

**City Council Work Session  
February 27, 2017**

The City Council of the City of Elizabeth City met in work session on Monday, February 27, 2017 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 Joe Peel  
Councilman Ray Donnelly  
Mayor Pro Tem Anita Hummer  
Councilman Tony Stimatz (*arrived at 5:45 p.m.*)  
Councilman Michael Brooks  
Councilman Rickey King  
Councilman Darius Horton (*arrived at 5:37 p.m.*)  
Councilman Johnnie Walton

MEMBER ABSENT: Councilwoman Jean Baker

OTHERS PRESENT: City Manager Rich Olson  
City Attorney Bill Morgan  
Finance Director Sarah Blanchard  
Assistant City Manager Angela Cole  
Interim Human Resources Director Monica Cole  
Public Utilities Director Paul Fredette  
Parks and Recreation Director Dexter Harris  
Fire Chief Larry Mackey  
ECDI Director Debbie Malenfant  
Community Development Director Matt Schelly  
IT Director Matthew Simpson  
Inspections Director Stanley Ward  
City Clerk Vivian White

The City Council work session was called to order by Mayor Joe Peel at 5:30 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.**

Councilman Walton requested to add "public restrooms" to the agenda.

Mayor Peel called for a vote on the agenda, as amended.

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

**3. Presentation/Consideration – Authorization to Execute Water Tower Attachment Agreement with Eastern Shore Communications, LLC:  
(*Recommended for approval by the Finance Committee during their meeting of February 23, 2017.*)**

Mayor Peel recognized City Manager Olson for his comments on this matter. Mr. Olson launched the discussion regarding the negotiations to have Eastern Shore Communications provide broadband internet services to the City of Elizabeth City. Mr.

Olson introduced the special guests present representing Eastern Shore Communications: CEO Ronald van Geijn, Scott Sledge and Donald Imhoff.

Mr. Olson stated that the City hired Professor Nick Didow of the Kenan School of Business at UNC to help formulate a plan to provide affordable internet service to the City's residents. He noted that with Mr. Didow's help, staff developed a Request for Proposals, which was widely circulated throughout the State of North Carolina. He reported that three responses had been received; and it had been determined by the selection committee that Eastern Shore Communications was the best-qualified company for the project.

Mr. Olson advised that negotiations began with Eastern Shore Communications approximately 18 months prior and that all issues and concerns had been put to rest. Mr. Olson referred the Councilmembers to the modified Water Tower Lease Agreement that had been provided in the agenda packet as he explained the terms. He noted that Eastern Shore Communications would utilize all three of the City's water towers for their equipment. In reviewing the lease agreement, Mr. Olson advised that a number of legal exhibits were yet to be completed. He stated that it would be the City's responsibility to run dark fiber to all three of the City's water towers, which would carry a cost of \$37,500. He pointed out that the proposed lease included an initial five year term, with four additional, five-year renewals allowed. He reported that the lease amount was 10% of gross receipts, net of refunds, rebates and discounts; and would be payable on September 1 annually after the close of the fiscal year. Mr. Olson stated that several additional standard terms and conditions were also included in the agreement, which he briefly reviewed for the Council.

Mr. Olson pointed out that the lease agreement was not an exclusive agreement; and he stated that if other companies in the marketplace were interested in doing business under the same terms and conditions, that arrangement could be considered.

Mr. Olson turned the discussion over to the representatives of Eastern Shore Communications, who provided an overview of their plans using PowerPoint slides.

Mr. van Geijn began the presentation by stating that his company is pleased with the agreement as presented; and is eager to get started providing affordable services to the citizens and small businesses in Elizabeth City. He noted that the new service would also play a part in the City's economic development efforts. He provided a brief history of his company and the growth they had experienced along the eastern shore of the United States from Maryland to the Hampton Roads area. He opined that his company has the depth and scope to provide affordable, fast and reliable internet services in Elizabeth City.

Mr. Sledge stated that Eastern Shore Communications wanted to begin providing services as quickly as possible, and was eager to sign the tower leases right away. He noted that he had found space for a local office on McArthur Drive and was in the process of securing that lease as well. He reported that he was also working on establishing an LLC for the company to be able to do business in North Carolina. Mr. Sledge stated that Eastern Shore would have job opportunities for local residents, both part-time and full-time.

Mr. Sledge reported that MCNC would be building the fiber backbone for the City of Elizabeth City and that Eastern Shore would be supplying the equipment to light the network. He reviewed a map of the areas that will be covered by their service and stated that over 7,000 homes would be addressed immediately. He stated that the goal was to have their service online by July of 2017. He advised that there had been discussions with Pasquotank County with the hope that some of their structures could be utilized to backfill other areas underserved or not yet served.

Mr. Sledge stated that the company was able to provide services up to 10 Gigabits, which would be a selling point for future economic development. He said that marketing and sales would begin as soon as the local office is established and a dedicated website would be developed for Elizabeth City, in addition to providing a Facebook and Twitter presence. He stated that Eastern Shore prides itself on Customer Service and

he felt the City would be pleased with their attention and response. He reported that the company's pricing and speeds were very competitive.

Mr. Olson noted that staff would be bringing a public-private partnership agreement to the Council in the coming weeks that would cover laying hard fiber to customers that request it. He stated that staff believed the partnership with Eastern Shore was a good one and would be something that the City would benefit from in the future.

Councilman Walton inquired if the school system would benefit in any way from this service. Mr. Olson responded that he had had discussions with Superintendent Cartner regarding what the City could do to improve internet service at the schools. He noted that affordable internet service would assist students that may not presently have access to the internet at home.

Mayor Peel requested Council's pleasure regarding this matter.

**Motion was made by Councilman Donnelly, seconded by Mayor Pro Tem Hummer, to authorize execution of the Water Tower Attachment Communication Site Agreement by Mayor Joseph Peel as presented for Eastern Shore Communication, LLC., contingent upon the City Attorney approving all legal descriptions associated with all agreement exhibits. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.**

#### **4. Presentation – Winter 2016-2017 Internship Program:**

Mr. Olson reported that the Council had requested that staff bring forward the City's two interns for introductions. He recognized Interim Human Resources Director Monica Cole to present the student interns to the Council.

Ms. Cole reported that the Council had approved \$16,000 in the current fiscal year budget for an internship program. She noted that the program allowed students to gain hands-on practical experience in local government that cannot be obtained in the classroom. She said that the goal of the program is to provide each participant an opportunity to apply their academic skills to various real world assignments under the direction of City staff.

Ms. Cole introduced Tia Purdy, a Human Resources Department intern attending the College of the Albemarle, and Jeffrey Robinson, an IT intern attending Elizabeth City State University. Both students made brief remarks about their job duties and what the opportunity had meant for their educational success. They each thanked the City Council for their vision in funding the internship program.

#### **5. Consideration – Possible Local Bill for Rental Registration Program:**

Mayor Peel called on Mr. Olson to begin the discussion of this matter. Mr. Olson advised that the Council had discussed this matter during the retreat held on February 10, 2017. He noted that the Council did not complete its discussion at that time; and therefore no decision was reached regarding what needed to be done.

Mr. Olson provided an overview of the City's Rental Inspection Program by stating that the City established a Rental Inspection Program to address glaring deficiencies in the City's rental housing stock on September 12, 2005. He said that at the time of creation, the program was established to be self-sufficient. He reported that the City charged \$25 per rental unit, which generated \$93,000 per year and allowed the City to hire two fulltime inspectors.

Mr. Olson reported that subsequently, the General Assembly had limited the amount cities could charge for rental housing licenses; and the amount of income received by the City's program went from \$93,000 annually to approximately \$26,000. Mr. Olson reported that during the last year, the Legislature abolished all cities' ability to have Rental Inspection Programs effective January 1, 2017.

Mr. Olson stated that the question posed during the Council Retreat was whether the City should request that Representative Steinburg sponsor a local bill to allow the City to have a rental program or exempt the City from the new state law. He noted that the Legislature's bill drafting department would need to provide guidance regarding how the bill could be introduced.

Mr. Olson requested the Council's guidance regarding how staff should proceed with this initiative.

**Motion was made by Councilman Stimatz, seconded by Councilman King, to direct staff to go ahead with seeking legislation to change the general statute regarding cities under 25,000.**

Councilman Walton stated that in 2005 when the inspection program began, the City had approximately 4,600 rentals. He said that in 2011, that number had decreased to 3,573. He pointed out that it appeared the City had lost 1,027 landlords. He stated that meant to him that those persons lost a steady flow of income. He said that he did not agree that landlords should have to pay a fee not being paid by all other businesses. He stated that he opposed having a Rental Housing Inspection Program. He pointed out that the federal government could pass down rules to state government and state government could pass down rules to local government. He noted that he did not like local government making rules because they were enforced subjectively. He said that he disagreed with Councilman Stimatz statement that apartment complexes should not be subject to the same inspections as single family homes and duplexes.

Councilman Stimatz stated that the reason for the program was due to one slumlord that had almost 1,000 properties that were not being maintained. He pointed out that the decrease in the number of rental properties had a lot to do with that particular person selling off the properties rather than improving them. He said that those properties have since become owner-occupied and have been fixed up.

Councilman Stimatz stated that even though tenants may have an avenue through the minimum housing code inspection process, they are still being taken advantage of by unscrupulous landlords who do the minimum - or nothing at all - and allow the properties to become run down. He noted that most of the time, the tenants are very low income and English is not their first language. He pointed out that these persons are afraid to report issues for fear of being evicted. He opined that he saw the program as an extension of the Fair Housing Act. He noted that the Rental Housing Program protected these people because it required the property to be inspected without having to prove exterior evidence that structural problems existed. He said that he thought the program was cheap compared to the good it did in insuring safe housing for the City's residents.

Councilman Stimatz said that asking for an exemption for cities with populations under 25,000 was reasonable in his mind. He noted that the program began because of a local businessman who was concerned about the condition of rental housing used by his employees. He opined that from that regard, the program was good for business and was the reason he had been behind the program from the beginning.

Councilman King asked about the City's two rental inspectors. Mr. Olson responded that since the program was abolished as of January 1, 2017, those employees had been reassigned, one into a building inspections function and one to the Parks and Recreation Department.

Councilman Donnelly asked if there was a sense regarding how Representative Steinburg stands on this issue. Councilman Stimatz stated that he had spoken with Representative Steinburg on numerous occasions and he understood the issue very well. He pointed out that he had also spoken to Representative Brawley to plead the case for small towns in maintaining rental programs.

Councilman Brooks inquired as to why the Legislature would do away with the ability to have rental programs. Mr. Olson responded that Charlotte, Raleigh, Durham, Fayetteville and other big cities were using rental programs as a way to fight crime.

Councilman Brooks stated that he understood Councilman Walton's point of view and agreed that the same standard should be used for single family dwellings as well as apartments. He pointed out that he felt that was a form of discrimination.

Councilman Walton opined that he thought the Rental Housing Program has been used to its fullest extent and pointed out that the housing stock had improved immensely over the years. He stated that if the program were to continue, the City would be over-using the inspection process.

Councilman Brooks pointed out that if a tenant complains and the landlord evicts him in retaliation, the problem would still exist. He asked Mr. Olson if the City would inspect the house before another tenant moved in. Mr. Olson responded that there may or may not be an inspection connected with the provision of electric service.

Councilman King advised that many tenants in Elizabeth City are subject to the rules of the Economic Improvement Council (EIC). He said that those rentals are inspected annually by the EIC and repairs must be made if needed. Councilman King stated that he felt the City's program worked and helped a lot of City residents to get better housing.

Mayor Pro Tem Hummer asked the reason that EIC rentals can be inspected annually. Mr. Olson responded that inspections must be performed in order for EIC to receive its federal funding. Ms. Hummer pointed out that if federally funded housing had to be inspected annually, she could not see the reasoning behind the Legislature's decision to abolish the rental program for cities.

Councilman Stimatz stated that he had not suggested that apartment complexes should be exempt from the program. He said his goal was to make the program "palatable" because he would rather have "half the loaf than no loaf." He said that he would be happy to leave the program as is to include apartments. He stated that he would like to know the number of rentals overseen by EIC versus those owned by private individuals. He said that his guess would be that 70% of the City's rentals were not covered by EIC.

Mayor Peel called for a vote on the motion to send a letter to Representative Steinburg asking his assistance in developing a local bill.

Councilman Walton requested that if the vote is not unanimous, he wanted the letter to make clear to Representative Steinburg that it was not. He stated that Representative Brawley should also receive a copy of the letter.

Councilors Donnelly and Brooks requested additional information regarding the number of privately held rental houses outside the purview of EIC.

City Manager Olson pointed out that the timeline for bill drafting was March 15 and suggested that if the Council wanted to proceed with sending a letter from Mayor Peel to Representative Steinburg, it should be done right away. He noted that the Council could change its position once the draft bill is prepared.

The City Clerk pointed out that the request should not be for a local bill to be drafted, but a request to change state legislation for any City under 25,000 in population to be exempt from the rental housing law. She noted that even if the Legislature changed state law, the City would still have to adopt an ordinance in order to create a local program.

Councilman Stimatz pointed out that if the Council does not agree with the bill's wording during the next Council meeting on March 13, the Council could withdraw its request.

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

**Councilman Walton requested a roll call on the vote, which revealed the same result.**

Mayor Peel stated that there was not enough time to complete the rest of the agenda during the Work Session. He suggested that the Council share Committee reports and place the remaining items on the regular agenda.

**6. Consideration – Adoption of Revised City Council FY 2016-2017 Goals and Objectives:**

Mayor Peel suggested that this item be continued for discussion during the 7 p.m. Regular Session.

**7. Discussion – Policy-related Items Not Discussed During Planning Retreat:**

Mayor Peel suggested that this item be continued for discussions during upcoming Work Sessions in March and April. He stated that any items not discussed at that time, would be discussed during the first budget work session.

**8. Discussion: Public Restrooms: *(requested by Councilman Walton)***

Mayor Peel suggested that this item be continued for discussion during the 7 p.m. Regular Session.

**9. Committee Reports:**

- a) EC-PC Economic Development Commission: Mayor Pro Tem Hummer, Councilwoman Baker, Councilman King and Mayor Peel:

Mayor Pro Tem Hummer stated that Director Harris had arranged for seven members of the NC House leadership to tour the Amazon Wind Farm US East. She stated that hard copies of the local resolutions adopted in support of the wind farm had been provided to each of the legislators.

- b) Central Communications Advisory Board: Councilman Brooks:

Councilman Brooks had no report.

- c) Fireman’s Relief Fund Board: Councilman Brooks:

Councilman Brooks had no report.

- d) NC Eastern Municipal Power Agency: City Manager Olson and Mayor Peel:

Mr. Olson stated that he had provided a memo earlier in the day with an update.

- e) Elizabeth City Downtown, Inc.: Councilman Donnelly:

Councilman Donnelly asked everyone to save the date on their calendar for the NC Potato Festival, May 19-21, 2017. He stated community volunteers are still needed to help with the festival. He announced that a volunteer group had partnered with ECDI to beautify the Carolina Theater area downtown.

- f) Elizabeth City Area Chamber of Commerce Board: Mayor Peel:

Mayor Peel stated that the Business Expo was being planned for March 29, 2017.

- g) Finance Committee: Mayor Pro Tem Hummer, Councilman Donnelly, Councilman Horton and Mayor Peel:

Mayor Pro Tem Hummer stated that all items considered during the Finance Committee meeting were included on the agenda for the Regular Session.

- h) Parks and Recreation Advisory Board: Councilman Walton:

Councilman Walton had no report.

i) Elizabeth City/Pasquotank County Airport Authority: Councilman Stimatz:

Councilman Stimatz reported that fuel sales are up and that the wash rack had been installed and was being used. He stated that the sale of property to the Coast Guard was being worked on and was dependent on receipt of the appraisal. He said that the Authority is working with the Coast Guard to expand use of runway 119 through a lease agreement and the use of state funds to repair it.

j) Storm Water Advisory Board: Councilman Stimatz, Councilman King and Councilman Brooks:

Councilman Stimatz stated that the Board had meet during the previous week and new Community Development Director Matt Schelly attended to discuss Code Enforcement. He stated that the meeting was productive. He noted that the Board is reviewing the various drainage basins in order to formulate a plan. He stated that discussions were held regarding the various drainage structures throughout the town.

k) Tourism Development Authority: Councilwoman Baker:

Councilwoman Baker was absent from the Work Session.

l) Community Relations Commission: Councilman Brooks:

Councilman Brooks had no report.

**10. Adjournment:**

There being no further business to be discussed, Mayor Peel adjourned the meeting at 6:55 p.m.

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Joseph W. Peel  
Mayor

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Vivian D. White, CMC/NCCMC  
City Clerk