

**FAYETTEVILLE CITY COUNCIL  
WORK SESSION MINUTES  
CITY HALL COUNCIL CHAMBER  
OCTOBER 3, 2011  
5:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2) (arrived at 5:23 p.m.); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4) (departed at 6:43 p.m.); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); James W. Arp, Jr. (District 9) (arrived at 5:10 p.m.)

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

Tom Bergamine, Chief of Police

Patricia Bradley, Police Attorney

Lisa Smith, Chief Financial Officer

Ron McElrath, Human Relations Director

David Nash, Planner II

Elliott Susseles, Senior Vice President, Segal

Vincent Higgins, Face in the City, Sister City Committee Chair

Vincent Frances, Co-Chair, Fayetteville-Cumberland Human Relations Commission

Youth Council Ad Hoc Committee

Jennifer Lowe, Public Information Officer

Pamela Megill, City Clerk

Members of the Press

## **1.0 CALL TO ORDER**

Mayor Chavonne called the meeting to order.

## **2.0 INVOCATION**

The invocation was offered by Mayor Pro Tem Haire.

## **3.0 APPROVAL OF AGENDA**

**MOTION:** Mayor Chavonne moved to approve the agenda with the removal of Items 4.6, 4.7, and 4.10.

**SECOND:** Mayor Pro Tem Haire

**VOTE:** UNANIMOUS (9-0)

## **4.0 OTHER ITEMS OF BUSINESS**

### **4.1 Traffic Stop Consent Search Policy**

Mr. Tom Bergamine, Chief of Police, presented this item and reviewed a power point presentation. He stated that citizens were stopped as a result of observed traffic violations and not randomly because of race. He stated staff was requesting that Council allow a policy change by requiring articulation of a fact before consenting, but not mandating written consent.

He stated it was legal for officers to ask for consent absent reasonable suspicion or probable cause and written consent forms were not required. He stated no other cities in the state of North Carolina had a policy mandating written consent. He stated staff had confirmed with the District Attorney's Office and the Superior Court that no cases had been dismissed for biased-based policing practices or evidence suppressed as a result of bias-based consent searches. He stated to their knowledge no defense attorney had filed a motion to suppress such evidence based on consent searches. He stated there had been no lawsuits filed against the Fayetteville Police Department for racial profiling. He presented a live mapping demonstration of crime in Fayetteville. A lengthy discussion followed the presentation.

Council Member Applewhite recommended the following steps be implemented:

- 1.Document an articulable reason for the consent search;
- 2.Track the location and time of the consent searches;
- 3.Move forward with purchase of additional in-car cameras; and
- 4.Reinstitute Study Circles.

Council Member Arp recommended an additional step of developing an implementation plan and schedule.

Consensus of Council was to accept the recommendations with regards to the modifications of the traffic stop consent search procedures along with the Council recommendations, and bring the item back for further discussion and possible action at the October 10, 2011, City Council meeting.

#### **4.2 Compensation Study Update**

Mr. Elliott Susseles, Senior Vice President of Segal, presented this item and reviewed a power point presentation. He stated that Segal would soon conduct a total compensation market study to determine the City of Fayetteville's market position for both pay and benefits. He stated part of the study involved sending a survey document to the City's peer employers. He stated for the study they had agreed to identify ten peer employers in addition to using published data for private-sector employers. He provided the following three options for conducting the study and briefly reviewed the pros and cons:

Option 1: -Include the two local area jurisdictions and all of the other large cities in North Carolina

-Survey all benchmark jobs among all peer employers

Option 2: -Choose 6 peers for all jobs (managerial and non-managerial)

-Choose 4 additional North Carolina peers for only managerial jobs

Option 3: -Choose 6 peers for all jobs (managerial and non-managerial)

-Choose 2 additional North Carolina cities for only managerial jobs

-Choose 2 additional cities outside North Carolina for only managerial jobs

A discussion period ensued regarding the three options, the cost of living boundaries, and employment in the local area including Fort Bragg.

Consensus of Council was to select Option 3 and reflect the military market.

#### **4.3 Sister City Approval Process**

Mayor Chavonne presented this item and stated the item had been discussed in a prior work session, and thanked Council Member Mohn for working very hard and putting the Sister Cities approval process into a flow chart.

Council Member Mohn stated additional information had been included in the agenda packet and provided an overview of the Sister Cities approval process.

Mr. Vincent Higgins, Faces in the Community, Sister City Committee Chair, provided a history of the International Sister City Committee Inc. He stated there would be a need for a Council liaison to serve on the Committee as potential issues could arise throughout the process. He stated the Committee currently had 13 members and membership was open to anybody.

Consensus of Council was to bring the item back to a future Council meeting for further discussion and possible action.

#### **4.4 Update on Youth Council**

Mr. Vincent Frances, Co-Chair, Fayetteville-Cumberland Human Relations Commission Youth Council Ad Hoc Committee, presented this item and stated in considering a Youth Council, they had discovered the Chamber of Commerce had a Youth Academy that would meet the interests of the Human Relations Youth Council Ad Hoc Committee. He stated in an effort to avoid duplication, it was being recommended to support the Chamber's Youth Academy and form a formal collaborative relationship or become a supporter informally.

Council Member Davy stated she had been involved with the Chamber's Youth Academy and was concerned with the GPA requirement, as some of the members of the Human Relations Commissions would not want to hinder anyone that was civically engaged and wanting to learn more about their community. Mr. Frances stated they were intending to only ask that the GPA

be provided. He also stated that he was hoping to meet with the Chamber next month and have dialogue on the matter.

Council Member Applewhite inquired if it would be possible to set up a meeting with the Chamber, Mr. Gibson, some school board members, and other key people to discuss it further.

Mr. Frances stated he would take the request back to the Commission members at the next meeting.

Council Member Massey requested that the "Great Oaks" organization be added to the list of attendees that Council Members Applewhite and Davy had requested.

Mayor Chavonne requested that Mr. Frances meet with the groups listed and with staff, and provide additional insight at a later date.

#### **4.5 Privilege License Update**

Mr. Brian Leonard, Assistant City Attorney, presented this item and provided background information. He stated the Council had expressed an interest in waiving the prior year taxes for rental management as well as to create classifications for the rental management activities. He stated at the September work session, the Council directed staff to bring back information regarding the financial impact of waiving the prior year taxes and penalties for the businesses for which the City was not requiring privilege license prior to the year in which the business was discovered by the City, as well as to bring back a draft ordinance amendment that would meet the Council's interest. He stated as far as waiving the prior year taxes and penalties, the staff had identified two categories of businesses that the City had not previously required a privilege license for prior to fiscal year 2011-2012, which were catalog sales and rental management.

Ms. Lisa Smith, Chief Financial Officer, stated they were able to pull the data for those two businesses. She stated as of August 19, 2011, they had received privilege license fees from 185 rental management companies. She stated the total amount collected for rental agency companies was \$37,287.43 of which \$22,291.28 related to penalties and prior year collections.

She stated if it was Council's interest to refund, that was how much they would refund for those companies. She stated in addition to that, the number of companies receiving reimbursement for prior year penalties and collections was 71. She stated if they chose to exempt single residential property management, which would have to be a classification, they would have to identify what the consequence of that would be. She stated if they had collected \$37,000.00 and there was only about \$14,000.00 they were dealing with, there would be some small amount to be reimbursed for that as well, which would be \$22,291.00. She stated in addition to that, they had identified catalog sale businesses of two that they had collected for which was a total collection fee of \$100.00. She stated those were the two categories that they had identified that historically they had not collected privilege license on, but had begun to do that with the Muniservices contract.

A discussion period ensued regarding the issue of privilege licenses.

Mayor Chavonne inquired if the Council had an interest in exempting catalog sales from the privilege fee. The majority of Council was in favor.

Mayor Chavonne inquired if the Council had an interest in exempting one rental property. The consensus of Council was to not exempt one property, one rental unit would be subject to the privilege license.

Council Member Hurst requested that the \$100.00 total from the catalog sales be reimbursed to those that filed.

Mayor Chavonne stated consensus was as follows: catalog sales would be exempt, rental units were not exempt and they were going to refund any permit and privilege license fees paid for catalog sales.

#### **4.6 Amending Section 2-65, insurance claims review, and Section 2-66, authority to settle claims, of the City Code related to liability claims administration.**

This item was removed from the agenda.

#### **4.7 Update on City's Sustainability Plan.**

This item was removed from the agenda.

#### **4.8 City Council Policy 150.2, Provision of Water and Sewer to Municipal Influence Area.**

Ms. Karen McDonald, City Attorney, presented this item and stated this was an amendment regarding the provision of water and sewer to the Municipal Influence Area (MIA). She stated since 2009, the Council had required a petition for annexation in order to receive water and sewer service. She stated the policy did not specify when that petition needed to be submitted and whether Council would need to take action. She stated on several occasions and most recently there was a situation in which a petition was submitted, the PWC began the extension of water and sewer, and it was subsequently found the petition was invalid. She stated the proposed policy amendment was intended to address that situation and make it clear that any properties that were in the MIA, that met the statutory requirements, must submit a petition and Council must act on the petition before the service was provided or expanded. She stated there could be instances in which entities were already receiving water and sewer and desired to develop further and, therefore, would need an extension of the water and sewer services. She stated the policy amendment was intended to address that. She stated the second portion of the policy was intended to require that those subdivisions be developed consistent with the City's development regulations that were in place at the time of service. She stated the provision of public water and sewer allows subdivisions to develop at a higher standard. She stated the interest of City staff was to ensure that development was consistent with City standards. She stated there were some subdivisions getting permits from the County and in some cases, the development standards were not the same as the City's. She stated it was City staff's position that development should be consistent with City development standards. She stated the policy was before Council for discussion and direction to staff.

A discussion period ensued regarding the provision of water and sewer to the MIA, and the amount of time it would take from first receiving a petition to the services being provided.

Mayor Chavonne requested that a meeting with the stakeholders take place in the near future.

#### **4.9 Update on Probationary Rental Occupancy Permit (PROP) Program.**

Mr. Doug Hewett, Assistant City Manager, presented this item and provided background information on the adoption of the PROP ordinance and ratification of Senate Bill 683. He stated the senate bill invalidated nine of the ten ways in which a property could be entered into the PROP program. He stated given the substantial changes needed to make the City's ordinance compliant with North Carolina law, staff recommended and the City Council approved the repeal of the PROP ordinance on August 8, 2011. He stated since that time, staff had been working to bring back a program consistent with state law which was based upon the only workable model they were able to find in the state which was the Charlotte model. He stated PROP II had a lot of the same elements that PROP I had. He stated the basis of PROP II dealt with crime, as it had in PROP I, and also had something that was a new and was called "social disorder", which largely came from the Charlotte model. He stated it would be applicable to all residential rentals by categories. He stated for simplicity, they had taken what Charlotte had, which were nine categories, and reduced it down to four categories which they believe would be able to manage. He stated the work remaining was to finalize the PROP II eligible conditions and weighting criteria, the remedial action manual, the residential rental property review board, and program design in regards to staffing needs, software/hardware needs, and fee schedule recommendations. He stated the next steps were to continue the meetings with stakeholders to discuss programs and solicit feedback, with community watch leaders and interested citizens, and with property managers/owners.

A discussion period ensued regarding the PROP II program.

Mr. Hewett stated he hoped to present the ordinances and program design to the City Council at the workshop on November 7, 2011, and then present to the Council for formal consideration on November 14, 2011.

#### **4.10 City Council Agenda Item Request (Council Member Mohn – Signed Consent Search Forms for Traffic Stop Consent Searches)**

This item was removed from the agenda.

**5.0 ADJOURNMENT**

There being no further business, the meeting adjourned at 9:25 p.m.