

**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
LAFAYETTE ROOM
SEPTEMBER 6, 2011
5:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2) (arrived at 5:27 p.m.); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8) (departed at 8:30 p.m.); James W. Arp, Jr. (District 9)

Absent: Council Member William J. L. Crisp (District 6)

Others Present:

Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager

Kristoff Bauer, Assistant City Manager

Karen M. McDonald, City Attorney

Brian Leonard, Assistant City Attorney

Brian Meyer, Assistant City Attorney

Renner Eberlein, Assistant City Attorney

Lisa Smith, Chief Financial Officer

Tom Bergamine, Chief of Police

Phil Cannady, Assistant Police Chief

Lars Paul, Police Captain

Benjamin Major, Fire Chief

Victor Sharpe, Community Development Director

Rusty Thompson, Interim Engineering and Infrastructure Director

Kecia Parker, Real Estate Manager

Michael Gibson, Parks, Recreation and Maintenance Director

Scot Shuford, Development Services Director

Bart Swanson, Housing and Code Enforcement Division Manager

Randy Hume, Transit Director

Jeff Thompson, Fayetteville Advisory Committee on Transit

Jennifer Lowe, Communications Officer

Nathan Walls, Public Information Specialist

Lee Jernigan, NCDOT Division Traffic Engineer

Mike Griffin, NCDOT

Douglas Peters, President/CEO, Fayetteville-Cumberland County Chamber of Commerce

Bo Gregory, Director of Economic Development, Fayetteville-Cumberland County Chamber

Commerce

Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Council Member Massey.

3.0 APPROVAL OF AGENDA

MOTION: Council Member Arp moved to approve the agenda.

SECOND: Council Member Massey

VOTE: UNANIMOUS (9-0)

4.0 OTHER ITEMS OF BUSINESS

4.1 Update on the Ramsey Street construction and the Ramsey Street Corridor Plan.

Mr. Rusty Thompson, Interim Engineering and Infrastructure Director, presented this item and provided background information. He introduced Mr. Lee Jernigan, NCDOT Division Traffic Engineer, and Mr. Mike Griffin, NCDOT.

Mr. Lee Jernigan, NCDOT Division Traffic Engineer, provided a brief history of the project and stated it originated from a request by the City. He stated concerns were raised with the left turns and accidents which were addressed by installing medians funded through the NCDOT High Hazard Elimination Program.

Mr. Mike Griffin, NCDOT, provided an update on the construction and stated the work began in January 2011. He stated the curbs and gutters were complete except for two which they were currently working on. He stated weather permitting the project would be completed in mid-December.

A question and answer period ensued regarding signalization improvements, the projects selected for the High Hazard Elimination Program based on funds being available, the Grove Street pedestrian plan, and the funding budgeted by the City and NCDOT.

Mr. Scott Shuford, Development Services Director, provided a history of the zoning and land use components of the corridor plan. He stated funding in the amount of \$100,000.00 was allocated for contractor assistance to support the Ramsey Street Corridor Plan implementation and the development of a new Bragg Boulevard Corridor Plan. He stated the funds were not sufficient to support both the implementation of the Ramsey Street Corridor Plan and the development of a plan for Bragg Boulevard in the current fiscal year. He stated additional funds would be needed or prioritization provided by City Council as to which project to pursue this year.

Council Member Bates inquired why it was anticipated it would cost so much to implement the plan. Mr. Shuford responded they would have to begin the outreach to the businesses and residents in the area and spend time developing standards. He stated they had completed the zoning changes the plan called for and were currently developing the standards.

Mayor Chavonne inquired if they had money in the budget for Bragg Boulevard. Mr. Iman responded funding was included in the budget for two plans at \$50,000.00 each, but staff was saying that \$50,000.00 per study was not enough at this time to implement the plans.

Mayor Chavonne recommended bringing back budget needs for the Ramsey Street Corridor Plan. Mr. Iman explained the needs for the plan were different than Murchison Road or Bragg Boulevard in that the results of the study involved doing overlays and zoning work. He stated right now the staff was consumed with the UDO and would not have the ability to work on the other items.

Council expressed desire for the completion of the Ramsey Street Corridor Plan. Mr. Shuford stated he would return with more concrete information no later than the October work session.

4.2 Fayetteville-Cumberland County Chamber of Commerce (FCCCC) Contract Annual Project Update - Performance Metrics.

Mr. Douglas Peters, President/CEO, FCCCC, presented this item and briefly reviewed the performance metrics provided under the contract. He stated this year they had surpassed what the metrics were and at the same time there had been discussions of raising the bar and figuring out a way to come up with the right numbers as they realized that for the last two years they had reported results that were higher than the standard. He explained they were reporting on what the clients were telling them the value was, what the construction permit number value was, or when the project was completed what the appraised value was.

Mr. Bo Gregory, Director of Economic Development, FCCCC, stated the City negotiated a new contract with the Chamber which identified the following specific projects to be the focus of their efforts:

- Hope VI Business Park
- Murchison Road Corridor Redevelopment Plan
- Economic Development Metrics
- All America City Marketing
- PWC Sustainability Campus

Mr. Gregory stated the objectives of the economic development metrics were to engage economic development partners, including the City, in the exploration of performance metrics for future reporting purposes. He stated the major objective was to achieve concurrence from the City Council on a consistent and supportive set of metrics to be tracked over a significant period of years into the future.

Mayor Chavonne expressed concern that there was a disconnect between what the City was tracking and what the Chamber was saying, which was resulting in a credibility issue. He stated they needed to reconcile what was being reported from the Chamber. Mr. Peters explained they were reporting what the businesses were telling them the value of the project was. Mr. Dale Iman, City Manager, further explained the number the City was tied to was the actual assessed value.

A discussion period ensued regarding benchmarks, measurements for success, the Chamber continuing to report on what they were doing, and Council adding to the metrics. Mr. Peters suggested they bring back to Council a strategic plan showing what was in the contract and adding to that.

At this time Mr. Iman introduced Mr. Dwayne Campbell, the newly hired Chief Information Officer.

4.3 2011 Update on Community Wellness Plan.

Mr. Tom Bergamine, Chief of Police, presented this item and provided an overview of the following guiding principles of the Community Wellness Plan:

- Veterans Court
- Radio Show
- Business Watch Group
- Risk Based Analysis/Predictive Analysis
- Juvenile Repeat Offenders

Council Member Applewhite requested more information be provided as to what progress was being made with the juveniles. Chief Bergamine stated they would be providing monthly updates to the City Manager which would be forwarded to City Council.

A discussion period ensued regarding preventive programs that had been implemented to keep the children doing healthy things instead of getting into bad environments.

Chief Bergamine continued with an overview of the following guiding principles:

- Risked Based Assessment – Burglary Task Force
- Homelessness

Mayor Pro Tem Haire inquired what was being done to involve the churches, businesses, and community to alleviate the problem of homelessness. Chief Bergamine responded there were groups working within the community but everyone was not working together. He stated meetings regarding the homeless were occurring once a month at various locations. He stated the efforts being made by the community should be more organized and moving forward as one. A question and answer period ensued regarding what was being done for the homeless and the increase of calls caused by the homeless.

Chief Bergamine stated success would emerge only when they had developed a strong partnership with the community, nonprofits, other government entities, and the business community. He continued with an overview of the following guiding principle:

- Partnership Initiatives – Smart Start Partnership

A discussion period ensued regarding the homeless issue as to lack of shelters and houses. Mr. Phil Cannady, Assistant Police Chief, spoke regarding the different community watches as to whether they were functioning or not. He stated they look at the level of fear of crime within a community, the type of activities going on within a community, and things of that nature. He stated when they go into a community they try to create an environment where people do not feel so much fear. He stated as far as numbers, every community was different.

A discussion period ensued regarding the Council being informed on how the process works with police devotion to different neighborhoods.

Mayor Chavonne inquired about the Police substation efforts. Mr. Lars Paul, Police Captain, responded the Council would receive a briefing from the architect in January.

Mr. Dale Iman, City Manager, stated they would have information available on the October work session agenda.

4.4 Privilege License Update (Requested by Council Member Hurst).

Mr. Brian Leonard, Assistant City Attorney, presented this item and explained under state law there were businesses that were either exempt from the City's privilege license or for which state law limited the amount that the City could levy in a privilege license tax. He stated in the absence of a specific exemption or limitation, the City was free to levy a privilege license tax on any person engaging in any business, trade, or profession, or the doing of any act for which a privilege license would be required. He stated the privilege license ordinance applied to rental management companies as well as those engaged in day-to-day rental management activities and had exemptions for active duty military service members as well as organizations engaged in charitable, nonprofit, religious, or educational activities. He stated the City had contracted with MuniServices to assist in locating tax revenue. He explained the standard rate for businesses with less than \$500,000.00 in gross receipts was \$50.00 and subject to a late penalty of 5 percent per month on the amount owed up to a maximum of 25 percent, which was \$12.50. He stated the City's practice, although not required by law, was to collect for the current year as well as the three prior years of privilege license taxes for a total of four years. He stated the City identified 137 businesses engaged in rental management activity and 30 had gross receipts in excess of \$500,000.00 leaving the remaining 107 with gross receipts under \$500,000.00 which meant they would be subject to the flat fee. He stated through August 19, 2011, the City had collected approximately \$34,000.00 in privilege license tax revenue for rental management activities. He stated of that number, \$14,382.09 represented privilege license taxes and penalties collected for the discovery tax year which was the year in which MuniServices discovered the businesses. He stated the remaining \$20,087.34 represented prior year taxes and penalties for rental management activities. He stated if Council wanted to release the prior year taxes and all penalties for that particular activity, the potential budget impact would be between \$20,000.00 and \$34,000.00. He stated at the August work session it was inquired whether the City could release taxes and penalties for prior year privilege license taxes and penalties for the rental management activities and whether the City could create classifications for the rental management activities. He stated the City was free to either adopt state law provisions for release and refund of the tax obligations or to develop its own policies, procedures, and standards for refund and release of privilege license taxes. He stated the only provision in the ordinance for release and refund was the miscalculation in a tax or an error in interpretation of a privilege license ordinance. He stated the City had the following options on the release and refund:

- 1.To amend the ordinance to provide for refund and release for rental management activities;
- 2.To continue to require payment of the privilege license tax including the prior year's taxes and penalties; or
- 3.To not require a privilege license for rental management activities.

Mr. Leonard stated classifications and distinctions were allowed as long as there was a rational basis and the classification or distinction was related to such basis. He stated none of the cities contacted by staff had adopted a classification for their rental management activities through their privilege license ordinance. He stated the City had the following options on the classifications of rental properties:

- 1.To amend the privilege license ordinance to create a classification;
- 2.To provide a minimum threshold or number for any classification that the Council desired that would be subject to the privilege license tax or the rental management activities;
- 3.To continue to apply the privilege license to all rental management activities, regardless of a number or classification; or
- 4.To exempt residential rental property management activities from the privilege license.

Council Member Massey inquired if home-based businesses were subject to the privilege license. Mr. Leonard responded in the affirmative and explained there were no exemptions for home-based businesses in the ordinance.

Council Member Bates inquired if the contract would be affected if the fees were not charged. Ms. Lisa Smith, Chief Financial Officer, responded under the contract they would receive 40 percent of what was collected as a result of the discovery work. She stated if the ordinance was amended after the discovery and collection efforts were completed, they would be responsible for paying the 40 percent from what was collected.

A discussion period ensued regarding releasing the property owners from prior year tax obligations and all penalties and which classifications that would entail. Mr. Leonard stated it was staff's recommendation to have a uniform objective refund and release procedure that would be allowed for any category.

Council Member Hurst suggested the release be for the rental property owners of one rental, and then charge the privilege license fee for all other rental property managements.

A discussion period ensued regarding those who were not aware of the taxes and whether to collect prior year privilege license fees, penalties, and interests with Council expressing an interest in not going back.

Ms. Smith stated the current practice was to go back three prior years, but with very limited staff to accomplish the task, they had to engage MuniServices for assistance. She stated Mr. Leonard's numbers were mainly focused on the rental businesses.

Mr. Leonard stated it was his understanding that the interest of Council was for staff to bring back a draft ordinance amendment that would provide for release and refund of prior year taxes and all penalties for businesses prior to the year in which they were discovered.

Mayor Chavonne requested a show of hands of those in agreement. Council Members Chavonne, Arp, Hurst, and Davy raised their hands in agreement.

A discussion period ensued regarding communicating and educating the public regarding the issue and moving forward.

Mayor Chavonne stated staff would be coming back with additional information.

Council Member Hurst stated in the classification of rental properties he would support amending the ordinance to include a minimum number of units that would be subject to the privilege license tax for real estate rental subject to two or more.

Discussion ensued regarding rental properties being rented by active duty military property owners.

Mayor Chavonne stated the privilege license for people who were renting their homes would be from two or more to require a privilege license.

Consensus of Council was to move forward with a proposed ordinance amendment.

4.5 Options for ensuring no connectivity from the new development to the existing Cottonade neighborhood and Shawcroft Drive.

Mr. Rusty Thompson, Interim Engineering and Infrastructure Director, presented this item and provided background information. He stated staff was reviewing whether the last portion of Southwick Drive could be closed. He stated there was community concern in Cottonade regarding development of the properties at the location of the street closing. He stated moving forward with the closing would landlock the current landowner. He stated with closing the street there was also the potential that the future owner could buy the connection back and the City would have less control over it. He explained the process under the UDO on how a new street would connect to an existing street.

A question and answer period ensued regarding the process under the UDO. Mr. Thompson explained the connection would have to come before Council for approval. He stated staff's recommendation was to retain ownership of the property thereby keeping the control with the City and address any connection through the UDO in the future. He stated if the City denied access to the King's Grant development, there would be a landlock issue. He stated the only access available to the development was through City-maintained streets in the King's Grant Subdivision, which was bordered by the Fayetteville Outer Loop limiting any other access points.

A question and answer period ensued regarding the process through the Technical Review Committee.

4.6 Amendments to Fayetteville Code of Ordinances relating to code enforcement.

Mr. Bart Swanson, Housing and Code Enforcement Division Manager, presented this item and provided background information. He stated staff was requesting text amendments of Section 1-9 pertaining to appeals of civil penalties and Section 22-31 pertaining to solid waste penalties for violations. He stated both sections contained language that the appeal of a citation payment would require action within ten days of receipt of the citation. He stated over the years the code requirement for service of citations and notices changed from certified mail to first-class mail and the language requiring appeal for payment within ten days of receipt of a citation was not changed. He stated by the use of first-class mail as a means of serving a civil penalty citation, there was no way to determine when a recipient actually received the citation as required by the code. He stated this was causing problems when recipients filed appeals or paid the citation penalties several months after the issuance date of a citation, claiming that they had just received the citation within the last ten days. He stated the proposed code amendments would require that appeals of citations and payments of citation penalties under Chapter 22 be made within ten working days of the issuance of the citation rather than upon receipt of the citation. He stated this would establish a definitive time period for appeal or payment of the citation. He stated the amendments would also add Chapters 7, 14, 30 to the appeal process for civil penalties under Section 1-9 of the City Code.

A question and answer period ensued regarding the appeal process. A discussion period ensued regarding making the amendment to change the notice period from ten days of receipt to ten working days from issuance consistent throughout the City Code. Consensus of Council was to bring the amendments back to Council for consideration.

4.7 Council concurrence for FAST to develop and issue a Request for Proposals for interested vendors to sell, install, and maintain transit vehicle advertising services for purposes of generating additional revenue.

Mr. Randy Hume, Transit Director, presented this item. He provided background information on the Transit Development Plan, Fayetteville Advisory Committee on Transit (FACT), revenue opportunities to help support improvements and reduce demand on the General Fund, and the industry moving back to Transit advertising with buses being the primary item and possibly looking into the future regarding benches and shelters. He stated advertising through Transit had largely discontinued in 2008 due to the arrival of new buses and the focus being on a positive image. He stated advertising had been sold and managed by Transit staff and the annual revenues in FY 2006 had been \$42,980.00 and in FY 2008 had been \$20,328.00. He provided the following information on the industry, peer systems, and issues:

Industry

- Revenue
 - Average Small Operators - \$1,472.00 per bus totaling \$20,600.00 for all buses
 - Averages All Operators
 - 4.4% of Fare Revenues (\$34,500.00)
 - 3.5¢ per Passenger (\$49,000.00)
 - Minimum Guarantees
- Issues
 - Bus Aesthetics
 - Advertising Content

Peer Systems

Issues

- Durham – Phasing Out with New Buses; FY 2009 - \$98,000.00/37 buses - \$2,649.00/bus
- Raleigh – Phasing Out with New Buses; FY 2009 - \$40,000.00/16 buses - \$2,500.00/bus; Limit to 25% of Fleet (62 buses)
- Greensboro – No Longer Soliciting Ads; FY 2009 - \$11,000.00

- Columbus, GA – Guaranteed \$1,200.00/bus or 15% of Sales; FY 2009 - \$19,200.00/16 buses - \$1,200/bus
- Clarksville, TN; FY 2009 - \$15,000.00/15 buses - \$1,000.00/bus
- Augusta, GA; FY 2009 - \$9,000.00/13 buses - \$692.00/bus
- Aesthetics
 - Contractor responsible for any damage to paint
 - Timely replacement of ads
- Content – Will need to establish policy
 - Typical
 - Right to refuse (offensive)
 - Prohibit alcohol, tobacco, political campaigns
 - Prohibit ads promoting violence or illegal activity
 - Other Limitations
 - Ads advocating an issue
 - Critical of others
 - Religious content

Mr. Hume stated the recommendation was to issue a request for proposals for contractors to sell, place, and maintain on-board advertising. He stated they would look for commissions based on gross sales, a minimum guarantee per each type of vehicle, contractor responsibility, and general guidelines for advertising content. He stated staff would develop a policy. Mayor Pro Tem Haire inquired if they had researched the use of digital signs. Mr. Hume responded they had not researched that and stated most of the signs had a limited capacity. A discussion period ensued regarding not placing advertisements on the new buses, placing advertisements inside of buses, and the City having the final say as to the advertising placed on the buses.

Mayor Chavonne inquired if a third party had the responsibility, could they put up more stringent safeguards on the content. Ms. Karen McDonald, City Attorney, responded they would be identifying parameters or types of ads and looking at what the ad would look like and could make suggestions. She stated the City's issue would be the types and then the ad company would be working with the City within those parameters.

Mr. Hume stated they would provide the guidelines and if a company had something they thought might be controversial, they would come to the City and ask the City upfront before they spend the time putting something on the bus.

Ms. McDonald stated those were all issues that the staff could spend time working out if Council desired.

Mr. Doug Hewett, Assistant City Manager, suggested they develop an advertising policy.

The majority of Council requested moving forward with the request for proposals and taking the next step.

4.8 Response to request to donate City lots on Mann Street.

Ms. Kecia Parker, Real Estate Manager, presented this item and provided background information. She stated the City received a request from St. Paul Full Gospel Baptist Church that the City donate three parcels of land for a Community Life Center on Mann Street. She briefly reviewed the map and supporting documentation. She stated Parcels 1 and 3 were undeveloped and currently not needed by the City, Parcel 2 was needed which was part of the current Community Garden project. She stated Parcel 1 was valued at \$15,750.00, Parcel 2 at \$1,400.00, and Parcel 3 at \$6,000.00. She stated the compensation for the parcels would be the value of the public services offered and would be addressed as restrictions in the deed that would mandate the property be used for a public purpose and revert back to the City in the event it ceased to be used as such.

A question and answer period ensued regarding the tax exempt status of the church and the cost of publication that would be incurred by the City.

A question and answer period ensued regarding the plans for the property. Ms. Parker explained if the City donated the property, the City could stipulate in the deed the property was

for that purpose and if not used for that purpose, it would revert back to the City within a timeframe.

Council Member Davy requested there be a consistent message in what they do. Ms. McDonald responded staff shared that concern as well but explained the request had been pending since December and given the time that had already elapsed, they did not want to continue to hold it while they continued to work on a policy.

A discussion period ensued regarding tabling the matter.

Mayor Chavonne inquired when the policy would be ready. Ms. Parker responded she did not have a definitive answer.

Consensus of Council was to deny the request and direct staff to work on the policy as quickly as possible and evaluate whether they would want to give property for community uses.

4.9 2011 All-America City Marketing Plan

Ms. Jennifer Lowe, Communications Officer, presented this item and provided background information on the All-America City Award. She briefly reviewed the purpose of the award and the importance of targeting internal and external audiences. She stated the foundation of the marketing message should be a strong economy, improved image, and community engagement and the campaign should embrace the citizens. She stated the goals were to increase citizen engagement, align perception of City with reality, and take control of telling the City's story. She briefly reviewed the advertising opportunities through print and outdoor advertising such as digital. She stated promotional items were selected for their relevancy to designated target markets, capacity for visibility at events and beyond, and financial prudence. She stated the radio could be used to thank the citizens. She stated many items on the plan were ongoing and the document would function as a work plan for corporate communications, would be a living document with changes and alterations necessary, and would require flexibility.

Mayor Chavonne inquired of Ms. Lowe if she could assist the Chamber of Commerce regarding businesses using the All-America City logo. Ms. Lowe responded in the affirmative.

Discussion ensued regarding placing an ad on Channel 11 during the Extreme Makeover Program in September, submitting a copy of the plan to the NCLM, and placing the ACC logo on the back of the City coin.

4.10 Amendment to Ordinance Chapter 5, Alcoholic Beverages, and Chapter 18, Parks and Recreation.

Mr. Michael Gibson, Parks, Recreation and Maintenance Director, presented this item. He stated the amendment would grant the City Manager the authority to authorize the use of alcohol in City parks and facilities in the downtown core area through the standard event permit process.

Ms. Karen McDonald, City Manager, explained they were making the ordinance consistent and referring to only the parks and facilities in the downtown area and just for special events.

Council Member Applewhite inquired about the parks not in the downtown area. Ms. McDonald explained the parks and facilities in the core downtown area were set up to handle these types of events. She stated that was an option and it could be brought back at some point.

Consensus of Council was to move this amendment forward to the September 12, 2011, City Council meeting.

4.11 Code enforcement and assistance program for tornado-damaged properties.

Mr. Scott Shuford, Scot Shuford, Development Services Director, presented this item and reviewed photos showing examples of housing, solid waste, and vegetative debris remaining in the area. He briefly reviewed the status of the courtesy enforcement through letters, the violation types, the information provided by property owners regarding status of cleanup, and the priority order of enforcement. He stated opportunities for assistance were available through Community Development Demolition Grants, U.S. Military (for military owners only), and Cumberland Disaster Recovery Coalition (CDRC). He stated the recommended approach was to facilitate information-sharing about opportunities for assistance; assist CDRC with tipping fee waivers from the County; and pursue enforcement in recommended order of priority, and taking individual circumstances into account (e.g., slow insurance settlements).

Discussion ensued regarding the cleanup of the properties.

Consensus of Council was to approve the recommendation presented.

4.12 Council Member Request(s): (In order of receipt date)

(a) Mayor Chavonne – Community Cleanup & Plan to Go Forward

Mayor Chavonne presented this item and stated he would like to take aggressive steps to clean up the excessive cases of yard debris and trash piles on the streets of Fayetteville and review the factors that were contributing to the increased level of the visual blight issue and prepare recommendations for Council to consider to address the issue.

Consensus of Council was to clean up.

5.0 ADJOURNMENT

There being no further business, the meeting adjourned.