following resolution authorizing financing with Southern Bank. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

**Resolution # 2016-11 - 03
Approving Financing Terms**

WHEREAS: The City of Elizabeth City, North Carolina (the “City”) has previously determined to undertake a project for the financing of radio system for the Police Department, (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Southern Bank & Trust Company (“Southern Bank”), in accordance with the proposal dated November 15, 2016. The amount financed shall not exceed \$460,017, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.74%, and the financing term shall not exceed five-nine (59) months from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as Southern Bank may request.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer’s satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer’s final approval of the Document’s final form.
4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).
5. The City intends that the adoption of this resolution will be a declaration of the City’s official intent to reimburse expenditures for the Project that is to be financed from the proceeds of the Southern Bank financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City’s general fund, or any other City fund related to the Project, for Project costs may be reimbursed from the financing proceeds.

6. All prior actions of the City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 28th day of November, 2016.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

Mayor Peel commented that although the City “had just spent a lot of money” it represented a major public safety improvement. He explained that the new radios would allow for enhanced communication state-wide during times of emergency or disaster. He noted that both Pasquotank and Camden Counties were also migrating to the VIPER system with new radios; and that the few “dead spots” that prevented earlier communication among these agencies would now be covered under the new VIPER network.

Mr. Olson noted that the Fire Department purchase was a little under the amount budgeted for the fiscal year and the Police Department purchase was “right on budget.”

f. Consideration – Award of Bid for Camden Causeway Welcome Sign:

Mayor Peel recognized Mr. Olson for his comments. Mr. Olson explained that one of the items included in the fiscal year 2016-2017 budget was the construction of a “Welcome to Elizabeth City” sign on the Camden Causeway. He stated that the Council had applied to the Tourism Development Authority for a grant in the amount of \$25,000 to help construct the sign, which had been approved.

He stated that the City put the sign construction out to bid, but unfortunately only received one bid. He stated that the base bid received from A. R. Chesson was in the amount of \$35,528, with the undercut and backfill required to amend the soil costing \$8,750. He noted that the total cost of the construction project would be \$44,278.

Mr. Olson recommended that the Council allow staff to again apply to the TDA for a grant in the amount of \$19,278 to fully fund the sign construction.

Mayor Peel noted that this matter was considered by the Finance Committee earlier in the evening and came to the Council with a recommendation of approval.

Motion was made by Councilwoman Baker, seconded by Councilman Donnelly, to authorize staff to submit an application to the TDA for additional funding in the amount of \$19,278 to fund construction of the sign; and further move that we award construction of the Camden Causeway Welcome Sign to A.R. Chesson Construction Company, Inc. for \$44,278; and further authorize the City Manager to execute the construction contract with A.R. Chesson Construction Company, Inc. as described. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks and King. Against: None. Motion carried.

g. Consideration – Award or Denial of Bid for Phase 3, Contract 2 of the South Road Street Project

(Clerk Notation: This item was removed from the agenda at the request of staff during approval of the agenda.)

Mayor Peel requested that Mr. Olson provide information regarding the purpose for removing this item from the agenda. Mr. Olson stated that City staff conducted a bid opening during the previous week and was still in the process of evaluating the bids. He said that there were a number of additional items included in both Contracts 1 and 2 of this project; and staff needed to determine what the total cost of the project would be. He advised that staff hoped to have a recommendation ready for the December 12, 2016 City Council meeting.

h. Consideration – Salary Increase for the City Council:

Mayor Peel advised that this item had been discussed by the Finance Committee during their meeting held earlier in the evening. He stated that the Finance Committee recommended to the Council that Council receive a 10.5% cost of living raise, but that it not begin until the next fiscal year beginning July 2017.

Councilman Donnelly asked that Mayor Peel explain for the public's information how the 10.5% figure was decided. Mayor Peel stated that the other part of the Finance Committee's recommendation is that going forward the Council and Mayor's monthly compensation would be tied to any cost of living raises provided to City employees. He advised that looking back to 2008, there were a number of years when no cost of living raises were given. He pointed out that if the total cost of living increases were added up for that period it would equate to 10.5%. He said that 2008 is the year that Council raised their salaries significantly; and intended at that time to tie their salary to employee cost of living raises. He stated that the intent was never clearly adopted.

Motion was made by Councilwoman Baker, seconded by Councilman King that the Council and Mayor create a pay rate increase by 10.5% effective fiscal year 17-18 on July 1, 2017 and also that the COLA received by employees would be also tied to the Council rate of pay.

Mayor Peel invited discussion on the motion.

Mayor Pro Tem Hummer stated that by not knowing what the City's financial situation would be next year, she would have to vote against the motion. She said she would rather see what the City's financial situation is before Council salaries are decided.

Councilman Brooks stated that he came to the meeting prepared to discuss this matter, but since three members of Council were absent, it didn't matter how the vote was decided, he would put the matter back on the next meeting's agenda for discussion. He stated that he felt the three absent members should be afforded a chance to participate, since it would also reflect on them. He stated that he did not think the public understood that elected officials are not City employees. He opined that "we keep getting stuck trying to compare elected officials with City employees." He stated that he had spent a lot of time reviewing what was said by Councilmembers during the last salary debate in 2008 as opposed to what was being said now. He said that he wanted the public to know why he stands where he stands. He stated that he did not care much for "people talking out of both sides of their mouth." He advised that he wanted to make it clear to the public what each Councilor said in 2008 and how they are voting now to show "how mixed up it is."

Councilman Donnelly stated that he wanted to make clear to the public that currently Councilmembers receive \$600 per month, \$1,700 annually for travel and business-related expenses and \$75 per month for gasoline expenses for "checking out our Wards."

Councilman Brooks stated that Councilman Donnelly had been referring to being a councilmember as a "service." He said "every job that you do is a service." He stated: "the City of Elizabeth City gives away over a half million dollars a year." He said: "so the argument is moot, really."

Mayor Peel called for a vote on the motion.

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

7. Comments and Inquiries on Non-Agenda Items:

Councilman Donnelly complimented the new Trillium Playground, which has been constructed at Fun Junktion. He stated that the facility is quite impressive and he encouraged everyone to visit and check it out. He commended Trillium for making the grant funding available to construct the facility.

Councilwoman Baker commented that she was not in favor of the proposed \$500 raise for the Council but was not against the 10.5% increase because it was something the Council had intended to happen during the last eight years.

Councilman King had no further comments.

Mayor Pro Tem Hummer requested an update regarding the plaque that is to be installed to honor of the late Miles Clark at Pool Street Park. She suggested that she thought a small ceremony would be fitting once the plaque is installed. Mr. Olson stated that he would provide an update to the Council on this matter.

Councilman Brooks had no further comments.

Mayor Peel also complimented the new Trillium Playground at Fun Junktion. He said that it is an absolutely amazing playground area and encouraged everyone to take their children to visit it. He thanked ECDI Director Debbie Malenfant for organizing the Holiday Celebration and Grand Illumination, as well as Small Business Saturday. He said that both events were well attended.

8. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 7:32 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk