

**City Council Regular Session
September 23, 2024**

The City Council of the City of Elizabeth City met in Regular Session on Monday, September 23, 2024 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
Councilwoman Rose Whitehurst
Councilwoman Katherine Felton
Councilman Ronnie Morris
Councilman Johnnie Walton

MEMBERS ABSENT: Councilman Javis Gibbs

OTHERS PRESENT: City Manager Montre' Freeman
City Attorney Bill Morgan
Electric Superintendent Donnell White
Interim Chief of Police James Avens
ECDI Director Debbie Malenfant
Public Utilities Director Dwan Bell
Fire Chief Chris Carver
Deputy Fire Chief Thomas Brooks
Community Development Director Reggie Goodson
Assistant Finance Director Brian Lewis
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 7:02 p.m. Apostle Moore provided the invocation, after which Councilman Peel led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

Mayor Rivers directed the Council's attention to the prepared agenda. He requested that the Council add a Proclamation for the VFW's 125th Anniversary under Mayoral Recognitions. Under the Consent Agenda, he requested that the Council consider the addition of the items discussed during Work Session, including: Authorization to Apply for AIA Programs; Authorize the Fire Department's Boat Purchase of up to \$10,000; Authorize Harbor Towns Cruises to Remove Pilings; Call for a Public Hearing for 10/14 on CZ 01-24; and Pool Street Park Improvements / Revitalization. To the Regular Agenda, they would add the Planning Committee's item that had not been discussed due to lack of time: Update / Discussion – Amendments to Policy Sections III and V. Additionally, there would be an Update on Financial FY 2023 Audit and a Closed Session as allowed by NCGS 143-318.11(a)(5) to discuss a contract.

Motion was made by Councilman Joseph Peel, seconded by Councilwoman Katherine Felton to approve the agenda as amended. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

2. Mayoral Recognitions / Proclamations:

a. Alpha Delta Kappa Month;

Mayor Rivers presented representatives Betty Meads and Wanda Fletcher with a proclamation recognizing October 2024 as International Alpha Delta Kappa Month. Mrs. Meads and Mrs. Fletcher thanked the Council on behalf of Gamma Iota.

PROCLAMATION
International Alpha Delta Kappa Month
October 2024

WHEREAS, Alpha Delta Kappa, an International Honorary Sorority for Women Educators, is observing Alpha Delta Kappa Month during the month of October; and

WHEREAS, women in education constitute a great portion of the nation's working force, and are constantly striving to serve their communities and nation in educational, cultural, and charitable programs leading to harmony, happiness and peace among all people; and

WHEREAS, Alpha Delta Kappa is dedicated to educational excellence, leadership, altruism and world understanding, and recognizes outstanding women educators who are actively engaged in teaching, administration or in some specialized field of the teaching profession; and

WHEREAS, the local Gamma Iota Chapter of Alpha Delta Kappa is engaged in promoting education and charitable projects and activities, sponsoring scholarships, and furthering and maintaining worthy standards in the field of education on the local and state level.

NOW, THEREFORE, I, Kirk Rivers, Mayor of the City of Elizabeth City, do hereby proclaim the month of October 2024 as "**International Alpha Delta Kappa Month**" in Elizabeth City; and I encourage all citizens to join me in saluting this organization for its fine record of service to our community.

PROCLAIMED, this the 23th day of September 2024.

E. Kirk Rivers
Mayor

Attest:

April D. Onley, NCCMC
City Clerk

b. Public Power Week;

Mayor Rivers presented a proclamation honoring Public Power Week, which was received by Electric Superintendent Donnell White. Manager Freeman advised that the City would be hosting several activities during Public Power Week, the biggest of which would be inviting the community to come out and meet the Electric Department team. On Wednesday, October 9th, from 11:00 a.m. to 2:00 p.m. they would be having a free luncheon and offering a chance to win 2,000 kW's off of your electric bill. Our Council is a working Council and we hope that someone will be able to be present to pull the lucky winner's name from the entries. We are fortunate that when our power goes out we can get it back on quickly because our crews are on site. He encouraged everyone to come out, meet the team, and enter for a chance to win this great prize. Mayor Rivers said it was important to remember that the citizens are highly involved in this utility and they should know what it's all about. Manager Freeman added that the event was going to be hosted right here, right outside. The only people who are not eligible to win the free kW's are employees and the Council. We wanted to go big this year, and this is part of it.

PROCLAMATION RECOGNIZING PUBLIC POWER WEEK
OCTOBER 6th -12th 2024:

WHEREAS, public power is a crucial component in cities and towns across North Carolina, driving the overall health of communities by providing unmatched electric reliability, affordable and sustainable power, excellent local service, and essential jobs in communities; and

WHEREAS, North Carolina’s more than 70 public power cities and towns are among more than 2,000 across the country, providing electricity with a reliability rating of 99.98 percent to nearly 1.3 million North Carolinians; and

WHEREAS, many of North Carolina’s public power cities and towns have been electric providers for more than 100 years, assisting their communities through boom times as well as pandemics and economic downturns, maintaining life-saving electricity to homes and businesses; and

WHEREAS, North Carolina public power communities are part of a mutual aid network that spans the state and country, providing invaluable support during times of hurricanes and other natural disasters while maintaining a superior safety record; and

WHEREAS, North Carolina’s public power providers are essential community assets that contribute to the well-being of the community and provide irreplaceable economic development opportunities; and

WHEREAS, North Carolina’s public power utilities are dependable institutions that provide excellent service, valuable energy solutions, and a commitment to community.

NOW, THEREFORE, I, Kirk Rivers, Mayor of the City of Elizabeth City do hereby proclaim **October 6-12, 2024**, as "**PUBLIC POWER WEEK**" in Elizabeth City, and recommend its observation to all citizens.

E. Kirk Rivers,
Mayor

April Onley, NCCMC
City Clerk

c. Employee Retirement – William Walter Copeland;

Mayor Rivers presented Mr. Copeland, Fire Battalion Chief with a plaque acknowledging his 30 years of service with the City. He would be retiring, effective October 1, 2024. Mr. Copeland thanked the City for giving him the opportunity to be part of the team for so many years. He’d enjoyed his time here and he felt like he would enjoy his retirement too. There was a lot of history in the Fire Department. When he was hired 30 years ago, they were talking about the third station, and still talking about it now, so he believed that it was really going to happen one day.

d. VFW Day / 125th Anniversary(As Added During Agenda Adjustments);

Mayor Rives presented members of the VFW with a proclamation. Mr. Serik thanked the Council for the proclamation and for the recognition. Their cause was not just for veterans, but also for many other concerns within the community because they believed in being part of the community. He invited the Council to the Veterans Day event on November 11th. He introduced Commander Allen to say a few words. Mr. Allen asked if there are any veterans in the room or if anyone knew of any please encourage them to attend. The VFW is now a smokeless organization and they do have an oyster roast coming up on October 12th.

*Proclamation
Veterans of Foreign Wars of the United States
125th Anniversary
September 29, 2024*

WHEREAS, the Veterans of Foreign Wars of the United States (VFW) was founded in 1899 by a small group of veterans who returned from campaigns on Cuba and in the Philippines, banded together to create a veterans organization that would advocate on behalf of all veterans; and

WHEREAS, the VFW is a nonprofit veterans service organization comprised of eligible veterans and military service members from the Active, Guard and Reserve forces; and

WHEREAS, the VFW's mission is to foster camaraderie among United States veterans of overseas conflicts, to serve our veterans, the military and our communities, and to advocate on behalf of all veterans; and

WHEREAS, since its inception the VFW has been instrumental in the establishment of the Veterans Administration, the National Cemetery System, and the creation of every national veterans' memorial; and

WHEREAS, the VFW has played a vital role in virtually every significant piece of veterans legislation passed in the 20th and 21st centuries to include the Honoring Our PACT Act, the most significant expansions of veterans benefits in history; and

WHEREAS, the VFW's 125th anniversary is being observed on September 29, 2024, this date shall officially be known as **VFW Day**, and

NOW, THEREFORE, BE IT RESOLVED THAT I, Kirk Rivers, Mayor of the City of Elizabeth City, do hereby proclaim September 29 as **VFW Day** in honor of the VFW's invaluable contributions to the veteran community in Elizabeth City and around the world. We hereby stand with the VFW to ensure veterans are respected for their service, always receive their earned entitlements, and are recognized for the sacrifices they and their loved ones have made on behalf of this great country.

PROCLAIMED this the 23rd day of September 2024

E. Kirk Rivers,
Mayor

April Onley, NCCMC
City Clerk

3. Comments from the Public:

Fred Logsdon – 213 Rhonda Road, Elizabeth City, NC - Mr. Logsdon said he had a property on Colonial Avenue that he'd had since 1994 that he was trying to renovate. He had not lived there in the last eight years, yet his bill went up from \$13-\$26 to about \$80. Although the power and water is available, he doesn't use it. He also doesn't use the garbage pickup or anything like that. He wanted to receive some clarification on why his bill went up over services he did not really utilize.

Mayor Rivers advised that do to procedure, the Council could not respond during the public comment period, but he should leave his contact information with the City Manager, who would be in touch.

4. Public Hearings:

a. Hold a Public Hearing – RZ 04-24 as filed by CP Investments 1, LLC to Rezone 45.34 Acres on the North Side of Halstead Boulevard Ext;

Mayor Rivers declared the hearing open and inquired of the Clerk if there were any speakers. Upon the Clerk's reply that there were none, Mayor Rivers declared the public hearing closed. Director Goodson stated that this was a request to rezone approximately 45 acres on Halstead Extension from Highway Business to General Business. The Highway Business (HB) district is mainly used for larger developments such as the hospital, but car lots and big box retail also use it. General Business (GB) still allows retail uses. The reason for the rezoning is that HB requires a 50-foot setback off the Boulevard and GB only requires a 20-foot setback. This is for a proposed subdivision with a hotel and they do not want the front lot eaten up by the setback required by the HB zoning. The rezoning to GB is supported and both staff and the Planning Commission did recommend approval. Mayor Rivers asked if it would keep uniformity along the Corridor. Director Goodson felt that it would and he expected the front portion to develop as GB.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton to approve RZ 04-24 to rezone 45.34 acres

from Highway Business to General Business by adopting ordinance #2024-09-02 and the following consistency statement:

“The proposed rezoning request from HB, Highway Business to General Business (GB) for the 45.34 acres (Tax Maps P88-3A-1, and 3) located north of Halstead Blvd Extension is found to be consistent with the Joint Elizabeth City and Pasquotank County Land Use Plan, the area’s existing zoning pattern.”

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

**Ordinance # 2024-09-02
Rezoning Request RZ-04-24
(Parcel IDs: 8903171974 & 8903281001)**

WHEREAS, on August 6, 2024, the Planning Commission reviewed Petition RZ-04-24 filed by CP Investments 1, LLC, a request to rezone a 45.34± acre site that includes two parcels (IDs: 8903171974 & 8903281001) located on the north side of Halstead Boulevard Extension between Thunder Road and Conlon Way from Highway Business (HB) to General Business (GB); and

WHEREAS, the City Council called for a public hearing on September 9, 2024, which was held on September 23, 2024, at which time they considered any public comments given during the meeting; and

WHEREAS, both the Planning Commission and the City Council have found the request to rezone to the parcels from Highway Business (HB) to General Business (GB) to be consistent with the area’s zoning pattern and existing land uses of adjacent properties, as well as the Future Land Use Map; and

WHEREAS, the proposed zoning will be consistent with the area’s zoning patterns; and

WHEREAS, the Joint Pasquotank County/Elizabeth City Land Use Plan was considered; and,

WHEREAS, after consideration of the technical merits of the request, the Planning Commission recommended approval to the City Council, which was subsequently given.

NOW THEREFORE, BE IT ORDAINED that the City Council of the City of Elizabeth City does hereby approve the request to amend the Official Zoning Map to show that the 45.34± acre site that includes two parcels (IDs: 8903171974 & 8903281001) located on the north side of Halstead Boulevard Extension between Thunder Road and Conlon Way from Highway Business (HB) General Business (GB).

ADOPTED, this the 23rd day of September, 2024.

E. Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

b. Hold a Public Hearing – RZ 05-24 as filed by Freedom Baptist Ministries for 957 Body Road;

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 one, Mayor Rivers asked that they be called forward.

Linda Brooks – 523 Water Crest Circle, Elizabeth City, NC - Mrs. Brooks said she was here to request zoning approval for the rezoning of 957 Body Road, a 14.24-acre parcel. Their vision is to develop diverse housing options for low-income individuals and provide affordable housing and amenities. Elizabeth City is experiencing significant growth, with a population increase of 5.8% over the past decade. More than 28% of the residents live below the poverty line, and

this development will speak to that with tiny homes, stackable homes and townhomes. The Camelot Village Development will also have a community pool, dog park, gym and open green spaces. They would like to create an area where residents can take pride in their homes. Rezoning to AD will have a positive impact on the local economy including an increase in property tax revenue. She said the construction and ongoing management of the community would create jobs in Elizabeth City. The project will reduce resident turnover, improve educational outcomes and foster community relationships. She believed it aligned with sustainable development. By rezoning to AD, the land is being zoned to its full potential. She requested the Council's approval of the rezoning request to allow the development of Camelot Village.

Having no other speakers, Mayor Rivers declared the public hearing closed.

Planner Dylan Lloyd advised this property was located at approximately 957 Body Road and was generally agricultural in nature. It is near the Millbrooke subdivision. The AD district can allow up to 20-25 multi-family dwelling units. We do not have a sketch plan in place right now as this is just a change in density. The matter at hand is simply to consider the rezoning, not the overall vision. This is a total of a bit more than 14 acres. The max units could be 300-310, but that may not be the number they eventually land on. The zoning summary shows that AD would allow that particular type of development. It has enough room. It is in the flood zone. We initially thought there might be some issues with the schools, but Superintendent Keith Parker said ECPPS was supportive of any growth. Hurdle #2 is that there is a portion outside of City connection so they may need to work with sewer if they do not tie into the force main, but again, that is not the consideration here this evening. Mr. Lloyd said the current UDO does allow for the change, although it does go against the Land Use Plan (LUP). The LUP does say that as growth pushes away from the city center, areas that used to be more low density may change. The population is changing and we are allowing other areas and other parcels in this area. An area just north of this was recently zoned AD, as have other areas on Body Road. The level of service on Body Road is good at about 30%, so there is no traffic issue. The issue with utilities will need to be decided when there is a plan in place, but this is just rezoning. They did also get input from ECSU and the Coast Guard and they both support more housing in the area.

Councilwoman Felton asked what the 300 to 310 figure he referenced meant. Planner Lloyd replied that was the amount of units that would be allowed because of the acreage. It's about 14 acres and if it rezones to AD, just estimating, it would allow that many. Councilwoman Felton noted that she had not heard any negative responses from people who live in Millbrooke, and this is the 3rd Ward so if there were any bad feelings it would come to her. As such, the community must feel this is okay.

Councilman Walton verified that both ECSU and the Coast Guard had no problem. Planner Lloyd advised that they made statements that they support more housing. It was a pretty broad, generalized statement. They weren't saying it about this particular parcel, but just in general. Councilman Walton was concerned that it could be many families and a lot of traffic. Although they said the area doesn't have a flux of traffic, sometimes there's a lot going on down that road. That's still a lot of units. He worried we were putting a burden on people. It was a problem back then to put apartments in that area for a previous Council and I don't know what has changed for it to not be a problem now. The people at Millbrooke did complain when they tried to put something there before. There were complaints, many of them. I guess going forward, you have to look at the end results. It is just a lot of units. That many per acre is a lot. Planner Lloyd said they recognized that and it was mainly to understand what the maximum build out could be. A lot of them never max out. If you look at Tanglewood and places like that, it's on the high side. We just don't know. When it does happen, when they come with a complete plan and a preliminary plat and we don't have everything we need, it gets handled then. Councilman Walton noted that we don't have that right now. At one time, our population was about 20,000 and now it's 18,000. People kept saying it was going to be a big growth, but it's not being documented. Planner Lloyd felt with the recent annexations, it was going to start changing. Councilman Walton just wanted everyone to know. What's the radius for notification? Director Goodson advised that NC General Statute says that everyone within 100 feet has to be notified by letter, so that did notify some people in Millbrooke, the back part. We also had to post the property, and then post in the paper and things like that. At the Planning Commission meeting, we had a first but got no second. I asked if they wanted to deny and they didn't want to do that either. Therefore, this is coming with no recommendation from the Planning Commission.

Councilman Biggs didn't know what the electrical utility might look like coming down from that site. We also need to be prepared to figure out if we can handle another set of units on that side of town. For Body Road, for your traffic count, did we get that from DOT? Planner Lloyd replied that it was from NCDOT, but it was 2016. Councilman Biggs said that to Councilman Walton's point, he traveled Body Road a lot and it's a highly traveled area at a high rate of speed. If we approve this tonight and it does go forward, we need to probably request an updated traffic count through there. It is much busier than what they were thinking eight years ago.

Motion was made by Councilman Joseph Peel, seconded by Mayor Pro Tem Kem Spence to approve RZ 05-24 to rezone the parcel at 957 Body Road, along with adoption of ordinance #2024-09-03 and the following consistency statement:

“The City Council of the City of Elizabeth City approves the rezoning from R-15 to AD as fostering growth for economic vitality and providing adequate housing options are consistent with the Elizabeth City Future Land Use Plan (LUP). The LUP also states that areas adjacent to more intense land uses may transition into a medium/high density residential land use over time”

Mayor Rivers noted that TRC would consider sewer capacities before it went on to anything else. Most of the time they have the engineers provide a sewer capacity report. Before we'll let it move past TRC, they look at the traffic ingress, egress, turn lanes, all that stuff. Councilman Biggs felt that they probably needed to look at the TRC's proposed comments for a site plan before they voted for a site plan.

Councilman Walton shared that when he used to train, he ran that area from ECSU to Simpson Ditch. He had no problems then, but he is afraid even to walk there now because of the cars. Director Goodson pointed out that NCDOT could require an impact analysis based on a development, but we would not know that until it gets to TRC. This is just a rezoning.

Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton and Morris. Against: Walton. Motion carried.

**Ordinance # 2024-09-03
Rezoning Request RZ-05-24
(Parcel ID: 891303326681)**

WHEREAS, on September 3, 2024, the Planning Commission reviewed Petition RZ-05-24 filed by Freedom Baptist Ministries, a request to rezone a 14.24± acre site located at 957 Body Road, (approximately 1,500 feet southwest of the intersection of Body Road and Halstead Boulevard) from R-15 Residential to Apartment District (AD); and

WHEREAS, the City Council called for a public hearing on September 9, 2024, which was held on September 23, 2024, at which time they considered any public comments given during the meeting; and

WHEREAS, both the Planning Commission and the City Council have found the request to rezone to the parcels from R-15 Residential to Apartment District (AD) to be consistent with the area's zoning pattern and existing land uses of adjacent properties, as well as the Future Land Use Map; and

WHEREAS, the proposed zoning will be consistent with the area's zoning patterns; and

WHEREAS, the Joint Pasquotank County/Elizabeth City Land Use Plan was considered; and,

WHEREAS, after consideration of the technical merits of the request, the Planning Commission had a motion to approve the request, which failed to carry; however, NCGS 160D-604(b) allows the Council to act on the request within 30 days and they chose to do so .

NOW THEREFORE, BE IT ORDAINED that the City Council of the City of Elizabeth City does hereby approve the request to amend the Official Zoning Map to show that the 14.24± acre site located at 957 Body Road from R-15 Residential to Apartment District (AD).

ADOPTED, this the 23rd day of September, 2024.

E. Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

c. Hold a Public Hearing – Adding Section 130.14 to the Elizabeth City Code of Ordinances;

Mayor Rivers declared the public hearing open and inquired of the Clerk if there were speakers present who wished to be heard. The Clerk replied that there were several and they would speak on the sections as a whole; however, when it came time to vote, the Council would need to vote on each one separately.

Jeff Mitchell – East Fearing Street, Elizabeth City, NC – Mr. Mitchell appreciated the Council entertaining some of these rules. With the town growing, certain behaviors and appearances were important. He looked over the ordinances that were presented and wanted to share some of the behaviors he or his family had been witness to. On Tuesday nights, they have movie nights or Music on the Green. His wife was out there, still daylight, with his one-year-old grandson and was approached by a woman who spat on her. It was completely unprovoked. It happened very quickly and was very appalling. Another instance was at their rental property on East Fearing Street. The tenant came outside and found a man in their yard using the bathroom in broad daylight. There is a need for these ordinances to be considered and he appreciated the opportunity to share.

Mel Martine – 512 East Main Street, Elizabeth City, NC (6 min.) – Mrs. Martine advised that she was a business owner downtown who had been negatively affected by these behaviors since first opening her doors. She had been pleading with the Elizabeth City Police Department, the city manager, anyone who would listen. It did not look good to the businesses or the city to have these things happening. She felt it was important to the citizens and the law enforcement because now they can actually do something to help them. This will help clean up downtown and the community at large.

George Jackson – Elizabeth City, NC (6 min.) – Mr. Jackson said he was a downtown property owner and had been confronted with these problems on several occasions. The panhandlers were problematic, not so much to him but it was off-putting to visitors, as were the people who were camping in the parks and on the water. He commended the Council for bringing this forward and hoped that these ordinances would be adopted. He also wanted the Council to be aware of an emerging problem affecting downtown, which was violent behavior in the later hours of the evening / early hours of the morning. The behavior seemed to be fueled by alcohol. He had two tenants who served alcohol, one of whom was a brewery. He was expressing a desire that as the Council dealt with these issues affecting downtown, they also consider other problems happening downtown. He often thought of Norfolk and the things that happened on Granby Street that brought a draconian reaction from the city's officials, which he did not want to see here. He hoped we could continue to keep and grow our beautiful downtown.

There being no further speakers, Mayor Rivers declared the hearing closed.

Attorney Morgan said that several months ago, the Council directed ECDI Director Malenfant, Interim Chief Avens, Parks and Recreation Director Sean Clark and himself to look into some of these issues. There are three ordinances total, which are involved in three public hearings. He reminded the Council that there was nothing illegal about someone asking about financial help or panhandling, but this ordinance is specific to aggressive begging. The ordinance with camping does allow the city manager to authorize someone via a permit to camp downtown in public parks, etc.

Councilman Walton asked what does the adoption of these ordinances do to anyone who does these things. Attorney Morgan explained that these offenses come with a fine of \$500 associated with them.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Johnson Biggs to adopt Ordinance #2024-09-04 Adding Section 130.14 – Urinating and Defecating on Public Property to the Elizabeth City Code of

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

Ordinance # 2024-09-04

AMENDING THE ELIZABETH CITY CODE OF ORDINANCES

**Specifically Title XIII: General Offenses, Chapter 130: General Provisions
To Add Section 130.14: Urinating and Defecating on Public Property**

. **WHEREAS**, Title XIII: General Offenses in the Elizabeth City Code of Ordinances provides that regulates and restrictions aimed at protecting the public health, welfare and safety of the citizens and visitors to our community; and

WHEREAS, Title XIII: General Offenses are further broken down in Chapter 130: General Provisions, but these provisions do not adequately address the enforcement of certain behaviors; and

WHEREAS, the City Council desires to add Section 130.14 – Urinating and Defecating on Public Property; and

WHEREAS, a Public Hearing to effectuate this ordinance amendment as required by the City Council Rules of Procedure was advertised to be held on September 23, 2024, as required.

NOW THEREFORE BE IT ORDAINED THAT the City Council of the City of Elizabeth City hereby amends Title XIII: General Offenses, Chapter 130: General Provisions of the City of Elizabeth City Code of Ordinances, by the addition of Section 130.14 as follows:

SECTION I. Section 130.14 Urinating or Defecating on Any Public Place.

(a) It is unlawful for any person to urinate or defecate on any public place, sidewalk, street, alley or right of way, or in any public building, except in toilet facilities, or upon private property in a location visible from any public place. "Public place" means property owned by the city, state, a county or federal government, including leaseholds and easements.

(b) Penalty: Any person who violates any of the subsection (a), above, of this section shall be guilty of a misdemeanor under GS 14-4 and, upon conviction, shall be subject to a maximum fine of \$500.00 per occurrence, imprisonment, or both.

SECTION II. EFFECTIVE DATE: This Ordinance shall take effect on September 23, 2024.

SECTION III. CODIFICATION. The provisions of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable after its adoption.

SECTION IV. SEVERABILITY CLAUSE. If any section, or part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 23rd day of September 2024.

E. Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

d. Hold a Public Hearing – Adding Section 130.15 to the Elizabeth City Code of Ordinances;

Mayor Rivers declared the public hearing open and as there were no additional speakers, he then declared the public hearing closed.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Johnson Biggs to adopt Ordinance #2024-09-05 Adding Section 130.15 – Soliciting and Begging to the Elizabeth City Code of Ordinances. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

**Ordinance # 2024-09-05
AMENDING THE ELIZABETH CITY CODE OF ORDINANCES
Specifically Title XIII: General Offenses, Chapter 130: General Provisions
To Add Section 130.15: Soliciting and Begging**

WHEREAS, Title XIII: General Offenses in the Elizabeth City Code of Ordinances provides that regulates and restrictions aimed at protecting the public health, welfare and safety of the citizens and visitors to our community; and

WHEREAS, Title XIII: General Offenses is further broken down in Chapter 130: General Provisions, but these provisions do not adequately address the enforcement of certain behaviors; and

WHEREAS, the City Council desires to add Section 130.15 – Soliciting and Begging; and

WHEREAS, a Public Hearing to effectuate this ordinance amendment as required by the City Council Rules of Procedure was advertised to be held on September 23, 2024, as required.

NOW THEREFORE BE IT ORDAINED THAT the City Council of the City of Elizabeth City hereby amends Title XIII: General Offenses, Chapter 130: General Provisions of the City of Elizabeth City Code of Ordinances, by the addition of Section 130.15 as follows:

SECTION I. Section 130.15 Soliciting and Begging.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Aggressive Panhandling, Solicitation, or Peddling includes:

- 1) Accosting a person by approaching or speaking to the individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person, or upon property in his immediate possession;
- 2) Touching someone without their consent;
- 3) Using obscene or abusive language toward someone while attempting to panhandle or solicit them;
- 4) Forcing oneself upon the company of another by continuing to solicit in close proximity to an individual who has made a negative response by verbal or physical signs or by attempting to leave the presence of the person soliciting, or by another negative indication;
- 5) Blocking the path of the individual being solicited; otherwise engaging in conduct that could reasonably be construed as intending to force a person to accede to a solicitation;
- 6) Other conduct that a reasonable person being solicited would regard as intended to compel or force the person to accede to the solicitation.

Automatic Teller Machine means a device linked to a financial institution's account records, which is able to carry out transactions, including but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage, loan, and credit card payments.

Automatic Teller Machine Facility means the area comprised of one or more automatic teller machines and any adjacent space, which is made available to banking customers after regular banking hours.

Financial Institution means any bank, industrial bank, credit union, savings and loan, check-cashing business, or other financial business.

Panhandling means, without limitation, use of the spoken, written, or printed words, signs, bodily gestures, or other acts as are conducted in the furtherance of the purpose of obtaining aims or contributions of money, food, or clothing for the use of oneself or others.

Public Place means as place where governmental entity has title and/or to which the public or a substantial group of persons has access, including, but not limited to, any street, highway, parking lot, plaza, restaurant, theater, transportation facility, vendor location, school, place of amusement, park or playground.

(b) Prohibited Conduct While Soliciting, Peddling or Panhandling. It shall be unlawful for any person to solicit, peddle, or panhandle, as define in subsection (a) of this section:

- 1) By engaging in any acts of aggressive soliciting, peddling, or panhandling as defined in subsection (a) of this section;
- 2) Within 50 feet of the entrance to any financial institution, any automatic teller machine or any automatic teller facility;
- 3) At any permitted outdoor dining area or outdoor merchandise area, providing such areas are in active use at the time;
- 4) At any transit stop or taxi stand, or in a public transit vehicle;
- 5) While the person being solicited is standing in line waiting to be admitted to a commercial establishment;
- 6) On private property, unless the person has written permission from the owner of the property to beg or solicit aims on the property;
- 7) After dark, which shall mean one-half hour after sunset until one-half hour before sunrise;
- 8) While under the influence of alcohol or after having illegally used any controlled substance as defined in the North Carolina Controlled Substance Act;
- 9) Within 20 feet of any crosswalk;
- 10) In or on city streets to include the right-of-way, median or shoulder thereof;
- 11) By standing, sitting, or loitering in any street or highway, including shoulders or medians, but excluding sidewalks, and/or to stop or attempt to stop any vehicle for the purpose of obtaining employment, business or contribution from the driver or any occupants of the motor vehicle in accordance with GS 250-175. This provision shall not apply to licensees, employees or contractors of the department of transportation or city employees engaged in construction, maintenance or in making traffic engineering surveys;
- 12) In a school zone during the time of arrival of students at the beginning of the school day and/or during the time of the departure of students at the end of the school day;
- 13) Within 20 feet of the entrance or exit of any parking deck, garage, or surface parking lot;
- 14) Within 50 feet of any city-owned or operated building or facility.

(c) Penalty. Any person who violates any of the provisions of this section shall be guilty of a misdemeanor as provided in NCGS 14-4 and, upon, conviction, shall be subject to a maximum fine of \$500,00 per occurrence, imprisonment, or both.

SECTION II. EFFECTIVE DATE: This Ordinance shall take effect on September 23, 2024.

SECTION III. CODIFICATION. The provisions of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable after its adoption.

SECTION IV. SEVERABILITY CLAUSE. If any section, or part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 23rd day of September 2024.

E. Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

e. Hold a Public Hearing – Adding Section 130.16 to the Elizabeth City Code of Ordinances;

Mayor Rivers declared the public hearing open and having no additional speakers, he then declared the public hearing closed.

Motion was made by Councilwoman Katherine Felton, seconded by Mayor Pro Tem Kem Spence to adopt Ordinance #2024-09-06 Adding Section 130.16 – Camping on Public and Private Property to the Elizabeth City Code of Ordinances.

Councilman Walton asked what happens if people don't pay the fines. Attorney Morgan explained that they can be imprisoned for up to 30 days and it's a misdemeanor. The situation with most of the individuals who would be violating these ordinances, our judges are generally lenient and may give them the option to pay over time. Councilman Walton felt that we have to have some safeguards to protect people. Are we working with the mental agencies? Attorney Morgan noted that the people violating these ordinances are often destitute or mentally unwell, so it's a fine line. Manager Freeman stated that we have already begun working with area mental health agencies to address the problem where it is. Our ECPD officers are not mental health professionals, but they are the ones who get the calls. What we don't want is for our officers to show up and have something escalate. Our officers now have some direction and things they can do thanks to these ordinances. We are forming a coalition to work on the mental health piece.

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

5. Approval of Minutes:

a. Consideration – Approve September 9, 2024 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, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

6. Consent Agenda:

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

III. The following revenue is anticipated to be available to complete this project:

[INSERT ACCOUNT #] NCDEQ-DCM, RCCP Grant \$140,000

IV. The following amount is appropriated for project expenses:

[INSERT ACCOUNT #] Stormwater Ordinance Update & Rain Garden \$140,000

V. 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 23rd day of September, 2024.

E. Kirk Rivers
Mayor

April D. Onley, NCCMC
City Clerk

c. Consideration – Authorization to Apply for AIA Programs *(As Added During Agenda Adjustments)*;

RESOLUTION #2024-09-01

Resolution by the City Council of the City of Elizabeth City

WHEREAS, The City of Elizabeth City has need for and intends to plan for or conduct a study in a project described as the “Water Asset Management Plan Update” and

WHEREAS, The City of Elizabeth City intends to request grant assistance for the project,

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY:

- That the City of Elizabeth City, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
- That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.
- That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.
- That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Elizabeth City to make a scheduled repayment of the loan, to withhold from the City of Elizabeth City any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
- That E. Kirk Rivers, Mayor, the **Authorized Representative** and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the performance of the project described above.
- That the **Authorized Representative**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

- That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, ordinances, and funding conditions applicable to the project and to Federal and State grants and loans pertaining thereto.

ADOPTED this the 23rd day of September, 2024 in Council Chambers, 306 E. Colonial Ave., Elizabeth City, North Carolina.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

RESOLUTION #2024-09-02
Resolution by the City Council of the City of Elizabeth City

WHEREAS, The City of Elizabeth City has need for and intends to plan for or conduct a study in a project described as the "Sewer Asset Management Plan Update" and

WHEREAS, The City of Elizabeth City intends to request grant assistance for the project,

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY:

- That the City of Elizabeth City, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
- That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.
- That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.
- That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Elizabeth City to make a scheduled repayment of the loan, to withhold from the City of Elizabeth City any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
- That E. Kirk Rivers, Mayor, the **Authorized Representative** and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the performance of the project described above.
- That the **Authorized Representative**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
- That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, ordinances, and funding conditions applicable to the project and to Federal and State grants and loans pertaining thereto.

ADOPTED this the 23rd day of September, 2024 in Council Chambers, 306 E. Colonial Ave., Elizabeth City, North Carolina.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

- d. **Consideration – Authorize Fire Department Boat Purchase of Up to \$10,000** *(As Added During Agenda Adjustments);*
- e. **Consideration – Authorize Harbor Towns Cruises to Remove Pilings** *(As Added During Agenda Adjustments);*
- f. **Consideration – Call for a Public Hearing on CZ 01-24** *(As Added During Agenda Adjustments);*
- g. **Consideration – Pool Street Park Improvements / Revitalization** *(As Added During Agenda Adjustments);*

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

7. Regular Agenda:

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

No items were removed from the Consent Agenda.

- b. **Consideration – Adopt Resolution for Walker Landing Housing Bond;**

Attorney Morgan explained that he'd received an email from Ms. Kirby, an attorney with MacGuire Woods asking the Council to consider this item. This would allow the City to act as a conduit for a bond to renovate Walker Landing Apartments. These are government-subsidized apartments. The developer would apply for government grants and approvals to provide housing for low-to-moderate income individuals. We are not responsible for the bond whatsoever; just simply serve as the conduit. Kristin Kirby stated that MacGuire Woods would be the bond counsel to rehabilitate Walker Landing. There are roughly 150 units of existing affordable housing. The developer is seeking up to \$26 million in funding. The units were last updating in 2006 or 2007 and the City previously issued bonds at that time. The developer is the Transcend Group and a representative is here if there are any specific questions. The City would act as a conduit issuer, which means while the City would issue the bonds, it does not affect the City's legal debt limit or ratios and the City is not responsible for the payment. In order to seek the financing, the developer must have a governmental entity involved, which is why the request is appearing this evening.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilman Joseph Peel to adopt the resolution approving the action.

Councilman Walton verified that the City has no responsibility at all. Ms. Kirby confirmed that was correct Councilman Walton asks who inspects to ensure that things are properly done. Ms. Kirby explained that annual reporting is done every year and the City will receive copies of that, as will the NC Housing Finance Agency.

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

Resolution # 2024-09-03
Preliminary Approval to Issuance of Multifamily Housing Revenue Bonds
to Finance the Acquisition, Rehabilitation and Equipping
of Walker Landing Apartments

WHEREAS, the City Council (the "City Council") of the City of Elizabeth City, North Carolina (the "City") met in Elizabeth City, North Carolina at 7:00 p.m. on the 23rd day of September, 2024; and

WHEREAS, pursuant to Section 160D-1311(b) of the General Statutes of north Carolina, the City is granted the power to exercise directly the powers of a housing authority organized pursuant to the North Carolina Housing Authorities Law, Article 1 of Chapter 157 of the General Statutes of North Carolina, as amended (the "Act"); and

WHEREAS, the Act in NCGS 157-9 gives the City acting as a housing authority the power "to provide for the construction, reconstruction, improvement, alteration or repair of any housing project" and "to borrow money upon its bonds, notes, debentures or other evidences of indebtedness and to secure the same by pledges of its revenues"; and

WHEREAS, TTG Walker Landing Limited Partnership, or another affiliated or related entity of Transcend Group, LLC (the "Company"), intends to provide affordable housing in the City; and

WHEREAS, the Company has requested that the City assist it in financing the acquisition, rehabilitation and equipping of a qualified residential rental project known as Walker Landing Apartments, consisting of 154 units and located at approximately 1003 Walker Avenue in the City (the "Development"); and

WHEREAS, the Company has described to the City the benefits of the Development to the City and the State of North Carolina and has requested the City to agree to issue its multifamily housing revenue bonds in such amounts as may be necessary to finance the costs of acquiring, rehabilitating and equipping the Development; and

WHEREAS, the City is of the opinion that the Development is a facility that can be financed under the Act and that the financing of the same will be in furtherance of the purposes of the Act.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY:

1. It is hereby found and determined that the Development will involve the acquisition, rehabilitation and equipping of a multifamily housing facility, and that therefore, pursuant to the terms and subject to the conditions hereinafter stated and the Act, the City agrees to assist the Company in every reasonable way to issue bonds to finance the acquisition, rehabilitation and equipping of the Development, and, in particular, to undertake the issuance of the City's multifamily housing revenue bonds (the "Bonds") in an amount now estimated not to exceed Twenty-Six Million Dollars (\$26,000,000) to provide all or part of the cost of the Development.
2. The City intends that the adoption of this resolution be considered as "official action" toward the issuance of the Bonds within the meaning of the regulations issued by the Internal Revenue Service pursuant to Section 1.150-2 of the Treasury Regulations issued under the Internal Revenue Code of 1986, as amended (the "Code").
3. The Bonds shall be issued in such series and amounts and upon such terms and conditions as are mutually agreed upon between the City and the Company. The City and the Company shall enter into a "financing agreement" pursuant to the Act for a term and upon payments sufficient to pay the principal of, preium if any, and interest on the Bonds and to pay all of the expenses of the City in connection with the Bonds and the Development. The Bonds will be issued pursuant to an indenture or security

agreement between the City and a trustee (the "Trustee") or the bondholder which will set forth the form and terms of the Bonds and will assign to the Trustee for the benefit of the holders of the Bonds, or directly to the bondholder, the City's rights to payments under the financing agreement, except the City's right to payment of fees and expenses and indemnification. The Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit of the State of North Carolina or any political subdivision or agency thereof, including the City, but shall be payable solely from the revenues and other funds provided under the proposed agreements with the Company.

4. The City hereby authorizes the Company to proceed, upon the prior advice, consent and approval of bond counsel and the City's counsel, to obtain approvals in connection with the issuance and sale of the Bonds and to obtain an allocation of a sufficient amount of the State of North Carolina's "private activity bond limit", as required by Section 146 of the Code and as defined in Section 146 of the Code, for the Bonds.
5. It having been represented to the City that it is desirable to proceed with the acquisition, rehabilitation and equipping of the Development, the City agrees that the Company may proceed with plans for such acquisition, rehabilitation and equipping, enter into contracts for the same, and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Company to obligate the City without its written consent in each instance to the payment of any monies or the performance of any act in connection with the Development and no such consent shall be implied from the City's adoption of this resolution. The City agrees that the Company may be reimbursed from the proceeds of the Bonds, if and when issued, for all qualifying costs so incurred as permitted by Treasury Regulations Section 1.150-2.
6. All obligations hereunder of the City are subject to the further agreement of the City and the Company to terms for the issuance, sale and delivery of the Bonds and the execution of a financing agreement, indenture or security agreement and other documents and agreements necessary or desirable for the issuance of the Bonds. The City has not authorized and does not authorize the expenditure of any funds or monies of the City from any source other than the proceeds of the Bonds. All costs and expenses in connection with the financing and the acquisition, rehabilitation and equipping of the Development, including the reasonable fees and expenses of the City's counsel, bond counsel and the agent or underwriter for the sale of the Bonds, shall be paid from the proceeds of the Bonds or by the Company, but if for any reason the Bonds are not issued, all such expenses shall be paid by the Company and the City shall have no responsibility therefor. It is understood and agreed by the City and the Company that nothing contained in this resolution shall be construed or interpreted to create any personal liability of the officers or council members from time to time of the City.
7. The officers of the City are hereby authorized and directed to take all actions in furtherance of the resolution and the issuance of the Bonds.
8. The City hereby approve MacGuire Woods LLP, Raleigh, North Carolina, to act as bond counsel for the Bonds.
9. This resolution shall take effect immediately.

Mayor Pro Tem Kem Spence moved the passage of the foregoing resolution and Council member Joseph Peel seconded the motion, and the resolution was passed by the following vote:

Ayes: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton

Nays: None

Not Voting: Gibbs (Absent)

ADOPTED, this the 23rd day of September, 2024.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

c. Consideration – Fire Department Vacancies and Promotions;

Chief Carver said he had four departmental vacancies that he needed to fill. There would be some in-house movement so they'd need to hold several assessment centers. Councilman Biggs wondered if they needed to clarify if some of the promotions were coming from within then they weren't actually using any of the approved vacancies. Councilman Peel noted that they discussed that in their committee meeting. Councilman Walton said he really felt that they were micromanaging at this point, but he couldn't vote against it.

Motion was made by Councilman Joseph Peel, seconded by Councilwoman Katherine Felton to authorize the Fire Department to fill four vacancies, hold assessments centers and consider in-house promotions as necessary. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

d. Consideration – Water & Sewer Division Vacancies;

Director Bell said he had four positions he needed to fill in Water and Sewer. They had several projects that had been placed on the backburner and some of them were moving toward nearing to be contracted. Melvin Bembury and Mr. Skinner were also approaching retirement. The positions are just for trainees.

Motion was made by Councilman Johnson Biggs, seconded by Councilman Joseph Peel to authorize filling four vacant construction trainee positions in the Water and Sewer Division. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

e. Consideration – Authorize Deed Filing for Armory;

Mayor Rivers advised that the deed for the former armory had been received from the State, and he wanted to bring it to the Council's attention prior to having it filed.

Motion was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton to authorize filing the deed for the armory Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

f. Update / Discussion – (Planning Committee) Amendments to Policy Sections III and V (As Added During Agenda Adjustments);

Councilman Peel said that during the budget process, it became clear we had some issues with the role of the city manager and the role of Council as well as the timing of hiring for positions. We worked with Attorney Leidy on Section III, which is Classification of Pay. I think that clearly defines the roles of the parties involved in managing the pay plan and the timing as well. It helps us make sure that adding positions or raises will occur during the budget process.

We really didn't have any clarity around that as it originally existed. I think these will help eliminate some of the issues we had during the budget process.

Mayor Pro Tem Spence asked if the manager was involved in this. Councilman Peel replied that he was not. Mayor Pro Tem Spence agreed that upgrades needed to be done, but he did not think this should have taken place without the manager because even the job description goes against what some of this is saying. He should have been involved in the meeting. Councilman Peel said he didn't involve him in this because he did it as part of the Planning Commission. We meet with other members and the manager isn't there. Mayor Pro Tem Spence noted that he'd included the labor attorney, which is outside of the City, outside of even our City Attorney. He reiterated that he was not saying changes weren't needed because they were. This is just a start. He still said there was a need to practice fundamental fairness. If we're going to change some of his assignments, someone else should be involved other than you and the labor attorney. I just want to express that I don't think it was done fairly.

Councilman Walton noted that he serves on the Planning Committee and he wasn't invited to any of these discussions. Councilman Peel said this item was on the Work Session agenda for tonight but we didn't make it. Councilman Walton stated that some of us meet in little circles and everyone goes along. It takes the joy out of even being a part of the City Council. Being added to the last thing on the agenda. I don't like micromanaging or back door politics. We just think it's right. We need to put some more ordinances in there, \$500 or \$1,000 in there for people doing things like that. We act like we feel good about it. I don't know, it's a new world out here and I'm not conforming. You have to transform your own mind. These things you're all doing, they are not good and they are not right. When you do your little stuff, it comes back around.

Mayor Rivers asked for the pleasure of Council.

Councilman Walton said he was not even sure what they were voting on. Councilman Peel advised that the document was provided in front of him. Councilman Walton asked if it had been passed out tonight. Councilman Peel replied that it did not; it was on the agenda. Councilman Walton said he did read it, but he'd like Councilman Peel to share his comments verbally. Councilman Peel said we had some issues during the budget process and so he got with the labor attorney. The policies we had in place were not very clear due to the roles and relationships and the timing of when things happened. We made some changes in those policies and that's what you have in front of you tonight. It was scheduled to be on the Planning Committee, but we did not have time.

Councilman Walton noted that we have time now. Mayor Rivers stated that this is part of your agenda. Councilman Walton felt they should talk about it. Mayor Rivers asked Councilman Walton what questions he had. Councilman Walton said he had many of them. What is this about? I have not looked over it. Mayor Rivers asked if Councilman Walton would like the Clerk to read the document. Councilman Walton replied that he would.

The Clerk read the first section of the provided document. Councilman Walton questioned why this action was taken. Why did we meet with the labor attorney without me knowing about it and me being part of the Planning Committee? Is it so you can stack your deck? You want to stack the deck according to the policy that you changed. Councilman Walton asked Mayor Rivers to pass the gavel if he was going to enter the discussion.

The Clerk read the second section of the provided document. Councilman Walton stated that he'd received a call earlier and was told that if something was to be changed we had to go through the mayor. Is that true? Is the mayor the person to send people to about the utility bills or do I send them to the manager? Is that how we handle it now? It's not my decision. You change your policies so it can suit your agenda.

The Clerk read the remainder of the document. Councilman Walton stated that he'd had the Clerk read that so he could take that time out so he could come back down. He had a passion for people. When a person is bullied... I have never liked a bully or a group of people who bully. He asked how much were we paying PB Mares. Manager Freeman replied that it was \$200,000 and we negotiated down to \$179,500 and \$175,000. Councilman Walton asked how much the woman who came in and took their place is. Manager Freeman advised that Mrs. Layne was

about \$60,000. Councilman Walton stated that when you start giving raises and making the people around you feel good, some people don't like that and they call that jealousy. You have to reach down and help people up or else you're not living that Christian life that we project and put out there. We change policies so we can do what we want to do. You didn't make policy with the fund balance was taken from \$7 million to \$13 million, but when somebody isn't doing what we want, we get upset and change the rules. We don't let things happen fairly. He asked the Council not to be so caught up in things like that.

Mayor Rivers asked the Council's pleasure on the presented changes.

Motion was made by Councilman Johnson Biggs, seconded by Councilwoman Rose Whitehurst to approve the policy changes to Sections III and V. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Felton and Morris. Against: Spence and Walton. Motion carried.

III. CLASSIFICATION AND PAY

1.0 **The Position Classification Plan.** The Position Classification Plan provides a complete inventory of all authorized and permanent positions in City service, and an accurate description and specification for each class of employment. A class specification of each full-time regular position specifies the job title, definition, examples of work, required knowledge and skills, and desired experience and training. City employees may review their class specification to promote an understanding of the requirements and responsibilities of the position to which they are assigned. Likewise, the qualifications of individual job applicants may be measured in relation to the class specifications included in the Position Classification Plan. No class specification shall be interpreted to include all details of a job, and all class specifications shall be interpreted to require the performance of additional related duties as assigned. The City Manager or their designee shall allocate each position covered by the Plan to its appropriate class and shall be responsible for administering the Position Classification Plan in accordance with the provisions of the Plan adopted by City Council. New positions can only be created with the approval of Council and any necessary budget adjustment to include that position in the Position Classification Plan.

2.0 **Reclassification.** A department head shall notify the City Manager about changes in assigned duties and responsibilities that significantly alter the relative importance and difficulty of positions within a class. The department head shall initiate a request for classification change by completing and submitting a "Position Review Request". Such requests for revision to the Position Classification Plan are subject to review, and evaluation by the City Manager.

3.0 **The Pay Plan.** The Pay Plan is a required companion to the Position Classification Plan. Each position title is assigned to an appropriate salary grade which has a minimum and a maximum rate. All employees shall be paid at a rate listed within the salary range established for the respective position classification in accordance with the Pay Plan, except for employees in a trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan. An employee's pay shall begin at the minimum range of the pay scale and upon successful completion of an initial probationary period of employment the employees salary will increase by 2%. Pay increases beyond this represent potential merit increases subject to annual consideration. Under no circumstances is the advancement in pay considered to be automatic or guaranteed.

The City Manager is responsible for administering the Pay Plan in accordance with the provisions of the Pay Plan and the Position Classification Plan as those are adopted by City Council. The City Manager shall ensure that the pay for all employees is determined and provided in accordance with and compliance with those plans. No deviations from those plans shall be permitted or given effect unless expressly authorized by action of the City Council.

In conjunction with the preparation of the City Manager's annual budget recommendations, the Pay Plan may include an evaluation by reviewing economic indicators and levels of salaries and benefits that prevail in area business, industry, and in other municipalities.

Information revealed by such reviews can form the bases for the City Manager recommending overall adjustments deemed necessary to maintain a Pay Plan that is current and competitive.

4.0 **New Positions.** New positions shall only be established upon approval of the City Council. Monies to compensate these positions must be identified within the budget before a new position may be filled. The Human Resources Officer shall recommend position and class titles for new positions and shall consult with the City Manager to either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated. The position classification plan, along with any new positions or classifications, shall be approved by the City Council and will be on file with the Human Resources Officer. Copies will be available for review to all City employees upon request.

5.0 **Pay Day.** Bi-weekly pay periods are provided for all paid employees. In the event that a regular payday falls on a holiday, paychecks shall be issued on the workday that precedes the holiday. Employees should examine paychecks for correctness and must promptly report any inaccuracy or error in pay. Adjustments will be made in the following pay period. Explanations of the payroll deductions shall be made upon request.

6.0 **Starting Salaries.** Qualified persons hired to fill positions covered by the Pay Plan shall begin work at the minimum rate of the salary grade to which the classification is assigned, except that exceptionally well qualified applicants may be hired at a salary above the minimum if recommended by the department head and approved by the City Manager.

7.0 **Overtime Compensation.** The City shall comply with all applicable provisions of the Fair Labor Standards Act. For overtime pay purposes, the City classifies employees into two separate groups: exempt and nonexempt. Exempt employees shall not receive overtime compensation. Nonexempt employees shall be paid for overtime worked. No employee shall work overtime except as authorized by the City Manager or his/her designee. An employee who works beyond their scheduled hours without their supervisor's approval is subject to disciplinary action. Directions from a supervisor not to work beyond our outside of the employee's usual schedule is to be treated like any other work direction, and violation of such a direction shall be considered insubordination.

The City Manager or his/her designee, following Fair Labor Standards Act regulations, shall determine which positions are nonexempt and entitled to overtime compensation under the Fair Labor Standards Act.

Nonexempt employees shall be paid at their straight time rate for hours worked in accordance with the requirements of the Fair Labor Standards Act, and then shall receive overtime compensation at the rate of 1.5 times their applicable hourly rate, as follows:

Law enforcement personnel shall be paid overtime compensation when they work more than 86 hours in an established 14 day period work period.

Fire protection personnel, including firefighters, paramedics, emergency medical technicians, rescue workers, etc., shall be paid overtime compensation whenever they work more than 212 hours in an established 28 day work period.

All other employees shall be paid overtime compensation whenever they actually work more than 40 hours in an established 7 day work period.

Overtime compensation for all non-exempt employees shall be paid at the appropriate overtime rate in accordance with the Fair Labor Standards Act. In determining the number of hours actually worked for overtime eligibility and calculations, only hours actually worked will be included. Therefore, stand by pay, holiday pay, vacation pay, or any other payment that is not based on hours actually worked will not be included.

8.0 **Standby Pay.** Nonexempt essential service employees will be scheduled to be on standby for seven (7) consecutive days. While on standby, employees are required to report to work when called. Employees on standby status shall be credited with four (4) hours of work time at the overtime rate while on standby. The standby pay is intended to compensate the employee for any inconvenience they experience by remaining available to report to work. Pay for any work performed while on standby will be in addition to the standby pay.

9.0 **Call Back Pay.** Nonexempt employees required to return to work after the end of their normal working hours shall be credited with a minimum of two (2) hours of work time which will

be included as hours worked for purposes of calculating overtime eligibility under the Fair Labor Standards Act. Call back pay is not given for time worked by an employee after their shift ends, but only in those situations where an employee is called back to work after they have finished their shift and left the workplace.

Law enforcement employees required to attend court during non-duty hours shall be credited with a minimum of two (2) hours of work time. These two (2) hours of work time will be paid at the overtime rate [PROPOSED QUALIFIER if the two (2) hours worked are in excess of the Fair Labor Standards Act limit established by the city for law enforcement officers].

If the employee is called back more than once within a two (2) hour period, the employee will receive only a two (2) hour maximum of overtime.

V. PERSONNEL ACTIONS

1.0 **Probationary Pay Increases.** A pay increase is considered for all City employees after a six (6) month probationary period except for Police Officers who may receive benefits after a successful six (6) months but must remain on one (1) year probationary period based on the Criminal Justice Training Standards.

2.0 **Merit Pay Increase.** Merit pay increases are not guaranteed and shall not be awarded automatically. An employee will only be considered for a merit pay when such increase is supported by a written evaluation documenting that the employee's performance is at least above average, that the employee has complied with all City policies and departmental procedures and directives during the evaluation period, and that the employee is otherwise deserving of recognition and reward. Merit pay increases must be presented to the City Council for approval as part of the annual budget process. The City Manager shall recommend such increases and confirm that documentation exists to support the award of a merit increase. The City Manager must also provide justification for any proposed merit increases. Promotional increases are excluded and shall be administered in accordance with City policies approved by the Council. When an employee's productivity, attitude, attendance, or work quality needs to be improved, the department head shall not recommend a merit increase to the City Manager and the employee should be told in what way improvement needs to be made. An employee's performance shall normally be reviewed once annually for merit purposes until the salary has advanced to the top range on the assigned salary grade.

3.0 **Promotion.** A promotion is defined as a move from one position class to another that is assigned a higher salary grade and that results in a pay increase.

It shall be the policy of the City to give first consideration to promoting persons already employed by the City in seeking qualified applicants to fill vacant positions. In the absence of qualified candidates for promotion, vacancies will be filled by recruiting sources from outside employment.

Employees shall be considered for promotion on the basis of job-related experience, skill, knowledge and ability, and upon a review of the quality of past performance and general suitability for the higher level position. Political preference, religious creed, age, sex, sexual orientation, race, handicapped status, national origin or ancestry and citizenship are not job-related qualifications and shall not influence selection for promotion. The city does not discriminate on the basis of disability against a QID (qualified individual with a disability) and ensures that promotion decisions are based on merit.

When the promotional qualifications of two (2) or more employees are judged to be equal, the employee with the longest service with the City shall be promoted. However, an employee is normally expected to have served at least one year or more in his/her current position before being considered for promotion or testing for promotional examinations. A department head's recommendation to promote an employee shall be reviewed and approved by the City Manager prior to making the promotion.

Interim Supervisory Promotions: To promote uniformity in the treatment of employees who are appointed to interim supervisory positions, such employees shall be paid as follows:

When an employee is appointed to an interim supervisory position, the employee shall receive a temporary four percent (4%) increase over his/her current pay for up to a maximum of three (3) months. In the event an interim appointment lasts longer than three (3) months, the employee shall receive the minimum pay schedule for the position being filled for the amount of time over three (3) calendar months the employee fills the interim position; provided that any such employee whose current salary already falls within the salary range of the supervisory position to which the employee has been appointed in the interim shall continue to receive only the temporary four percent (4%) increase provided during the first three (3) calendar months of the interim appointment. If the temporary four percent (4%) increase takes the appointed employee's salary past the minimum pay scheduled for the supervisory position in question, said employee will continue to earn at the temporary four percent (4%) increase already enacted until the interim supervisory position ends.

Interim supervisory appointments shall only occur when the supervisory position has been designated "vacant" by the Human Resources Department, and only after approval of the appointment by the City Manager. Such interim supervisory appointments shall only be made after the City Manager, in consultation with the department head over the position, determines that the interim appointment is necessary for the effective operation of the department in question for the interim period of time.

No employee shall receive a salary increase or additional compensation for the assignment of additional duties, whether such assignment is temporary or not, that does not constitute an interim supervisory appointment without the express approval of City Council.

4.0 Transfer. A transfer is defined as a lateral movement from one department, division or designated work unit to another without change in position, classification or salary grade. It is the policy of the City to transfer employees temporarily or permanently from one department, division or work unit to another when doing so will serve the City's best interest. This policy is intended to provide maximum utilization of staff during unanticipated emergency situations, during peak workloads; to shift employees to areas where they are needed most; and to ensure acceptable relationships and behavior in the city's workforce. A transfer to an authorized vacancy may also be arranged upon mutual agreement of all interested administrative officials including the City Manager.

5.0 Demotion. A demotion is defined as a move from one position class to another which is assigned to a lower salary grade. The salary after demotion shall be determined by the City Manager based upon the circumstances of the demotion. While it is not a common practice, the City may find it appropriate to demote an employee as a result of unusual circumstances such as:

- (a) when an employee becomes partially disabled yet is able to perform work in a lower level position with less stringent physical demands that do not jeopardize his/her safety or welfare or that of others, if such a position is available and the employee meets the qualifications for the position;
- (b) when an employee becomes disabled and is unable to perform the essential functions of the employee's job, or constitutes a direct threat to the employee's own health and safety or that of others;
- (c) when an employee is not satisfied with, or is not able to meet the requirements of the position;
- (d) when a demotion is determined to be an appropriate disciplinary action; or
- (e) when such a transfer is necessary, to ensure efficiency of the City's operations.

Should an employee be moved from one position to another without experiencing a reduction in pay, that shall not be considered a demotion.

6.0 Resignation. Resignation is defined as a action taken by an employee to terminate their employment. A department head should give to their supervisor written notice as soon as possible, but not less than thirty (30) calendar days in advance of the effective date. All other

employees should give a written notice of intent to resign no less than fourteen (14) calendar days prior to the effective resignation date.

7.0 **Suspension.** Suspension is defined as an action taken by the City whereby the employee's pay is discontinued while he/she is temporarily relieved of all duties and responsibilities with the City. Suspension may be imposed to allow time for investigation and hearing relative to allegations of wrong doing.

Should a decision be made not to impose disciplinary action against a suspended employee, the City Manager may, in his discretion, reinstate the employee without loss of pay or benefits. Suspension shall also be used as a disciplinary action for misconduct, insubordination or to correct poor work habits. The duration of a disciplinary suspension shall vary with the seriousness of the offense.

8.0 **Dismissal.** Dismissal is a disciplinary action taken by the City whereby the offending employee is immediately relieved of all duties and responsibilities and discharged from the employment of the City.

9.0 **Layoff.** Layoff is an involuntary separation from employment because of an organizational change, lack of work, lack of funds or other reason(s) not constituting disciplinary action against the employee. Before an employee is subject to a layoff, the City shall first make every reasonable effort to retain the employee through transfer or to make the necessary work force reduction through normal attrition. When a layoff cannot be avoided, the City shall base the decision on relative quality of performance and give due consideration to seniority in City service when all work related qualifications are equal.

10. **Reinstatement.** Reinstatement is an action taken by the City Manager whereby a former employee returns to employment after having left the service of the City. Reinstatement is only available to those employees who were in good standing at the time their prior separation occurred. "Good standing" shall be defined as not having been on probation, under suspension or any other disciplinary action at the time of their separation. The recommended salary of a reinstated employee shall be within the salary grade that is assigned in the pay plan for the classification to which the former employee is re-employed, except that if a person is reinstated in the same classification held prior to his/her separation, the person shall return to the job at the same pay step that he/she was on prior to his/her separation. An employee who leaves the City and is rehired within six (6) months from the effective date of his/her resignation date shall return with all benefits reactivated and uninterrupted without a probationary waiting period, minus any benefit paid in full (vacation or holiday), if he/she left the City in "good standing". Even if an employee left while in good standing, such reinstatement will only be available if the employee gave proper notice of their termination.

11.0 **Overall Pay Plan Adjustment.** From time to time the City Council may adopt an amended Pay Plan to implement an overall pay plan adjustment. When an amended Pay Plan is made effective, the rates of all salary grades and steps are changed in accordance with the adopted amendments. Payroll input forms are required to adjust salaries that result from an overall pay plan change.

12.0 **Classification Change.** If significant changes are made in the duties and responsibilities of a position, and the City Council has approved reclassification to a lower salary grade, the salary of employees affected shall remain unchanged. If reclassified to a lower pay range, the employee will not be eligible for pay increases until future overall pay plan adjustments cause the salary grade to exceed the employee's pay. If reclassified to a higher salary grade, the employee shall receive the minimum pay assigned to the new salary grade, provided the salary of the employee is below the minimum of the salary grade. If the employee's salary is already above the minimum, a comparable salary will be assigned by the City Manager or his designee.

g. FY 2023 Audit – FPIC Letter (As Added During Agenda Adjustments);

Manager Freeman explained this this letter would be required to be signed by the City Council He read the letter and the City's responses. He told the Council that he wanted to create a budget snapshot to simplify the budget to actuals in order to work on catching errors much sooner in the coming months. Just because of motions made this evening, we know that we

will have some budget amendments coming forward, such as the Fire Department's boat money, etc. Mayor Rivers asked if the document could be emailed to each member of the Council.

8. Closed Session – As Allowed by NCGS 143-318.11(a)(5) Contract Negotiation (As Added During Agenda Adjustments);

Motion was made by Councilman Johnson Biggs, seconded by Mayor Pro Tem Kem Spence to enter Closed Session as allowed by NCGS 143-318.11(a)(5) for Contract Negotiation at 9:04 p.m. Those voting in favor of the motion were: Biggs, Peel, Whitehurst, Spence, Felton, Morris and Walton. Against: None. Motion carried.

Mayor Rivers announced there would be a five-minute recess while the room was cleared.

The Council returned to open session at 10:10 p.m.

9. Adjournment:

Having no further business to be discussed, Mayor Rivers adjourned the meeting at 10:10 p.m.

E. Kirk Rivers
Mayor

April Onley, NCCMC
City Clerk

