

**City Council Regular Session
September 12, 2022**

The City Council of the City of Elizabeth City met in regular session on Monday, September 12, 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 (*Arrived at 7:04 p.m.*)
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 provided 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.

Mayor Rivers requested the Council remove City United Methodist Church from "Mayor's Recognition" until the first meeting in October. He also requested the CDBG-CV RFP results be removed until work session of September. Councilman Biggs requested items A and B be removed from the Consent Agenda and placed on the Regular Agenda. He also asked that we add an item to consider authorizing the Finance Officer and the City Manager to approve the contract with Wells Fargo to the Regular Agenda. Councilman Walton requested the addition of a closed session for personnel, as allowed by NCGS 143-318-11(a)(6).

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 Recognition:

a. City United Methodist Church (*Removed During Agenda Adjustments*)

b. Department of the Month – Public Utilities

Mayor Rivers thanked Public Utilities for working extra hard to catch up when their trucks went down and for always going above and beyond for our citizens.

c. Department Head of the Month – Dwan Bell

Director Bell thanked the Council for the acknowledge for both himself and his staff. He said he could not do this job without his staff. He knew his department was pushing for a lot of funding for projects, but those projects were meant to help the city grow and become greater.

d. Paint the Waterfront Blue

Mayor Rivers said he was excited to announce his new initiative to “paint the waterfront blue”, which will take place before ECSU football games at Waterfront Park from 6:00 to 7:00 p.m. The first event will be September 15th. The band and cheerleaders will be present at Waterfront Park and citizens are encouraged to bring a chair or blanket out, wear blue and help cheer our Vikings to win their first home game of the season.

3. Comments from the Public:

Mayor Rivers inquired of the Clerk whether there were any persons present who wished to speak before the Council. Upon the Clerk’s reply that there was one, Mayor Rivers asked that they be called to the podium.

Bill Hiemer - 107 Osprey Cove, Elizabeth City, NC – Mr. Hiemer stated that he was present this evening out of concern about things happening in the City’s Finance Department. He expressed confusion about the status of the overdue audits and the process we’re undergoing to get us current again. He questioned how we’ve paid the Greg Isley Firm more than \$200,000 and will still have two audits delinquent. “How many more hours will this include? Why can our employees not handle the bank reconciliations? How does the sum we pay the Greg Isley Firm compare to the payroll for our entire Finance Department for the same pay period? How did we get into this mess, specifically?” He noted that it appears that the statements were reconciled until June 2020 and wanted to know exactly what happened at that time. He asked if the manager at that time was notified of the delinquency and did they in turn notify the Council?

4. Public Hearings:

a. Hold a Public Hearing – Comments on Youth Curfew Ordinance;

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.

He asked if there were any comments from the Police Department. Interim Chief Webster explained that he’d “inherited” the ordinance from the prior chief and had read through the information. The main edit to the current ordinance was in the penalty section from what he understood.

Mayor Rivers said the main thing the Council wanted to look into was what they did have in place due to the excessive shootings occurring in the community because they wanted to become more proactive. He asked if Chief Webster would explain the changes to the Council so they could begin working toward a policy that might be proactive. Chief Webster stated that in 2008, the ordinance was renamed the “youth protection ordinance” and the curfew time was lowered to 10:00 p.m., which were the main changes that appeared to have happened with the ordinance over the years. He pointed out that 132.05 was the big change in enforcement, which layered in specific penalties for the actions.

Councilman Walton asked if we had ever enforced these penalties laid out in the ordinance. Chief Webster said the last time we enforced the ordinance was in 2018. Councilman Walton asked if we intended to begin enforcing it now? Chief Webster said he did think it was a good tool, but he had some concerns with our staffing issues right now. As the ordinance stated, if our officers picked up a child now and we could not contact a parent, it would essentially be taking an officer off the road because they could not leave that child. He explained that he was

not advocating repealing the ordinance, he just believed that we needed to make sure it was enforced properly.

Councilman Walton suggested that Chief Webster put all of his suggestions in writing and we'd try to go from there.

5. Consent Agenda:

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

- a. Consideration – Approval of Service Contract for Rivershore Road Bridge Replacement;** *(Removed from Consent Agenda and Placed on Regular Agenda During Agenda Adjustments)*
- b. Consideration – Approval of Service Contract for Water-Church Street Replacement Project – Phase 1;** *(Removed from Consent Agenda and Placed on Regular Agenda During Agenda Adjustments)*
- c. Consideration – Adoption of Resolution for Tiber Creek Drainage Basin Stormwater Master Plan;**

**Resolution # 2022 –09-01
Adoption of Tiber Creek Drainage Basin
Stormwater Master Plan**

WHEREAS, the City of Elizabeth City has determined that residences, businesses, and streets and other public infrastructure are impacted by repetitive flooding from the former “Tiber Creek” beginning west of downtown Elizabeth City and running easterly to the Pasquotank River; and

WHEREAS, repetitive flooding creates risks for public health and safety and may harm emergency response, damage public and private property, and inhibit long-term community development in the affected areas; and

WHEREAS, the City of Elizabeth City secured a Water Resources Development Grant from the North Carolina Division of Water Resources on July 31, 2018, to develop a stormwater master plan to evaluate the Tiber Creek Drainage Basin to more fully understand its flooding risks, and identify solutions to them; and

WHEREAS, the Tiber Creek Drainage Basin Stormwater Master Plan was completed and presented to the Elizabeth City City Council on October 28, 2019, and said plan performed stormwater analyses and modeling to inform development of potential projects that could reduce or mitigate flooding; and

WHEREAS, the Elizabeth City City Council wishes to confirm its support of this plan, and continuing efforts to implement its recommendations:

NOW, THEREFORE, BE IT RESOLVED, that the Elizabeth City City Council hereby approves and adopts the Tiber Creek Drainage Basin Stormwater Master Plan, and endorses efforts to implement its recommendations to combat flooding and enhance the resiliency of residences, businesses, and infrastructure within the basin.

ADOPTED, this the 12th day of September 2022.

E. Kirk Rivers
Mayor

April D. Onley
City Clerk, NCCMC

d. Consideration – Adoption of Budget Amendment for Police Surveillance Items;

BUDGET AMENDMENT

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendment be made to the annual budget ordinance for fiscal year ending June 30, 2023:

SECTION I. That the Police Departmental Supplies Line Account (10-5100-3300) be decreased by \$28,978.00.

And that the Police Capital Outlay Line item (10-5100-7400) be increased by \$28,978.00.

(This amendment will fund the Police Department with the purchase of Surveillance items and storage cabinets.)

ADOPTED, this 12th day of September 2022.

E. Kirk Rivers
Mayor

Attest:

April Onley, NCCMC
City Clerk

- e. Consideration – Approval of Minutes of August 22, 2022 Work Session;**
- f. Consideration – Accept Bids for Various Properties;**
- g. Consideration – Accept Final Bid for 1002 Hunter Street;**
- h. Consideration – Approve Assignment of Interest (BIP);**

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, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

6. Regular Agenda:

- a. Consideration – Approval of Service Contract for Rivershore Road Bridge Project and Consideration – Approval of Service Contract for Water-Church Street Replacement Project – Phase 1; (As Removed from the Consent Agenda)**

Mayor Rivers recognized Councilman Biggs for his comments. Councilman Biggs said it wasn't necessarily that he had a problem with the contracts, but he realized that the Finance Director had not had the opportunity to create a capital project ordinance, so we haven't identified where the money will come from for either of these. In order for the Finance Director to be able to legally sign this, she's got to have the pre-audit clause. He said he was asking that we delay

action for Director Steward in order to give her time to sign the pre-audit contract. He noted that was the case for both items A and B, so they could be considered together. He requested that they both be moved to the next meeting's Consent Agenda.

Councilman Walton asked if this was going to be an extensive conversation, and if so, shouldn't it go forward to the Work Session instead of the Regular Session's Consent Agenda? Councilman Biggs explained that as long as everyone's okay with the contracts, all we're really doing here is allowing Director Steward a few more days to work the accounting side of things. Councilman Walton asked if that was going to be a process of having to find the money somewhere and they pay us back? Councilman Biggs replied that it would be pulling money from a line item in the Public Utilities budget and it was a 30-day reimbursement process, so it would be coming right back from the State pretty quickly. He said he felt there should be no cause for concern, it was just a technical thing to allow Finance to make sure they were in line. Councilman Walton said he wanted to make sure it wasn't going to interfere with any of the big projects. Councilman Biggs said he did not feel it would do that. He added that from what he and Director Steward discussed, it was just a matter of the Council approving it.

Motion was made by Councilwoman Katherine Felton, seconded by Councilman Joseph Peel to move both contracts to the following meeting's Consent Agenda. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

b. Consideration – Call for a Public Hearing – Text Amendment 01-22 – Signs in the Public Right-of-Way;

Motion was made by Councilman Joseph Peel, seconded by Mayor Pro Tem Kem Spence to call for a public hearing on September 26, 2022 at the 7:00 p.m. Regular Session meeting. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

c. Consideration – Call for a Public Hearing – Kramer Street Closing and Approve Preliminary Resolution of Intent;

Motion was made by Councilman Joseph Peel, seconded by Councilman Johnson Biggs to call for a public hearing on September 26, 2022 at the 7:00 p.m. Regular Session meeting. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton, Against: None. Motion carried.

**RESOLUTION #2022-09-02
TO CLOSE KRAMER STREET**

WHEREAS, NCGS 160A-299 authorizes the City Council to close public streets and alleys; and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a non-state maintained street (Kramer Street), further identified on the attached survey, which is incorporated herein by reference:

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

- 1) A public hearing will be held at 7:00 PM on the 24th day of October 2022 in the City Council Chambers of the Gardner Municipal Building to consider a resolution to close Kramer Street.
- 2) The City Clerk is hereby directed to publish this Preliminary Resolution once a week for four successive weeks in The Daily Advance, or other newspaper of general circulation in the area.
- 3) The City Clerk is further directed to transmit by registered or certified mail to each

owner of the property abutting upon that portion of said street a copy of the Preliminary Resolution.

- 4) The City Clerk is further directed to cause adequate notices of the Preliminary Resolution and the scheduled public hearing to be posted as required by NCGS 160A-299.

Adopted, this day the 12th of September 2022.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

d. Consideration – CDBG-CV RFP Results; *(Removed from Agenda During Agenda Adjustments and Approval)*

e. Consideration – Authorize Invoice Payments;

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton to authorize the invoice payments. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

f. Consideration – Renaming of Sunset Park;

Mayor Rivers indicated he'd requested this item be placed on the agenda as he was requesting Council's approval to move forward with renaming Sunset Park after Councilman Johnnie Walton. He provided a brief history on Councilman Walton, stating that he was born and raised in Elizabeth City, had done many great things, including being inducted into the ECSU Hall of Fame and playing for the Philadelphia Eagles. He'd also been a teacher and coach and he felt that we needed to show our youth that greatness came from this city. He added that he believed in giving people their flowers while they could enjoy them. He said he wished to rename the park "Sunset at Walton Park."

Councilman Peel noted that the City did have a naming policy and inquired of the Clerk what the next steps would be to move forward with this. The Clerk explained that under the naming policy, there were certain prerequisites an individual must meet, which Councilman Walton certainly did. She then advised that the next step would be to call for and hold a public hearing.

Motion was made by Mayor Pro Tem Kem Spence to hold a public hearing on September 26, 2022 during the 7:00 p.m. Regular Session to rename Sunset Park after Councilman Walton. The motion was seconded by Councilwoman Barbara Baxter. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

g. Consideration – Banking Services – Wells Fargo; *(As Added During Agenda Adjustments)*

Councilman Biggs advised that the City's contract through Wells Fargo has expired. He opined that Wells Fargo has provided the City with good services over the years, and renewing our contract comes with the ability to potentially add new services as well.

Motion was made by Councilman Johnson Biggs to authorize renewal of the City's contract with Wells Fargo. The motion was seconded by Mayor Pro Tem Kem Spence. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

h. Consideration – Boys & Girls Club Fundraiser;

Parks and Recreation Director Clark advised that he'd been approached by the Boys and Girls Club about potential usage of Parks and Rec facilities for their annual fundraiser. He noted that we have not partnered with them previously, but he said he thought it might be a good idea. He wanted to bring it to the Council to see if they'd like to move forward with it, and also if we could waive fees for this one-time event on October 6th.

Motion was made by Councilman Johnson Biggs, seconded by Mayor Pro Tem Kem Spence to approve partnering with the Boys & Girls Club for the event and waiving the fees for the one-time event. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

7. Closed Session – As Allowed by NCGS 143-318-11(a)(6) for Personnel

Motion to enter closed session was made by Councilwoman Katherine Felton, seconded by Councilman Johnnie Walton at 7:46 p.m. Those voting in favor of the motion were: Biggs, Peel, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

8. Adjournment:

The Council returned to open session at 8:55 p.m. Having no other business to discuss, Mayor Rivers declared the meeting adjourned at 8:56 p.m.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

