

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

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); 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
Renner Eberlein, Assistant City Attorney
Tom Bergamine, Chief of Police
Patricia Bradley, Police Attorney
Steven Bates, Police Sergeant
Lisa Smith, Chief Financial Officer
Benjamin Nichols, Fire Chief
Ron McElrath, Human Relations Director
Victor Sharpe, Community Development Director
Sue Byrd, FayettevilleArea Operation Inasmuch
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 addition of Item 4.1(a), update on traffic stop report, with the flexibility to change the order of the items based on availability of staff.

VOTE: UNANIMOUS (10-0)

4.0 OTHER ITEMS OF BUSINESS

4.1 Fayetteville Metropolitan Planning Organization (FAMPO) – Bicycle and Pedestrian Connectivity Study

Ms. Mariza Chapman, Stewart Engineering, presented this item and provided background information. She introduced Mr. Curtis Bridges with Stewart Engineering.

Mr. Curtis Bridges, Stewart Engineering, provided an overview of the study and reviewed the study objectives; study process; public outreach through participation and activities; administration of the online survey; demand for walking and bicycling; ground-truthing to look at what was in other communities; analysis of challenges and opportunities, neighborhood connectivity, safety, and neighborhood routes; comprehensive network; and available resources. A question and answer period ensued regarding the intent of the public outreach. Mr. Bridges explained the outreach was to gauge interest and obtain feedback from the public on interest.

4.1(a) Update on Traffic Stop Report

Mr. Tom Bergamine, Chief of Police, presented this item and stated a meeting was held and five matters of concern were raised. He stated a suggestion was made to simplify the complaint process to make it less intimidating to the citizens. He explained complaints were received at the Police Department, on the internet, by telephone, from walk-ins, by contacting an officer, and at the Human Relations Department. He stated another concern raised was whether reports were being timely submitted to the State Bureau of Investigation. He explained by state law

they were allowed 60 days to submit the reports and had never missed a deadline. He stated another concern was raised regarding verbal warnings. He explained verbal warnings were no longer being implemented and it was now being required to either do a written warning or a regular citation and cameras were also being installed in the police vehicles. He stated a concern was raised as to improving minority representation in supervisory positions. He explained the promotion process was revamped and that 54 percent of promotions were minorities.

Council Member Applewhite inquired how the promotion process compared to other municipalities. Mr. Bergamine responded there were different processes.

Council Member Davy inquired if the results were open for review. Mr. Bergamine replied in the affirmative and explained the testing procedures were coordinated with the Human Resources Department.

Mr. Bergamine stated a concern was raised regarding the consent forms. He stated the consent form was discontinued when the state developed the traffic stop report form. He explained the officer's rights to request a consent search.

Council Member Massey inquired if there was information available that explained what the consent search request would entail. Mr. Bergamine explained the ticket would already be issued before the search was requested. Mr. Iman responded this information was not available during traffic stops but they could do something like that which could result in lesser amounts of confiscated contraband.

Mr. Steven Bates, Police Sergeant, then provided an overview of the TSR Report Information which contained statistical information on traffic stops from January to April 2011, to include the types of searches by initial reason for stop; types of violations and items found; search types by race and type of item found; alcohol, total weapons, and total money seized by search type; total pounds of drugs seized by search type and by race regardless of search type; time breakdown and items seized; total persons searched; arrests made by race by charge; incident involvement by race; breakdown by race and sex; breakdown by race, sex, and age; and calls for service initiated from citizens that turn into incidents (suspicious activity, disturbance, drugs, larceny/theft, domestic, alarms). He explained all the data came directly from the traffic stop reports.

In response to concerns raised by Council, Ms. Patricia Bradley, Police Attorney, explained there was no probable cause or reasonable suspicion with a consent search. She further explained if there was probable cause for the search, there would be particular facts as to why the vehicle was being searched. She clarified the number assigned to the officer was a public record but the number in correlation to the officer's name was not a public record.

Council Member Crisp expressed there was concern as to why officers were asking to search vehicles.

Mr. Bates continued review of the report. Mr. Bates and Mr. Bergamine responded to questions posed by Council regarding the percentages provided in the report, types of contraband confiscated during stops, racial counts, calls for service, and training.

4.2 Comprehensive Limited English Proficiency (LEP) Policy

Mr. Ron McElrath, Human Relations Director, presented this item. He provided background information on Title VI of the Civil Rights Act and explained Executive Order 13166 regarding Limited English Proficiency. He stated to meet HUD, FTA, Justice Department and other federal granting agency requirements, the City was clarifying its procedures and revising its policy related to individuals with limited English proficiency. He stated it was being recommended that Council adopt a resolution authorizing the City Manager to implement a City-wide LEP action plan as required by Title VI of the Civil Rights Act, which would include a City-wide policy.

Ms. Renner Eberlein, Assistant City Attorney, explained that in developing the policy, the Four Factor Analysis from the Department of Justice was conducted. She briefly reviewed the four factors considered in the analysis as follows:

1. The number or proportion of LEP persons eligible in the City service area who may be served or who are likely to encounter a City program, activity, or service;

- 2.The frequency with which LEP individuals generally come in contact with a City representative providing City services;
- 3.The nature and importance of the program, activity or service provided by the City to the LEP population; and
- 4.The resources available to the City and overall costs to provide LEP assistance.

Ms. Eberlein stated different language assistance measures would be taken to assist LEP individuals such as oral translation by City employees who speak Spanish and other languages fluently, utilizing "I Speak" cards which were language identification cards, and written interpretations by translating vital documents into Spanish.

A question and answer period ensued regarding the "I Speak" cards being available to all employees and the census determining the threshold for LEP individuals.

Council Member Applewhite inquired if the 2010 census data was available. Ms. Eberlein responded it was not available at this time but they could make it available once published. Consensus of Council was to move this item forward to the June 13, 2011, meeting.

4.3 Title II Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan Update and Public Forums

Mr. Ron McElrath, Human Relations Director, presented this item. He provided an update and stated the requirements of Title II of the ADA were to designate a coordinator, provide notice of ADA requirements, establish grievance procedures, conduct a self-evaluation, and develop a transition plan. He stated the transition plan was ongoing and provided updates on signage, accessibility, and audio and video modifications. He stated the estimated completion date for the projects would be December 2012 and other modifications could be necessary if problems were identified in the future.

A question and answer period ensued regarding whether the information would be posted online, the possibility of audio crosswalks, and the timeline for updating parks. Mr. McElrath responded the information would be posted online, audio crosswalks had not been suggested but they could look into that, and that they were looking at all parks for compliance.

4.4 Tornado Response "After Action" Briefing

Mr. Benjamin Nichols, Fire Chief, presented this item. He provided an update on the activities taken from the tornado event and an overview of the City's mission in response to the tornado. Discussion ensued regarding FEMA's standard as to whether debris was eligible or ineligible. Mr. Nichols explained a debris contractor and monitor company was hired to ensure all debris was eligible as they did not want any debris to be ineligible.

Mr. Nichols briefly reviewed a timeline of the event and the successes which included interdepartmental cooperation, response implementation, contracting, decision-making, media relations, meeting updates, and identifying the needs of City employees impacted by the tornado. He stated areas for improvement included contracting, internal policies and procedures, internal communication, command and control, training, documentation, and EOC facilities. He provided the following recommendations:

- Ensure all required personnel are NIMS and ICS trained and understand their responsibilities during emergencies and disasters.
- Continue to have departments cooperate, collaborate, and train during annual events.
- Reinstate and support a stand-alone Emergency Manager position.
- Thank public safety, City employees, and citizens for their part in response and ongoing recovery efforts.

Council members expressed appreciation to everyone for all the hard work during and after the recovery from the storm.

Discussion ensued regarding the assistance provided by the military and whether there was a military liaison. Mr. Nichols responded there was a military liaison with the State EOC appointed by the governor and who responded to the governor and coordinated all military access within the state. He explained the state did not have the ability to put a military liaison in every county to coordinate disasters.

A question and answer period ensued regarding making the citizens aware of the practices during disasters. Mr. Nichols responded information was provided at the citizens academy and announcements were made on the radio and TV.

4.5 Unified Development Ordinance (UDO) Update on the Steps to Implement the UDO

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item and stated a public hearing was scheduled for June 27, 2011. She provided an update on the remapping as well as the status of other activities related to implementation of the adopted standards to include text adjustments and the administrative manual.

A question and answer period ensued regarding how the parcels with concerns would be handled at the public hearing. Ms. Hilton suggested that the parcels with concerns be pulled and set aside in order to clear the remaining parcels and perhaps come back with discussion focused on the concerns.

Ms. Hilton briefly reviewed zoning changes examples. She stated an option that Council could consider was directing staff to come back at a future point with a complete study which they could not do at this time. She explained the administrative manual was the last piece and was in the final draft which would be put on the web. She stated they would also set up training sessions with the community.

Mr. Kristoff Bauer, Assistant City Manager, introduced Scott Shuford, the newly hired Chief Development Officer.

4.6 Request from Fayetteville Area Operation Inasmuch to Donate a City-Owned Vacant Lot at 538 Frink Street

Mr. Victor Sharpe, Community Development Director, presented this item and presented background information. He stated the lot at 538 Frink Street was acquired by the City through the Acquisition and Demolition Program and Fayetteville Area Operation Inasmuch (FAOIAM) was requesting donation of the property to their organization. He reviewed the history of the surrounding property and explained that FAOIAM would be moving a modular home with a permanent foundation on the lot that would house five homeless persons, which would be allowed under the current zoning ordinance and UDO. He stated there was concern with the number of transitional housing in the neighborhood as staff had envisioned single-family housing as part of the redevelopment of the area. He stated if Council were to move forward with the donation, staff's recommendation would be that Council allow the City to recapture the funds used to acquire the lot. He reviewed the options available to Council and stated they were looking for guidance from Council.

Discussion ensued regarding the funds used to acquire the lot and the taxes that would be lost if the land were donated. Mr. Sharpe stated another issue would be whether this would be a practice or policy they would be comfortable applying throughout the City. He stated they were sensitive to the needs of the homeless but had concerns with the property as to whether it was in the best interest of the community.

Council Member Crisp inquired if potential builders, developers, or Habitat for Humanity were interested. Mr. Sharpe responded in the negative.

Council Member Crisp suggested a public hearing to hear from the residents in the neighborhood.

Council Member Arp stated they had set a precedent on Frink Street by doing this previously.

Mr. Sharpe explained after the donation was made, he found out the goal was to create a "homeless village". He stated it was his opinion it becomes something different when you group it together compared to developing sporadically throughout a neighborhood.

Discussion ensued and concerns were raised regarding the character of the area to include prostitution, breaking and entering, police calls, and blight.

Council Member Davy inquired of Ms. Sue Byrd, Fayetteville Area Operation Inasmuch, if there was a selection process. Ms. Byrd responded there was a strict criteria on who would go into their homes. She explained it would be someone involved in their programs with a good work ethic. She stated it would look different on Frink Street than what was envisioned of single-family homes. She stated it was different but it would work.

Council Member Crisp inquired of Ms. Byrd if there had been any problems with the residents clashing with the residents on Frink Street. Ms. Byrd responded in the negative. Consensus of Council was to schedule this item for a public hearing on June 27, 2011, to receive public input.

4.7 Proposed Fund Balance Policy

Ms. Lisa Smith, Chief Financial Officer, presented this item and provided an overview of the proposed Fund Balance Policy as follows and responded to questions posed by Council:

Proposed Fund Balance Policy

- Purpose
 - Formalize current practices/goals
 - Meet expectations of bond rating agencies
 - Address Governmental Accounting Standards Board (GASB) Statement 54
- Identified as a best practice by Government Finance Officers Association
- Consistent with value of stewardship and mission principle to be financially sound

GASB Statement 54

- Purpose is to:
 - Enhance usefulness of fund balance information; and
 - Clarify use of governmental fund types (for example, when to use a special revenue fund or capital project fund)
- Fund balance classifications are generally based on resource use restrictions
- Requires identification of policies related to fund balance
- Current fund balance classifications:
 - Reserved
 - Unreserved
 - Designated
 - Undesignated
- New fund balance classifications:
 - Nonrespendable
 - Restricted
 - Committed
 - Assigned
 - Unassigned
- Nonspendable
 - Not in spendable form
 - Amounts legally or contractually required to remain intact
- Restricted
 - Amounts restricted for a specific purpose by external parties
 - Amounts restricted by law through constitutional provisions of enabling legislation
- Committed - Amounts whose use is constrained by limitations imposed by the governing body (City Council) itself
- Assigned - Amounts intended to be used for specific purposes
- Unassigned - Available for any purpose

Restated Fund Balance Presentation for FY 2010

Fund Balances (Current Standard) 2010		Fund Balances (New Standard) 2010:	
Reserved		Nonspendable	
By State Statute	12,805,674	Inventories	
104,678			
For encumbrances	2,597,091	Restricted	
For inventories	104,678	Stabilization by State Statute	
15,402,765			
For downtown	104,316	Downtown	
104,316			
For county recreation	2,273,244	County recreation	

2,273,244		
For JP Riddle Stadium	59,410	JP Riddle Stadium
59,410		
For donations	28,115	Donations
28,115		
Unreserved		
Designated		Assigned
For subsequent year's		Subsequent year's expenditures
2,908,969		
expenditures	2,908,969	
For special purpose	3,558,494	Special purpose
3,558,494		
For special projects	3,424,312	Capital projects
3,424,312		
Undesignated	<u>18,724,275</u>	Unassigned
<u>18,724,275</u>		
Total fund balances	<u>46,588,578</u>	Total fund balances
<u>46,588,578</u>		

Proposed Fund Balance Policy

- Describes new fund balance categories
- Establishes spending order for restricted and unrestricted funds
- States council authority to commit funds
- Delegates authority to assign funds to City Manager
- Formally establishes minimum unassigned fund balance at 10% of the subsequent year's budget

Ms. Smith stated the next steps would be to obtain feedback from Council and submit proposed fund balance policy to Council for consideration at the June 13, 2011, meeting.
 Consensus of Council was to move the item forward to the June 13, 2011, City Council meeting.

5.0 ADJOURNMENT

There being no further business, the meeting adjourned.