

**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
COUNCIL CHAMBER, CITY HALL
JANUARY 3, 2023
5:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Kathy Jensen (District 1) (arrived at 5:08 p.m.); Mario Benavente (District 3); D. J. Haire (District 4); Johnny Dawkins (District 5); Derrick Thompson (District 6); Brenda McNair (District 7); Courtney Banks-McLaughlin (District 8) (arrived at 5:07 p.m.); Deno Hondros (District 9)

Absent: Council Member Shakeyla Ingram (District 2)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Adam Lindsay, Assistant City Manager
Kelly Olivera, Assistant City Manager
Jeffrey Yates, Assistant City Manager
Jodi Phelps, Chief of Staff
Kemberle Braden, Police Chief Select
Sheila Thomas-Ambat, Public Services Director
Michael Whyte, Police Attorney
Lachelle Pulliam, Assistant City Attorney
Taurus Freeman, Assistant Economic and Community Development Director
Brook Redding, Special Projects Manager
Kim Toon, Purchasing Manager
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order at 5:00 p.m.

2.0 INVOCATION

The invocation was offered by Council Member Haire.

3.0 APPROVAL OF AGENDA

MOTION: Council Member Benavente moved to approve the agenda, with the addition of Item 4.06, Changing the January 23, 2023, regular meeting date to January 26, 2023.

SECOND: Council Member Hondros

VOTE: UNANIMOUS (7-0)

4.0 OTHER ITEMS OF BUSINESS

4.01 Fayetteville Police Department will present to City Council "How to establish a Community Watch Group."

Ms. Sandra Everett, Crime Prevention Specialist, presented this item with the aid of a PowerPoint presentation and stated a Community Watch Group is defined as a group of people living in the same area who want to make their neighborhood safer by taking ownership of the community. A Neighborhood Watch Group is defined as an organized group of civilians devoted to crime and vandalism prevention, and Crime Prevention is defined as comprising strategies and measures seeking to reduce the risk of crime occurring.

Ms. Everett briefed on why Community Watch Groups are so important, Community Watch Group concept, Partnership with the Police, Active Community Watch Groups in the City, and the basis of how to form a Community Watch Group.

Discussion ensued.

This item was for information only; no consensus vote was taken.

4.02 Criminal Enforcement of Ordinances

Ms. Lachelle Pulliam, Assistant City Attorney, presented this item and stated pursuant to state law changes effective December 2021, Council is presented with City ordinances that are no longer enforceable as misdemeanor crimes unless Council adopts an ordinance to criminally enforce select ordinances. Council is presented with ordinances that the City enforced criminally before the law changed, but must no longer criminally enforce. Of note, any monetary penalties recovered through the City's use of criminal laws to enforce City ordinances must be turned over to the County (public schools).

Some code enforcement cases are not resolved due to owners/occupants ignoring the notices and not correcting the violations. Those cases were typically minimum housing, junk vehicle, and severe solid waste cases. The unresolved cases were then forwarded to the City Attorney's Office for criminal prosecution in a special court, Environmental Court. Effective December 1, 2021, the NC General Assembly made changes to the law, affecting cities' ability to criminally enforce certain ordinances. Those changes included a statutory defense to any criminal charges resulting from ordinance violations. Further, fines imposed in criminal cases are ultimately owed to the public schools under Article 9, Section 7, of the North Carolina Constitution.

A change in the North Carolina General Statute prohibits the City from criminally enforcing some ordinances the City formerly enforced criminally. If the City intends to criminally enforce certain ordinances, Council must adopt an ordinance to that effect, and any monies collected will be payable to the County.

Discussion ensued.

Consensus of Council was to direct staff to provide a hierarchy of ordinances most prosecuted and bring this information to the February work session. A second consensus was to direct staff to continue criminal enforcement of ordinances for which it is allowed.

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

Mr. Taurus Freeman, Assistant Economic and Community Development Director, presented this item and stated in early 2021, City staff was contacted by two companies, Bird Corporation and Spunk Scooter, requesting permits to operate a micro-mobility program in the City. The vendors requested multiple locations throughout the City to be operated on public roadways. Micro-mobility programs are used within many municipalities, universities, and business campuses nation-wide. Micro-mobility refers to a range of small, lightweight vehicles operating at speeds typically below 20 miles per hour and driven by users personally. Micro-mobility devices include bicycles, e-bikes, electric scooters, electric skateboards, shared bicycles, and electric pedal-assisted bicycles.

In August 2018, the City Council heard a similar request regarding bike sharing at the work session. At the time, bike-sharing was being utilized at Fayetteville State University, which lasted until 2019. The Council directed staff to follow the City of Durham Ordinance model and bring the proposed ordinance back to Council for official action for a future regular meeting. On April 6, September 7 and November 22 of 2021, the City Council received presentations regarding shared active transportation program. At the latter, staff was directed to reach out to vendors and ask if they have an interest to participate in a pilot program, and to communicate with the

Downtown Alliance and Cool Spring Downtown District (CSDD) to collect their respective comments, concerns and suggestions regarding the potential program. Staff has received interest from Bird Corporation, Spunk Scooters, and a local independent vendor. With reference to downtown reactions, CSDD conducted a survey on February 4, 2022. They received 11 responses with only 2 in favor. Concerns were about not bringing additional commerce to downtown and safety on sidewalks (which is not currently allowed or included in the proposed ordinance). The Downtown Alliance has not responded.

The speed of micro-mobility infusion has not come without growing pains. Some cities were caught off guard with the sudden influx of shared dock and dockless vehicles, especially after companies launched their fleets without municipal approval. Cities like Raleigh, Durham, and Charlotte have enacted local laws pertaining to e-scooters. Some cities have banned the scooters/bike share entirely, while others have allowed them. Most municipalities polled in North Carolina thus far have not taken the ordinance route. The vehicles can encourage multi-modal access to specific areas/districts, events, and the downtown. In addition to walking, driving, using bike racks, and electric vehicle charging stations, a micro-mobility program could provide additional transportation means to the public. Yet, public safety, liabilities, the minimum age to ride, and traffic guidelines were just some of the concerns.

The City Council can enact rules and regulations for the program with the passage of an ordinance that allows for multi-modal transportation in the City.

In an effort to control micro-mobility vehicles in the City, staff has drafted an ordinance to allow the use of electric assisted bicycles and motorized scooters. Upon review by numerous departments, Public Services, Development Services, City Attorney's Office, and Economic & Community Development, there are several concerns regarding implementation and enforcement due to the City's current infrastructure. This includes the designated department administering the program, logistics for enforcement and civil penalties, hours of operation, vehicle placement on sidewalks, and designated areas of operation.

There should not be any budget impact as Micro-mobility programs are typically instituted by vendors that provide their vehicles and associated maintenance at no cost to the City.

Discussion ensued.

Consensus of Council was to direct staff to move this item forward, and report back (no specific date given).

4.04 Rebranding of the Millennial Advisory Commission

Mr. Scott Davis, Public Information Specialist/Millennial Commission Liaison, introduced Malik Davis, Chair, and Kathryn Brown, Co-Chair, of the Millennial Advisory Commission. Mr. Malik Davis stated the Fayetteville Millennial Advisory Commission discussed and voted on the new rebranding during their strategic planning retreat in 2022. The rebranding of the Commission will include a name change; Fayetteville Next Advisory Commission, and an age change to serve on the Commission: 23 to 39.

In addition, the new mission statement now reads: The Fayetteville NEXT Advisory Commission is established to attract, retain, and engage Fayetteville residents between the ages of 19 and 39. The Commission is dedicated to improving the quality of life for young adults through targeted event programming and community outreach initiatives, making Fayetteville a "desirable place to live, work and recreate" for this generation.

Ms. Katherine Brown stated a new logo will be coming soon.

Consensus of Council was to approve the name change from the Fayetteville Millennial Advisory Commission to Fayetteville NEXT Advisory Commission and to accept and approve the rebranding of the Fayetteville Millennial Advisory Commission.

4.05 Shopping Carts - Research Review and Policy Options

Mr. Brook Redding, Special Projects Manager, presented this item and stated the City of Fayetteville continues to collect, return or dispose of shopping carts left abandoned at bus stops, residential areas and other public property locations. Shopping carts left unattended and abandoned pose a hazard to pedestrians and motorists. Additionally, the collection and return of carts to a business, done by City staff, continues to create operational burdens on multiple departments. The City Council adopted a Memorandum of Agreement (MOA) with the North Carolina Retail and Merchants Association (NCRMA) in April 2020 that expired in May 2021. Despite efforts to educate the public and work with local retailers, the number of carts collected, returned or disposed of has continued to rise.

The City established an operational process to recover shopping carts from public places. However, the burden of collecting, returning or disposing shopping carts increased following the pandemic impacting departments fiscally and operationally. The recovery and removal of shopping carts has detrimental impacts on City departments.

The State of North Carolina has a general statute that makes it unlawful to remove a shopping cart from the premises of a store. Several municipalities are considering adopting ordinances to address errant shopping carts, including the City of Greensboro. To date, no city in North Carolina has formally adopted such an ordinance.

The City Council have many options to address errant shopping carts. Most shopping cart ordinances fall into three categories:

- A retailer must have a system to contain shopping carts and prevent them from being abandoned.
- A retailer must have a plan to contain and collect errant shopping carts.
- The fines and penalties imposed by a city for abandoned or errant shopping carts

Hundreds of cities across America have implemented ordinances and programs to alleviate the nuisance and burden of misplaced shopping carts. Larger municipalities have initiated impoundment and buyback programs to fund those initiatives.

Discussion ensued.

Consensus of Council was to direct staff to develop ordinance recommendations addressing errant shopping carts in the City. Council Member Hondros was opposed to the consensus vote.

4.06 Reschedule the January 23, 2023, regular meeting to January 26, 2023

MOTION: Council Member Benavente moved to suspend the rules.

SECOND: Mayor Pro Tem Dawkins

VOTE: UNANIMOUS (9-0)

MOTION: Council Member Benavente move to reschedule the January 23, 2023, regular City Council meeting to January 26, 2023; to accommodate several Council members attending the SOG Essentials of Municipal Government conference.

SECOND: Council Member McNair

VOTE: UNANIMOUS (9-0)

5.0 ADJOURNMENT

There being no further business, the meeting adjourned at
6:36 p.m.