

**City Council Regular Session
January 23, 2017**

The City Council of the City of Elizabeth City met in regular session on Monday, January 23, 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
Councilman Michael Brooks
Councilman Rickey King
Councilman Darius Horton
Councilman Johnnie Walton

MEMBERS ABSENT: NONE

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planner Kaitlen Alcock
Deputy Chief of Police John Young
Load Management Specialist Rickey Albertson
Assistant City Manager Angela Cole
Interim Human Resources Director Monica Cole
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
ECDI Director Debbie Malenfant
IT Director Matthew Simpson
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)(6) for discussion of personnel.

Councilman Brooks requested to add "Dr. King's Day/CRC" and "Enfield Tennis Courts."

Councilman Stimatz asked to remove Item 'e' "Authorization to Submit Staffing for Adequate Fire and Emergency Response Grant Request" from the Consent Agenda and place it on the regular agenda for discussion.

Councilman Walton requested to add "discussion of Closed Session items."

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

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

2. Statement of Disclosure:

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

3. Comments from the Public:

There were no comments from the public.

4. Approval of Minutes:

- a. City Council Regular Session of January 9, 2017

Motion was made by Mayor Pro Tem Hummer, seconded by Councilwoman Baker to approve the City Council Regular Session minutes of January 9, 2017. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

5. Consent Agenda:

(Clerk Notation: Items 'a' through 'd' recommended for approval by the Finance Committee during their meeting of January 19, 2017.)

Mayor Peel recognized City Manager Olson to read the items on the Consent Agenda into the record. Mr. Olson recommended approval of all items, as follows:

Beginning of Consent Agenda:

- a. Consideration – Authorization to Submit Application for FY 17-18 Governor's Highway Safety Program;
- b. Consideration – Authorization to Submit Application to the National PAL Mentoring Grant Program as a Sub-grant Award Recipient for FY 17-18;
- c. Consideration – Authorization to submit FY 17-18 Governor's Crime Commission Local Law Enforcement Block Grant Application;
- d. Consideration – Authorization to submit 2017 Community Waste Reduction and Recycling Grant Application;
- e. Consideration – Call for a Public Hearing to be held on Monday, February 13, 2017 beginning at 7:30 p.m. (or as soon thereafter as the agenda allows) to gather citizen input on the adoption of an amendment to the Downtown Maintenance Code;
- f. Consideration – Call for a Public Hearing to be held on Monday, February 13, 2017 at 7:30 p.m. (or as soon thereafter as the agenda allows) to gather citizen input regarding RZ-02-16 filed by Cully Jennette on behalf of Water Street Properties.

End of Consent Agenda.

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

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

6. Regular Agenda:

- a. Consideration – Appointment of Rachel Stallings to serve a three-year term on the Elizabeth City Historic Preservation Commission to expire January 31, 2020:

Motion was made by Councilman Brooks, seconded by Councilman King, to appoint Rachel Stallings to serve a three-year term on the

Elizabeth City Historic Preservation Commission to expire January 31, 2020.

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

- b. Consideration – Appointment of L. Phillip Hornthal, III to serve a two-year term on the EC-PC Parks and Recreation Advisory Board to expire December 31, 2018:

Motion was made by Councilman King, seconded by Councilman Donnelly to appoint L. Phillip Hornthal, III to serve a two-year term on the EC-PC Parks and Recreation Advisory Board to expire December 31, 2018.

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

Mayor Peel announced that there are a number of boards, commissions and committees to which the City Council makes appointments. He invited everyone interested in serving the City to contact the City Clerk for more information about the application process.

- c. Consideration – Adoption of Resolution in Support of Amazon Wind Farm US East:

Mayor Peel read the proposed resolution.

Motion was made by Councilman Donnelly, seconded by Councilman King to adopt the resolution in support of Amazon Wind Farm US East and direct staff to send copies to all parties mentioned in the resolution.

Mayor Peel called for discussion on the motion.

Councilman Stimatz stated that he thought all the “whereas-es” were appropriate, but felt the statement “a blatant attempt to usurp the rule of law” should be removed from the “now, therefore” section. He noted that he found no proof to support that statement and believed it to be inflammatory. He stated that the phrase referring to the Trump transition team should be changed to the “Trump administration.”

Mr. Olson reported that the wording used in the proposed resolution had been adopted by the EC-PC EDC as well as ECDI. He noted that at that time, President Trump’s inauguration had not been held. He agreed that the change in wording to “Trump administration” would be appropriate.

City Attorney Bill Morgan advised that once all permits had been issued for the wind farm project; those approvals had the effect of law in developing the project within those particular parameters. Councilman Stimatz opined that “usurp” was a very combative word and he still objected to its use in this context.

Mayor Peel offered that he thought the action by the state was certainly unprecedented. He noted that the legislators had no conversations with local officials. He said that Representative Steinburg was not even aware of the matter.

City Attorney Morgan suggested using the phrase “this attempt to halt or delay the project in any way.” Mayor Peel asked for the Councilors opinion of that suggested wording change. By consensus, all members of Council agreed.

Councilors Donnelly and King accepted the proposed wording modifications for their motion.

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

**Resolution # 2017-01-02
in Support of Amazon Wind Farm US East**

WHEREAS the Amazon Wind Farm US East provides a valuable source of pollution-free and carbon-free electricity while taking a tiny amount of land out of agricultural production and providing a valuable income stream to local farmers; and

WHEREAS the Amazon Wind Farm US East has already been a huge benefit to the Pasquotank County and regional economy, employing more than 200 during its construction and spending nearly \$16 million locally; and

WHEREAS the Amazon Wind Farm US East will continue to be a tremendous economic benefit to residents and landowners in Pasquotank County, providing residents with \$270,000 in annual tax payments and landowners with \$320,000 in lease payments annually, each income stream growing by 1.5% annually for 30 years; and

WHEREAS the Amazon Wind Farm US East will continue to employ 10 to 15 workers making an average salary of \$80,000, which will be nearly three times the average salary paid to workers in Pasquotank County; and

WHEREAS wind-farm developer AVANGRID invested more than \$400 million in the Amazon Wind Farm US East only after receiving regulatory approval from all the lawfully governing agencies, including the Federal Aviation Administration, the United States Department of Defense Clearing House, the North Carolina Utilities Commission, the Pasquotank County Commission, and the U.S. Navy; and

WHEREAS Seymour Johnson Air Force Base has affirmed in writing that Amazon Wind Farm US East poses no conflict with its training-flight paths; and

WHEREAS the U.S. Navy has stated in writing and continues to state that Amazon Wind Farm US East as currently constructed poses no threat to its ROTH installation in Virginia; and

WHEREAS the U.S. Navy came to this conclusion only after it was confirmed by extensive modeling based on the same MIT study that 10 North Carolina legislators now claim without basis proves the opposite; and

WHEREAS honoring these legislators' request would render AVANGRID's \$400-million investment worthless, constitute an unprecedented confiscation of a fully approved private-sector capital investment by the government, and send a terrible message to other businesses considering investing in North Carolina;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Elizabeth City urges the North Carolina General Assembly, the North Carolina Office of the Governor, Senators Richard Burr and Thom Tillis, and the North Carolina Congressional Delegation to oppose any action to halt or delay this project in any way; and

BE IT FURTHER RESOLVED that the City Council of the City of Elizabeth City urges President Donald Trump's Administration to treat this request with the inaction it deserves.

ADOPTED, this the 23rd day January, 2017 at Elizabeth City, North Carolina.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

d. Discussion – Proposed City Council Salary Increase:

Mayor Peel recognized Mr. Olson to provide the background for this request. City Manager Olson explained that the request to place this item on the agenda was made by Councilman Brooks during the January 9, 2017 Council meeting. He referred the Council to the updated salary survey information for elected officials that had been provided by staff in the agenda packet.

Councilman Brooks stated that he was hoping staff would bring back information regarding how a salary increase for the City Council could be implemented and noted that he did not request the rest of the information provided. He said that it had been his belief that the Council had already decided that the Council would receive a raise any time City employees received a cost-of-living raise. He stated that even though he had suggested increasing Council salaries by \$500 per month, he believed the raise should be at least as much as the raise received by the City Council in 2008. Mr. Olson interjected that he thought the 2008 increase was in the range of \$150 - \$200 per month.

Councilman Brooks disagreed with a Councilor's previous statement that members of Council should not be paid because they are providing a service. He stated that every job provides a service in return for payment. He said that he thought it was a "travesty" to try to compare Elizabeth City with other cities of similar size population, because Elizabeth City was responsible for so many more things. He reiterated that he did not ask for the background information, which had been provided by staff. Councilman Brooks said that he did not understand the Council's reluctance to vote to give themselves a raise, because he thought it was well deserved. He said that he wouldn't fight for something that the Council members didn't want.

Motion was made by Councilman Brooks, seconded by Councilman Walton, that the Council give themselves a \$150 increase that was equal to what they got at the last increase, plus the COLA that they deserve and we talked about before.

Mayor Peel asked Councilman Brooks when he wanted the proposed increase to begin. Councilman Brooks responded "March 1, 2017."

Those voting in favor of the motion were: Brooks, Horton and Walton. Against: Baker, Donnelly, Hummer, Stimatz and King. Motion failed.

e. Discussion – Dr. King's Day/CRC (*added to agenda by Councilman Brooks*):

Mayor Peel recognized Councilman Brooks for his remarks. Councilman Brooks stated that on April 14, 1967, Dr. King spoke at Stanford University with a message entitled "The Other America." Councilman Brooks read portions of that speech, which is provided verbatim, as follows.

Councilman Brooks:

“....there are literally two Americas. One America is beautiful for situation. And, in a sense, this America is overflowing with the milk of prosperity and the honey of opportunity. This America is the habitat of millions of people who have food and material necessities for their bodies; and culture and education for their minds; and freedom and human dignity for their spirits. In this America, millions of people experience every day the opportunity of having life, liberty, and the pursuit of happiness in all of their dimensions. And in this America millions of young people grow up in the sunlight of opportunity. But tragically and unfortunately, there is another America. This other America has a daily ugliness about it that constantly transforms the ebullency of hope into the fatigue of despair. In this America millions of work-starved men walk the streets daily in search for jobs that do not exist. In this America millions of people find themselves living in rat-infested, vermin-filled slums. In this America people are poor by the millions. They find themselves perishing on a lonely island of poverty in the midst of a vast ocean of material prosperity. In a sense, the greatest tragedy of this other America is what it does to little children. Little children in this other America are forced to grow up with clouds of inferiority forming every day in their little mental skies. As we look at this other America, we see it as an arena of blasted hopes and shattered dreams. Many people of various backgrounds live in this other America. Some are Mexican Americans, some are Puerto Ricans, some are Indians, some happen to be from other groups. Millions of them are Appalachian whites. But probably the largest group in this other America in proportion to its size in the population is the American Negro.”

Councilman Brooks stated that his purpose in reading Dr. King’s speech was to point out that the idea that we live in a post-race society is a fallacy. He said that although serious gains have been made, he believed that America will never have a post-race society. He stated that what Dr. King said in 1967 was still true today. He contended that “there are two Elizabeth City-s;” and expressed his frustration that it was the same situation as Councilors not voting themselves a raise. He encouraged citizens to pay attention to the way “this Council votes;” and stated that the City could not go forward “like that.” He avowed adamantly that “we need younger people on Council.” He said that Councilmembers between the ages of 25 and 60 would never vote against giving themselves a raise. He offered that the Councilors were suffering from a case of “arrested thought” in that they had their minds already made up and would stick to it no matter what.

f. Discussion – Enfield Tennis Courts (*added to agenda by Councilman Brooks*):

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks had no additional remarks.

Councilman King inquired of the City Manager the location of the proposed splash pad. Mr. Olson responded that it would be located just east of the old tennis courts. Councilman Walton remarked that he did not think that would be a good location.

Councilman Brooks stated that he would never understand how the Council could find money for a splash park, but would not vote to give themselves a raise. He requested that the salary increase matter be placed back on the agenda for the next Council meeting.

Councilman Walton asked if the splash park could be placed where the old Boys and Girls Club ballfield was located. Mr. Olson responded that the City did not own that property. Councilman Walton suggested that a discussion should be pursued to determine if an agreement could be reached to purchase the property. Mr. Olson noted that most of the planning process for the splash park was complete. He said that for the City to meet the mid-May timeline, staff needed to move forward with the plans discussed during the budget process. Mr. Olson pointed out that if the Council wanted to change direction, the opening of the facility would be delayed.

- g. Consideration – Authorization to Submit Staffing for Adequate Fire and Emergency Response Grant Request (*recommended for approval by the Finance Committee during their meeting of January 19, 2017*) (*removed from Consent Agenda by Councilman Stimatz*):

Mayor Peel recognized Councilman Stimatz for his questions. Councilman Stimatz commented that during the last few years, the City Manager had stated that no extra staffing was needed in the Fire Department. He asked the City Manager what had changed his mind.

Mr. Olson responded that his mind still had not changed; but he had received a detailed staffing report from Chief Mackey that he did not necessarily disagree with. He opined that before the City does anything to enlarge the department, the should City engage an outside consultant to do a complete staffing analysis for the department. He noted that even though the SAFER grant covered the expenses for six firefighters for a period of two years, after that period ends, General Fund expenditures would increase by over \$325,000 each year. He pointed out that he had concerns that long-range revenue trends would not support that expenditure.

Mr. Olson stated that staff brought this matter forward in order to meet the grant deadline, and would be placing funding for a staffing study in the next fiscal year budget to determine staffing levels.

Councilman Stimatz stated that his concern centered on the fact that the Council seemed to be committing to a 2.5¢ tax increase after two years. Mr. Olson agreed that there was merit in Councilman Stimatz' concerns. He noted that it was his honest opinion that the City would not be successful with the grant application based on past history. Councilman Stimatz requested that staff provide additional information regarding this matter, such as the number of fire department calls for service, the types of those calls and et cetera.

Councilman King asked the City Manager to look into the 2008 tax increase to determine if some of that funding was to have been used for the Fire Department as well as the Police Department.

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

Motion was made by Councilman King, seconded by Councilman Donnelly to authorize submission by the Fire Department of a Staffing for Adequate Fire & Emergency Response Grant Request as described. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- h. Discussion – Closed Session Items (*added to agenda by Councilman Walton*);

Councilman Walton asked the City Attorney "how we should interact with other people who are not in this room." The City Attorney responded that Councilmembers should certainly not reveal closed session discussions. Mr. Morgan stated that there are rules regarding when closed session minutes become available to the public. He reported that the City Clerk had delivered in the last sixty days to him a "thick notebook" of closed session minutes to determine if those minutes should be released to the public.

Mr. Morgan stated that if he understood Councilman Walton's question correctly, it would be his opinion that there is really nothing the Council can do toward a Councilmember for providing details of closed session discussions, unless there had been a violation of the City's ethics ordinance.

Mr. Olson interjected that under NCGS 160A-168, personnel items cannot be divulged because employees are afforded certain rights. He said in the case of a personnel situation, release of the information would be a misdemeanor.

7. Comments and Inquiries on Non-Agenda Items:

This item was not introduced by Mayor Peel.

8. Closed Session as allowed by NCGS 143-318.11(a)(6) for discussion of personnel.

Mayor Peel called for a motion to go 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)(6) for discussion of personnel. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Mayor Peel declared a five minute recess at 8:02 p.m. after which the Council retired into Closed Session.

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

The Council returned to regular session at 8:30 p.m.

Motion was made by Councilwoman Baker, seconded by Councilman King to confirm the appointment of Dexter Harris as Parks and Recreation Director. Those voting in favor of the motion were: Baker, Donnelly Hummer, Stimatz, Brooks, King and Walton. Against: Horton. Motion carried.

9. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 8:31 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk