

FAYETTEVILLE CITY COUNCIL

MINUTES

MARCH 9, 2009

7:00 P.M.

CITY HALL COUNCIL CHAMBER

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2)(arrived at 7:20 p.m.); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager

Jeffrey Powell, Assistant City Manager

Karen M. McDonald, City Attorney

Lisa Smith, Chief Financial Officer

Tom Bergamine, Fayetteville Police Chief

Ben Major, Fire/Emergency Management Assistant Chief

Mike Hill, Battalion Commander

Rob Anderson, Chief Development Officer

Bradley Whited, Airport Director

Jimmy Teal, Planning Director

Michael Gibson, Parks and Recreation Director

Jerry Dietzen, Solid Waste Management Director

Rusty Thompson, City Traffic Engineer

Craig Hampton, Special Project Director

Jackie Tuckey, Communications Manager/Public Information Officer

Gloria Wrench, PWC Purchasing Manager

Bill Berry, PWC Business Development Manager

Dr. Jeanette Council, Cumberland County Commissioner

Harvey Raynor, Deputy County Attorney

Aaron Donaldson, County Tax Administrator

Tina Belanger, County Assistant Tax Administrator

Ted McCormick, County Real Estate Division Manager

Amy Cannon, Assistant County Manager/Finance Director

Candice H. White, City Clerk

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Father Thomas Malloy, St. Ann Catholic Parish, followed by the Pledge of Allegiance to the American Flag.

1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.

SECOND: Council Member Bates

VOTE: UNANIMOUS (9-0)

2. PUBLIC FORUM:

A. Announcements and Recognition

Mayor Chavonne and Council Member Hurst, on behalf of the City Council and City of Fayetteville, presented a certificate of excellence to Adrienne Core, Miss Fayetteville 2009, in honorary recognition of her "V" Foundation platform, which supports cancer research.

Mayor Chavonne and Council Members Haire, Bates and Mohn, on behalf of the City Council and City of Fayetteville, presented a proclamation to the Samuel Council Chapter of the 555th Parachute Infantry Association proclaiming March 9, 2009 to be Samuel Council Chapter of the 555th Parachute Infantry Association Day.

B. Comment Period

Mayor Chavonne opened the public comment period.

James Popp, 101 Goodyear Avenue, Fayetteville, NC 28303 spoke as the coordinator for the Kornbow Community Watch and stated the Fayetteville City Manager and Chief of Police should not be held accountable for crime in Fayetteville as there had been an increase in the number of arrests.

Mitch Ludwig, 605 S. Reilly Road, Fayetteville, NC 28314 spoke on behalf of Falcon and Brentwood communities and expressed concern for crimes associated with the City Limits night club on Raeford Road and stated parking from the nightclub overflowed into the neighborhoods making residents feel unsafe.

Sally Shutt, Cumberland County Public Library and Information Center, 225 Ray Avenue, Ste. 300, Fayetteville, NC 28301 presented information to Council regarding "The Big Read", a community-wide reading program made possible by a national endowment of the arts. Ms. Shutt encouraged the reading of *The Maltese Falcon* and participation in local programs. Damon Darden, Crown Dodge of Fayetteville, 436 N. McPherson Church Road, Fayetteville, NC 28303 expressed concern regarding heavy traffic volumes on N. McPherson Church Road due to the bridge closure on Morganton Road and its negative impact on Crown Dodge business.

Donovan L. Faulkner, 3823 Little John Court, Fayetteville, NC 28306 referenced a newspaper article regarding crime and suggested that a television channel be dedicated to the identification of criminals.

Cornelia N. Blue, 917 Kaywood Drive, Fayetteville, NC 28311 expressed concern regarding increased revaluation amounts on two properties she owned.

J.B. Amaker, 6839 Bryanstone Way, Fayetteville, NC 28314 expressed concern about the property revaluations when property values were down.

Gwen York, 5307 Cypress Road, Fayetteville, NC 28304 spoke to National Women's History Awareness month and crimes against women.

Anthony P. Castillo, 1707 Powatan Street, Fayetteville, NC 28301 spoke to increases in crime and stated citizens need to take back the neighborhoods in which they live.

Delton Morris, 401 Cape Fear Avenue, Fayetteville, NC 28303 spoke to the increase in his property, land valuation and value since 2003.

Ray Smith, 5110 Foxfire Road, Fayetteville, NC 28303 questioned whether the property tax increase would be used to decrease crime and assist widows and the elderly in the Foxfire community with police protection.

3. CONSENT

Council Member Bates requested Item 3.I. pulled.

Council Member Mohn requested Item 3.H. and Item 3.K. pulled.

MOTION: Council Member Massey moved to approve the consent agenda with the exception of Item 3.I., Item 3.H. and Item 3.K.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

The following items were approved:

A. Approve Minutes:

- 1. Appointment Committee Meeting Held on January 5, 2009**
- 2. City Council Meeting Held on February 9, 2009**
- 3. Agenda Briefing Held on February 18, 2009**

B. Special Revenue Fund Project Ordinance 2009-8 (Military Business Park Development)

The Community Development has received an additional federal grant from the US Department of HUD to assist with the development of the infrastructure for a business park. The proposed park is adjacent to Fort Bragg and consists of approximately 250 acres. This grant does not require any matching funds.

C. Capital Project Fund Ordinance Amendment 2009-13 (Center City Industrial Park Street Improvement Project/Various Street Improvements)

The project has been completed and approximately \$328,057 remains in this fund. This amendment will reduce the appropriation of investment income by \$7,381 consistent with the actual investment income realized in this fund. The amendment will also reduce the appropriation for project expenditures by \$335,438 and authorize the transfer of the remaining \$328,057 to other capital project funds. The amendment will allow this fund to be closed out in fiscal year 2010 and is consistent with the recommended capital improvement plan.

D. Capital Project Fund Ordinance Amendment 2009-14 (Phase 4A and 4B Annexation Area Infrastructure Improvements/Various Street Improvements)

This amendment will appropriate an additional \$7,000 in investment income resulting from the investment of bond proceeds and a \$79,546 transfer from another capital project fund (See Capital Project Ordinance Amendment 2009-13 above) to cover remaining project expenditures. This amendment will also expand the purpose of this ordinance to include payment of associated bond principal that is due in June 2009. The amendment will allow this fund to be closed out in fiscal year 2010 and is consistent with the recommended capital improvement plan.

E. Capital Project Fund Ordinance Amendment 2009-15 (Series 2005 Bond Issue for Various Infrastructure Improvements/Land Acquisition/FSU Fire Station)

This amendment will appropriate an additional \$185,801 in investment income resulting from the investment of bond proceeds and allocate those funds to street and sidewalk improvements (\$142,266), drainage system improvements (\$17,858), land acquisition (\$10,401) and the fire station (\$15,539). These funds will be used for eligible project expenditures and associated bond principal payments for the fire station, land acquisition and drainage improvement bonds. The amendment is consistent with the recommended capital improvement plan.

F. Capital Project Fund Ordinance Amendment 2009-16 (Central Business District Brick Paver and Sidewalk Maintenance)

The source of funding for this project ordinance amendment is a \$50,000 transfer from the Central Business Tax District fund. These funds were initially budgeted in a prior year but were not spent awaiting completion of electrical upgrades in the area. The project budget will be used for the repair and replacement of existing brick sidewalks along Hay Street and other streets in the downtown area.

G. Adopt a Resolution Levying a Tax on Gross Receipts Derived From the Retail Short-Term Lease or Rental of Heavy Equipment

RESOLUTION LEVYING A TAX GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT. RESOLUTION NO. R2009-017

H. Pulled at the request of Council Member Mohn.

I. Pulled at the request of Council Member Bates.

J. Bid Award – Janitorial Supplies Contract

Award a one-year contract in the amount of \$120,712.43 for the purchase and delivery of miscellaneous janitorial supplies to Phoenix JS Inc., Fayetteville, North Carolina.

K. Pulled at the request of Council Member Mohn.

L. Authorize the City Manager to Execute a One-year Agricultural Lease of Approximately 18 Acres of Land

M. Resolution Requesting NCDOT to Transfer Portion of Paxton Drive and Lowell Harris Road to the City

RESOLUTION REQUESTING THE TRANSFER OF A PORTION OF PAXTON DRIVE (SR 2667) AND LOWELL HARRIS ROAD TO THE CITY OF FAYETTEVILLE FOR MAINTENANCE. RESOLUTION NO. 2009-018

N. Consider Technical Amendments to Chapter 17 of the City Code

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 17-18 OF CHAPTER 17, OFFENSES AND MISCELLANEOUS PROVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2009-002

O. Approve Sign Permit for the India Festival To Be Held at the Crown Center on Saturday, March 21st

3.I Capital Project Fund Ordinance Amendment 2009-17 (2009 Soil Streets Paving Project)

This amendment will appropriate \$500,000 for the 2009 soil streets paving project approved by Council on November 24, 2008. The source of funds for this amendment is anticipated installment financing proceeds to be secured during FY2009.

Dale E. Iman, City Manager, provided an overview of the project since Council approval of the soil street paving project in November 2008. Mr. Iman stated the project was ready to bid and the next step would be to create the project fund. Mr. Iman responded to questions.

MOTION: Council Member Bates moved for denial.

SECOND: Council Member Haire

VOTE: FAILED by a vote of 4 in favor (Council Members Haire, Bates, Crisp and Mohn) to 6 in opposition (Council Member Chavonne, Applewhite, Meredith, Evans, Hurst and Massey).

MOTION: Council Member Meredith moved to adopt the capital project ordinance amendment and proceed with the 2009 soil street paving projects.

SECOND: Council Member Massey

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Haire, Bates and Mohn).

3.H. Adopt the Recommended Fiscal Year 2010-2014 Capital Improvement Plan (CIP)

Mr. Iman advised the only change to the five-year Capital Improvement Plan (CIP) since previous Council discussion was an increase in project costs for the Airport paid parking lot rehabilitation from \$1 million to \$1.6 million. Mr. Iman responded to questions regarding fluidity of the CIP, the direction the CIP provided relative to the budget process and tax rates. Mr. Iman highlighted various projects as contained in the CIP.

MOTION: Council Member Mohn moved to adopt the FY 2010-2014 Capital Improvement Plan and reserve the right to make any modifications in the future.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

3.K. Consider Adoption of Resolution and Order to File and Publish a Preliminary Assessment Resolution for the Extension of its Sanitary Sewer Collection System and Where Not Currently Available by City or Others, Its Water Distribution System in All or a Portion of the Streets within Areas 6 and 7 of the Phase 5 Annexation.

Bill Berry, PWC Business Development Manager, briefly explained the purpose of the preliminary assessment resolution as it related to areas 6 and 7 of the Phase 5 annexation. Mr. Berry called attention to a listing of streets involved within areas 6 and 7.

Council Member Mohn inquired regarding the assessment costs for water extension. Mr. Berry stated the assessment was for both water distribution and sanitary sewer collection systems with a \$5,000 cap. Council Member Mohn requested removal of "an assessment not to exceed 100% of the total cost of said water extension" language as contained in the preliminary assessment resolution. Discussion ensued.

Council Member Crisp stated for the record, he was very uncomfortable with the wording. Karen M. McDonald, City Attorney, advised Council to take action to bring the item back.

MOTION: Council Member Mohn moved to pull the item and ask that the resolution come back later after the verbiage has been cleared up regarding water and sewer extension costs.

SECOND: Council Member Haire

Mr. Berry responded to additional questions.

VOTE: UNANIMOUS (10-0)

4. PRESENTATION OF PROPERTY REVALUATION PROCESS

Mayor Chavonne recognized Aaron Donaldson, Cumberland County Tax Administrator, who introduced staff from the County Tax Administration office. Mr. Donaldson provided an overview

of the 2009 revaluation process to include a review of North Carolina General Statutes governing the process, the purpose for revaluation, how values are determined and four types of appeals. Mr. Donaldson also spoke to the economy in Cumberland County and stability of the County's housing market. Mr. Donaldson concluded his presentation with information regarding the Board of Equalization and Review and property tax relief. Mr. Donaldson responded to questions posed by Council Members.

Dale E. Iman, City Manager, outlined the City's budget process and deadlines established by the North Carolina Budget and Fiscal Control Act. Mr. Iman responded to questions that followed.

5. DOWNTOWN PARKING PROPOSED REVISIONS

Rusty Thompson, City Traffic Engineer, provided an overview of proposed changes for downtown parking to include pay parking fees for all off-street parking, a booting/towing program to enhance the collection of overdue fines and recommendation for selection of McLaurin Parking as the downtown parking management firm.

In response to a question posed by Council Member Mohn, Mr. Iman stated revenues could not be converted to an enterprise fund at this time because they were not sufficient to support activities. Mr. Iman further stated per Council's intent, any profits generated would be used for downtown parking.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING VARIOUS SECTIONS OF CHAPTER 16, MOTOR VEHICLES AND TRAFFIC, ARTICLE X, PARKING, AND ARTICLE XI, ABANDONED, JUNKED, AND NUISANCE VEHICLES, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2009-001

MOTION: Council Member Meredith moved to adopt the proposed amendments to the parking ordinance and set the parking fees as proposed and authorize the City Manager to execute a new contract with McLaurin parking.

SECOND: Council Member Massey

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

6. CONSIDER AWARD OF REMAINDER OF AE CONTRACT FOR NC STATE VETERANS PARK

Craig Hampton, Special Project Director, stated consideration was for approval to execute contract amendments necessary to secure the architectural and engineering work necessary for construction of the NC State Veterans Park as presented to Council at their March 2, 2009 work session. Mr. Hampton responded to questions as to whether the state construction office could provide services for the project.

Mr. Hampton recapped funding estimates, project costs, the schedule for forthcoming bid packages and the timeline for Phase 1. Mr. Iman and Mr. Hampton responded to questions regarding the contracts to include participation by a sub-consultant to the Urban Resource Group (URG) for creative design services. Sal Muserra, Planner with the URG in Raleigh, responded to questions regarding inclusion of the sub-consultant as part of the URG team.

MOTION: Council Member Applewhite moved to authorize the City Manager to negotiate and execute contracts necessary to secure the A/E work but remove the \$50,000 for creative consultation.

SECOND: Council Member Meredith

Mr. Muserra responded to additional questions regarding creative consultant benefits to the project.

VOTE: FAILED by a vote of 3 in favor (Council Members Applewhite, Meredith and Haire) to 7 in opposition.

MOTION: Council Member Bates moved to authorize the City Manager to negotiate and execute contracts necessary to secure the A/E work in a combined amount not to exceed \$1.7 million.

SECOND: Council Member Massey

Council Member Meredith inquired regarding the affect should an order be issued by the North Carolina Board of Architecture.

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Applewhite, Meredith and Haire).

7. REQUEST FOR WAIVER OF QUALIFICATION BASED SELECTION PROCESS FOR A/E SERVICES FOR FFD STATION #19-ANDREWS ROAD AND AUTHORIZE CITY MANAGER TO NEGOTIATE AND EXECUTE CONTRACT NECESSARY TO HAVE PROJECT "SHOVEL READY" FOR STIMULUS FUNDING

Craig Hampton, Special Project Director, briefly outlined the Qualification Based Process (QBS) and allowances as provided for under North Carolina General Statutes for exemption from the process. Mr. Hampton outlined the basis for staff recommendation to employ the same architectural firm as used for stations #14 and #15. Mr. Hampton provided an aerial depiction of Fayetteville Fire Department Station #19 and surrounding areas.

MOTION: Council Member Bates moved to authorize the waiver of the requirement for QBS for the project Fire Station #19 on Andrews Road and authorize the City Manager to negotiate and execute design contracts necessary to have the project ready for the available funding from the economic stimulus package and have the Manager report final fee amounts back to City Council.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

8. CITY OF FAYETTEVILLE BOARDS AND COMMISSIONS

A. Presentation of Appointment Committee Recommendations for Appointment

Council Member Hurst, Appointment Committee Chair, provided highlights of the February 23, 2009 meeting of the Appointment Committee and called attention to recommendations for appointment.

MOTION: Council Member Hurst moved to approve Appointment Committee recommendations for appointments to various boards and commissions as indicated in red.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

B. Consideration of Linear Park Corporation Terms

Council Member Hurst outlined reasons supporting the Appointment Committee's recommendation to waive term limits for the Linear Park Corporation.

MOTION: Council Member moved to accept the consideration for extension of Linear Park Corporation terms.

SECOND: Council Member Crisp

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

C. Consideration of Public Work Commission (PWC) Terms

Council Member Hurst recognized Council Member Meredith, PWC Liaison.

MOTION: Council Member Meredith moved to extend the PWC Commission Board terms to three four-year terms with reappointment each four years.

SECOND: Council Member Hurst

Council Member Meredith referenced the letter received from Steven K. Blanchard, PWC CEO/General Manager, requesting Council to consider either removing the term limits for PWC Commissioners or expanding the allowable terms beyond two terms. Council Member Meredith spoke to the knowledge and experience required to serve on the commission.

Mrs. McDonald clarified current policy with regard to the terms for the PWC Commission and the motion as made by Council Member Meredith. Mrs. McDonald responded to various questions regarding the PWC Commission as referenced in City Council policy and the City Charter.

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Haire and Bates).

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