

**City Council Special Meeting  
April 18, 2023**

The City Council of the City of Elizabeth City met in special session on Tuesday, April 18, 2023 in Council Chambers, located on the 2<sup>nd</sup> floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Kirk Rivers  
Councilman Johnson Biggs  
Councilman Joseph Peel  
Councilman Javis Gibbs  
Councilwoman Katherine Felton  
Councilman Johnnie Walton

MEMBERS ABSENT: Councilwoman Barbara Baxter  
Mayor Pro Tem Kem Spence  
Councilwoman Rose Whitehurst

OTHERS PRESENT: City Manager Montre' Freeman  
Interim Chief of Police J. Phillip Webster  
Finance Director, Alicia Steward  
Assistant Finance Director, Brian Lewis  
Human Resources Director, Montique McClary  
Electric Superintendent, Donnell White  
Deputy Chief of Police, James Avens  
Public Utilities Director Dwan Bell  
Parks and Recreation Director Sean Clark  
Grants Administrator Jon Hawley  
Fire Chief Chris Carver  
ECDI Director Debbie Malenfant  
IT Director Matthew Simpson  
IT Systems Analyst Pedro Holley II  
City Clerk April Onley

Mayor Rivers called the special meeting to order at 5:00 p.m. Invocation was given by Councilman Gibbs, after which Councilman Peel led the Pledge.

**1. Presentation – PB Mares FY 2020-2021 Audit Presentation;**

Mayor Rivers welcomed everyone to the meeting and introduced Robbie Bittner of PB Mares for the audit presentation. Mr. Bittner thanked the Council for allowing his team to work with the staff on the long road. He said there were some hiccups, not with people but with information due to it being a few years old. He thanked Ms. Steward and her team, as well as Greg Isley's team for helping push things along. He noted that PB Mares worked hard on this; this is probably the most they have ever had to do to do an audit to get it done right. He said they've done a lot and asked a lot to get this done right.

He encouraged the Council to stop him at any point during his presentation and ask any questions that they may have. He began with the financial results and the financial statements, as well as the audit opinion. He said he would discuss our compliance results, as well as how the City stacks up against other cities of comparable sizes. He said he would also discuss performance indicators of concern, which was something instituted in 2021. Each year, at the end of an audit, either the municipality or the auditor completes a data input form for specific pieces of information exactly the way they'd like it entered. He noted that it is now called "performance indicators" and "concern" has been dropped off of the end.

He advised that the way to look at the financial statements is to start in the most broad section and then move into the more detailed sections. The first section compares this year's results to last year's results and what caused those changes. The next set of financial statements are the government-wide financial statements or full-accrual statements. When there are not a lot of things considered available, such as long-term debt not being recorded at the general fund or fixed assets recorded at that level. This brings on all of the assets and liabilities that are within the municipality, as well as OPEB, pension plans and that sort of thing. This is all-encompassing government-wide statements. From there, there are individual funds versus them all together as a business type activity. Notes to break down from line items within major fund statements. From there, is supplementary information, particularly related to pension information, such as law enforcement special separation allowance and OPEB. After that, aggregated summary schedules and budget schedules for enterprise funds and accrual statements. The last piece is compliance. There is not much there that the City provides there other than the expenditure of state awards. He advised that is the breakdown of the annual document.

As auditors, they must provide an opinion as to whether the financial statements are in accordance with law. There are four types of opinions that they can issue. The adverse opinion means that financial statements are not in accordance with law. Disclaimer, modified, qualified and unmodified are the types of opinions. The unmodified is the best, which means that it's a clean opinion, which is what the City received this year.

Mr. Bittner showed some comparative items with like-size cities. Most of our revenues comes from sales taxes. The restricted inter-governmental are things like Powell Bill money, CDBG money or anything that comes in with external restriction from another governmental source. The trend shows that the revenues are trending up in almost all categories. The ad-valorem taxes are still the largest.

The tax rate as of 2021 compared to similar sized cities in the state that have electrical systems is important. If you don't own it, it's taxed, so that's a massive amount of easements that gets taxed. The tax rates are set based on those items. The City is currently higher than most similar sized cities in 2020-2021 for year-end numbers.

The percentage of current property tax collected fluctuates between about 95 ½ percent. He pointed out that in 2020-2021, expected collections would be less with the pandemic and things shutting down. General trend across the state was a decrease in that collection. In 2020, it was depressed more down to 93%, and then brought back up to almost 97%. He pointed out that these taxes exclude motor vehicles because they are collected by the state, which are at nearly 100% because of the new system. The City does trail behind other similar-sized cities that have perimeters of general fund expenditures of less than \$100 million.

The City's expenditures showed public safety is the largest piece, which is normal. In counties, it's usually public safety and education. Public safety includes fire, EMS, police and is the bulk of the money that needs to be spent within the city. There hasn't been a ton of change with what money has been spent on. Expenditures are going up each year.

General Fund Fund Balance – The City's fund balance has not done much in the past few years. In PB Mares' experience, the trend is typically that the fund balance will build a little year over year as the fund expenditures increase, which says that enough is in reserve. There's a metric that the LGC looks at in the performance indicators of concern that shows where they expect things to be.

The biggest piece of the fund balance is stabilization by state statute. For the most part, it is cash less current liabilities. Anything in excess of that has to be in reserve. This is restricted, as is Powell Bill. He noted that unassigned does not necessarily mean unappropriated.

Compliance Results – The City was audited under three sets of standards. The first was the yellow book, which is required for anyone who receives more than \$100,000 in federal or state funding or grant programs. They are charged to not necessarily audit verbatim specific compliance pieces but to examine as a whole with laws, regulations. They have to report significant weaknesses with the preparation to building financial statements. They also audit under uniform guidance, which are the federal guidelines for grant money

and the state single audit implementation act, which piggybacks on the uniform guidance, but relates specifically to state money. There are requirements for specific amount of money that have to be tested and specific protocols that have to be tested.

They issue the report on internal control and compliance on material weakness in internal control is a single weakness or a combination of weakness that has the ability that may have the opportunity to produce a problem with the finances. It's looked at within multiple different levels that either has caused an issue or could cause one. These warrant attention to the Council and are included in the report. A control deficiency is not reported, which may be a one-off or something small that may not be reported and they typically provide a management letter, which is included in the auditor's communication package of those small items and what they were. Also in the letter they typically provide management suggestions to items that may make things easier. Overall best practices.

They did find quite a few material weaknesses as it related to 2021, and he gave a brief overview of those. The first was overcharge in utilities, which was related to the overcharge of the Coast Guard. It was identified in 2021, but wasn't paid back until 2022. While it was an issue in 2021, it should have been paid back there. Next was related to accrued compensated absences, which meant there were people missing from the accrual or people who were over-accrued with the City's policy. There was a material compliance in related to procurement policies with large purchases in water and sewer where the city could not give documentation that bids were followed. It doesn't mean they weren't, it just meant we couldn't produce the documents. He noted that all of the identified deficiencies have been provided with an identified response, and he praised Mr. Freeman's extremely detailed response for addressing each one of these. Next was the capital project budget. He said this was just a general observation and it came together that there are multi-year projects that should have an annual ordinance because there are some assets being split that should not be split up because it's creating over-budget expenditures. Overall, they're just suggesting that if there are larger projects that will cross over more than one year, they should develop a project ordinance. He noted that one was related to finding number 12 as well. Next was the issue on the timeliness on the financial statements. This wouldn't normally be submitted as a weakness, but it had been so long since they'd been submitted that they felt like it would be worthy of being on there. The first major issue they found was fixed assets. The financial assets from 2020, the trial balance or the general ledger balances and the subsidiary balances all had different numbers by quite a bit. Mr. Isley's team did a full inventory due to this. In the testing after the fact, there were some significant reductions and changes in the funds after this. Had they not had the major issue after this, they probably would have passed on this, but the \$2.2 million government activities opinion unit that net position had to be lessened by necessitated it, in his opinion. Instead of doing one opinion unit and not the other four, all five were adjusted. Next related to the timeliness of bank recons. As they get behind, things get lost. When someone leaves, someone may not know what something is. We are now caught up, but this is looking back at FY 2021, but it had to be pointed out because it was an issue during that year. Next was benefits due to submission date with law enforcement special separation allowance and OPEB. Each time we do that, the actuaries lock off on a measurement date, and that's typically one year prior to the reporting date. When benefits are paid after the measurement date, they're required to be reported as a deferred outflow of resources which lowers the expense in the current year. So for FY 2020, they were not recorded, which resulted in several funds having material errors that needed to be corrected. Next one piggybacked on OPEB which was related to OPEB allocation. The liability is to be spread upon the opinion units, the funds, on who is liquidating liability. If the electric fund is paying it, they have to pay some, etc. For FY 2020, it did not at all align with any sort of reasonable allocation percentage. So it did not align with contributions, payroll allocation percentages. So they determined it was not a good allocation method. The \$587,000 in the stormwater was what caused the material weakness.

Councilman Walton asked if he was saying stormwater was coming up short \$587,000? Mr. Bittner said that they were over-allocated that amount, which increased their net position. They were inappropriately allocated the OPEB liability. The people who did the allocation for the audit, they never could get the reasoning for why that was done, but it made no sense for why stormwater would have that much liability when their payroll was minimal compared to others.

Next was fund balance and net position. This was a rolling issue. Each year, the ending fund balance in the general ledger system should match, so when the general ledger is printed for the next year, it should be what's on the ending fund balance. They found that in every fund, especially the governmental activities and water did not match and they did not know why. They had to adjust them and figure out why. It was a general ledger item and making sure that the ledger balance does match. This year, the team has already reached out to make sure everything aligns perfectly. Ms. Steward is meticulously going through to make sure they match up. If you don't do that, year over year, you can have differences that become material problems.

Next was a fiduciary oversight on the risk assessment process of the City over the course of reading the board minutes and understanding what was going on. They did not feel the Council was operating or acting on proper information. In the fiduciary responsibilities, there was never addressing of what they would call standard financial statement risks. Although they don't have to discuss it all the time, they could not find a policy or a "hey you have to do this" so they felt that it was something that should be brought to their attention. The Council at the time was not taking an active role. He said he could see that the current Council was taking a much more active role than the previous Council was, but again, this was a report on the previous 2021 items.

Standard pre-audit certification. In multiple funds and in multiple areas of the expenditures, we exceeded the appropriated budget and in some of the project funds. GS 159 dictates that we cannot expend money without appropriating it first. The Finance Officer or their designee must enter in and appropriate the money in that area. They found that there were two things happening there. There were some capital items being budgeted annually versus the capital budget ordinance. Secondly, in the general ledger, anything left over was being rolled into the budget of the following year, but was not being done by ordinance. So if there was a line item for T-shirts and they didn't spend it, it rolled automatically in the system to say they had available money that was not appropriated. It was really a system issue. From a timing perspective, they spent a lot of time trying to figure out what the actual appropriated budget was because there was no way to tell how old some of those things were by line item. They are now aware of the problem and it's being addressed at this point. That's where some of the over-expenditures occurred.

Last was the Council minutes. This one was interesting in that it's during pandemic timeframe. During the timeframe it was amended to allow electronic recording of Council meetings and public body meeting to accept electronic records to count as records. While that's fine, where you run into issues is not having an accurate depiction of what's happening from meeting to meeting for members. If you have a new Council and you have new members, the best way for them to know what's going on, besides attending the meetings, the best way is for them to go back and get the summarization of the previous meetings, signed and stamped by the mayor. They found there wasn't a lot of summarization, they were in the electronic format, which was fine, which was fine, but they felt they should be something that is kept on a regular ongoing basis. It also allows for clarification. If something gets into the record and is taken out of context, it allows for clarification for those after the fact. By virtue of that, there's a readily available set for the members or the public to go through. He said he was really thinking on the budget amendment side here.

Mayor Rivers asked about the mayor signing? Did he have to do that now? Mr. Bittner said from how the statute is written, under current law, you don't have to have a summary and they don't need them signed, but best practice is you would have a summary and then provide it during the next meeting, approved and signed by the mayor and in the next set. He said the signature is probably an "old school" thought process, but the approval of the body of work is the main thing. But because of the general statute thing, it's not a violation. It's just an internal control. Councilman Peel said it's how we could track things down. Mr. Bittner said that's correct, it's how we could have anyone find something easily and provide the most up-to-date and accurate information for current members of if they missed a meeting. It's easy to forget things that happened as well. It keeps it there so they can have it readily available.

Councilman Walton said how far did they go back to look into the material findings? Mr. Bittner said they were charged with 2021. They started looking into a few months prior to the start of the FY to the report date to that side. From the findings as the whole, they are

focused on the FY 2021 activity and the balance sheet as of 6/30/21. They have to be able to rely upon 6/30/2020 as correct because the items can be restated. That's why they had things that needed to be rechecked so that it could be corrected. Councilman Walton said he thought he remembered something about 2017? Mr. Bittner said they had to go back to 2017 because that was the last time the City was current on an audit. He couldn't speak to that specifically because that was out of the scope of what was in the audit. Councilman Walton said to be factual if the company has had findings and the Council there then did not correct them and that's why internal control is important. If we had findings in 2017 and 2018, they should have been corrected. That's why internal control goes whack the way it does.

Councilman Walton noted it would be interesting to see what those audits were and what those findings were.

Mr. Bittner said they are required to look at the prior year's audit findings and see the status. The only finding in 2020 was the late audit and it was recorded as a significant deficiency. They recorded that in their audit to a material weakness as it was not corrected. Councilman Walton said he was on Council some of those years and he remembered some of those appropriated funds carrying over and there was a finding saying that it should not happen like that so it would be good to look at the history to see. Mr. Bittner said the only thing they looked at in detail was the balances as of 6/30/2020 and the balances at 6/30/2021.

Councilman Freeman wanted to return to the minutes, and noted that for clarity, the official process is that the Clerk creates the minutes as the meeting is taking place and then they will be brought back to the Council. They do not have to be signed. Mr. Bittner said the best practice would be for them to be in the agenda packet. Councilman Walton said they're not in the agenda packet. Mayor Rivers noted that they are in the agenda packet. Councilman Walton said that's correct, he did remember that now. Mr. Bittner noted that this was going back and statutes and processes have definitely changed now.

Mayor Rivers asked if he did not sign the minutes, when they did the 2023 audit, because that was listed as a finding, would that continue to be a finding? Mr. Bittner said it would not because it was just a best practice. That signature doesn't signify approval. It just needs to go to Council. He said again, just best practice. In the old days, that was just how it was done to say it was final, but in today's digital world it's not necessary since it's easy to see where things happen.

Mr. Bittner continued with the audit results and said they have issued their opinion on whether we are in compliance with rules and regulations with our state and federal grants, and they issued an unmodified opinion and did not identify any material weakness or internal control issues. Councilman Walton asked if this was in 2020? Mr. Bittner said yes, it was in 2020. The only audit finding in 2020 was the late audit finding itself made by the predecessor auditor. From a uniform guidance perspective, we did not have that audit or a state single audit opinion, only the single audit because we did not meet those requirements. Councilman Walton asked if the fund balance was out of whack? Mr. Bittner said that it was. He was speaking specifically to this compliance here. Councilman Walton said it could have been because of the agreements within the utility. Mr. Bittner said he could not speak specifically to it. Councilman Walton asked if we intended to forget it and go right to 2021? Mr. Bittner said he reviewed it and noted that those audits were not performed and it appeared to be appropriate from what they could tell. He said he did not feel he was answering his question but he wasn't sure what he wanted him to say. Councilman Walton said he felt we were deleting history. He felt that there was something happened that needed to be uncovered. Mr. Bittner said he felt that may be a separate conversation for the Council that was not under the purview of the audit discussion. Councilman Walton asked Mr. Bittner if he came before and interviewed some people? Mr. Bittner said that he did.

Mr. Bittner continued that the second-to-last piece of the presentation is that AU-C260 are required communications under auditing standards that arose after certain things in the world happened to keep failures from occurring. He directed the Council to a breakdown they'd received via email. The major thing to note, he said, was that policies and procedures being used are in accordance with the law. The list of estimates is in the letter, including the OPEB liability, depreciated assets, things that are not actual hard

numbers that come off of an invoice. It says that they agree with the methods utilized as well as they are presented in accordance with accounting principles. The next section are audit adjustments. There was one adjustment after they received all the journal entries. There was one uncorrected statement. That is an item that is not material but not insignificant. That was the beginning balance of compensated balances. The activity is elevated like there was more expense in the current year, but the ending balance is correct. They had no disagreements with management at all. They are aware of the consultation with the outside CPA firm to help us get caught up. He addressed the specific area of restatement. There was an item related to a repayable that was added to the governmental activities net position that there was no record of, so it was removed. This was something that happened in 2020 that they're correcting the beginning balances on. They did have some difficulties, primarily with the availability of data. Overall, when they plan the audit, they are, by standard, supposed to plan with a low audit risk. Over the course of the audit, they tested a lot of things and elevated those risks. If you have weaknesses in controls, you can result in more errors, so you have to have confidence that the populations you are looking at are correct. They looked at statistical tables prepared as well as standard confidence levels. It raises what they have to do from a work perspective. They tested a lot of fixed assets. They had to have documentation of a lot of things. They also had issues with inventory. They could not get the inventory from 2020 or prior to that point in the activity, so they had to take it and test it at one point and roll it back. So there was a lot they had to do to get there and roll back to Year end 2021 and year end 2020. It was not a disagreement, just something that resulted in significantly more audit work on their part.

They did issue a management letter that had other weaknesses that did not need to be presented. They are included as Attachment A in the auditor's letter. The last piece in Exhibit B is the management's rep letter, which says that management has presented everything they have asked for and is everything they have asked for. This year, due to the significant involvement of the third-party, they did have them sign that letter.

Councilman Peel asked when the audit was sent to the Council? Mr. Bittner said it was sent to Manager Freeman on Thursday. Manager Freeman said he forwarded it to the Council. He said he would resend it. Councilman Walton said they'd gotten it. It was 134 pages.

Manager Freeman asked about the performance indicators of concern and he knew it was for 2021 and he clarified that it would just say "performance indicators" and not "concern" from now on. Mr. Bittner said that was correct. They will only come up as "concern" if they "pop red." These are things that the LGC says Council must address with the LGC within 60 days of getting this presentation. Mr. Bittner advised that management has already provided a very detailed action plan. He said he would go through the performance indicators and they have already discussed most of those in the process. He noted he did not make the ones red that were red, they automatically turned that color. One was our fund balance, as the LGC wanted to see 25%. As of 2021, the City was sitting at 11.8%. The second two were water and sewer funds. Are the ratios at a certain percent? Are the electric funds? The audit report is expected to be submitted within five months was red. Expecting an increase in property value. The next red item was the pre-audit. The last one was related to the UAL. If you are on the UAL, it's red. Statutory violations – there were three compliance violations. The City must address any material compliance findings, which are done in the action plan. Lastly, there's a catch-all of any additional findings if they need to be aware of.

Mr. Bittner said he appreciated the opportunity to come in and speak with the Council. Councilman Peel asked when we can expect him back with 2022? Mr. Bittner said it was a multi-step process that had to happen. The first step is everything gets finalized with the LGC for 2021. They have to get the final invoice and approve before they'll approve the 2022 letter. Some things have already been done in the background to get moving for 2022. He said he knew that Isley had reached out to them the past week to make sure that the fund balances with management were correct and to start making the year end journal entries that need to be made to come up to speed. Once they have a draft of the 2022 financial statements, the most efficient way to handle it will be to audit them as of that point. They will knock it out in one swoop. Councilman Peel said he wanted to make sure he understood correctly – had the books for 2022 been reconciled? Mr. Bittner said they want to make sure that they have the numbers ready to enter. It does not have to go

back and be reconciled. It's ready to go, but it's a step process. You can't make the ending balance entries until 2021 is entered and confirmed. While everything has been reconciled, the period 13 and 14 entries have to be put in.

Councilwoman Felton thanked Mr. Bittner for his positive attitude. She said when agencies have issues and it's left up to people to correct it, it can be difficult. She told the manager and the finance director that if no one else told them they did a great job, she wanted them to know that they did a great job.

Mr. Bittner said that he was always available if anyone had questions or concerns. He thanked the Council for the opportunity to let him break everything down. It was a difficult audit to complete and it took more time than they ever anticipated it would take. He said he was confident that the items presented were correct. Manager Freeman asked if the letter went back to Mr. Bittner or to the LGC. Mr. Bittner said to the LGC. Manager Freeman asked if it was a portal submission? Mr. Bittner said he didn't know, but he'd ask Sharon Edmundson because he was not sure about the performance indicators response. Manager Freeman clarified anything red was what it needed to speak to? Mr. Bittner said anything that was of concern there. There's a lot of red there, but most of it's related to the findings. The only one that wasn't related to a finding was the fund balance percentage. That's the only one that will require additional addressing with the LGC.

Councilman Biggs asked if it had to be signed by the whole Council? Mr. Bittner said a representative, likely Mayor Rivers.

Councilman Walton thanked Mr. Bittner for his time. He thanked him for the conversation earlier and this one. He said he understood more now than he did before and he felt it was entertaining. Councilwoman Felton said the best thing she heard was that we have a clean opinion. Councilman Walton asked how often has he cleaned up an opinion and sent it to LGC? Has he done this type of support before? Mr. Bittner said every audit they prepare goes to LGC like clockwork.

Mr. Bittner said he mentioned to the finance director before the meeting was that he would like to come in, and it did not have to be an official meeting about how they go about the audit process. He felt there is sometimes a misunderstanding of what they do and what their requirements are and our requirements as a municipality and as it relates to LGC policies. He would love to have that opportunity at a later date.

Councilman Walton said he thought it would help them. He said two years goes by really fast. If you lose internal control, it's hard to get back on track.

Mayor Rivers thanked Mr. Bittner for taking the time for come down and present, as required by law. He thanked PB Mares because he knew they'd gotten a lot of calls. He thanked Ms. Steward and Councilman Biggs. He said it had been Council's priority to make sure all of the City's audits were brought back up to date within a year. Even though there had been some setbacks, we were getting there. He thanked staff and Greg Isley's firm for getting the information into the auditors. He said it was important to note that we've responded to all violations and we have a plan in place to make sure that we move forward. He hoped that we didn't have any other turnover, as he noted that that was one of the reasons why we had some issues in the past. He said the Council had a fiduciary commitment to the City and staff to keep things on time and turning things in. He thanked Councilman Biggs as the Finance Chair.

## **2. Adjournment:**

There being no further business to be discussed, Mayor Parker adjourned the meeting at 6:25 p.m.

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Kirk Rivers  
Mayor

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April D. Onley  
City Clerk, NCCMC

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