

**City Council Regular Session
February 13, 2017**

The City Council of the City of Elizabeth City met in regular session on Monday, February 13, 2017 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Joe Peel
Councilwoman Jean Baker
Councilman Ray Donnelly
Mayor Pro Tem Anita Hummer
Councilman Tony Stimatz *(arrived at 7:02 p.m.)*
Councilman Michael Brooks
Councilman Rickey King
Councilman Johnnie Walton

MEMBERS ABSENT: Councilman Darius Horton

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Interim Parks and Recreation Director "Hipp" Barclift
Finance Director Sarah Blanchard
Chief of Police Eddie Buffaloe
Electric Superintendent Karl Clow
Assistant City Manager Angela Cole
Interim Human Resources Director Monica Cole
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
ECDI Director Debbie Malenfant
Community Development Director Matt Schelly
City Clerk Vivian White

The City Council regular session was called to order by Mayor Joe Peel at 7:00 p.m. Mayor Peel welcomed everyone to the meeting and recognized Councilman Michael Brooks to give the invocation, after which Mayor Peel led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King, to approve the agenda with any necessary adjustments.

Mayor Pro Tem Hummer requested to add a Closed Session as allowed by NCGS 143-318.11(a)(5) for acquisition of property.

Councilman Brooks requested to add "CRC."

Mayor Peel called for a vote on the agenda with the requested amendments.

Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks, King, and Walton. Against: None. The motion carried. (Stimatz had not yet arrived.)

2. Statement of Disclosure:

The City Clerk read the Statement of Disclosure. No conflict of interest disclosures regarding items listed on the agenda were made.

2(a.) Councilwoman Baker requested of Mayor Peel a point of personal privilege:

Councilwoman Baker stated that February 13, 2017 is Mayor Peel's 72nd birthday and she thought it appropriate that the Council sing "happy birthday" to him.

Mayor Peel thanked everyone for the birthday wishes.

3. Proclamation for Black History Month:

Mayor Peel reminded everyone that February is Black History Month. He read a proclamation, which urged all citizens to take special note of the various Black History Month exhibits displayed in public buildings, to attend scheduled activities, and to join together in making this a period of rededication to the principles of justice and equality for all people.

Mayor Peel commented that he had attended the Museum of the Albemarle exhibit commemorating the 100th anniversary of World War I. He noted that a special effort has been made in the exhibit to pay tribute to the African-Americans who served in that war.

4. Comments from the Public:

Winston Bonner, 806A Cale Street, Elizabeth City, NC stated that his street is a narrow street and currently allows parking intermittently on both sides. He noted that some “no parking” signs exist, but are not enforced. He said that it was very difficult to access his driveway because of the parking issue. He noted that many times he is unable to get out of his driveway; and the situation had caused great hardship for his family.

Mayor Peel advised that someone would look into the issue and respond back to Mr. Bonner.

5. Consent Agenda:

Mayor Peel recognized Mr. Olson to read the Consent Agenda into the record. Mr. Olson read the following item and recommended its approval by the City Council.

Beginning of Consent Agenda:

- a. **Consideration – Consent to Early Redemption of Walker Landing Revenue Bonds and authorization to execute Borrower’s Instruction Letter.**

End of Consent Agenda.

Mayor Peel requested Council’s pleasure regarding the Consent Agenda.

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

6. Public Hearings:

- a. **Consideration – Hold a Public Hearing for RZ 02-16 filed by Cully Jennette on behalf of Water Street Properties, Inc. to rezone approximately 0.393 acres located northwest of the intersection of N Water Street and Pearl Street from General Industrial (I-2) to Central Business (CB).**

Mayor Peel introduced this matter at 7:30 p.m. and recognized Community Development Director Matthew Schelly to provide the details.

Mr. Schelly stated that when considering a rezoning request, staff and the Planning Commission consider the area’s zoning pattern, adjacent land uses and the Joint Pasquotank County-Elizabeth City Land Use Plan, as well as the impact on City infrastructure including roads and utilities. He said that staff also takes into account the impact the proposed zoning would have on adjacent property owners. He said that the property in question is surrounded by an array of zoning districts. He stated that the proposed rezoning would lessen the intensity of allowable uses, while still remaining compatible with the surrounding zones. Mr. Schelly stated that this case was reviewed by the Planning Commission during its meeting of January 3, 2017. He said that after

hearing from the applicant and staff, the Commission unanimously recommended approval of the case as presented.

Mayor Peel declared the public hearing open and inquired of the City Clerk if persons were present who wished to be heard. Upon her reply that no one wished to speak, Mayor Peel declared the public hearing closed.

Mayor Peel requested the Council's pleasure regarding this request.

Motion was made by Councilman Stimatz, seconded by Mayor Pro Tem Hummer to adopt the following consistency statement and rezoning ordinance to approve rezoning request RZ 02-16 to rezone approximately 0.393 acres from General Industrial (I-2) to Central Business (CB). Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against: None. Motion carried.

**Ordinance # 2017-02-01
Rezoning Request RZ-02-16
(PIN 891420905416)**

WHEREAS, on January 3, 2017 , the Planning Commission reviewed Petition RZ-02-16 by Water Street Properties (Cully Jennette) to rezone approximately 0.393 acres from General Industrial (I-2) to Central Business (CB) and further identified as PIN 891420905416 ; and

WHEREAS, the Planning Commission considered public comment given at that meeting; and

WHEREAS, the allowed uses in the Central Business (CB) zoning district will be compatible with the areas mixed land use; and

WHEREAS, the proposed zoning will be consistent with the areas mixed 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 recommends approval.

NOW THEREFORE, BE IT ORDAINED that the City Council of the City of Elizabeth City does hereby approve this request to amend the Official Zoning Map to show that a portion of the above referenced parcel as CB (Central Business).

ADOPTED, this the 13th day of February 2017.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

b. Consideration – Hold a Public Hearing to adopt an ordinance amending Sections 150.50 through 150.99 of the City of Elizabeth City Code of Ordinances “Downtown Maintenance Code”.

Mayor Peel recognized Assistant City Manager Cole to provide the details of this request. Ms. Cole stated that the request before the Council was to consider a revision to the City's Downtown Maintenance Code. She reported that a public hearing had been held on March 28, 2016 to solicit input on this matter.

Ms. Cole advised that code violations cited had doubled since the beginning of the discussion on this matter. She said that City Attorney Morgan had provided information regarding the differences of the City's ordinance as compared to the North Carolina Statutes during the meeting of January 9, 2017. Ms. Cole stated that staff's request is for the Council to adopt an amendment that more closely aligns with General Statutes land use regulation for land use appeals. She stated that Adam Lovelady of the School of Government had recommended a second tier of appeal to include the Zoning Administrator first, prior to the appeal going to Board of Zoning Adjustments.

Councilman Walton asked if the ordinance as presently written had caused problems in the past. Ms. Cole responded that several property owners had expressed concern regarding the citations received.

Councilman Donnelly commented that staff's leniency had been going unnoticed. He said that it appeared that those property owners who are most problematic were being treated the same as those property owners with minor problems. He opined that he thought staff needed to be more sensitive and prioritize the code violation issues.

Councilman Stimatz commented that clearly a problem existed with the ordinance in that it was not vetted with the School of Government before it was brought to the Council for a vote. He suggested that going forward he would expect that ordinances would be vetted. He said that he would ask that question of staff prior to making a decision. He pointed out that Section 150.56 "Failure to Comply," paragraphs "a" through "e" had been deleted. He asked if that section should be "numbered" or if it was appropriate to follow in the title. City Attorney Morgan stated that the section was now the introductory sentence for section 150.56. He stated that it mirrored the language in the General Statutes.

Councilman Stimatz stated that the added verbiage appeared to address everything that had been deleted, just without the detail. City Attorney Morgan advised that the general text provided mirrored the General Statutes.

Councilman Stimatz pointed out that a new term had been introduced in Section "B2" - "the public officer." He asked if that referred to the Zoning Administrator or the Building Inspector - or if the term was correct in that staff was not certain who would do that job. City Attorney Morgan stated that it was the intention to change the term pursuant to General Statutes and pointed out the reference should be to the Building Inspector. Councilman Stimatz stated that there were three instances of that term being used that needed to be corrected to "Building Inspector."

Councilman Stimatz referred to Section 8 of 150.57 under "Appeals" and stated that the appeals time period should be restated in that section once again.

Mayor Peel commented that this ordinance is a new situation for downtown property owners. He pointed out that those property owners had been left "to their own devices" for some time. He suggested that, since there are a lot of buildings in different states of repair or disrepair, as implementation goes forward, staff should have conversations with the property owners to make sure they understand what is expected. Ms. Cole agreed that that provision was not in the ordinance; but she noted that staff does have that conversation and provides information to the property owners regarding the code sections that may be in violation. She stated that staff invites property owners to discuss the situation before any citations are issued. She pointed out that the ECDI Director is also informed and partners with City staff in communicating with property owners.

Mayor Peel stated that he felt the City needed to balance getting things where they needed to be with being realistically sensitive to the fact that it would take time to accomplish.

Councilman Stimatz stated that he thought Mayor Peel made a good point. He suggested that a section be added regarding “service and resolution of complaints and orders” which would detail the resolution process, as discussed by Ms. Cole during the Council’s presentation. Ms. Cole stated that she would prefer to come back to the Council with the suggested language. Mr. Olson interjected that the City had to be very careful to avoid the perception that ordinances were being enforced selectively.

Councilman Donnelly stated that the most egregious situations should be aggressively pursued. He said that he thought that the more minor violations deserved more consideration on a gradual basis.

Councilwoman Baker asked about electronic notification and suggested that the new rules should allow for text or email to make certain everyone is advised. City Attorney Morgan noted that all initial meetings are informal and the actual service of the complaint did not occur until the property owner had been alerted to the concerns. Councilwoman Baker reiterated that electronic notification was readily accepted in her business and suggested that staff should implement it.

Councilman Stimatz pointed out that the ordinance itself was not new and had initially been adopted over a year ago. He said that, at that time, everyone was notified and he did not agree that persons could simply say that they were not aware of the rules.

Mayor Peel declared the public hearing open and inquired of the City Clerk if persons were present who wished to be heard. The City Clerk advised that one speaker was present and called Mr. Rickey Perry to the podium.

Rickey Perry, 116 Windy Heights Dr., Camden, NC stated that he had intended to speak regarding property he owned in the downtown, but had just learned that his property was actually outside the district and was not subject to the provisions of the proposed code amendment. He stated that he did not feel he needed to make any comments until he read the provisions more closely.

Mayor Peel declared the public hearing closed.

Councilman Donnelly suggested that he thought it was imperative for the City to provide some ‘hand holding’ and guidance regarding any new ordinances adopted in order to demonstrate a more compassionate and caring attitude in taking care of the downtown businesses.

Mayor Peel asked if the Council would offer a motion on this matter.

Motion was made by Councilman Stimatz, seconded by Councilwoman Baker, to adopt the ordinance amending section 150.50 through 150.99 of the City of Elizabeth City Code of Ordinances Downtown Maintenance Code with the correction to the reference to the public official and with direction to staff to bring back a new section under Section 150.55 that outlines the resolution of complaints and orders that outlines the resolution process. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, and Walton. Against: None. Motion carried.

Motion was made by Councilman Stimatz, seconded by Councilman Donnelly to change the effective date of the ordinance to February 27, 2017. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, and Walton. Against: None. Motion carried.

7. Regular Agenda:

a. Consideration – Appointment to Joint Redevelopment Commission:

Mayor Peel recognized City Manager Olson to provide the background regarding this item. Mr. Olson advised that the Joint Redevelopment Commission requires members representing both the City and Pasquotank County. He noted that with the former City Planning Director's retirement, a replacement needed to be appointed.

Motion was made by Councilman King, seconded by Mayor Pro Tem Hummer to appoint Matthew Schelly to complete the unexpired term of former Planning Director June Brooks on the Joint Redevelopment Commission expiring August 31, 2019.

**Mayor Peel called for the vote by roll call, which is recorded as follows:
For: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton.
Against: None. Motion carried.**

b. Consideration – Appointment to Elizabeth City Planning Commission:

Mayor Peel introduced this item and requested the Council's pleasure.

Motion was made by Councilman King, seconded by Councilman Donnelly to appoint Johnson Biggs to serve a four-year term on the Elizabeth City Planning Commission to expire February 27, 2021.

**Mayor Peel called for the vote by roll call, which is recorded as follows:
For: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton.
Against: None. Motion carried.**

c. Consideration – Appointment to Historic Preservation Commission:

Mayor Peel requested the Council's pleasure regarding this item.

Motion was made by Councilman King, seconded by Councilwoman Baker to appoint Jarrett Koch to complete the unexpired term of Andrew David Bates on the Elizabeth City Historic Preservation Commission expiring December 31, 2018.

**Mayor Peel called for the vote by roll call, which is recorded as follows:
For: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton.
Against: None. Motion carried.**

d. Consideration – Appointments and Reappointments to the Board of Adjustment:

Mayor Peel requested the Council's pleasure regarding this item.

Motion was made by Councilman Stimatz, seconded by Councilman Donnelly, to suspend the rules and vote on all five persons as a block vote. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against: None. Motion carried.

Motion was made by Councilman Stimatz, seconded by Councilman King to:

- 1. Appoint Rodney Walton to serve a three-year term to expire February 27, 2020;**
- 2. Reappoint Peggy O. Davenport to serve an additional three-year term to expire February 27, 2020;**
- 3. Reappoint William David Harris to serve an additional three-year term to expire January 31, 2020;**
- 4. Appoint William Henry Thompson, III to serve as the City's alternate member to complete the unexpired term of Lee Gutman expiring November 30, 2017;**

5. Reappoint William D. Hiemer to serve an additional three-year term to expire September 30, 2019.

Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against: None. Motion carried.

e. Discussion/Consideration – City Council Salary Increase:

Councilman Brooks stated that he wanted to thank the citizens who had called him to say that he made a valid point regarding this matter during the last City Council meeting. He stated that he would continue to place this item on the agenda, because he had performed too much research on the matter not to provide all of it.

He commented on a statement made in The Daily Advance that, rather than talking about a raise for Council, the Council should be discussing utility bills going out late. He pointed out that it was not his decision alone, but a collective decision of the Council. He stated that most of the time, comments made by the public are due to those persons being uninformed or misinformed.

He said that he had provided ways that the Council raise could have been accomplished, but the Council refused to act. He encouraged people to go back and view the video of the last Council meeting to see that what he said made sense, except for the vote. He disputed the fact that the proposed raise would make the Elizabeth City Council one of the highest paid in the region. He promised that the Council would hear about this matter until he is no longer on Council, because the decision did not make any sense to him.

Councilman Brooks asked that the salary increase and the “CRC” be placed on every agenda until he is able to get all his information out.

f. Discussion – CRC: (added to agenda by Councilman Brooks):

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks stated that if the discussion of CRC could be placed on the next meeting agenda, he would wait until that time to address his concerns.

8. Comments and Inquiries on Non-Agenda Items:

Councilman Brooks stated that in considering the upcoming Martin Luther King, Jr. Day celebration, he wanted to say that he considers himself a “black man living in America” and not an African-American. He said that his pet peeve is that, if he is considered an African-American, then whites should be referred to as “European Americans.” He suggested that America is a country of immigrants and “if we are to be the United States, there should be consistency.” He noted that his race is the only race that did not come to America voluntarily and he advocated that people should understand that. He stated that things will only get better in America when everyone can share with each other how they view the world and share their personal experiences.

Councilman Stimatz stated that he agreed with Councilman Brooks in that race is something everyone should be aware of and sensitive to all year long. He also wished everyone a “Happy Valentine’s Day.”

Mayor Pro Tem Hummer stated that she thought the retreat recently held by the Council was very productive. She said that she was impressed with the camaraderie during that meeting and noted that the Councilors worked together to move the City forward. She stated that it would be nice to bring that camaraderie to all Council meetings.

Councilman King had no further comments

Councilwoman Baker had no further comments.

Councilman Walton agreed with Mayor Pro Tem Hummer and pointed out that those who normally get out of hand did not do so during the retreat. Councilman Walton commented that “we should not let history make us prisoners to what we do.” He noted

that the newspaper had recently reported that a “white young man” had donated a kidney to a “black young man” and he found that very touching. Councilman Walton stated that during the retreat, the Council did not have a chance to complete all the items presented for discussion. He requested that the items not covered be brought back to the Council for discussion.

Councilman Donnelly stated that he had read a newspaper article about “manners and civility” on City Council. He said that he questioned the author of the article in that it was critical of the Council for not working well together. He said that he thought manners and civility had been exhibited very well around the Council table and had suggested the writer watch a few meetings to confirm his opinion. He commended the Council for agreeing to disagree. Councilman Donnelly requested that staff monitor the Cale Street area and address the parking concerns expressed by the citizen speaker, Mr. Bonner.

Councilman King expressed his concerns regarding the recent resurfacing of Brooks Avenue. Mr. Olson stated that he would check into the matter and report back to the Council.

Mayor Peel stated that he had received a call from an author who had completed a novel about Elizabeth City’s role during World War II by training Soviet pilots to fly American-made planes. He noted that the author had written a number of books about Russian-American relations during the war that showed a very positive relationship. Mayor Peel noted that “we are all humans and we have more in common than we have differences.” He invited everyone interested to attend the Unity Group service on February 23 at St. James AME Zion Church on Park Street. He stated that the group is trying to bring the community together and hoped people would participate to move forward as one community.

9. Closed Session as allowed by NCGS 143-318.11(a)(3) for consultation with the City Attorney, NCGS 143-318.11(a)(5) for acquisition of property and NCGS 143-318.11(a)(6) for discussion of personnel:

Mayor Peel requested a motion for the Council to retire into Closed Session.

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King, to go into Closed Session as allowed by NCGS 143-318.11(a)(3) for consultation with the City Attorney, NCGS 143-318.11(a)(5) for acquisition of property and NCGS 143-318.11(a)(6) for discussion of personnel. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against: None. Motion carried.

Mayor Peel declared a five minute recess at 8:20 p.m. after which the Council retired into Closed Session.

Motion was made by Councilman King, seconded by Councilman Brooks, to come out of Closed Session. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against: None. Motion carried.

The Council returned to regular session at 9:25 p.m.

Motion was made by Councilman Stimatz, seconded by Councilman King to authorize staff to submit an application to the TDA for funds to procure property for the future splash. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against: None. Motion carried.

Motion was made by Councilman Stimatz, seconded by Councilman King to authorize staff to negotiate with the property owner for the procurement of the future splash pad property including potential seller financing. Those voting in favor of the motion were: Baker,

**Donnelly, Hummer, Stimatz, Brooks, King and Walton. Against:
None. Motion carried.**

10. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 9:30 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk