

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
MAY 11, 2015
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Kathy Jensen (District 1); Kady-Ann Davy (District 2); H. Mitchell Colvin, Jr. (District 3); Chalmers McDougald (District 4); Robert T. Hurst, Jr. (District 5); William J. L. Crisp (District 6); Larry O. Wright, Sr. (District 7); Theodore Mohn (District 8); James W. Arp, Jr. (District 9)

Others Present:

Theodore Voorhees, City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Rochelle Small-Toney, Deputy City Manager
Jay Reinstein, Assistant City Manager
Scott Shuford, Development Services Director
Craig Harmon, Senior Planner
Tracey Broyles, Budget and Evaluation Director
Elizabeth Somerindyke, Internal Audit Director
Randall Hume, Transit Director
Dwayne Campbell, Chief Information Officer
Kevin Arata, Corporate Communications Director
Steven Blanchard, PWC CEO/General Manager
Dwight Miller, Chief Financial Officer
Mike Lallier, PWC Chair
Lynne Greene, PWC
Wade Fowler, PWC
Darsweil Rogers, PWC
Jack Reagan, Grant Thornton, LLP
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Robertson called the meeting to order.

2.0 INVOCATION

The invocation was offered by Mr. Darrin Perez, Seminary School Student.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 ANNOUNCEMENTS AND RECOGNITION

Council Member Hurst announced the upcoming Café Conversations events would take place on May 11, 12, and 14 and June 4, 2015.

Council Member Hurst announced the Fayetteville Beautiful E-Waste Drive would take place on May 16, 2015, in the Courthouse parking lot.

Mr. Chris Mitchell announced the 7th Annual Community Appearance Awards Program and called for nominations to be submitted by June 1, 2015, and stated this program is sponsored by the City-County Joint Appearance Commission.

Mayor Robertson introduced Ms. Hanbin Koo, a 14-year-old freshman at Cape Fear High School who placed first at State, Southern Division, and Nationals for playing the flute. Ms. Koo performed a musical presentation on her flute. Mayor Pro Tem Davy presented Ms. Koo with a Certificate of Excellence.

Council Member Hurst presented a Certificate of Excellence to Ms. Meri Morgan Lochner, Miss Fayetteville Outstanding Teen. Ms. Lochner thanked the Mayor and Council for the

recognition and stated her platform is Helping Everyone Remember Our Extraordinary Soldiers (HEROS).

Council Member Hurst presented Ms. Comfort Johnson, Miss Fayetteville, a Certificate of Excellence. Ms. Johnson thanked the Mayor and Council for the recognition and stated her platform is for Diabetes Awareness.

Council Member Colvin presented a Certificate of Excellence to Mr. Curtis Brown of True Radical United Established Men of God (T.R.U.E. Men) for his dedication and commitment to mentoring young men in the community. Mr. Brown introduced his staff and young men in the mentoring program.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Crisp moved to approve the agenda.

SECOND: Council Member McDougald

VOTE: UNANIMOUS (10-0)

6.0 CONSENT

MOTION: Council Member Crisp moved to approve the consent agenda with the exception of Items 6.4 and 6.9, pulled for discussion and a separate vote.

SECOND: Council Member Arp

VOTE: UNANIMOUS (10-0)

6.01 Approval of Meeting Minutes:

Discussion of Agenda Items - March 23, 2015

Agenda Briefing - April 22, 2015

6.02 Bid recommendation for award of contract for the purchase of approximately 65,000 gallons of Magnesium Hydroxide to Premier Magnesia in the total amount of \$136,500.00.

Bids were received on March 26, 2015, as follows:

Premier Magnesia, West Conshohocken, PA.....	\$136,500.00
Garrison Minerals, Denver, CO.....	\$108,062.50

6.03 Bid recommendation for award of contract for Tubular Galvanized Poles for Country Club Drive and Langdon Street to Valmont Newmark, the lowest, responsive, responsible bidder, in the total amount of \$279,186.00.

Bids were received on March 26, 2015, as follows:

Valmont Newmark, Tulsa, OK.....	\$279,186.00
Transamerican Power Products, Houston, TX.....	\$279,552.00
WESCO Distribution, Raleigh, NC.....	\$288,943.00
Trinity Meyer, Memphis, TN.....	\$313,850.00
ROHN Products, Peoria, IL.....	\$384,300.00

6.04 Pulled for discussion and separate vote by Council Member Crisp.

6.05 Agreement Amendment - Eastover/NORCRESS Interlocal Sanitary Sewer

Approval of the amendment to the Eastover/NORCRESS Interlocal Sanitary Sewer Extension Agreement that allocates existing gravity sewer capacity to NORCRESS for economic development purposes to support the operation of Kansas City Sausage in Sampson County.

6.06 Approval of Transit Title VI Program Update

The Transit Department is the recipient of federal transit grant funds, with numerous terms and conditions. Federal Transit Administration (FTA) requires grantees to update and submit for approval a Title VI program every three years. The City's/FAST's Title VI program update is due on June 1, 2015. Since the last update in 2012, FTA issued new Title VI guidance in the form of a revised circular. Approval of the program update for submission to FTA.

6.07 Request for Legal Representation of City Employees

Approval of legal representation for City employees Benjamin Hammond, Jeremy Holt, John Newland, and Michael Geske in the matter of Steven Eric Batchelor v. Michael A. Geske, et al. The employees were acting within the scope and course of their employment with the City when the alleged incident occurred.

6.08 Budget Ordinance Amendment 2015-11 (General Fund and Risk Management Fund)

On April 27, 2015, City Council took action to commit to provide a \$3 million loan to the Fayetteville Metropolitan Housing Authority (FMHA) for the revitalization of the Grove View Terrace community. Fund balance accumulated in the Risk Management Fund has been identified as the source of funding for the loan. Budget Ordinance Amendment 2015-11 will appropriate \$3 million in the Risk Management Fund to transfer to the General Fund. The funding will be held as a designated fund balance in the General Fund until the loan is executed in future fiscal years.

6.09 Pulled for discussion and separate vote by Council Member Crisp.

6.10 Interlocal Agreement with Cumberland County Schools

Approval of renewal of the existing Interlocal Agreement between the Cumberland County Board of Education and the City of Fayetteville regarding use of facilities for recreational programs.

6.11 Setting a public hearing on House Bill 392.

Public hearing set for May 26, 2015, regarding House Bill 392, Version 3, which passed the North Carolina House of Representatives on April 28, 2015.

6.04 Award contract for the purchase of three Automated Side Loader Refuse Trucks to Transource, Inc., the lowest responsive, responsible bidder in the amount of \$743,802.00.

Council Member Crisp pulled this item for discussion and a separate vote.

A bid was received on January 22, 2015, from Transource, Inc., Raleigh, NC, for the purchase of three Mack Low Entry Cab and Chassis with Labrie Automizer Side Loader Refuse Body at a cost of \$247,934.00 each, for a total purchase price of \$743,802.00. Transource, Inc., has agreed to extend their bid price to the City through the end of May 2015. The City did receive lower bids from GSP Marketing DBA GS Products, Somerset, PA, and Transource, Inc., Raleigh, NC, however, upon evaluation of those bids, staff has determined that each bid contained exceptions to the City's specifications that would impact the operation and efficiency of the collection process.

Council Member Crisp stated he receives a considerable amount of complaints from his constituents regarding missed trash pick-up and it is unfortunate that his district lies in the area that has Friday pick up day; and stated due to the dissatisfaction of his constituents he has to move to disapprove this item.

MOTION: Council Member Crisp moved to disapprove awarding a contract for the purchase of three automated side loader refuse trucks.

SECOND: Council Member Arp

VOTE: FAILED by a vote of 3 in favor to 7 in opposition (Council Members Robertson, Davy, Colvin, McDougald, Hurst, Wright, and Mohn)

MOTION: Council Member McDougald moved to approve award of a contract for the purchase of three Automated Side Loader Refuse Trucks to Transource, Inc., the lowest responsive, responsible bidder, in the amount of \$743,802.00.

SECOND: Council Member Colvin

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Jensen, Crisp, and Arp)

6.09 Phase 5 Annexation Areas 14 and 15 Resolution Confirming Assessment Roll

Council Member Crisp pulled this item for discussion and a separate vote.

Council Member Crisp stated the wording should eliminate any reference to 8 percent payment.

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS.

RESOLUTION NO. R2015-031

MOTION: Council Member Crisp moved to approve the resolution with the condition to remove any reference to the 8 percent assessment on citizens unable to pay the \$5,000.00 and state that the current loan rate is 5.2 percent.

SECOND: Council Member Arp

VOTE: UNANIMOUS (10-0)

7.0 PUBLIC FORUM

Ms. Cherylann Crouch Mendez, 428 Andros Drive, Fayetteville, NC 28314, expressed concerns regarding her 16-year-old daughter being denied a yard sale permit.

Mr. Jose' Cardona, 223 Addison Street, Fayetteville, NC 28314, stated the proposed budget is full of holes and cited concerns regarding proposed funding for new office furniture.

8.0 PUBLIC HEARINGS

8.1 P15-09F. The issuing of a Special Use Permit to allow for auto salvage/junkyard to be located on S. King Street, and being the property of Advanced Internet Technologies, Inc.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated this property is currently vacant and zoned HI Heavy Industrial. The owners are requesting a Special Use Permit (SUP) to allow for the operation of a salvage/junk yard for auto recycling. The property in question overlooks the Cape Fear River. Please review the enclosed site plan provided by the applicant. As a recycling center, each auto that is brought in is first stripped and drained of hazardous materials. The request is to be able to provide capacity for up to 1,346 autos for recycling. The facility would also have two buildings, one for retail sales and the other for the recycling of parts and storage of hazardous materials. In May of 2012 this applicant applied for a SUP for the operation of a junk/salvage yard. That application was basically the same as the current one. The City Council denied the request 10 to 0. That denial was based on concern from area residents and the possible negative impacts to the Cape Fear River. The concerns raised by the residents were (1) the volume of business would generate a large amount of traffic, (2) protection of the neighborhood, (3) protection of the Cape Fear River, (4) safety of neighborhood children, (5) environmental concerns, (6) flooding of the river, (7) visual impact on the river. The following conditions are required by staff if approved:

1. Reservation of a 30 foot trail easement along the river as part of the river trail system in a location acceptable to City staff.
2. Reservation of a temporary 50 foot construction easement beside of the river trail easement in a location acceptable to City staff

(note: this easement would exist only during the construction of the river trail).

Mr. Harmon further stated on March 10, 2015, the Zoning Commission held a public hearing regarding this case. There were five speakers in favor and four in opposition. Those in favor spoke to the recycling nature of the business and to its location next to other industrial uses.

Those in opposition expressed concerns regarding neighborhood children, industrial traffic moving through a residential neighborhood, screening of the business, and pollution. The City staff had recommended denial of this project to the Commission. A motion was made to approve the SUP and it passed 4 to 0. Mr. Harmon stated the Special Use Permit must meet the following findings of fact:

1. The special use complies 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.

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

Mr. Michael Roberts, 5693 Dobson Drive, Fayetteville, NC 28311, appeared in favor and stated he is the property owner and has owned the property since 1999. He also stated over the years he has been cited several dozen times for people illegally dumping on his property that has had to be cleaned up at his own cost.

Mr. Jonathan Charleston, 201 Hay Street, Fayetteville, NC 28301, appeared in favor and stated he is the attorney representing Advanced Internet Technologies (AIT), the owner of the property and the applicant. He provided maps and handouts to Council.

Mr. Marc Vanover, 421 Maiden Lane, Fayetteville, NC 28301, appeared in favor and stated he is the managing partner of the Pick and Pull Group. He further stated the business process is basically in three components: vehicle purchase, retail, and procurement. He provided an overview of the procurement process.

Colonel (Retired) Hosea Ray, 703 Kooler Circle, Fayetteville, NC 28305, appeared in opposition and stated he owns a property on B Street that his 85-year-old mother occupies, and stated he is representing neighbors in the area and all are in opposition to a salvage yard.

Ms. Pam Carter, 505 Link Street, Fayetteville, NC 28301, appeared in opposition and stated she is chair of a crime watch group and stated she is opposed to a junkyard locating so close to the Cape Fear River; let us take a stand for the Cape Fear River.

Ms. Rebecca Arrington, 2421 Atlantic Avenue, Fayetteville, NC 28306, appeared in opposition and expressed concerns regarding the proposed junkyard's proximity to Campbellton Landing and the Cape Fear River. She provided Council with several photographs.

Ms. Nancy Tart, 508 S. King Street, Fayetteville, NC 28301, appeared in opposition and stated if trees are cut down to accommodate the proposed junkyard, there will be an increase of mosquitos, and asked the Council to develop the land into a park for all residents to enjoy.

Mr. Martin Hendrix, 2919 Amelia Drive, Fayetteville, NC 28304, appeared in opposition and stated he is a prior Planning Commission Chair and asked the Council to step up and protect the community.

Mr. Mike Thompson, 727 Three Wood Drive, Fayetteville, NC 28312, appeared in opposition and stated he was shocked that this same application has come back after the Council unanimously voted it down in 2012. He provided photographs to the Council.

Ms. Sheila Ratley, 510 S. King Street, Fayetteville, NC 28301, appeared in opposition and stated she owns two homes on S. King Street, and said this is a good neighborhood, and asked the Council to make it beautiful, not ugly.

Ms. Nellie Mozingo, 407 S. King Street, Fayetteville, NC 28301, appeared in opposition and stated she likes and enjoys junkyards, but does not want one in her neighborhood, and expressed concerns regarding the noise and traffic volume.

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

Discussion ensued.

MOTION: Council Member Colvin moved to approve the Special Use Permit to allow for an auto salvage/junkyard to be located on S. King Street with the additional conditions of (1) a reservation of a 30 foot trail easement along the river as part of the river trail system in a location acceptable to City staff, (2) a reservation of a temporary 50 foot construction easement beside of the river trail easement in a location acceptable to City staff (this easement will only exist during the construction of the river trail), and (3) upon finding that the proposed use meets all eight standards for a Special Use Permit as presented by staff.

SECOND: Council Member Arp

FRIENDLY AMENDMENT: Council Member McDougald asked if the 30 foot stipulation could be increased to 50 feet.

Council Member Colvin accepted the friendly amendment.

VOTE: PASSED by a vote of 6 in favor to 4 in opposition (Council Members Davy, Hurst, Crisp, and Mohn)

9.0 OTHER ITEMS OF BUSINESS

9.01 Presentation from Grant Thornton, LLP, on Agreed Upon Procedures for the PWC Navlgate Project

Mr. Jack Reagan, a partner with Grant Thornton, LLP, presented the "Letter to Management Regarding the PWC Navlgate Project" and the "independent Accountant's Report on Applying Agreed-Upon Procedures", and stated these reports (1) identify the original costs, implementation schedule, and functional objectives of the Navlgate project as originally presented to the PWC Commission and City Council and any variances in project outcomes if the project has not met those goals; (2) identify the approval process for and compliance with executed contracts and agreements; (3) identify the total costs incurred to implement the Navlgate project; (4) identify the approval and compliance of the original budget and all revisions, to include the operating and capital budgets; (5) determine the nature and purpose of all contract and agreement change orders and identify approval for compliance; (6) identify recommendations of any associated consultant reports and whether they were implemented and (7) formulate and propose recommendations on controls that can be implemented to strengthen the oversight and accountability of future contracts and projects.

Council Member Hurst stated the report was received this afternoon and he had not had sufficient time to review it in depth, and further stated the Council voted not to exceed \$14.5 million for the project, yet Exhibit 1 of the report shows the total Navlgate project costs to be \$26,345,414.00. Mr. Reagan confirmed that was correct. Council Member Hurst also stated the PWC Information Technology staff was increased from 23 to 31 personnel for this project.

Council Member Arp stated he had not had time to review the report in any great detail, but noted the operational costs were not included in the initial capital costs. Mr. Reagan stated the two separate costs were never added to a same schedule; they were not combined. Council Member Arp thanked Mr. Reagan for the finding there was no illegal activity, no fraud or attempt to hide money or conceal disclosure of costs.

Council Member Wright asked what the break-down of the \$5.9 million is. Mr. Reagan responded it was for personnel costs, and ongoing licensing costs. Council Member Wright asked at what level was the Navlgate system working. Mr. Reagan responded it is operating at a B minus level.

Council Member Colvin stated Change Order No. 1 was to dismantle the steering committee, Change Order No. 2 was removal of the utility partners (consultants hired to assist in some of the project management), no CEO or General Manager signed off on these change orders. Mr. Reagan said there was an e-mail stating that authority was allocated to a member of staff.

Council Member McDougald referenced Table 5 and an approval of a contract in excess of \$3 million that had been signed by the General Manager without prior approval of the Public Works Commissioners or the City Council. Mr. Reagan stated this was a subcontract.

Council Member Crisp stated to Mr. Reagan, you indicated Navlgate is not totally functional and not where it ought to be. Do we have to anticipate further expenses. Mr. Reagan stated that was a fair assumption.

Council Member Mohn stated the City paid \$158,000.00 for the audit services of Mr. Reagan's company.

Mayor Pro Tem Davy asked Mr. Reagan if he thought a City of our size needed software of this magnitude. Mayor Pro Tem Davy asked where we go from here. Mr. Reagan responded, point one, make sure you have a steering committee. Mayor Pro Tem Davy stated we appoint Commissioners and maybe they should have reported more frequently back to Council.

MOTION: Council Member Arp moved to accept the report as presented by Grant Thorpe, LLP.

SECOND: Council Member Colvin

VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Wright)

MOTION: Council Member Arp moved to place item 9.03 before item 9.02 due to citizens in the audience waiting to hear item 9.03.

SECOND: Council Member Colvin

VOTE: UNANIMOUS (10-0)

9.02 Presentation of the Recommended Fiscal Year 2015-2016 Budget and Setting of the Budget Public Hearing

Mr. Theodore Voorhees, City Manager, presented this item with the aid of a video presentation.

Mr. Steven Blanchard, PWC CEO/General Manager, presented further information with the aid of a PowerPoint presentation.

MOTION: Council Member Arp moved to adopt the Budget Work Session dates of May 13, 20, and 27, 2015; the public hearing on the budget to be held on May 26, 2015; and adoption of the budget to take place in early June 2015.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

9.03 Direction on trailer and recreation vehicle regulation.

Mr. Scott Shuford, Development Services Director, presented this item with the aid of a PowerPoint and stated the regulation of trailers and recreation vehicles has been an issue of City Council focus. Staff is seeking direction from Council about how these vehicles should be regulated; as to where and on what surfaces these vehicles should be stored, how many vehicles should be allowed, and what types and sizes of vehicles should be allowed to be stored in front and corner side yards. Mr. Shuford presented a table comparing our regulations with several "peer" communities.

Council Member McDougald stated some residents just do not take care of their yards and do not contribute to community values, and stated he was looking for neatness.

Mayor Robertson stated he did not know how staff will enforce neatness.

MOTION: Council Member Colvin moved to amend the current ordinance to allow recreational vehicle parking on the front and side of residences on hard surfaces only.

SECOND: Council Member Crisp

Council Member Arp stated if the vehicle is parked on a drive way, that is good. We have an issue if vehicles are parked on the grass, vehicles need to be parked on concrete or asphalt; a prepared hard surface.

Council Member Crisp stated size limits of the vehicles needs to be addressed.

Council Member Wright stated he agrees with Council Member Arp regarding the prepared hard surfaces, and further stated if you do not allow persons owning the larger recreational vehicles to park in their driveway, they will have to rent parking space at a storage facility. Mr. Shuford stated some municipalities do limit the size of the vehicles.

Council Member Jensen stated she suggests a two axle limit.

Council Member Colvin stated he agreed there needs be a limit of what is allowed; triple axles or larger would have to have a special permit.

MOTION: Council Member McDougald moved to table the item to allow staff to provide more detail at the next meeting.

SECOND: Council Member Wright

VOTE: FAILED by a vote of 4 in favor to 6 in opposition (Council Members Robertson, Colvin, Mohn, Davy, Jensen and Crisp)

Council Member Jensen made a friendly amendment to include only two axles, and an increase of that amount would require a waiver.

MOTION: Council Member Colvin moved to amend the current ordinance to allow for Recreational Vehicle and single axle boat and utility trailers in front and corner side yards provided they are parked on asphalt or concrete surfaces with multi-axle boat or utility trailers able to be considered and allowed through a waiver process.

SECOND: Council Member Crisp

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Hurst and McDougald)

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 11:53 p.m.