

**City Council Regular Session
January 25, 2016**

The City Council of the City of Elizabeth City met in regular session on Monday, January 25, 2016 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
Planning Director June Brooks
Police Lieutenant John Young
Electric Superintendent Karl Clow
Assistant to the Manager Angela Cole
Public Utilities Director Paul Fredette
Fire Chief Larry Mackey
ECDI Director Wade Nichols
IT Director Matthew Simpson
Parks and Recreation Director Bobbi White
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 he led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

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

Mayor Pro Tem Hummer requested to remove the "Amendment of Council Rules of Procedure" from the Regular Agenda and send it to the February 8, 2016 Regular Session for consideration.

Councilman Stimatz requested to remove Item B regarding the VIPER Communication System from the Consent Agenda and place it on the Regular Agenda for discussion.

Councilman Brooks added two items to the Regular Agenda: "Dr. King's Celebration" and "Community Relations."

Motion was made by Mayor Pro Tem Anita Hummer, seconded by Councilman Darius Horton, to approve the agenda with any necessary adjustments. 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 members of the public.

4. Consent Agenda:

(Clerk Notation: Item "a" was recommended for approval by the Finance Committee during their meeting of January 20, 2016.)

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 – Adoption of Budget Amendments required for Accounting Purposes as follows; and adoption of Capital Project Ordinance for Fun Junktion Trillium Health Resources Grant, as follows;

BUDGET AMENDMENTS

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendments be made to the annual budget ordinance for fiscal year ending June 30, 2016:

SECTION I. That the General Fund Balance Appropriated (103990.0000) and Arts of the Albemarle (106610.5830) be increased by \$12,500.

(To record appropriation to Arts of the Albemarle.)

SECTION II. That the Powell Bill Fund Balance Appropriated (103990.0010) and the Bike Trail Grant (105700.7312) be increased by \$60,000.

(To appropriate Powell Bill funds to cover overage in Bike Trail Grant.)

ADOPTED, this 25th day of January 2016.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

**FUN JUNKTION TRILLIUM HEALTH RESOURCES GRANT
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED by the City Council of the City of Elizabeth City, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statues of North Carolina, the following capital project ordinance is hereby adopted:

SECTION I. The project authorized is the Fun Junktion Trillium Health Resources Grant to be financed with Trillium grant funds.

SECTION II. The officers of this unit are hereby directed to proceed with the project within the terms of the project documents and the budget contained herein.

SECTION III. The following amounts are appropriated for the Fun Junktion Trillium Grant Project:

(453490.1000)Trillium Grant Revenue	\$650,000
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SECTION IV. The following amounts are appropriated for the Fun Junktion Trillium Grant Project:

SECTION V. Copies of this capital project ordinance shall be made available to the Budget Officer and Finance Director for direction in carrying out this project.

ADOPTED, this the 25th day of January, 2016.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

- b. Consideration – Adoption of Updated 2016 Language Access Plan required by the NC Commerce CDBG grant program, as follows:

2016 City of Elizabeth City Language Access Plan (LEP)

The census data reviewed by the city shows less than three percent of the city population speaks Spanish (approximately 570 individuals). The census data also suggests populations associated with other foreign languages are less than one percent of the total city population (approximately 190 individuals). The City does not have substantial LEP groups.

The purpose of this Policy and Plan is to ensure compliance with Title VI of the Civil Rights Act of 1964, and other applicable federal and state laws and their implementing regulations with respect to persons with limited English proficiency (LEP). Title VI of the Civil Rights Act of 1964 prohibits discrimination based on the ground of race, color or national origin by any entity receiving federal financial assistance. Administrative methods or procedures, which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations, are prohibited.

In order to avoid discrimination on the grounds of national origin, in some state and federal funded programs administered by the *City of Elizabeth City* will take adequate steps to ensure that their policies and procedures do not deny or have the effect of denying substantial LEP clients with equal access to benefits and services for which such persons qualify. This policy document is related only to CDBG and CDBG-ER programs. This Policy document defines only the responsibilities the agency has to ensure individuals identified in section II.D that are part of substantial LEP groups can communicate effectively.

This policy and plan is effective January 25, 2016 to December 31, 2016.

Scope of Policy

These requirements will apply to the *City of Elizabeth City* (**herein referred to as “the agency”**) including subcontractors, vendors, and subrecipients.

The agency will ensure that appropriate LEP individuals are provided meaningful access to benefits and services provided through contractors or service providers receiving subgrants from the agency. The city will not pay any financial penalty in relations to problems in implementation of this policy.

Definitions

- A. Limited English Proficient (LEP) individual – Any prospective, potential, or actual recipient of benefits or services from the agency who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with health care providers and social service agencies.
- B. Vital Documents – These forms include applications, consent forms, bid documents, fair housing information, citizen participation plan, letters containing

important information regarding participation in a program; notices pertaining to the reduction, denial, or termination of services or benefits, the right to appeal such actions, or that require a response from beneficiary notices advising LEP persons of the availability of free language assistance, and other outreach materials.

- C. Title VI Compliance Officer: The person or persons responsible for compliance with the Title VI LEP policies.
- D. Substantial number of LEP: 5% of the City population or 1,000 people living in the City, whichever is smaller, as reported in the census data reviewed by the city, are potential group of applicants or recipients of the agency and speak a primary language other than English and have limited English proficiency.

Providing Notice to LEP Individuals

The agency will take appropriate steps to inform all applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, of the provisions of this policy. Such notification will also identify the name, office telephone number, and office address of the Title VI compliance officer(s).

List the current name, office telephone number and office address of the Title VI compliance officers:

Morgan Jethro, Community Development Manager, 252-337-6672, City of Elizabeth City P.O. Box 347 Elizabeth City, NC 27907.

(Note: The agency must notify the Commerce compliance office immediately of changes in name or contact information for the Title VI compliance officer.)

- A. The agency will post and maintain signs, in regularly encountered languages defined in section II.D, other than English in waiting rooms, reception areas and other initial points of contact. These signs will inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services.

Identify areas within the agency where these signs will be posted:

Planning Dept. and City Hall Building

- B. The agency will include statements of the right to free language assistance in Spanish and other significant languages in all outreach material that is routinely disseminated to the public (including electronic text).
- C. The agency will also disseminate information in the following manner:
TV advertising on local public channel.

I. Provision of Services to LEP Applicants/Recipients

- A. Assessing Linguistic Needs of Potential Applicants and Recipients
 - 1. The agency will assess the language needs of the population to be served, by identifying:
 - a. the language needs of each LEP applicant/recipient;
 - b. the points of contact where language assistance is needed; and
 - c. the resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use.
 - 2. Determining the Language Needs of the Population to be Served

The agency is responsible for assessing the needs of the population to be served. Such assessment will include, but not be limited to the following:

- a. The non-English languages that are likely to be encountered in its program will be identified.
- b. An estimate of the number of people in the community for whom English is not the primary language used for communication will be completed and updated annually. To identify the languages and number of LEP individuals local entities should review:
 - i. census data
 - ii. reports from federal, state, and local governments
 - iii. data from client files
- c. The points of contact in the program or activity where language assistance is likely to be needed will be identified.

3. Determining the Language Needs of Each Applicant/Recipient

The agency will determine the language needs of each applicant/recipient. Such assessment will include, but not be limited to the following:

- a. At the first point of contact, each applicant/recipient will be assessed to determine the individual's primary language.

Check all methods that will be used:

- _____ multi-language identification cards, a poster-size language list, or the use of "I speak" peel-off language identification cards for indicating preferred languages
- ___X___ English proficiency assessment tools, provided they can be administered in a manner that is sensitive to and respectful of individual dignity and privacy
- ___X___ As requested by applicant

- b. If the LEP person does not speak or read any of these languages, the agency will use a telephone interpreting service to identify the client's primary language.
- c. Staff will not solely rely on their own assessment of the applicant or recipient's English proficiency in determining the need for an interpreter. If an individual requests an interpreter, an interpreter will be provided free of charge. A declaration of the client will be used to establish the client's primary language.
- d. When staff place or receive a telephone call and cannot determine what language the other person on the line is speaking, a telephone interpreting service will be utilized in making the determination.
- e. If any applicant/recipient is assessed as LEP, they will be informed of interpreter availability and their right to have a language interpreter at no cost to them with a notice in writing in the languages identified in Section C. Provisions of Written Translations.

B. Provision of Bilingual/Interpretive Services

- 1. The agency will ensure that effective bilingual/interpretive services are provided to serve the needs of the non-English speaking population.

This requirement will be met by: *Bilingual staff, local university staff, and other methods such as contractors.*

- 2. The agency will provide language assistance at all level of interaction with LEP individuals, including telephone interactions.

Describe how this requirement will be met: *qualified bilingual employees, and qualified employees of College of Albemarle (COA) and Elizabeth City State University (ECSU).*

3. Interpreter Standards

a. Those providing bilingual/interpretive services will meet the linguistic and cultural competency standards set forth below. The agency will ensure that interpreters and self-identified bilingual staff, have first been screened to ensure that the following standards are met before being used for interpreter services:

- i. Can fluently and effectively communicate in both English and the primary language of the LEP individual
- ii. Can accurately and impartially interpret to and from such languages and English
- iii. Has a basic knowledge of specialized terms and concepts used frequently in the provision of the agency's services
- iv. Demonstrates cultural competency
- v. Understands the obligation to maintain confidentiality
- vi. Understands the roles of interpreters and the ethics associated with being an interpreter

Describe how the agency ensures the competency of bilingual staff and interpreters:

The City will ask them to translate content of a document already known to the City. The City will ask COA and ECSU to evaluate their qualification.

b. When staff members have reason to believe that an interpreter is not qualified or properly trained to serve as an interpreter, the staff member will request another interpreter.

4. Using Family Members or Friends as Interpreters

a. Applicants/recipients may provide their own interpreter; however the agency will not require them to do so.

b. The agency will first inform an LEP person, in the primary language of the LEP person, of the right to free interpreter services and the potential problems for ineffective communication. If the LEP person declines such services and requests the use of a family member or friend, the agency may utilize the family member or friend to interpret only if the use of such person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The agency will monitor these interactions and again offer interpreter services, if it appears there are problems with this arrangement.

c. The agency will indicate in the LEP individual's file that an offer of interpreter services was made and rejected; that the individual was informed of potential problems associated with using friends or family members and the name of the person serving as an interpreter at the LEP individual's request.

d. Only under extenuating circumstances shall the agency allow a minor (under the age of 18 years) to temporarily act as an interpreter. The agency will keep a written record of when it has used a minor as an interpreter, and this information will be shared with Commerce upon request.

5. The agency will **not** require the applicant/recipient to pay for bilingual/interpretive services.

C. Provision of Written Translations

1. The agency must provide written materials in languages other than English where a substantial number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively.
2. Translation of Vital Documents
 - a. The agency will ensure that vital documents for locally designed programs are translated into Spanish.
 - b. When Commerce forms and other written material contain spaces in which the local entity is to insert information, this inserted information will also be in the individual's primary language. When such forms are completed by applicants/recipients in their primary language, the information must be accepted.
 - c. If, as a result of the local language assessment, it appears there are a substantial number of potential applicants or recipients of the agency (defined as 5% or 1,000 people whichever is less) who are LEP and speak a language other than Spanish, the agency will translate and provide vital documents in the appropriate language.
 - d. The agency will keep a record of all vital documents translated, and will submit this information to Commerce at their request.
3. If the primary language of an LEP applicant or recipient is a language other than Spanish AND the language does not meet the threshold for translation as defined in the preceding paragraph, the LEP individual will be informed in their own language of the right to oral translation of written notices. The notification will include, in the primary language of the applicant/recipient, the following language: IMPORTANT: IF YOU NEED HELP IN READING THIS, ASK THE AGENCY FOR AN INTERPRETER TO HELP. AN INTERPRETER IS AVAILABLE FREE OF CHARGE.

D. Documentation of Applicant/Recipient Case Records

1. The agency will maintain case record documentation in sufficient detail to permit a reviewer to determine the agency's compliance with this policy.
2. The agency will ensure that case record documentation, including computerized records if appropriate, identifies the applicants/recipient's ethnic origin and primary language. In those cases where the applicant/recipient is non-English speaking, the agency will:
 - a. Document the individual's acceptance or refusal of forms or other written materials offered in the individual's primary language.
 - b. Document the method used to provide bilingual services, e.g., assigned worker is bilingual, other bilingual employee acted as interpreter, volunteer interpreter was used, or client provided interpreter. When a minor is used as interpreter, the agency will document the circumstances requiring temporary use of a minor and will provide this information to Commerce upon request.
3. Consent for the release of information will be obtained from applicants/recipients when individuals other than agency employees are used as interpreters and the case record will be so documented.

E. Staff Development and Training

1. The agency will provide staff training at new employee orientation and continuing training programs. The training will include, but not be limited to:

- a. Language assistance policies and procedures, resources available to support such procedures, methods of effective use of interpreters, and familiarization with the discrimination complaint process.
 - b. Cultural awareness information, including specific cultural characteristics of the groups served by the agency to provide a better understanding of, and sensitivity to, the various cultural groups to ensure equal delivery of services.
2. The agency will provide or ensure training is provided for bilingual staff and interpreters employed or utilized by the agency. This includes the ethics of interpreting, including confidentiality; methods of interpreting; orientation to the organization; specialized terminology used by the agency; and cultural competency.
 3. The agency will ensure that applicable grantees, contractors, cooperative agreement recipients and other entities receiving state or federal dollars are trained in the requirements of this policy.

Describe how this provision will be met: *The City will ask the groups mentioned above to read this document. The City does not have the capability to train people, but will participate in training programs offered by the State of North Carolina and federal government. In addition, the City will ask contractors to use training documents provided by the state.*

4. The agency will collect and maintain the following information about training provided to staff: the date(s) of such training, the content of such training, the number and types of credit hours awarded; and the names and identifying information of each attendee at the training. The agency will ensure that grantees, contractors, cooperative agreement recipients and other applicable funded entities collect and maintain such information as well.

II. Compliance Procedures, Reporting and Monitoring

A. Reporting

1. The agency will complete an annual compliance report and send this report to Commerce.
2. (Format will be supplied by NC Department of Commerce)

B. Monitoring

1. The agency will complete a self-monitoring report on a quarterly basis, using a standardized reporting system providing by Commerce. These reports will be maintained and stored by the Title VI compliance officer and will be provided to Commerce upon request.
2. The agency will cooperate, when requested, with special review by Commerce.

III. Applicant/Recipient Complaints of Discriminatory Treatment

A. Complaints

1. The agency will provide assistance to LEP individuals who do not speak or write in English if they indicate that they would like to file a complaint. A complaint will be filed in writing, contain the name and address of the person filing it or his/her designee and briefly describe the alleged violation of this policy.
2. The agency will maintain records of any complaints filed, the date of filing, actions taken and resolution.
3. The agency will notify the appropriate agency or Division within Commerce of complaints filed the date of filing, actions taken and resolution. This information will be provided within 30 days of resolution.

B. Investigation

1. The Commerce Compliance Office will conduct an investigation of the allegations of the complaint. The investigation will afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.
2. The investigation will not exceed 30 days, absent a 15-day extension for extenuating circumstances.

C. Resolution of Matters

1. If the investigation indicates a failure to comply with the Act, the local unit of government, agency Director or his/her designee will so inform the recipient and the matter will be resolved by informal means whenever possible within 60 days.
2. If the matter cannot be resolved by informal means, then the individual will be informed of his or her right to appeal further to the Department of Justice. This notice will be provided in the primary language of the individual with Limited English Proficiency.
3. If not resolved by Commerce, then complaint will be forwarded to DOJ, HUD Field Office.

Adopted, this the 25th day of January 2016 by the City Council of Elizabeth City, NC.

Joseph W. Peel
Mayor

Attest:

Vivian D. White, CMC/NCCMC
City Clerk

End of Consent Agenda.

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

Clerk Notation: Mayor Peel moved the agenda to the Regular Agenda in order to begin the Public Hearings at 7:30 p.m.

5. Public Hearings:

1. Consideration – Hold a public hearing to receive comment regarding amendment Text Amendment (TA 02-15) to amend the Unified Development Ordinance, specifically Article X Subdivisions – Procedures and Standards; and Article VIII Amendments by adding and updating language governing bonding for unimproved requirements and protest petitions.

Mayor Peel declared the Public Hearing open at 7:30 p.m. to receive comment regarding Text Amendment (TA 02-15).

Mayor Peel recognized Planning Director Brooks to provide an overview of this matter. Ms. Brooks stated that the matter being considered would amend sections of the Unified Development Ordinance to come into compliance with state law. She said that

the 2015 General Assembly enacted legislation to limit the amount of performance guarantees that can be required to complete improvements to developments. She stated that in addition, state law now changed the process by which the City Council receives citizen input relating to zoning ordinance amendments. Ms. Brooks explained that currently the UDO allows a developer to post a bond or letter of credit as a performance guarantee in the amount of 150% of the amount of unimproved requirements in lieu of requiring completion, installation and dedication of all improvements prior to the final subdivision plat approval. She noted that the new legislation limits the City's ability to 125% for unimproved requirements.

Ms. Brooks stated that the UDO also addresses protest petitions for zoning district changes. She said that currently a petition opposing a change in a zoning classification is filed; and certain circumstances require a three-quarter or super majority vote in order to change the classification. She stated the petitions currently require 20% or more owners' signatures in the area included in the change or 5% of the owners within a 100 foot buffer around the entire boundary of the tract. She stated that state legislation had repealed this process and established a new process whereby any resident or property owner in the City may submit a written statement regarding the amendment modification to or repeal of a zoning ordinance to the City Clerk at least two days prior to the proposed vote. She said that the Clerk must deliver the written statement to the City Council. She pointed out that if the change is subject to a quasi-judicial proceeding, only the names and addresses of the individuals are given to the Council. She said that the new legislation only requires a simple majority vote. Ms. Brooks stated that the Planning Commission had recommended approval of the text amendment.

Mayor Peel inquired if there were persons present that wished to speak on this matter. Upon reply by the Clerk that no one wished to be heard, Mayor Peel declared the Public Hearing closed.

Councilman Walton asked if this matter would have any effect on the next agenda item. Mr. Olson responded that it would not, because the Council had already changed its Rules of Procedure during a previous meeting. He stated that there was no need for a protest petition on the annexation matter.

Councilman Walton requested a simple explanation of the matter being considered. City Attorney Morgan responded "the long and short of it is it makes it easier for rezonings to go forward because it removes altogether the right for adjoining property owners or those adversely impacted by a rezoning to protest." He noted that the legislation had already passed the General Assembly. Councilman Walton commented that he "liked the old way better."

Councilman Stimatz noted that Councilors cannot be silent on the rezoning vote; and if a vote is not cast, it would be recorded as a "yes."

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to adopt the ordinance as presented by staff. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King and Horton. Against: Walton. Motion carried.

2. Consideration – Hold a public hearing to receive comment regarding Voluntary Annexation request for two parcels described as Tax Blocks P90-29C (14.193 acres of the total 28.435 acres) and P90-29-1 (1.829 acres), totaling 16.022 acres on the southwest side of Halstead Boulevard at Body Road.

Mayor Peel declared the Public Hearing open and requested that the City Manager provide background on the request. Mr. Olson stated that the City Council had adopted Resolution # 2016-01-01 calling for the question on a voluntary annexation petition filed by the Ralph O. Davis Testamentary Trust. He noted that the request included two

parcels consisting of a total of 16.022 acres, located at Halstead Boulevard and Body Road. Mr. Olson noted that a companion rezoning petition appeared next on the agenda with a request to rezone the property to AD-Apartment District. He stated that City staff is requesting that the City Council approve the petition for annexation subject to the rezoning petition also being approved.

Councilman Stimatz asked for clarification regarding approving the annexation with the condition that the rezoning also be approved. City Attorney Morgan responded that from the property owners' prospective, they would not want to pay the higher taxes if the property is annexed without being able to have the rezoning approved. He restated that the annexation petition is subject to approval by the City Council of the companion rezoning application.

Mayor Peel inquired of the City Clerk if persons were present who wished to be heard. The City Clerk responded in the affirmative and called the following persons to the podium:

Mark Gregory, P. O. Box 375, Camden, NC.

Mr. Gregory stated that his company, Masuki, Inc., was making application for the project, with the first step being annexation to allow for the use of City utilities to the site. Councilman Stimatz stated that the City Council had received an email from an interested party in the adjoining Millbrooke neighborhood who was concerned about traffic. He asked Mr. Gregory how the traffic flow would be configured. Mr. Gregory responded that two means of ingress/egress were proposed: one on Body Road and one on Millbrooke Circle. Mr. Olson stated that he had spoken with a representative of NCDOT and learned that NCDOT would be requiring a detailed traffic study before the development is approved.

Councilman King inquired if a traffic signal would be installed for the development. Mr. Gregory responded that at this point, NCDOT had not required a light installation. He noted that NCDOT's recommendation of using Body Road was such that traffic would use the existing signalized intersection. Councilman King inquired if Mr. Gregory had spoken to the residents of Millbrooke. Mr. Gregory responded that he had spoken with the homeowner's association president and had provided a copy of the site layout to give to the residents if needed. Councilman King asked if Mr. Gregory had personally met with the residents to which Mr. Gregory responded that he had not.

Councilman Horton inquired as to whom would pay for the required traffic study. Mr. Olson responded that the developer would be responsible for that cost. Councilman Horton asked if the project would impact adjoining owners' property values. Mr. Olson stated that he could not answer that question. He explained the zoning classifications in the immediate area and opined that usually apartment complexes serve as transitional step down zoning, which is between a commercial district and a residential district. Mr. Gregory stated that he had spoken with four different appraisers and none of them indicated that the proposed market-value apartment complex would have an impact on the connected properties. He noted that the area is currently a mixed use area.

Councilman Brooks stated that he would like for Mr. Gregory to speak with the residents personally. He said that he understood the proposed development and commented "growth is growth;" but he thought the residents' minds could be eased if he shared his plans with them. Councilman Brooks stated that he was definitely not opposed to the plan, but he wanted the residents to feel safe. He said that he also understood the residents' desire to protect their properties.

Councilman Donnelly stated that he had heard that a community center, pool and sidewalks would be installed in the development. Mr. Gregory responded that there would be many other amenities such as a walking trail, a dog park and garages for the residents.

Councilwoman Baker inquired of the City Manager if the City would require any of the recommendations for flooding mitigation that were presented during the Sea Level Rise presentation earlier in the evening. Mr. Olson responded that storm water management is the first thing staff requires of new developments. He noted that it had taken the new Morgan Pointe Development several months to come up with the correct drainage studies for their complex. He said that staff was very comfortable with the 25-year –pre and –post calculations for the proposed apartment complex on this site. Mr. Olson noted that Pasquotank County’s stormwater engineer had also signed off on the drainage proposal.

Councilman King asked about potential flooding in the development. Mr. Olson responded that the development, as proposed, would not flood. He said that everything had been done to mitigate any negative downstream impacts.

Councilman Stimatz noted that there seemed to be some controversy over this issue that the Council would like to have ironed out. He said that he understood that if the request is voted down, the applicant would have to wait a year to reapply, which he did not want to require. He asked if action could be tabled until a meeting is held with the residents of the Millbrooke community. Mr. Olson stated that the Council could do that, but would also need to table the rezoning request after its Public Hearing is held.

Councilman Brooks asked if delaying the matter would hinder the development’s progress. Mr. Gregory responded that it would certainly push it back, but if it pleased the Council and the residents, he would not have an issue.

Councilman Brooks stated that when the resident meeting is arranged, he would like to be notified in order to take part.

Councilman Horton stated that it was his understanding that the property in question had never been developed. Mr. Olson responded that the property is agricultural property. Councilman Horton noted that when the residents of Millbrooke moved to the subdivision, the property was vacant. He stated that there was always the possibility of many things being developed there. He said he wanted to know the resolution the Council is looking for after having a residents’ meeting.

Councilman Brooks noted that the Millbrooke Subdivision is in the Third Ward. He stated that the issue is not what he thinks personally as a Third Ward representative, but what the people tell him they want to do. He offered to help arrange the meeting.

Councilman King stated that he, too, as a Third Ward representative, believed the residents needed to know the facts, because they had told him that they are in the dark and were nervous about the proposed development. He stated that the residents were worried that the development will be a Section 8 Complex.

Kim Hamby, 154 Hwy 158 E, Camden, NC

Ms. Hamby stated that she was present to answer any technical questions with regard to the stormwater analysis.

Justin Clark, 532 Millbrooke Circle, Elizabeth City, NC

Mr. Clark stated that he is a resident of the Millbrooke Subdivision. He shared a number of concerns he had as a resident of the subdivision, including unsafe travel movements off and on Halstead Boulevard and the increase in traffic resulting from the proposed apartment complex. He said that he was also concerned about potential flooding issues from storm runoff. He stated that he would like to see an environmental impact study completed to determine any negative effects to the Millbrooke property as well as the wildlife in the wetlands. He also expressed a concern regarding possible noise pollution.

Councilman Brooks commented that if Mr. Gregory could address those issues during the residents' meeting it would be very helpful.

Mayor Peel declared the Public Hearing Closed.

Motion was made by Councilman Tony Stimatz, seconded by Councilman Rickey King, to table action on the annexation request until the developer has had a meeting with the residents for the affected community Millbrooke next door. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

3. Consideration – Hold a public hearing to receive comment regarding a request for rezoning (RZ 02-15) approximately 21.265 acres from Residential R-15 to Apartment District AD, said property located on the southwest side of Halstead Boulevard at Body Road.

Mayor Peel declared the Public Hearing open recognized Planning Director June Brooks for her comments.

Ms. Brooks stated that most of the points she had planned to address had been discussed during the annexation Public Hearing. She stated that the site of the proposed rezoning is at the southwest side of the major thoroughfare intersection of Halstead Boulevard and Body Road. She noted that the surrounding uses include a number commercial uses to the north, agricultural uses to the west and south, and the Millbrooke Subdivision to the east. She stated that the surrounding zoning is General Business and Highway Business to the north, R-15 to the west and south and R-10 and General Business to the east.

Ms. Brooks stated that the applicant plans to construct fair market value apartment units on the site if the property is rezoned. She noted that while the developer had not officially submitted a site plan, staff had meet with him to discuss his proposal. She stated that water and sewer are available to the site and two means of ingress/egress will be provided. She noted that NCDOT will require a traffic impact analysis for the site before the project is recommended to move forward. She said that in anticipation of storm water retention on the site, staff had the applicant perform due diligence for storm water retention and effects downstream. She reported that the applicant had indicated that he intended to build 216 apartments with various amenities. She advised that the application had been reviewed by the Planning Commission. She noted that one resident of Millbrooke had opposed the rezoning request during the Planning Commission meeting, but the Commission had considered the mix of commercial, residential and agricultural uses surrounding the property, access to the site, and the comprehensive plan. She stated that the Planning Commission had recommended approval of the rezoning application.

Councilman Stimatz stated that the future land use map showed the site as low density residential development. He asked how the Planning Commission justified their recommendation based on the land use plan. Ms. Brooks stated that the land use plan is a general policy document, not set in stone like the zoning ordinance. She said the plan provides that with growth of the City, flexibility for development is allowed. She said that the site is more or less a floating type of district. Councilman Stimatz asked how much low density land had been changed to medium or high density. Ms. Brooks responded that there had not been very much and estimated less than 10% since adoption of the land use plan five years ago.. Mr. Olson stated that this particular property is located in the City's existing extraterritorial jurisdiction; and as such, the City has the authority to zone it. Mr. Olson noted that if there is a question regarding zoning, staff places it at the highest residential zoning classification, which is R-15. He stated that anything below R-15 would be an increase in the zoning intensity.

Mayor Peel inquired if persons were present who wished to be heard. The City Clerk called the following persons to the podium for their comments.

Melvin James, 613 Millbrooke Circle, Elizabeth City, NC

Mr. James stated that the homeowners association for Millbrooke had never had a meeting. He expressed his dismay that the proposed apartment project was planned next to the Millbrooke Subdivision. He asked the City Council to consider that. He stated his concern regarding a possible devaluation of his property.

Paul E. Jones, 517 Millbrooke Circle, Elizabeth City, NC

Mr. Jones stated that he was a resident of the Millbrooke Subdivision. He said that his property was directly adjacent to the proposed rezoning. He stated that he understood that there would be two sources of ingress/egress: on Body Road and on Millbrooke Circle. He said that when the Planning Commission met, he understood that the traffic situation had been found to be acceptable. He said that his numbers were somewhat different than those provided to the Commission; and said that 400 additional vehicles entering and exiting the property would be quite significant. He stated that his second concern is that the homeowners' association has never had a meeting in the four years since he had been a resident. He said that he was also concerned about the issue of drainage. He noted that drainage was already an issue in Millbrooke. He stated that he not believe the new development would not have a negative impact. He pointed out that the site is lower than the adjoining subdivision and he knew fill would have to be added to bring it up above the flood plain. He stated that the retention pond would not collect all of the stormwater; and he felt the properties on his side of the line would be flooded even more. He stated that he was concerned about the three-story height of the apartments, and thought the proposed buffer was unacceptable. He complained about possible noise from residents enjoying the amenities such as the pool. He asked that the Council consider how they would feel personally if this complex was proposed in their backyard. He stated that he was not in favor of the development and would stand against it. He said that he understood the benefits to the City and to Masuki. He alleged that there had been issues with other Masuki developments around the United States and the lamented the decrease in property values that those residents had to endure.

Janita Mitchell, 518 Millbrooke, Circle, Elizabeth City, NC

Ms. Mitchell alleged that some of the Councilmembers may be benefiting from allowing the apartments to be constructed on the site. She said that every time someone tries to speak on the residents' behalf, they hear some objection. She stated that she had lived in apartments and she knew that all kinds of people come to apartments. She stated that she left apartment living because of domestic abuse and vandalism to vehicles. She opined that having an apartment complex in her backyard would result in noise and an influx of drugs and violence. She expressed concern for her children.

Melissa Bilger, 618 Millbrooke Circle, Elizabeth City, NC

Ms. Bilger stated that she was a resident of the Millbrooke Subdivision. She stated that she agreed with the previous speakers and expressed her concern regarding traffic and safety. She also expressed concern regarding how the apartment complex would be maintained and how it would impact the value of her home.

Julia James, 613 Millbrooke Circle, Elizabeth City, NC

Ms. James stated that she was a resident of the Millbrooke Subdivision. She expressed her concern regarding increased traffic in the subdivision. She said that traffic out of Millbrooke Circle and onto Halstead Boulevard was already congested. She requested that the Council consider her concerns.

Ronny L. Williams, 518 Millbrooke Circle, Elizabeth City, NC

Mr. Williams stated that his grandchildren live in the Millbrooke Subdivision and he felt the same as his daughter, Janita Mitchell, had expressed - that somebody was getting paid behind this project for the Council to be so supportive of the developer. He cautioned the Council by saying "you always reap what you sow."

He stated that his daughter had been blessed to be able to get a house in a good neighborhood; and he expressed his frustration with proposed apartments being constructed next door that could bring in undesirable tenants. He stated that the traffic situation in Millbrooke is already busy and he was concerned about the increase in traffic. He noted that the drainage in Millbrooke was already a problem.

Justin Clark, 532 Millbrooke Circle, Elizabeth City, NC

Mr. Clark reiterated his concerns stated during the annexation public hearing. He also asked that privacy concerns surrounding the proposed three-story apartments should be considered by the City Council.

Mayor Peel declared the Public Hearing closed.

Councilwoman Baker stated that as a real estate professional, she had shown a lot of homes in Millbrooke. She stated that the subdivision is located in the AE 1 to AE 30 flood zone, which requires flood insurance. She said that she did not know if there was an active homeowners' association in the subdivision, but she did know that there are restrictive covenants. She noted that there could not be a homeowners' association run by anyone except the developer until more than half of the lots have been sold and developed. She stated that there were a lot of questions, but she believed the complex will mirror the Emerald Lakes Apartment Complex located on the north side of town. She stated that the proposed market value rental rate would result in a higher than average income tenants. She stated that the City needed more rental units. She stated that she felt everyone should wait until the traffic study is completed before deciding that there would be major issues.

Councilman Walton asked if a protest petition could play a part in this process. Mr. Olson responded that it was too late to file a petition, because it would have to have been filed two days prior than the public hearing. Mr. Olson noted that the property owners of Millbrooke only own a small percentage of the property that surrounds the site. Mr. Olson reminded the Council that state law had changed whereby it does not take a super majority of the City Council to approve the rezoning.

Councilman Donnelly noted that the Planning Commission had held a Special Called Meeting on this matter on December 16, 2015. He asked why a special meeting was necessary. Ms. Brooks responded that there was not a quorum for the regular meeting, so a special meeting had been called.

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer, to table action and bring it back to Council with the annexation matter. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

6. Regular Agenda:

1. Consideration – Authorization for Pasquotank County to move forward with VIPER Communications System Coverage Study by Mission Critical Partners with reservation of City's right to address expenses above those identified during the 2015-2016 budget process (*Removed from Consent Agenda by Councilman Stimatz. Recommended for approval by the Finance Committee during their meeting of January 20, 2016.*)

Mayor Peel recognized City Manager Olson to provide the background on this matter. Mr. Olson stated that this consideration dealt with the improvement of communications by all public safety entities in Camden and Pasquotank Counties.

Mr. Olson stated that during a presentation held by Mission Critical Partners (MCP) on January 6, 2016 at the College of the Albemarle for representatives of Pasquotank and Camden Counties and the City of Elizabeth City, MCP identified three options for the communications upgrade as follows:

1. Transition to the state 800 MHz VIPER system at a cost of \$3,134,414;
2. Install a new 700 MHz trunk system at a cost of \$11,103,041; and
3. A VHF conventional communication system at a cost of \$5,790,120.

Mr. Olson stated that it was the consensus of the representatives of the three governing bodies present during the January 6, 2016 presentation to migrate toward the VIPER system. He said that Pasquotank County had sent a written request to the City to determine if the City Council was in concurrence with the VIPER proposal.

Mr. Olson advised that MCP had determined that a coverage study would be required to make certain that there was 95% operability throughout the two counties. He noted that the cost of the study is \$60,000.

Councilman Stimatz stated that he was concerned that the City's contribution to the study is proportional to use of the system, but is not proportional to the problem. He noted that the City had recently spent \$50,000 of its own money to fix the City's coverage issues and the County did not provide any funding toward that effort. Mr. Olson interjected that some money was provided through Emergency Medical Services for the improvements to the hospital. Councilman Stimatz pointed out that the expenditure was not paid pursuant to the pro-rata percentages required by the Interlocal Agreement. He stated that he did not think it was fair for the City to pay a disproportional amount based on the problem, when the City itself had no coverage issues. He pointed out that City residents pay County taxes and the 911 funds the County receives from the state are paid by a surcharge on everyone's telephones. He said that he felt the City was being shortchanged in this process and wanted to express his concerns about it.

Motion was made by Councilman Ray Donnelly, seconded by Councilman Rickey King, to authorize Pasquotank County to move forward with the coverage study by MCP in the amount of \$60,000; but reserve the right to address any expenses above the costs identified during the 2015-2016 budget process. Those voting in favor of the motion were: Baker, Donnelly, Hummer, Brooks, King, Horton and Walton. Against: Stimatz. Motion carried.

- a. Consideration – Re-appointment of Mr. Eddie Spencer to serve an additional two year term ending December 31, 2017 as the joint City/County appointee to the EC/PC Parks and Recreation Advisory Board.

Mayor Peel requested the Council's pleasure regarding the reappointment of Mr. Eddie Spencer.

Motion was made by Councilman Tony Stimatz, seconded by Mayor Pro Tem Anita Hummer to reappoint Mr. Eddie Spencer to serve an additional two-year term ending December 31, 2017 as the joint City/County appointee to the EC/PC Parks and Recreation Advisory Board.

Mayor Peel called for a vote on the motion by roll call. Those members voting in favor of the motion were: Baker, Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Mayor Peel called the Councilor's attention to the report prepared by the City Clerk, which contained information regarding the board seats expiring during the coming year. He encouraged the Councilmembers to consider making suggestions to fill the seats and noted that the required application form is available on the City's website.

- b. Consideration – Amendment of Council Rules of Procedure to adopt rules and procedure for the Finance Committee *(Requires an affirmative vote equal to or greater than two-thirds of all the actual membership of the council.)*

This item was removed from the agenda during approval of the agenda and forwarded to the February 8, 2016 Council meeting for consideration.

c. Discussion – Dr. King’s Celebration *(added to agenda by Councilman Brooks):*

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks stated his concern regarding race relations and pointed out that during the annual celebration of Rev. Dr. Martin Luther King’s birthday, it appeared that the same events and celebrations were held, but nothing was done during the other 364 days of the year. He said that Elizabeth City State University, H. L. Trigg School, P. W. Moore Elementary School and Dr. King’s assassination were all connected because of our society’s heart disease, which carried symptoms of bigotry, separatism, and racism. He said that the heart disease symptoms of the past are still a drain on today’s society. He described several events past and present whereby black people have been mistreated and brutally murdered. He praised Dr. King’s work to combat these injustices and quoted many of his famous speeches. He stated that although the heart disease symptoms of bigotry, separatism, and racism still exist today, “we will overcome” because truth crushed to the ground will rise again and no lie can live forever.

d. Discussion – Community Relations *(added to agenda by Councilman Brooks):*

Mayor Peel recognized Councilman Brooks for his comments. Councilman Brooks stated that the City Councilors had just completed a retreat, which he felt was a good exercise. He stated that the Councilmembers worked together during the retreat; and he pointed out that if members of the Council worked with each other’s strengths and abilities, the Council would do well.

Councilman Brooks stated that during the retreat, Mayor Peel had provided copies of a proposed leadership class, which addressed community relations and the matter of where the City needs to go. He stated that he had read the document several times and felt that if the Council would implement the program, it would be great. He pointed out that not talking about the issues facing the City does not make them go away.

Councilman Brooks stated that the Board of Education had been working on similar issues and had many ideas; but he did not think the Board wanted to address the root of the problem. He opined that the problem is that Elizabeth City is a poverty stricken area. He said that until poverty is addressed, he did not think the schools could improve. He noted that children living in poverty have a high absenteeism rate, or may leave school altogether. He said that 40% of those living in poverty are not prepared for primary school and those living in poverty are 1.3 times more likely to have developmental delays or learning disabilities than those not living in poverty. He encouraged everyone to work together to fight this issue on behalf of our children.

Councilman Stimatz asked to comment on this matter. He thanked Councilman Brooks for bringing up the Community Relations Commission (CRC). He stated that the CRC was a group created about 13 years ago by the City and County to address an issue in crisis. He said that in the time since, the group had essentially been ignored by the City and County, but the group had carried on in spite of that. He pointed out that recent budget requests by the group did not receive support from some members of the elected bodies. He stated that he thought the CRC was a tremendous asset and noted several outreach efforts that had been conducted by them. He said that he agreed with Councilman Brooks that the City needs to do more; and he opined that the CRC would be a focal point to make that happen. He encouraged monetary support by the City and County for this group.

7. Comments and Inquiries on Non-Agenda Items:

Mayor Peel recognized each member of Council for their comments.

- Councilman Brooks had no further comments.
- Councilman Stimatz had no further comments.
- Councilman Horton had no further comments.
- Mayor Pro Tem Hummer had no further comments.
- Councilman King had no further comments.
- Councilwoman Baker had no further comments.
- Councilman Walton had no further comments.
- Councilman Donnelly had no further comments.

8. Closed Session – As Allowed By NCGS 143-318.11(a)(5) Acquisition of Property

Mayor Peel requested a motion to go into Closed Session.

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman Stimatz to go into closed session as allowed by NCGS 143-318.11(a)(5) for acquisition of property. 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 8:44 p.m. after which the Council retired into Closed Session.

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman Stimatz, 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 9:07 p.m.

9. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 9:08 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk