

**City Council Work Session
May 26, 2020**

The City Council of the City of Elizabeth City met in work session on Tuesday, May 26, 2020 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Bettie Parker
Mayor Pro Tem Johnnie Walton
Councilman Gabriel Adkins (*Arrived at 5:35 p.m.*)
Councilman Billy Caudle
Councilman Darius Horton (*Arrived at 5:35 p.m.*)
Councilwoman Jeannie Young
Councilman Chris Ruffieux
Councilman Michael Brooks

MEMBERS ABSENT: None

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Suzanne Tungate
Chief of Police Eddie Buffaloe Jr.
Deputy Chief of Police James Avens
Interim Electric Superintendent Bob Vannoy
Assistant City Manager Angela Cole
Human Resources Director Montique McClary
Public Utilities Director Amanda Boone
Parks and Recreation Director Dexter Harris
Deputy Fire Chief Chris Carver
ECDI Director Debbie Malenfant
IT Director Matthew Simpson
Grants Management Administrator Jon Hawley
Executive Admin / Deputy Clerk Doris Walton
City Clerk April Onley

(Clerk's Notation: Due to the ongoing COVID pandemic, staff members and the public attended the meeting remotely; however, the City Council and City Manager were physically present in Council Chambers)

The City Council work session was called to order by Mayor Bettie Parker at 5:30 p.m. Mayor Parker welcomed everyone to the meeting and recognized Councilman Caudle to give the invocation, followed by the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

Motion was made by Councilman Kem Spence, seconded by Councilwoman Jeannie Young to approve the agenda. Those voting in favor of the motion were: Spence, Ruffieux, Brooks, Walton, Young, Horton, Caudle, and Adkins. Against: None. 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. Presentation / Discussion – Street Resurfacing and Paving:

Manager Olson advised that on October 28, 2019, a street condition assessment was conducted by AECOM, who assigned a pavement condition rating to each street. The budget reflected about \$800,000 in Powell Bill funding for this project. Unfortunately, we have received notice that we'll be receiving about a 25% reduction in Powell Bill funds, bringing us down to about \$675,000. The Council has been provided with a color-coded map that illustrated the pavement condition ratings for each identified street.

Public Utilities Director Boone explained the map the Council had been given. Generally, the streets with the lowest PCR are selected first; however, there are a few other factors that go into consideration as well, such as if the street is scheduled for upcoming utility work or has recently had utility work. The cumulative list for repaving totals just under \$650,000, which is not the entire list, but what the Public Works Department believes they may be able to get completed. The City does still have three City-owned unpaved streets: Kramer, Morrisette and Witherspoon. She noted that there are seven other unpaved streets of interest within the city, although they are not under the City's ownership.

Councilman Brooks said he remembered the City had somehow gotten NCDOT to pave some of their unpaved streets in the past. Manager Olson said he believed that they'd propositioned NCDOT with the offer that if they would go ahead and pave the streets, the City would accept the maintenance on them thereafter and add them to our Powell Bill. The same thing happened with some of the streets in Oak Grove, which used to be NCDOT streets and we'd had to work out a deal with the drainage. There are some, like Jennings Drive, that got paved via development order. He noted that on Jennings Drive in particular, the road was paved except for in front of two or three households, which had made them unhappy, but we'd done what we could in the order. The dilemma the City faces is that we cannot spend public funds on private roads. We have offered to partner with them through special assessments and things like that.

Mayor Pro Tem Walton asked if Director Boone was certain that Pinewood was a private road. Director Boone said the particular 600-foot section she was referencing here was, but part of it was owned by NCDOT. Manager Olson pointed out that there were adjacent property owners that owned portions of the road. There were also sewer lines running there due to annexation. When NCDOT went over to their existing criteria, they did not pick up certain roads that did not meet their standards. Mayor Pro Tem Walton asked Director Boone if she had visited Pinewood. Director Boone said she had not, but staff had brought her back photos of the area. Mayor Pro Tem Walton explained that there are three families on Pinewood who have to go down a dirt road to get onto a paved street and he didn't think they should have to do that. They're having to readjust the alignment on their cars because it's such a mess. He didn't understand why they couldn't pave a road that was making life hard for three families. Manager Olson said the City would be happy to try to partner with them but it would be illegal for the City to spend public funds on private roads; it wasn't something we could do. Mayor Pro Tem Walton noted that we don't know who the property owners are. Manager Olson noted that it really didn't matter too much who the owners were; if they weren't City-owned, we couldn't spend public money on them. He added that there are never free lunches. Some developers put in roads and then turn them over to the City and we add them to our maintenance list. Mayor Pro Tem Walton reiterated that Director Boone didn't know who the property owners were who owned the portion of the road. Manager Olson stated that he didn't know who they were either, but he knew it wasn't the City. He said he'd be happy to speak with them about partnering with them, but they were going to have to pay at least half of the cost.

Councilman Caudle asked if we could pave the three City-owned dirt roads. Manager Olson agreed that we could. Councilman Ruffieux asked when Manager Olson was referencing "city funds" was he just talking about Powell Bill funds? Manager Olson said using any City funds for a private use would be illegal. He explained that in partnering, we'd have to be getting something out of it, like getting half of the cost paid and then we get the road to add to our maintenance list so we get Powell Bill funding for it later. NCDOT changed their policies and procedures back in 1964 and things changed with their roads in particular. Councilman Ruffieux asked if the manager could figure out who exactly owned these streets and approach them if they were interested in partnering. Mayor Parker asked if they could be put on some sort of payment plan or contract because they likely did not have the money. Manager Olson said it was common for municipalities to front the costs and then get paid back through special assessments. He had inherited

a particularly bad case of special assessments when he came to the City that were not paid, had been extended and still not paid and eventually led to the properties being sold at foreclosure sales. He agreed that staff could find out who the owners were and bring the information back to the Council.

3. Presentation – Wrap-Up Budget Discussion on Outstanding Issues / Call for a Public Hearing;

Mayor Pro Tem Walton read a statement written by Manager Olson, which said that each budget had a theme and he felt the Council should look into investing in the City's human capital. Mayor Pro Tem Walton said that he felt the theme of this year should actually be the year of compromise and he asked that the manager consider that.

Councilman Horton expressed concern that although many councilors had different feelings on the Council's raise, it was removed from the budget. He did not feel it was handled properly. He asked Attorney Morgan for his opinion. Attorney Morgan said that he understood there'd been a 4:2 vote in the last budget session to direct the manager to include a raise for the Council in the budget. Following that vote, there was also a Rule 16 motion, which was to prevent reintroduction of the matter for a six-month period. He apologized because he felt that he should have advised the mayor to rule that motion out of order at the time it was made because the rules state that Rule 16 is only in order following the defeat of a substantive motion and not in the order it was made, which was following a motion that passed. The second issue was that according to state law, no Council or Mayor compensation or benefits may be changed except with the adoption of the annual budget. While it would have been proper to direct the manager to bring back a proposed budget with raises included, they could not have been finalized except with the adoption of the budget.

Mayor Parker clarified that Attorney Morgan was saying that the motion to prevent reintroduction was out of order and should not have been made. Attorney Morgan confirmed that was correct; that motion is only proper when a motion has been defeated, not passed. The item in question, the raises, was not defeated so Rule 16 should have been ruled out of order. He apologized that he did not catch that in the moment that it occurred. Mayor Parker asked if there was something they should do now retroactively to make the action right. Attorney Morgan said other than the motion really needing to be ruled out of order at the time, there was really nothing to fix. The manager put the raises in the proposed budget ordinance, but the Council will have to vote on that along with the final budget. He noted that the Council could continue to debate whether to include that item until the budget was adopted and the ordinance was approved after the public hearing.

Councilwoman Young verified that they could continue to modify things in the budget between now and the final vote after the public hearing, was that correct? Attorney Morgan confirmed that was correct. He suggested they not make any major changes to the budget ordinance document once they officially call for the public hearing, however.

Mayor Pro Tem Walton told Attorney Morgan that wished he'd been present at the meeting to guide them through the process when it was happening. Attorney Morgan noted that he'd never been asked to come to budget work sessions, but he would definitely attend any that they'd like him to in the future. Mayor Pro Tem Walton asked what was the purpose of the prevention of reintroduction rule and was there another motion that could have been made in its place? Attorney Morgan explained that his understanding was the rule could be used in cases where a councilor may continue bringing a topic up that is constantly voted down over and over again, and the prevention of reintroduction rule would stop them from putting it on every single meeting agenda for a vote. He did not know of another motion that could have been made in its place because that particular motion could only be made in the case of a defeat. The budget process is very involved by its very nature.

Councilman Ruffieux noted that GS 160A-64 expressly stated that the Council may fix its compensation and that of the mayor and any other elected officers of the city by adoption of the annual budget ordinance, so it's very cut and dry as to how it must be handled. Councilman Brooks pointed out that the original budget was balanced by the manager

with the raises in there, now they're out, now they're being asked to be put back in. The same night the motion was made there had to be a super majority, but the whole motion was out of order. If the budget was balanced with it in there, we can talk about it, is that right? Attorney Morgan said that was correct. Mayor Parker asked if the raises should be put back into the budget then? Councilman Caudle agreed that the budget was balanced with the raises but it was done by way of a tax hike, so that was something to take into consideration.

Motion was made by Councilman Chris Ruffieux to allow the manager to continue with his budget presentation and call for a public hearing. The motion was seconded by Councilwoman Jeannie Young.

Councilman Horton said he was not satisfied because he did not feel that he had been provided correct information all the way back in March. The raises should be in the budget because the necessary procedures had not been followed to ever have it removed. The motion to remove it from the budget was out of order too, because they should have suspended the rules of procedure to do that. Mayor Pro Tem Walton said he tried to be patient but every meeting it seemed like the youngest member of the Council had somewhere to go. He opined that if he was going to come out here and put himself at risk, the rest of the Council should be willing to work it out too.

Councilwoman Young reminded everyone that the Council can discuss, remove, add anything to the budget whenever they'd like during the budget process. She did not feel that removing the raises had gone against the Council's rules, as it was a line item in the budget. She noted if there's something in the budget that the Council doesn't like, they can take it out, move it, change it, discuss it or whatever. She'd made the motion to remove the raises because her constituents had approached her about their dissatisfaction with the idea.

Councilman Horton reiterated that his problem was that they were saying something was not proper after it was done. How are we going to deal with this now? Mayor Parker said she felt that we went into the budget meeting believing the motion made by Mayor Pro Tem was in order, which then made the later motion by Councilwoman Young out of order because there should have been a super majority vote to suspend the rules first.

Councilman Chris Ruffieux called for the question, seconded by Councilman Billy Caudle. Those voting in favor of the motion were: Spence, Ruffieux, Young and Caudle. Against: Brooks, Walton, Horton and Adkins. 4-4 Tie. Mayor Parker voted in favor of the motion, breaking the tie. Motion carried.

Mayor Parker redirected the Council's attention to the original motion on the floor and called for the vote.

Those voting in favor of the motion were: Spence, Ruffieux, Young and Caudle. Against: Brooks, Walton, Horton and Adkins. 4-4 Tie. Mayor Parker voted in favor of the motion, breaking the tie. Motion carried.

Mayor Parker stated that she did not want to beat a dead horse and continue on the same topic all night long, possibly endangering one another's health. The motion was simply the continue with the presentation. Councilman Ruffieux confirmed all his motion was for was moving forward, and did not stop anything from being added to the budget.

Motion was made by Mayor Pro Tem Johnnie Walton to not include a 50% increase in the sewer rates in the budget. The motion was seconded by Councilman Darius Horton.

Councilman Caudle inquired whether the intention was to remove the 50% rate increase in its entirety or were they interested in perhaps adjusting it down to a smaller increase? Mayor Pro Tem Walton said that he didn't have an issue with a smaller increase, but he felt that 50% was too much, particularly as we were in a pandemic.

Mayor Pro Tem Johnnie Walton made the motion to have the budget reflect a 10% increase in sewer over a five-year period in lieu of a single 50% increase. The motion was seconded by Councilman Gabriel Adkins.

Mayor Parker stated that Mayor Pro Tem Walton had two motions on the floor right now, which were versions of the same thing. He'd given the first motion and then expanded on it when Councilman Caudle asked some follow-up questions; did he want to rescind that original motion at this time?

Mayor Pro Tem Johnnie Walton rescinded his original motion to not include a 50% increase in the sewer rates in the budget. Councilman Darius Horton rescinded his second.

Mayor Parker advised that the Council could now contend with the motion on the floor to have a 10% increase in sewer for the next five years. Mayor Pro Tem Walton said he'd like staff to bring back some additional figures as well so they could be certain those were really the rates they needed to put in place for the future. He noted that they could always discuss different rates in later years, but for the first year at least, he did want the 10% in the motion. Councilman Adkins clarified that they were just talking about sewer right now, was that correct? The water rates were separate from this discussion. Mayor Parker said that was correct.

Manager Olson reminded the Council that this body could not bind future Councils to an increase, as it would be against state law. Mayor Pro Tem Walton asked why they'd been given numbers for future years in that case. Manager Olson replied that they were suggestions and the Council was not being "locked down" into those numbers. Each Council would have to decide what they wanted to do with the rates every year; whether they took those suggestions to heart was up to them. Mayor Parker advised that based on the information provided, this motion would be on the sewer rates for this fiscal year only, so if they decided on the 10%, they couldn't lock it in for multiple years now.

Councilwoman Young said she shared some of the same concerns Mayor Pro Tem Walton did with trying to raise 50% in sewer rates, but she was also worried about the state of our infrastructure. She expressed concern that we were going to have to start making drastic changes at some point. She felt that she might comprise for 35% just because there were some areas that really needed relief. Councilman Caudle asked if Mayor Pro Tem Walton would be willing to go with a rate of 35%? If they raised it 35%, that would generate about \$500,000 for FY 2020-2021. Mayor Pro Tem Walton listed off several of the projects that we'd already gotten grants for that were underway. He said the AMI project was being held back on for now. What did we have to do that we needed money for right now that's so important? Manager Olson explained that we had a major problem with sewer lines that needed repair. While there are large single projects, there are also projects throughout the entirety of the city that are ongoing. Mayor Pro Tem Walton stated that he still believed it could all be phased in and not at a rate of 50% at once. Manager Olson said right now, they are replacing no sewer lines and without an increase, they will continue to be unable to replace them. They will be unable to take care of the I&I. Mayor Pro Tem Walton said he was willing to compromise up to 25% for sewer, but he would not go any higher.

Mayor Parker advised the Council that the consideration would be for an increase of 25% for sewer in the budget. She pointed out that it was time for the Regular Session to commence and the Work Session had not been completed, so the remainder of the discussion items would need to be carried over, including the rest of this current conversation, as well as the Committee Reports. Mayor Parker requested that the Council vote on the motion on the floor before she adjourned Work Session. She reiterated that the motion was for an increase in sewer rates of 25%, made by Mayor Pro Tem Walton and seconded by Councilman Adkins.

Those voting in favor of the motion were: Spence, Brooks, Walton, Horton and Adkins. Against: Ruffieux, Young and Caudle. Motion carried.

4. Adjournment:

There being no further business to be discussed, Mayor Parker adjourned the meeting at 7:04 p.m.

Bettie J. Parker
Mayor

April D. Onley
City Clerk