

**City Council Regular Session
October 24, 2022**

The City Council of the City of Elizabeth City met in regular session on Monday, October 24, 2022 in Council Chambers, located on the 2nd 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
Councilman Javis Gibbs
Councilwoman Rose Whitehurst
Councilwoman Katherine Felton
Councilwoman Barbara Baxter
Councilman Johnnie Walton

MEMBERS ABSENT: None

OTHERS PRESENT: Interim City Manager Montique McClary
City Attorney Bill Morgan
Interim Electric Department Bob Vannoy
Interim Chief of Police J. Phillip Webster
Deputy Chief of Police James Avens
Interim Human Resources Director Monica Cole
Fire Chief Chris Carver
ECDI Director Debbie Malenfant
Finance Director Alicia Steward
Assistant Finance Director Brian Lewis
Public Utilities Director Dwan Bell
Assistant Public Utilities Director Ryan Howell
Parks and Recreation Director Sean Clark
Parks and Recreation Superintendent Darris Sawyer
Community Development Director Kellen Long
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 asked Mayor Pro Tem Spence to give the invocation, after which everyone joined for the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

Mayor Rivers asked that the Rural Transformation Grant be added to the Regular Session, becoming items 8D, and the Human Resources Committee be made item 8E. Additionally, the consideration for the Flood Plain Ordinance would be moved forward as item 8F. Mayor Pro Tem Spence requested that item 7A on the Consent Agenda – Contract for Lobbyist - be moved to the Regular Agenda for further discussion.

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. Comments from the Public:

There were no public comments.

3. Public Hearings:

a. Hold a Public Hearing – CDBG-CV Amendment for Food Bank;

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 none, Mayor Rivers closed the hearing.

Grants Administrator Hawley supplied the following information into the record of the meeting:

The City of Elizabeth City has an active CDBG-CV award, grant number 20-V-3513, that funds the Coronavirus Care Collaborative Program, or CVCC; the hearing was to propose and discuss an amendment to this grant award to fund expanded food distribution and delivery.

The purpose of the CDBG-CV Program is to help a non-entitlement community, meaning an incorporated municipality under 50,000 or a county under 200,000 in population, to prepare, prevent, or respond to the health and economic impacts of the Coronavirus Disease 2019 (COVID-19). The North Carolina Department of Commerce, Rural Economic Development Division, is administering these funds, and the division made available approximately \$27.5 million in grant funding. Applications were accepted starting September 1, 2020, on a first-come, first-served basis. The maximum grant award was \$900,000. The City of Elizabeth City was awarded \$765,000.

The CDBG-CV Program establishes the following funding priorities, classified by eligible activity types:

- **Public Service:** The priority in this category is subsistence payments to prevent evictions and utility disconnections. Food distribution, testing and diagnosis, and employment training for health care workers on the frontlines are also prioritized.
- **Public Facilities:** The priority in this category is broadband services and enhancing internet access that supports increased connectivity to schools, jobs, and healthcare.

This category also includes building rehabilitation or improvements to support activities such as repurposing buildings into patient treatment centers.

- **Economic Development:** The priority in this category is to provide financial assistance to businesses with 100 or fewer employees, including microenterprises with five or fewer employees. The focus is to support businesses that manufacture medical supplies, and to help small businesses impacted by COVID-19 create and retain jobs.

The City of Elizabeth City is proposing an amendment that would reallocate funding from the CVCC to establish the Food Service Enhancement Program. The CVCC is offered in collaboration with subrecipient organizations and performs a Public Service by providing subsistence payments to low- to moderate-income Pasquotank County residents to prevent evictions and utility disconnections. The CVCC to date has served more than 200 LMI households and disbursed approximately \$300,000 in assistance, but the City and the AAUW project that the CVCC will not use all grant funds before the CDBG-CV award's closeout deadline of June 17, 2023. The City proposes the CVCC allocation for subsistence payments be reduced from \$720,000 to \$490,000, and that the CVCC allocation for administration remain \$45,000. The City would propose to serve 315 total LMI households following these reallocations.

The proposed reallocations would leave \$230,000 in grant funds that could be repurposed. The City proposes to reallocate this amount for a collaboration with the Food Bank of the Albemarle, a 501(c)(3) nonprofit organization, to establish the Food Service Enhancement Program. The FSE will provide a Public Service through providing food distribution and the equipment, materials and supplies necessary for that service. The FSE consists of two program elements, namely: purchase of a food delivery van and reimbursement for fuel expenses, at a cost of \$80,000; and bulk purchases of nutritious food items, such as chicken and fresh produce, for distribution to eligible clients in Pasquotank County, at a cost of \$150,000. The City and the Food Bank project that at least 815 LMI households will be served over an approximately six-month project timeline. One hundred percent of CDBG-CV funding will be used to benefit LMI households.

The Food Bank will have direct responsibility for implementing the FSE, with oversight and support by the City of Elizabeth City. The Food Bank will collect all data necessary for program compliance, including but not limited to delivery logs, invoices, and eligible client data. The City will verify eligibility of all expenditures before releasing payments to the Food Bank, and thereafter will seek reimbursement/drawdown of CDBG-CV funds.

The range of activities covered by the CDBG-CV funds for the FSE include

- Food Distribution
- Supplies, Equipment, and Materials

As a CDBG-CV recipient, City of Elizabeth City is required to adhere to federal procurement requirements, other federal regulations, and state regulations. If this amendment is approved, the Food Bank will enter into agreement with the City to abide by these requirements, including but not limited to:

- Conflict of Interest
- Citizen Participation Plan,

- Program Income
- Administration of Project
- Audits/Compliance
- Procurement
- Equal Opportunity
- Fair Housing
- Language Access Plan
- Local Economic Benefit (Section 3)
- Environmental Review
- Floodplain Certification
- Section 504 of the Rehabilitation Act of 1973
- Residential Anti-displacement and Relocation Assistance Plan
- Lead-Based Paint Hazards
- Reporting
- Monitoring
- Financial Management Requirements
- SAM.gov registration
- Use of NC Licensed Professionals

The State of North Carolina further requires that, as a condition of CDBG-CV funding, the City certifies its compliance with the requirements of the general displacement and relocation policy for CDBG funding. This policy assists low to moderate income people with costs associated with relocation or displacement, should such relocation become necessary due to the project activities. CDBG funds can be used for those costs, if necessary. If no displacement and relocation will occur as a result of the proposed CDBG grant activity, then the City of Elizabeth City confirms that during this public hearing.

In the past, the City has applied for and received funding for the following completed CDBG projects:

- 2014 Elizabeth City Middle School Renovations
- 2015 Road Street water and sewer improvements
- 2017 Raw Water Transmission Main Replacement Project, Phase II

The City will submit this CDBG-CV application after October 24, 2022, and no later than October 31, 2022. The proposed amendment will be available for review during normal business hours at 302 East Colonial Avenue, Elizabeth City. Additional information is available from the Grants Administrator in the Finance Department office, reachable at 302 East Colonial Avenue, or by phone or email at 252-621-7352 and jhawley@elizabethcitync.gov, respectively. Should anyone have any complaints or grievances regarding the subject public hearing, they should be addressed to the addressee mentioned above within 10 business days or by November 3, 2022, and a written response to the written complaints and/or grievances will be sent by the City within 10 business days, where practicable.

Motion to approve the amendment was made by Mayor Pro Tem Kem Spence, seconded by Councilman Johnson Biggs.

Councilman Walton asked if this was two different grants, the Food Bank and Transmission Main Replacement that he mentioned a moment before? Mr. Hawley explained that he was

asked to list any previous CDBG grants the City had received. Normally, we get CDBG for water and sewer infrastructure, and in 2017-2018, we got one for water lines. He clarified that that was totally unrelated to this item before the Council now.

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

b. Hold a Public Hearing – Closing of Kramer Street;

Mayor Rivers called the hearing to order and inquired of the Clerk if there were any speakers.

Upon the Clerk's reply that there were none, Mayor Rivers closed the hearing.

Director Long advised that this hearing was for the permanent closing of Kramer Street, which ran adjacent to property that was solely owned by J.W. Jones Lumber Company. Two easements on the survey will be dedicated for utility lines. The Council adopted a resolution of intent on September 12th. Following that action, the resolution of intent was published once a week for four weeks in The Daily Advance, the adjacent property owners were notified by certified mail and the site was posted in two locations.

Councilman Biggs asked if the parcel remains in our possession. Director Long opined that she wouldn't even consider this a parcel, but noted that we'll still have easements on it; however, J.W. Jones' property will now just meet in the middle.

Motion to adopt the order closing Kramer Street was adopted by Mayor Pro Tem Kem Spence, seconded by Councilman Joseph Peel. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

**RESOLUTION #2022-10-02
STREET CLOSING ORDER FOR
KRAMER STREET**

WHEREAS, on the 12th day of September 2022 the City Council of the City of Elizabeth City directed the City Clerk to publish a Preliminary Resolution to consider closing Kramer Street in the Daily Advance once each week for four successive weeks, such resolution advising the public that a public hearing would be conducted in the City Council Chambers of the Municipal Administration Building on October 24, 2022 at 7:00 PM; and

WHEREAS, the City Council on the 12th day of September 2022 ordered the City Clerk to notify all persons owning property abutting Kramer Street by registered or certified mail, enclosing with such notification a copy of the Preliminary Resolution, Public Notice, and survey; and

WHEREAS, the City Clerk has advised the City Council that she sent a letter to each of the abutting property owners advising them of the day, time and place of the

meeting, enclosing a copy of the Preliminary Resolution and Public Notice and advising the abutting property owners that the question as to closing Kramer Street would be acted upon, said letters having been sent by registered or certified mail; and

WHEREAS, the City Clerk has advised the City Council that adequate notices were posted on the applicable street as required by NCGS 160A-299; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street in the public hearing held on October 24, 2022; and

WHEREAS, it now appears to the satisfaction of the City Council that the closing of said street is not contrary to the public interest, and that no individual owning property, either abutting the street or in the vicinity of the street or in the subdivision in which the street is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to said property;

NOW, THEREFORE, subject to the reservation of easements to the City of Elizabeth City for utility purposes as shown on a map recorded in Book of Maps in the office of the Pasquotank County Register of Deeds, Kramer Street is hereby ordered

closed, and all right, title, and interest that may be vested in the public to said area for street purposes is hereby released and quitclaim to the abutting property owners in accordance with the provisions of NCGS 160A-299.

The Mayor and City Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all right, title and interest in those persons owning lots or parcels of land adjacent to the street, such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed street (with provision for reservation of easements to the City of Elizabeth City for utility purposes) in accordance with the provision of NCGS 160A-299(c),

The City Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Pasquotank County a certified copy of this resolution and order.

ADOPTED, this the 24th day of October 2022.

Edward Kirk Rivers

Mayor

April Onley, NCCMC

City Clerk

DRAFT

4. Consent Agenda:

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

- a. **Consideration – Approve Contract for Lobbyist** (*Removed From Consent Agenda and Placed on the Regular Agenda During Agenda Adjustments*);
- b. **Consideration – Approval of September 26th, 2022 Work Session Minutes;**
- c. **Consideration – Approval of September 26th, 2022 Regular Session Minutes;**
- d. **Consideration – Approval of October 10th, 2022 Regular Session Minutes**

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

Motion was made by Councilman Johnson Biggs, seconded by Mayor Pro Tem Kem Spence 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.

5. Regular Agenda:

a. **Approve Contract for Lobbyist** (*Removed from Consent Agenda During Agenda Adjustments*);

Mayor Pro Tem Spence said he'd requested removal of this item from the Consent Agenda because he felt like we're rushing things a bit. He noted that this doesn't have to be done until February, and he felt we should allow other lobbyists the opportunity to be aware of the opening and/or apply for the position if they were interested. He pointed out that we may not generate any other interest, but he'd like to be as fair as possible and then we can move forward.

Councilman Peel asked if he'd like to table the matter for the time being, and if so, how long? Mayor Pro Tem Spence replied that he would like it tabled if the Council agreed until such time that it could be advertised. Mayor Rivers asked if he felt that 30 days would be agreeable. Mayor Pro tem Spence said he'd be fine with that.

Councilman Walton asked if we hired this particular individual, would he be personnel for the City? Attorney Morgan explained that he would not be a city employee, rather a contracted employee much like an attorney. Councilman Walton questioned if this was a contracted matter and we often discussed contracts in closed session, should we not be doing so now? Attorney Morgan advised that this was not one of those times or items that we could discuss in closed sessions because he would not be a city employee.

Councilman Walton agreed that it would be a good idea to let other people have an opportunity. He added that, "Political things are done because of voting records and it's important for a person to qualify for what you want him to do. We need to pull his voting records and see what he did. If it's not the ones that we would like, we won't consider him. If they are down the lines of what we want, that's fine, but if they aren't, we should give someone else an opportunity. We need more information."

Mayor Rivers said he'd ask that the Council do the 30 days, have it opened it up, and then bring it back for the next work session. He requested that the item be put on the website and have anyone interested send a response by Wednesday, November 23rd at 5:00 p.m. if they wanted to be considered.

Councilman Biggs questioned if we could ask those representatives who responded to be present. "I would say that whomever we're looking at, and not all of the lobbyists are retired legislators, they have a clear understanding of our community and what we're looking for. I

don't think it's too much to ask for them to be here in person. We can put that in the advertisement that they should be here on November 28th so everyone has a fair shake."

Motion was made by Mayor Pro Tem Kem Spence to post the position seeking a lobbyist to have interested parties identified no later than 11/23 by 5:00 to present to Council on 11/28. Seconded by Councilwoman Katherine Felton.

Councilman Walton requested to amend the motion to say "potential" parties.

Mayor Pro Tem Spence said he was comfortable with "interested parties" because that didn't mean we were going to hire anyone. Councilman Walton noted that words were important.

Mayor Rivers asked the Council's pleasure on the amendment.

Amendment dies for lack of a second.

Mayor Rivers called for the vote on the original motion.

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

b. Consideration – Adoption of a Resolution Directing the City Clerk to Investigate the Sufficiency of a Petition for Voluntary Annexation – Capital Trace;

Director Long advised the voluntary annexation presented was for two properties located at 100 and 104 Capital Trace that are currently owned by Melonie Harrington. The two parcels total 2.83 acres and are contiguous to city limits. She explained that this is the first step in a three-step process, which tells the city clerk, through the resolution, to begin investigating the sufficiency of the petition.

Councilman Peel asked how much it will cost to run water and sewer to these properties. Director Long replied that the subdivision in question is part of the South Park subdivision so they've already got all utility infrastructure adjacent to the property. Councilman Peel asked if it's our infrastructure or the county's. Director Long said that it belongs to the City. The ETJ parcels are surrounded by City limits and our lines.

Motion was made by Mayor Pro Tem Kem Spence seconded by Councilman Joseph Peel to adopt the resolution directing the Clerk to investigate the sufficiency of the voluntary annexation application. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None.

**RESOLUTION #2022-10-03
DIRECTING THE CITY ATTORNEY TO INVESTIGATE A
PETITION RECEIVED UNDER G. S. 160A-31
2.83 ACRES
100 AND 104 CAPITAL TRACE
PARCEL IDs: 8922 298044 and 8922 286896**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on October 24, 2022 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 24th day of October 2022.

Edward Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

c. Consideration – Approval of Manager’s Contract;

Attorney Morgan noted that if it was the desire of the Council to discuss specific issues pertaining to the contract, they should do it in closed session; however, if it’s just a matter of approval, they could do so in open session.

Mayor Rivers stated that they’d discussed the contract at length in closed session. They had one change that they were waiting to get back, so he’d had it printed for everyone’s attention. He directed the Council’s attention to the item under residency on page six. He explained that there was a typographical error, which had been corrected. Aside from that, there were no changes made to the contract.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton to approve the contract as presented.

Mayor Rivers noted that it allowed him to sign as the mayor, and provided it was approved, the date will be set as tomorrow.

Mayor Pro Tem Spence requested a roll call vote.

A roll call vote on the motion was carried out, which yielded the following results: Walton – Yes; Biggs – No; Baxter – Yes; Peel – No; Felton – Yes; Gibbs – Yes; Whitehurst – No; Spence- Yes. Motion carried 5-3.

d. Consideration – Rural Transformation Grant *(Added During Agenda Adjustments and Approval);*

Motion was made by Councilman Johnson Biggs, seconded by Mayor Pro Tem Spence to submit the grant application. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

e. Consideration – Call for a Public Hearing – Flood Plain Ordinance *(Added During Agenda Adjustments and Approval);*

Motion to call for a public hearing during the November 14, 2022 Regular Session meeting was made by Mayor Pro Tem Kem Spence, seconded by Councilman Joseph Peel. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

f. Committee Reports – Human Resources *(Added During Agenda Adjustments and Approval);*

Councilwoman Felton asked Interim HR Director Monica Cole to please stand. She thanked her for doing such a great job during the last few months, noting that she’d managed to keep positions filled up until the hiring freeze, although important positions are still being filled. Previously, when a position became vacant, employees who are working with the city would have to go on the website and find out about it, but now that’s being streamlined. Once the hiring freeze is lifted, all employees will be notified via a special system.

Mayor Rivers requested that next week, he would like everyone to give him their availability on Tuesday/Wednesday to potentially schedule a Council strategic planning meeting. He mentioned that ECSU has provided free tickets to city employees for the 1:00 p.m. game on Saturday. MACU will be holding a double header baseball game from 1:00-4:00 p.m. Also on Saturday morning, the renaming ceremony for Sunset Park to Sunset at Johnnie B. Walton Park will be taking place, and he encouraged everyone to attend.

Councilman Peel thanked Interim City Manager McClary for her leadership and her willingness to step up when we needed her. She said he felt she'd handled herself well and wanted to commend her. Councilman Biggs concurred.

6. Adjournment:

Having no further business to discuss, Mayor Rivers adjourned the meeting at 7:54 p.m.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

