

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
FAST CONFERENCE ROOM
NOVEMBER 22, 2021
7:00 P.M.**

Present: Mayor Mitch Colvin (arrived at 7:28 p.m.)

Council Members Katherine K. Jensen (District 1); Shakeyla Ingram (District 2); D. J. Haire (District 4); Johnny Dawkins (District 5); Chris Davis (District 6); Larry O. Wright, Sr. (District 7); Courtney Banks-McLaughlin (District 8); Yvonne Kinston (District 9)

Cumberland County Delegation Present:

Senator Kirk deViere (District 19)
Representatives William O. Richardson (District 44); John Szoka (District 45)

Others Present:

Douglas Hewett, City Manager
Karen McDonald, City Attorney
Telly Whitfield, Assistant City Manager
Adam Lindsay, Assistant City Manager
Jay Toland, Assistant City Manager
Gina Hawkins, Police Chief
Gerald Newton, Development Services Manager
Chris Cauley, Economic and Community Development
Director
Taurus Freeman, Economic and Community Development
Deputy Director
Craig Harmon, Senior Planner
Jennifer Baptiste, Senior Planner
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Pro Tem Jensen called the meeting to order.

2.0 INVOCATION

The invocation was offered by Council Member Haire.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Mayor and City Council.

4.0 ANNOUNCEMENTS AND RECOGNITIONS

Senator Kirk deViere and Representatives John Szoka and William Richardson presented information on the State budget funding, directly providing assistance to the City.

Council Member Dawkins offered an apology to Council Member Kinston pertaining to the verbal exchange that took place during the November 9, 2021, Appointment Committee meeting.

Ms. Mary Sonnenberg presented an update on the Implementation of the Family Connects Program and the Status of the NC Pre-K Program.

Mayor Colvin and Council Member Wright presented the Key to the City to Mr. John Dekker in honor of his remarkable community service to District 7, and the City of Fayetteville.

Mayor Colvin presented a proclamation to Ms. Patricia Carver Pratt proclaiming November 28, 2021, to be Patricia Carver Pratt Day in honor of her 75th birthday and for being the first African-American female to work at the Courthouse.

Mayor Colvin apologized to Council Member Kinston for the verbal incident that took place during the November 9, 2021, Appointment Committee meeting and reminded the Council members that disrespect and profanity will not be tolerated; there has to be a level of respect for our colleagues.

Council Member Kinston stated she does accept the apology from Council Member Dawkins, but there has to be accountability.

5.0 CITY MANAGER REPORT

Mr. Douglas Hewett, City Manager, introduced Mr. Earl Randall, Director, CDBG-DR Compliance and Monitoring, EIM.

Mr. Randall provided a 30-day update on the Emergency Assistance Program, or ERAP. Mr. Randall stated on October 7, 2021, the ERAP funds were fully obligated. On October 20, 2021, the funds were fully dispersed.

6.0 APPROVAL OF AGENDA

MOTION: Council Member Kinston moved to approve the agenda with the addition of Item 9.06, Resolution of the City Council of the City of Fayetteville in Support of Official Censure.

SECOND: Council Member Ingram

VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Dawkins)

7.0 CONSENT AGENDA

MOTION: Council Member Wright moved to approve the consent agenda.

SECOND: Council Member Dawkins

VOTE: UNANIMOUS (9-0)

7.01 Approval of Meeting Minutes:

October 25, 2021 - Special

October 25, 2021 - Discussion of Agenda Items

October 25, 2021 - Regular

November 1, 2021 - Special

November 1, 2021 - Work Session

7.02 P21-54. Rezoning of a portion of a property from Office & Institutional (OI) to Mixed Residential 5 (MR-5) at 324 Cumberland Street (REID # 0437582955000), containing 0.68 acres ± and being the property of Christopher Rhodie.

7.03 P21-57. Conditional Zoning from Community Commercial/Conditional Zoning (CC/CZ) to Mixed Residential 5/Conditional Zoning (MR-5/CZ), located at the end of Berkley Hall Way (REID # 0409814296000), containing 13.94 acres ± and being the property of Jeronimo Hirschfeld, One Real Estate Investment.

7.04 Adoption of Capital Project Ordinance Amendments 2022-40 and 2022-41 to Transfer Funds within FTA Grant NC-2016-030

Adoption of Capital Project Ordinance Amendments (CPOAs) 2022-40 and 2022-41 to reallocate \$16,994.00 Federal Transit Administration (FTA) grant funds and \$4,248.00 local match funds between City projects funded by FTA grant NC-2016-030.

7.05 Adoption of Capital Project Ordinance 2022-16 to Authorize Calendar Year 2021 Expenditures from the Capital Repair, Maintenance and Improvements Account for Segra Stadium

Capital Project Ordinance (CPO) 2022-16 will appropriate \$200,000.00 of contributions to the Capital Repair, Maintenance and Improvements for Segra Stadium Account ("Account") for expenditures to

bring Segra Stadium into compliance with the latest Minor League Baseball (MiLB) requirements, and include the following:

- Commissary and dining area modifications, including dishwasher installation
- Anti-skid surface for dugout steps and walkways
- Canopies for bullpens
- Additional lockers for visiting clubhouse
- Additional whirlpool for visiting clubhouse
- Club Lounge modifications to address excess humidity

The Segra Stadium Capital Improvements Board of Advisors voted to recommend approval of this at their October 14, 2021, meeting.

7.06 Adoption of Special Revenue Fund Project Ordinance Amendment 2022-3 to Appropriate \$3,030,751.00 for the Remainder of the Second Phase of the Emergency Rental Assistance Program and Amend the Contract with Innovative Emergency Management, Inc.

Adoption of Special Revenue Fund Project Ordinance Amendment (SROA) 2022-3 to appropriate a \$3,030,751.00 grant from the U.S. Department of the Treasury to provide additional funding for the second phase of the Emergency Rental Assistance Program. Council is also asked to approve a contract amendment to allocate additional funds to the Rental Assistance Program.

7.07 Bid Recommendation - Green Street Bank Stabilization (EWP DSR #5038-503)

The project was advertised to the public and bids were received on October 25, 2021, as follows:

S&C Construction, LLC, Wilmington NC \$1,197,062.36
FSC, LLC, dba Fred Smith Company, Raleigh, NC \$1,459,059.08

**7.08 Uninhabitable Structures Demolition Recommendations
410 Campbell Avenue - District 2
4017 Bankside Drive - District 3**

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY COUNCIL. 410 CAMPBELL AVENUE, PIN # 0437-71-4050, ORDINANCE NO. NS2021-034

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY COUNCIL. 4017 BANKSIDE DRIVE, PIN # 0439-18-6138, ORDINANCE NO. NS2021-035

7.09 Resolution Authorizing the City Manager to Acquire Real Property located at 331 S. Cool Spring Street

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA AUTHORIZING THE CITY MANAGER TO ACQUIRE REAL PROPERTY KNOWN AS 331 S. COOL SPRING STREET. RESOLUTION NO. R2021-071

7.010 Phase 5 Annexation Area 23 Section 1 - Resolution Confirming Assessment Roll and Levying Assessments

RESOLUTION CONFIRMING ASSESMENT ROLL AND LEVYING ASSESSMENTS. RESOLUTION NO. R2021-073

8.0 EVIDENTIARY HEARINGS

8.01 SUP21-11. Special Use Permit to allow 16 Single-Family Attached Dwellings (Townhome/Duplex units) in a Single-Family Residential 10 (SF-10) zoning district, to be located at 880 and 881 Danish Drive (REID #s 9499835427000 and 9499837311000), totaling 3.79 acres ± and being the property of Raymond King, King Construction and Development Company, Inc.

Mr. Craig Harmon, Planner II, CZO, presented this item with the aid of a powerpoint. Mr. Harmon stated the applicant is requesting a Special Use Permit to construct townhomes on a vacant property. The lot is approximately 3.79 acres. Danish Drive is located north of Fillyaw Road. According to the site plan submitted, this portion of Danish Drive will be a private street. The site plan shows the layout of the 16 units.

According to the owner, the proposed use will comply with all of the City's multi-family standards and will be a self-contained complex that will not interfere with the adjoining properties. The application is only to address the construction of the 16 townhome site.

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable zoning districts in accordance with Section 30-2.C.

This is the advertised public hearing set for this date and time. The public hearing was opened.

Mr. Scott Brown, 409 Chicago Drive, Suite 112, Fayetteville, NC, stated he is representing the property owner and is the surveyor/engineer for the project.

Mr. Raymond King, 3419 Savannah Drive, Fayetteville, NC, appeared in favor of this item.

Mr. Mike Reily, 903 Danish Drive, spoke in opposition of this item, citing drainage and traffic noise issues.

There being no one further to speak, the public hearing was closed.

The SUP must meet the following findings of facts:

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;

- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations.

Discussion ensued.

MOTION: Council Member Banks-McLaughlin moved to approve the Special Use Permit (SUP) to allow the construction of 16 single-family attached dwelling units (townhome/duplexes) subject to the application, conditions identified and the submitted site plans and conforming to the current Unified Development Ordinance standards, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Single-Family 10 (SF-10) zoning district, (2) this use complies with the findings listed, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. If approved, this Special Use Permit shall become effective with the approval of the Order of Findings by the City Council. The SUP shall expire one year from its effective date if a building permit is not issued within that time. All eight findings have been met.

SECOND: Council Member Davis

VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Mayor Colvin)

9.0 OTHER ITEMS OF BUSINESS

9.01 Update on Martin Luther King Jr. Memorial Park by the MLK Committee

Dr. Wilson Lacey, MLK Committee Chair, presented this item and stated the master plan for the Martin Luther King Jr. Memorial Park was created in 2005 and is in need of an update. In 1996, a 13-acre tract of land was allocated to develop the FCC MLK Memorial Park along Murchison Road and bound by Blue Street and Washington Drive. A statue of Dr. Martin Luther King, Jr., was erected as the centerpiece of the park in 2007. City Council allocated \$100,000.00 for improvements to the park as part of the 2016 Parks and Recreation Bond projects. Funding has not yet been utilized.

At the December 3, 2018, work session, Council received a presentation from the MLK Committee, which included an expanded conceptual design using a spire structure as an enhanced feature. Council consensus was given to use General Fund resources for design updates and cost estimates on these potential improvements to the park as well as to help leverage future fundraising efforts. Budget Ordinance Amendment (BOA) 2019-11 appropriated up to \$50,000.00 to begin updating the master plan. Contracts were let to LSV Partnerships Architects/Planners for architectural, engineering or surveying services and to Moonlight Communications for the development of a promotional video to assist in raising funds. Each firm has completed their work. However, the COVID-19 pandemic has still impacted the MLK Committee's traditional fundraising effort to date.

The Committee engaged ARUP Group Limited, an architectural design and engineering firm, to complete the structural concept and schematic design. ARUP also provides continued professional engineering services for the potential 120' tall spire erection. Projected construction budget range from \$4.5 to \$6.5 million. Recently, the Committee presented to the Cumberland County Board of Commissioners during their September 2021 agenda setting meeting. On October 18, 2021, the County approved Budget Ordinance Amendment #B220486 allocating \$2.5 million for capital improvements at the Martin Luther King, Jr. Park subject to a fully executed contractual agreement and other legal requirements.

The MLK Committee is requesting funding assistance from the City to match the County's \$2.5 million appropriation.

Discussion ensued.

MOTION: Council Member Haire moved to propose Resolution of Support for the sum of a \$2 million to the Martin Luther King Park.
SECOND: Council Member Ingram
VOTE: UNANIMOUS (9-0)

9.02 Report by PBMares of the Audit and Financial Results for the Year Ended June 30, 2021

Mr. Jay Toland, Assistant City Manager, introduced this item and stated the City Council's audit firm, PBMares, has completed their audit for the fiscal year ended June 30, 2021. A copy of the audited financial report has been provided to each Council member. Mr. Robbie Bittner, CPA, MBA, a senior manager with PBMares, is here to present the auditor's report and financial results. The report was presented to and approved by the Audit Committee on November 18, 2021.

Mr. Robbie Bittner presented the report and asked Council to refer to the FYE 2021 CAFR for a detailed accounting of the City's financial activity for the fiscal year ended June 30, 2021, and the presentation for summary information.

Discussion ensued.

MOTION: Council Member Dawkins moved to accept the report.
SECOND: Council Member Kinston
VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Ingram)

9.03 Presentation of Appointments Committee Recommendations for Boards and Commissions Appointments

Mayor Pro Tem Jensen presented this item and thanked the Appointment Committee for their hard work.

Council Member Dawkins stated the Appointment Committee approved the following appointments:

Board of Advisors for the Woodpeckers Capital Reserve Account
Jeremy Fiebig November 22, 2021 - September 30, 2023
William Hedgepeth November 22, 2021 - September 30, 2023

Fayetteville-Cumberland Economic Development Board
William Hedgepeth November 30, 2021 - November 30, 2024
Carl Manning November 30, 2021 - November 30, 2021

Stormwater Advisory Board
Edward Park November 22, 2021 - September 30, 2023

MOTION: Council Member Dawkins moved to accept the Appointment Committee recommendations for appointments as presented.
SECOND: Council Member Haire
VOTE: UNANIMOUS (9-0)

9.04 Appointment of a Public Works Commissioner

MOTION: Council Member Davis moved to appoint COL (R) Donald Porter to the Public Works Commission, effective immediately for a term of office until March 31, 2025
SECOND: Council Member Wright
VOTE: PASSED by a vote of 5 in favor to 4 in opposition (Council Members Jensen, Ingram, Banks-McLaughlin, and Kinston)

9.05 Timeline for the Appointment of a District 3 City Council Member

Mr. Douglas Hewett, City Manager, presented this item and stated on November 9, 2021, City Council Member Tisha Waddell, District 3, submitted a letter of resignation, effective immediately. Pursuant to N.C.G.S. § 160A-63, Vacancies, and City Council Policy 115.11, Replacing a vacancy on the City Council, the following timeline to appoint a resident of District 3 to the vacant Council member position has been established by the City Clerk's Office:

November 12, 2021 - Press Release - Announcement of City Clerk's Office accepting applications for District 3

November 15-26, 2021 - Applications will be accepted in the City Clerk's Office

December 1, 2021 - Agenda packet containing all eligible applications will be distributed/posted to Council

December 6, 2021 - Special meeting (prior to the work session) - Council appoints an applicant to serve as the District 3 Council member

December 13, 2021 - Regular City Council meeting - Oath of Office - District 3

MOTION: Council Member Ingram moved to declare the Council Member District 3 vacant as of November 9, 2021, and to accept the timeline for the appointment of a Council member for District 3.

SECOND: Council Member Dawkins

VOTE: UNANIMOUS (9-0)

9.06 Resolution of the City Council of the City of Fayetteville, in Support of Official Censure

Council Member Kinston presented this item and addressed Council Member Dawkins and stated the following members of City Council officially censure your actions and words directed towards Council Member Kinston during the Appointment Committee meeting on November 9, 2021. Your unprofessional outburst (displayed in a live Zoom Meeting) is in direct conflict with City Council Policy 115.15 (Mayor and City Council Protocol and Code of Conduct, page 5, item #6). We have individually determined your conduct during this specific meeting unprofessional and impermissible and not in the best interest of Fayetteville.

MOTION: Council Member Kinston moved to adopt the Resolution of the City Council of the City of Fayetteville, in Support of Official Censure - Council Member Dawkins.

SECOND: Council Member Ingram

VOTE: UNANIMOUS (8-0) (Council Member Dawkins excused from voting)

10.0 ADMINISTRATIVE REPORTS

10.01 Transit System Update

This item was for information only, and was presented during the November 22, 2021, discussion of agenda items meeting.

10.02 Shared Active Transportation Program (Micro-Mobility: electric scooters/bikes) Text Amendment to Article VIII of the Code of Ordinances

This item was for information only, and was not presented.

10.03 One-Time Hazard Pay Distributions for City Employees

This item was for information only, and was presented during the November 22, 2021, discussion of agenda items meeting.

11.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:38 p.m.