

**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
LAFAYETTE ROOM
SEPTEMBER 8, 2015
5:00 P.M.**

Present: Council Members Kathy Jensen (District 1); H. Mitchell Colvin, Jr. (District 3) (arrived at 5:27 p.m.); 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 (District 9) (arrived at 5:13 p.m.)

Absent: Mayor Nat Robertson; Council Member Kady Ann Davy (District 2)

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
Lisa Smith, Chief Financial Officer
Jerry Dietzen, Environmental Services Director
Kevin Arata, Corporate Communications Director
Tracey Broyles, Budget and Evaluation Director
Michael Gibson, Parks, Recreation and Maintenance Director
Elizabeth Somerindyke, Internal Audit Director
Scott Shuford, Development Services Director
Dwayne Campbell, Information Technology Director
Dwight Miller, PWC Chief Financial Officer
Gloria Wrench, PWC Purchasing Manager
Tiffany Brisson, Call Center Manager
Tim Richardson, Alliance Board Chair
Juawana Colbert, Director of Economic Development
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Council Member Hurst called the meeting to order.

2.0 INVOCATION

The invocation was offered by Council Member McDougald.

3.0 APPROVAL OF AGENDA

MOTION: Council Member Mohn moved to approve the agenda.

SECOND: Council Member Wright

VOTE: UNANIMOUS (8-0)

4.0 OTHER ITEMS OF BUSINESS

4.01 Economic Alliance Interlocal Agreement

Ms. Rochelle Small-Toney, Deputy City Manager, introduced Ms. Juawana Colbert, Director of Economic Development, The Alliance.

Ms. Colbert provided an update on recent activities of The Alliance. Mr. Tim Richardson, The Alliance Board Chair, provided an overview of the proposed Board make-up for the Economic Development new entity.

Discussion ensued regarding proposed Board members.

Council Member Mohn stated he did not have an issue with the Board make-up and stated the agenda item is to discuss the Interlocal Agreement, not the proposed Board.

Consensus of Council was to move the Interlocal Agreement forward for further action and to discuss the proposed Board make-up at a later date. Council Member Colvin was not in agreement with the consensus.

4.02 Activities of the Economic and Business Development Department

Ms. Rochelle Small-Toney, Deputy City Manager, presented this item and stated City Council authorized the Department of Economic and Business Development in FY 2015, and within that allocation three positions (Director, Marketing Manager, and Administrative Assistant) were funded for the last six months (January-June) of the fiscal year. The Marketing Manager and Administrative Assistant were hired in March. It was not until the beginning of the last quarter of FY 15 that the department was fully staffed, with the employment of a Director in April. In essence, the department has been operational for five months and for the last two months without a Director. The Department continues to work towards accomplishing City Council's objectives for FY 16. During the past five months of operation, the staff has been very motivated and engaged in top priority areas of the FY 16 Work Plan. The activities of the department has focused on the issuance of an RFP for the development of an Economic and Business Development Strategic Plan, as it was the number one priority of City Council during its most recent retreat. The deadline for submitting proposals is September 10, 2015. We anticipate that the process for developing the strategic plan will begin in January 2016 and a final report to City Council in June 2016. Other departmental activities have focused on the marketing of economic and business development and the City's resources and assistance that are available for local small businesses. A new brand for the department has been developed and will be presented to City Council at the work session. The First Annual Economic and Business Development Forum "Small Businesses-Growing Our Community", is to be held on October 7, 2015, at Fayetteville State University's Student Center. Ms. Small-Toney concluded her presentation by stating we continue to work on the Catalyst Site 1 development with the continued acquisition of property and the development of an RFP for a feasibility study for a minor league baseball stadium and mixed use development, and further stated she anticipates a new director for the department in place by the first of the year.

Consensus of Council was to accept the report.

4.03 Establishment of a Purchasing Office

Ms. Lisa Smith, Chief Financial Officer, presented this item with the aid of a PowerPoint presentation and stated the City formally established a consolidated purchasing office with its Public Works Commission in March 2005. The consolidated purchasing office was tasked with overseeing procurement activities of the City, implementing an electronic requisitions process in the City's financial system, and formalizing the City's requisition and contract administration processes as well as overseeing the procurement activities for the Public Works Commission. In recent years, City Council has expressed a growing interest to focus on local procurement initiatives. In response, the City Manager stated during the budget process that his intent was to re-establish a separate City purchasing office during FY 2016. This office will be responsible for overseeing all procurement activities of the City (excluding the City's PWC), as well as reporting to City Council on local business participation. To proceed with this plan, the City has developed a staffing plan, job descriptions, a proposed timeline and budget. While there will be transitional and start-up costs, it appears that the City's incremental annual cost to operate a separate purchasing function will be less than the current amount charged by the City's PWC. The City Manager's Office sent a notice of termination for the Purchasing Memorandum of Understanding to PWC on June 24, 2015. The effective date will be no later than June 30, 2016.

Council thanked Ms. Smith for the update.

4.04 Selection of Bond Counsel

Ms. Lisa Smith, Chief Financial Officer, presented this item and stated as the City Council considers a future general obligation bond referendum and PWC bond issues, it is necessary to confirm Council's interest in the appointment of bond counsel. After an extensive Request for Qualifications (RFQ) process, City Council selected Womble Carlyle Sandridge & Rice (WCSR) as lead bond counsel in 2007. In an interest to have a local legal firm on the financing team, City Council also selected Rand & Gregory as co-bond counsel at that time. The 2008 utility system revenue bond issue was the first bond transaction that WCSR served as counsel for the City. Since their appointment, WCSR has served as lead or sole bond counsel on one general obligation bond issue and five utility system or storm water revenue bond issues. WCSR has extensive experience serving as a bond counsel firm, they have provided excellent bond counsel services in the past, and the firm is very familiar with the organizational structure of the City and its PWC. As the City Council considers a future bond referendum and a utility system revenue bond issue planned for 2016, it is important to confirm Council's interest in the appointment of bond counsel. Ms. Smith provided the following four proposed options:

1. Retain Womble Carlyle Sandridge & Rice as lead bond counsel and instruct the firm to select a local firm to serve as co-bond counsel or special counsel based on criteria established by Council. Such criteria may include the requirement to select a minority-owned firm with no more than 20 percent share in bond counsel fees. This option would further Council's goal to have more local business participation.
2. Retain Womble Carlyle Sandridge & Rice as lead bond counsel and instruct staff to issue a request for qualifications to local firms to serve as co-bond counsel or special counsel. This option would also further Council's goal to have more local business participation.
3. Retain Womble Carlyle Sandridge & Rice as sole bond counsel and not require co-bond counsel. This method is common across the state.
4. Instruct staff to issue a request for qualifications for bond counsel and provide guidance to staff regarding any requirement for local and/or minority participation.

Discussion ensued.

Consensus of Council was to select Option 2, retain Womble Carlyle Sandridge & Rice as lead bond counsel and instruct staff to issue a request for qualifications to local firms to serve a co-bond counsel or special counsel. This option would also further Council's goal to have more local business participation.

4.05 Signature Authority Designees and E-signature: Ordinance Amendment to Sec. 2-61, Contracts

Mr. Theodore Voorhees, City Manager, presented this item and stated the City Manager's and the City Attorney's Office are working on developing a new policy on General Contracting Practices and Procedure. The purpose of this policy is to (1) designate individuals in certain positions to perform and exercise the City Manager's authority to execute certain contracts or categories of contracts on behalf of the City; and (2) provide general guidelines for City Departments to prepare and execute contracts with persons or entities outside the City in a manner that promotes uniformity, accuracy,

financial integrity and compliance with North Carolina law, the City Code and City policy. The Information Technology (IT) Department, with guidance from the City Attorney's Office is currently working on automating the contract routing process. As part of that initiative, the IT Department, with input from the City Attorney's Office, has recommended that the City utilize e-signatures and/or digital signatures for certain of its contracting with external parties in a manner consistent with North Carolina law. The current language in the ordinance does not speak to e-signatures and/or digital signatures. Currently, the City Manager signs all contracts as described in the Fayetteville City Code under Section 2-61, Contracts. Both not having a list of designees authorized to sign contracts on behalf of the City Manager and the current manual contract routing process have proven to be ineffective, and the routing process very cumbersome. The City Manager's Office with the advice of the City Attorney's Office recommends that City Council adopt the ordinance amendment to authorize signature authority designees to execute contracts within their specified threshold on behalf of the City Manager and to adopt the use of digital and/or e-signatures for City contracts.

Council Member Arp commented this proposal is to extradite contracts so they do not get bogged down.

Council Member Mohn stated he liked the program.

Council Member Wright questioned the use of procurement cards within the organization. Mr. Voorhees responded the City had already instituted new policies and introduced mandatory training for all employees that are issued a procurement card, and stated the City has internal controls that monitor spending; this is a function of our internal audit procedures.

Consensus of Council was to move this item forward.

4.06 Call Center Update

Mr. Jay Reinstein, Assistant City Manager, and Ms. Tiffany Brisson, Call Center Customer Service Supervisor, presented this item with the aid of a PowerPoint presentation. Mr. Reinstein stated the City of Fayetteville relocated their Call Center from Festival Park Plaza to the PWC administration building on December 15, 2014. The objective of the relocation was to take advantage of the core competencies of both organizations, leverage technology, integrate FayWorx software, and increase efficiency by using performance data and ultimately improving the customer experience. City employees and PWC employees support each other when their workload permits. Updates were provided on the following: (1) Call Center statistics (answered calls, abandoned calls, average wait time, average handle time, etc.), (2) FayFixIt statistics, (3) Quality Monitoring Score averages, and (4) Customer Survey Data.

Council thanked Mr. Reinstein and Ms. Brisson for the update.

4.07 Revisions to City Council Terms

Ms. Karen McDonald, City Attorney, presented this item and stated at the August 4, 2015, work session, consensus of Council was to explore four-year staggered terms. N.C.G.S. § 160A-101 authorizes charter amendments such as the term of office of governing body members, the number of governing body members, the mode of election, etc., by ordinance. N.C.G.S. § 160A-102 sets forth the procedure for the amendments as follows:

1. Adoption of Resolution of Intent to consider the change. A public hearing date must be selected within 45 days of the resolution and requires 10 days notice;

2. Publication of the Notice of Public Hearing on the proposed change not less than 10 days prior to the public hearing;
3. Public hearing; and
4. Adoption of an Ordinance amending the charter. Adoption cannot take place any sooner than the next regular meeting after the public hearing but within 60 days of the public hearing. Notice of the adoption must be published within 10 days of adoption.
 - a. The Council could condition adoption of the change on a referendum, which would must take place within 90 days of adoption; or
 - b. The process may also be subject to referendum if 10 percent or 5,000 registered voters, whichever is less, file a petition within 30 days of the publication described in paragraph 4 above. The referendum would have to take place no sooner than 60 days and no more than 120 days from the date the petition is received.

Ms. McDonald further also presented the applicable general statutes and a procedural flow chart.

Council Member Wright stated a four-year staggered term would provide elected officials more time to familiarize and comprehend the many complexities of being an elected official.

Ms. McDonald stated Council would not have the authority to impose term limits.

Council Member Colvin stated with a two-year term, a person is barely in office and then it is time to start campaigning again.

Council Member Crisp stated he is vehemently opposed to increasing the term of office, and stated if an elected official is doing their job, they don't need to worry about re-election, and further stated this is not a decision the City Council should be making; it's a decision for the people.

Council Member Mohn stated the decision could be put before the voters in May of 2016.

Council Member Wright stated the Cumberland County Commissioners and the Public Works Commissioners serve four-year terms. He further stated it is not good to have all ten elected officials running at the same time.

Council Member Arp suggested this item could be tabled until after the November election when the new Council is in place.

Council Member McDougald stated he would like to see the change and allow citizens to vote.

Consensus of Council was to direct the City Attorney to move this item forward with the resolution of intent, public hearing, and ordinance on the condition of a referendum for a four-year staggered term.

4.08 Non-Resident Fees for Recreation and Leisure Services

Mr. Michael Gibson, Parks, Recreation, and Maintenance Manager, presented this item with the aid of a PowerPoint presentation and stated the Fayetteville-Cumberland Parks & Recreation Department began operations as a consolidated department in 2004 in an effort to provide greater services to those within the limits of Cumberland County. Since that time individuals from neighboring counties have taken notice of all that is currently being offered by the department

and desire an opportunity for participation. Non-resident fees have been designed following extensive research into recreation fees in comparable North Carolina cities. These fees will offer a greater opportunity for inclusion to those not currently contributing to the tax base supporting the departments programming. Implementing non-resident fees allows for a more equitable distribution of costs to provide recreational programming that may be enjoyed by both residents as well as non-residents. The use of differential fees to recover a portion of service delivery costs to non-residents is an approach widely used throughout the United States by parks and recreation departments, in both small and large organizations. These fees are utilized to more equitably distribute costs among participants.

Council Member Jensen stated citizens need to pay for services that are being provided.

Council Member Crisp stated the majority of the programming is for children's programs.

Consensus of Council was to direct staff to move this item forward to implement non-resident fees at a rate of 100 percent increase.

4.09 Report on Senate Bill 25 - Zoning and Aesthetic Controls

Mr. Scott Shuford, Development Services Director, presented this item and stated on June 19, 2015, Governor Pat McCrory signed Senate Bill 25 (SB 25) into law. SB 25 addresses zoning ordinances related to design and aesthetic regulations. The law applies to structures subject to the North Carolina Residential Building Code for one- and two-family dwellings. This includes detached single-family homes, attached single-family homes (townhouses), and duplexes. In effect, the law precludes the application of "building design elements" regulations for exterior building color, type or style of exterior cladding material, style or materials of roof structures or porches, exterior nonstructural architectural ornamentation, location of architectural styling windows and doors, including garage doors, the number and types of rooms, and the interior layout of rooms, unless voluntarily consented to by the affected property owner(s). The law is retroactive in nature, affecting existing subdivisions and structures as well as ones which may be constructed in the future. Exempted from the application of SB 25 are historic structures, design features necessitated by life safety code requirements or FEMA requirements, and manufactured housing. This law affects Fayetteville's Unified Development Ordinance (UDO) in some limited, but important ways. First, regarding single-family structures, the design features affected by SB 25 are those primarily intended to address the issue of uniformity of appearance of houses in large subdivisions. As the attached sections of the UDO indicate, these are features that are part of a menu developers can select from to distinguish homes so the "cookie-cutter" effect is avoided. There are a few other features that could be affected by SB 25, such as the cladding of foundations and the requirement of providing at least one window in an attached garage. Second, with regard to duplexes and townhomes, the effects are somewhat more significant, but also include design features intended to avoid the cookie-cutter effect. It is important to note that an apartment building would be fully regulated by our current design requirements, but if that building was a condominium (in a townhouse design), it would be exempt. City staff participated in efforts by the North Carolina League of Municipalities to modify SB 25 to address the perceived "overregulation" concerns, while allowing the preservation of important features of our ordinance (and those of other local governments); however, the legislators were more interested in the suggestions of the State Homebuilders Association and the amendments were not added.

Consensus of Council was to adhere to SB 25.

4.10 Implementing Best Practices by Establishing an Internal Audit Charter and Audit Committee

Ms. Elizabeth Somerindyke, Internal Audit Director, presented this item with the aid of a PowerPoint presentation and stated on September 8, 2014, City Council adopted Budget Ordinance Amendment 2015-2 to implement an enhanced Internal Audit program. Since this time, the Office of Internal Audit has developed the Internal Audit's mission statement, fiscal year 2016 audit plan, performed City-wide internal audits, and assisted the Finance Department during transition. The Institute of Internal Auditor's (IIA) International Standards for the Professional Practice of Internal Auditing (Standards) and the Government Finance Officers Association (GFOA) recommend defining the internal audit activity's purpose, authority, and responsibility in a formal internal audit charter that is approved by the governing body. The internal audit charter is a useful tool for the Council and management when evaluating the internal audit office's performance. The creation of an audit committee is a best practice that will help the governing body and its officials improve public accountability and governance, according to the American Institute of CPAs (AICPA). The audit committee charter will define the purpose, authority, membership composition, meetings, and responsibilities of the audit committee; and will be an effective tool for managing the audit committee's activities. An audit committee is an assurance of financial oversight, as evidenced by cities and counties nationwide that utilize its benefits. Fayetteville citizens, taxpayers, and City Council will have the added assurance of strict financial governance with a strong audit committee influence.

Consensus of Council was to direct the Internal Audit Director to move this item forward to the September 14, 2015, regular City Council meeting agenda, to adopt the item by Resolution.

4.11 Shaw Heights - City Council Agenda Item Request

Council Member Colvin introduced this item and stated he would like for staff to share all information obtained through research and feasibility studies, in order for Council to begin discussion on a strategic plan for this vital MIA area.

Discussion ensued.

Consensus of Council was to direct staff to move this item forward, initiate discussions with appropriate County staff and officials, and explore various options.

4.12 Meeting Audio Recordings - City Council Agenda Item Request

Council Member Mohn introduced this item and stated he was seeking to gain Council approval to have all recordings (audio and video) of open Council meetings uploaded/posted to the City website.

Discussion ensued.

An informal vote was taken to determine whether to move this item forward or not. The informal motion failed by a vote of 4 in favor to 4 in opposition (Council Members Jensen, McDougald, Crisp and Colvin).

Consensus was not provided to move this item forward.

4.13 Key to the City Protocol - City Council Agenda Item Request

Council Member Crisp introduced this item and stated he is seeking Council approval to discuss implementing a policy regarding awarding the Key to the City at the next Council work session, and further stated that currently there is no policy addressing this item.

Consensus of Council was to direct staff to move this item forward and draft a "Key to the City" City Council policy to review and discuss at the October work session.

5.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:38 p.m.