

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
NOVEMBER 9, 2015
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Kathy Jensen (District 1) Kady-Ann Davy (District 2); H. Mitchell Colvin, Jr. (District 3); 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)

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
Kevin Arata, Corporate Communications Director
Scott Shuford, Planning and Code Enforcement Services Director
Michael Gibson, Parks, Recreation and Maintenance Director
Dwayne Campbell, Chief Information Officer
Rob Stone, Engineering and Infrastructure Director
Craig Harmon, Senior Planner
Giselle Rodriguez, City Engineer
Sue Byrd, Executive Director, Fayetteville Area Operation Inasmuch
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Robertson called the meeting to order.

2.0 INVOCATION

The invocation was offered by Pastor Jacob Warren with Veritas Church.

3.0 PLEDGE OF ALLEGIANCE

Mayor Robertson led the Pledge of Allegiance.

4.0 ANNOUNCEMENTS AND RECOGNITION

Mr. Theodore Voorhees, City Manager, announced and introduced Mr. Rob Stone, the newly hired Director of Engineering and Infrastructure. Mr. Voorhees also announced that Mr. Doug Hewett (former Assistant City Manager) has been hired as the new Permitting and Inspections Director.

Mayor Robertson and Fire Chief Ben Major presented a Certificate of Excellence to Mr. Brian Gaskell for his quick thinking and calm demeanor during an incident at Tokay Recreation Center on September 28, 2015, that resulted in him saving a citizens life.

Council Member Jensen presented a Certificate of Recognition to Mr. Dwayne Campbell, Chief Information Officer, and stated cities were selected by a judging panel at the Center for Digital Government as the most strategic, efficient, and innovative guardians of public-sector tech in the nation. The top-ranked cities received an award on November 5, 2015, at the Annual National League of Cities Conference in recognition of their achievements. The City of Fayetteville placed 4th in the 125,000 to 249,999 population division and the top North Carolina City in this category. Judges evaluated the survey

submissions of each city by considering four elements: citizen engagement, policy, operations, and technology and data. Mr. Campbell gave thanks to his Information Technology Department team members.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Mohn moved to approve the agenda.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

6.0 CONSENT AGENDA

MOTION: Council Member Mohn moved to approve the consent agenda.

SECOND: Mayor Pro Tem Davy

VOTE: UNANIMOUS (10-0)

6.01 Approval of Meeting Minutes: October 5, 2015 - Work Session

6.02 Annual transformer contract awarded to Ermco c/o National Transformer Sales, Inc., Raleigh, NC, the lowest responsible bidder, in the total amount of \$1,089,462.00.

Bids were received on September 17, 2015, as follows:

Ermco c/o National Transformer Sales, Raleigh, NC.....	\$1,089,462.00
WESCO, Raleigh, NC.....	\$1,241,968.00
HD Supply, Wake Forest, NC (GE).....	\$1,278,655.00
HD Supply, Wake Forest, NC (Cooper).....	\$1,290,989.00
Stuart C. Irby, Rocky Mount, NC.....	\$1,349,283.00
Wenco, LLC, LaCrescenta, CA.....	\$1,538,273.00
Cheryong Electric, Vienna, VA.....	\$2,241,739.00

6.03 Award contract for Kingsford Closed System Improvements to TA Loving Company in the amount of \$1,891,494.31.

This project consists of, but is not limited to, clearing and grubbing; demolition and removal of existing utilities; and installation of new manholes, reinforced concrete pipe, ductile iron pipe, water and sanitary sewer utilities, asphalt and sod. The project was first advertised for bids to be opened on August 11, 2015; however, only one bid was received. Therefore, in accordance with North Carolina General Statutes, which require three bids in order to open on the first advertisement, the project was re-advertised with bids being due August 25, 2015.

The following bid was received:

TA Loving Company, Goldsboro, NC	\$2,121,549.50
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The bid received was over the City's budgeted amount for this project; therefore, City staff worked with the contractor to negotiate the price to within the City's budgeted amount. The negotiated bid amount is \$1,891,494.31. TA Loving will be utilizing minority subcontractors for 1.1 percent of the work on this project. Upon review of TA Loving's good faith effort documentation, staff has determined that TA Loving did meet the good faith effort requirements of the bid.

6.04 Interlocal Agreement - Eastover Emergency Interconnect

The Fayetteville Public Works Commission, during their meeting of October 28, 2015, approved the Eastover Emergency Interconnect Interlocal Agreement with the Eastover Sanitary District as defined in the Eastover Emergency Interconnect Interlocal Agreement. Per the agreement, the Fayetteville Public Works Commission will install an emergency water interconnection with the Eastover Sanitary District to provide emergency water service to the Eastover District. Eastover will pay the cost of the installation and a monthly fee to cover

ongoing expenses associated with the operations and maintenance of the interconnection.

7.0 PUBLIC FORUM

Mr. Tim Cross, 212 Fairthorne Drive, Leesburg, GA, expressed concerns regarding a rental property he owns that has boarded up windows.

Ms. Linda Miller, 903 Rexsdale Street, Fayetteville, NC, asked Council to vote no to the proposed Operation Inasmuch men's shelter.

Mr. Mark White, 1008 Clarendon Street, Fayetteville, NC, spoke in favor of the proposed men's shelter.

Mrs. Barbara White, 607 Orange Street, Fayetteville, NC, spoke in opposition of the proposed men's shelter.

Mr. Howard Johnson, 505 Hillsboro Street, Fayetteville, NC, spoke in opposition of the proposed men's shelter.

Pastor Artie Odom, (no address given), spoke in opposition of the proposed men's shelter.

Mr. Fred Barber, 325 Hillard Drive, Fayetteville, NC, spoke in opposition of the proposed men's shelter.

Mr. Jose Cardona, 233 Addison Court, Fayetteville, NC, spoke in favor of the proposed Parks and Recreation bond referendum.

Mr. Robert Wilson, 633 Orange Street, Fayetteville, NC, spoke in opposition of the proposed men's shelter.

8.0 PUBLIC HEARINGS

8.01 P15-21F. The issuing of a Special Use Permit for Transitional Housing on a property located at 600 Hillsboro Street, and being the property of Fayetteville Area Operation Inasmuch. (Continued from the Council's August 24, 2015, meeting.)

MOTION: Council Member Arp moved to recuse Mayor Robertson from Item 8.01.

SECOND: Council Member Wright

VOTE: UNANIMOUS (9-0)

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated on August 24, 2015, the City Council held a public hearing regarding this case. Testimony was heard from 24 citizens; 12 in favor and 12 in opposition. The arguments for and against this case centered on the community need for such a facility and the saturation of such facilities in one neighborhood. After much debate, the Council voted to table the public hearing for 90 days. During this time period the Council was to submit a list of questions for which they needed to receive more evidence. Included in the agenda packet is a spreadsheet matrix listing each question with answers from the City staff, St. Luke's AME, and Operation Inasmuch. Also included in the agenda packet are the supporting documents for these answers.

Mr. Harmon stated the two conditions of approval are the site plan and must meet all requirements of the Unified Development Ordinance (UDO). He stated the Special Use Permit must meet the following findings of fact:

1. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;

2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
7. The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
8. The special use complies with all other relevant City, State, and Federal laws and regulations.

Council Member McDougald asked when the Commercial Neighborhood was established. Mr. Harmon responded it was prior to the UDO; at least ten years ago.

Council Member Colvin asked if Mr. Harmon was aware of any other areas in the City that has such a high concentration of transitional homes. Mr. Harmon responded the east side of the Market House, downtown has quite a lot of this type of use.

Council Member Colvin asked if the proposed rezoning would help with revitalization. Ms. Rochelle Small-Toney, Deputy City Manager, responded that homelessness and transitional housing can be a deterrent to people wanting to build homes or apartments and has a negative effect.

Council Member McDougald asked if the City had tried to work with Operation Inasmuch to find an alternative location. Ms. Small-Toney responded staff did meet with representatives from Operation Inasmuch and provided one location on Person Street as an alternative, the offer was recent and there was a lot of information that was not available at the time of the meeting, and therefore too soon to consider.

Council Member Arp asked Mr. Harmon which is more restrictive, operating under the current zoning or under the Special Use Permit. Mr. Harmon responded the Special Use Permit has eight specific standards, and puts more stringency on the property owner.

Council Member Jensen stated neighborhood commercial zoning provides for up to six unrelated persons living in a house. Mr. Harmon stated under neighborhood commercial there is a wide variety of facilities use.

Council Member Wright stated as a pastor he has worked with homeless people in the community for many years, and this Council has made homelessness a priority in this City, and stated he has a problem with staff recommending an approval, and asked what the definition of transitional housing verses homeless shelter is. Ms. Sue Byrd, Executive Director of Fayetteville Area Operation Inasmuch, responded transitional housing is usually determined by 90 days. Operation Inasmuch does not adhere to this guideline. Council Member Wright stated the Council needs to look at the big picture and make the hard decision.

Council Member Crisp asked Mr. Harmon to display the eight findings of fact that the Special Use Permit is required to satisfy. Council Member Crisp asked how many caretakers are planned to be on duty overnight. Ms. Byrd responded they plan for two people to be on duty overnight.

Council Member Colvin asked why it would be so hard to consider another site. Ms. Byrd responded Operation Inasmuch had just spent \$35,000.00 to purchase the property, and the property on Person Street would probably be more expensive and it would be very difficult to monitor another facility that distance away, and transportation would be an issue.

Council Member McDougald questioned Mr. Harmon on law enforcement regarding sex offenders.

MOTION: Council Member McDougald moved to deny the request for a Special Use Permit.

SECOND: Council Member Colvin

Discussion ensued.

VOTE: FAILED by a vote of 3 in favor to 6 in opposition (Council Members Jensen, Davy, Hurst, Crisp, Mohn, and Arp)

MOTION: Council Member McDougald moved to have the applicant work with the Economic Development Department to find a more suitable location for the transitional home before they move any further.

SECOND: Council Member Wright

Council Member Arp asked if the applicant for the Special Use Permit would be interested in that proposal. Ms. Byrd responded her first choice is to locate the shelter where we planned it all along, because it makes sense to put it there, and asked the Council to please make a decision tonight. Council Member Arp stated this is Ms. Byrd's application.

VOTE: FAILED by a vote of 3 in favor to 6 in opposition (Council Members Jensen, Davy, Hurst, Crisp, Mohn, and Arp)

MOTION: Mayor Pro Tem Davy moved to approve the request for a Special Use Permit for the property located at 600 Hillsboro Street, and upon finding that the proposed use meets all eight standards for Special Use Permits.

SECOND: Council Member Hurst

Council Member McDougald stated he did not believe the application met all eight standards, and thinks this is the wrong direction to take.

Mayor Pro Tem Davy stated she respectfully disagrees with Council Member McDougald's statement.

Discussion ensued.

VOTE: PASSED by a vote of 6 in favor to 3 in opposition (Council Members Colvin, McDougald, and Wright)

Mayor Pro Tem Davy recessed the meeting at 9:36 p.m. Mayor Robertson reconvened the meeting at 9:46 p.m.

9.0 OTHER ITEMS OF BUSINESS

9.01 Presentation of Appointment Committee Recommendations for the Board of Directors, Economic Development Corporation, Inc.

Council Member Hurst, Appointment Committee Chair, presented this item and stated the Appointment Committee met on November 4, 2015, to review 21 applications for appointments to the newly created Economic Development Corporation. It is from that meeting the Appointment Committee presents the recommendations for appointments to the Economic Development Corporation Board of Directors as follows: Mr. Bobby Suggs, Jr., to a three-year term and Mr. Andrew Pennink to two-year term.

MOTION: Council Member Hurst moved to appoint Mr. Bobby Suggs, Jr., to a three-year term and Mr. Andrew Pennink to a two-year term.

SECOND: Council Member Crisp

Council Member Colvin thanked the Appointment Committee for their work, and noted that in the spirit of diversity there are no minority applicants recommended for appointment and asked Council Member Hurst to speak to that.

Council Member Hurst stated there were 21 applications, there were no female applicants and no Hispanic applicants, the recommendation for Mr. Suggs and Mr. Pennink was unanimous by the Appointment Committee members that were present, and stated his job as Chair is to recommend the best qualified candidate.

Council Member Hurst suggested the diversity could also come from the Council appointment of a Council member to the Economic Development Corporation Board of Directors.

Council Member Crisp stated all Council members are welcome and invited to attend the Appointment Committee meetings.

Council Member Colvin stated the power of the Council to appoint citizens to boards and commissions is compromised by the Appointment Committee. Council Member Hurst responded all Council members are invited to attend the Appointment Committee meetings and you can voice your opinion at any time.

Council Member Crisp stated he presumed some of the Council did not review the applications, and stated he did his homework, and if Council members are dissatisfied with the Appointment Committee recommendations, you need to come to the meetings and express your desires to the Appointment Committee Chair and himself.

Council Member Colvin asked Council Member Hurst if he would consider a friendly amendment to his motion to vote on each recommended applicant individually. Council Member Hurst accepted the friendly amendment.

FRIENDLY AMENDMENT:

Council Member Colvin made a friendly amendment to vote on the recommended applicants individually under separate motions.

Council Members Hurst and Crisp accepted the friendly amendment and withdrew the original motion.

MOTION: Council Member Hurst moved to appoint Mr. Bobby Suggs, Jr., for a three-year term to the Economic Development Corporation Board of Directors.

SECOND: Council Member Crisp

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Colvin, McDougald, and Wright)

MOTION: Council Member Hurst moved to appoint Mr. Andrew Pennink for a two-year term to the Economic Development Corporation Board of Directors.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

Mayor Robertson stated one Council member needs to be appointed by Council to the Economic Development Corporation Board of Directors and asked which Council members would want to be considered. Council Members Jensen and Wright expressed interest in the appointment.

Council Member Arp recommended Council discuss the appointment of a Council member to a future date.

Consensus of Council was to make the Council member appointment at the November 23, 2015, regular City Council meeting.

9.02 Financing Package Options for Parks Capital Program

Mr. Michael Gibson, Parks, Recreation and Maintenance Director, presented this item with the aid of a PowerPoint presentation and stated the Council has prioritized projects recommended in the Parks & Recreation Capital Program and adopted the Preliminary Findings Resolution as the first step in placing a ballot measure on the March 15, 2016, primary election seeking authorization to issue General Obligation Bonds ("GO Bonds") to support the construction of Parks & Recreation related capital projects. Preliminary Financing Package Options were provided at the November 2, 2015, work session. It is necessary for Council to identify a preferred financial plan and a final capital project list during the Council's November 9, 2015, meeting in order for the ballot measure to stay on schedule. The Fayetteville City Council held a special meeting on October 21, 2015, to discuss a Parks & Recreation Capital Program. The Council directed staff to initiate the process of placing a question before the voters during the March 15, 2016, primary election regarding whether the City should be authorized to issue up to \$45 million in GO Bonds for Parks and Recreation capital investments. The Council adopted the Preliminary Findings Resolution on October 26, 2015. During this special meeting, the Council also ranked a number of proposed capital projects and provided staff direction regarding the creation of alternate financial plans utilizing financing tools including up to \$45 million in GO Bonds. Staff presented four financing plan scenarios to Council during the November 2, 2015, work session. Each scenario consisted of projects ranked by Council and supported by financial plans that called for the issuance of less than \$45 million in GO Bonds. Staff reviewed the presented financial plans in more detail after the presentation to Council on November 2, 2015. It will be necessary for the Council to act this evening to firm up the maximum GO Bond debt authorization amount and identify a project list. The presentation is included in the agenda packets and contains recommended actions for the options presented. There is no budget impact at this time. If voters authorize the Council to issue up to General Obligation Bonds in March, then the Council would have seven years to use that debt capacity. The Council is not required to issue the authorized bonds or to use all of the authorized debt capacity. Any debt issued would have to be repaid and the Council would be obligated to set the City's tax rate sufficient to repay any GO Bonds issued.

Council Member Arp stated when he looks at Scenario 4, it reminds him of the rush to annex west Fayetteville, and it was too big and too fast; we cannot afford another big bang mistake.

Council Member Wright stated he likes Scenario 4A, and stated there is no comparison between annexation and a parks and recreation bond referendum.

Council Member Colvin stated to Council Member Arp to stop the dramatics and stop the games; we are going to let the citizens of this community to decide, we have a very informed citizenry, let us get the package together.

Council Member Crisp stated the big bang was inflicted against 42,000 citizens, the parks and recreation bond is not something that will be inflicted.

Council Member Hurst stated he is in support of Scenario 4, and it will take bold leadership and conviction to move this package forward tonight. The Chamber has unanimously endorsed the Parks and Recreation Bond Package for up to \$45 million.

Council Member McDougald stated we need to let the people speak, and stated he is in favor of Scenario 4A as the best option.

Mayor Pro Tem Davy stated we need to look at this as an investment in our community and expressed support of Scenario 4A to allow the people to vote.

MOTION: Council Member Hurst moved to direct staff to implement the Parks Capital Program Scenario 4A, and to bring forward the actions necessary to seek the authority to issue up to \$35 million in General Obligation debt.

SECOND: Council Member Wright

Council Member Jensen asked for verification that the locations for the facilities had not been set in stone. Mr. Gibson confirmed the statement is correct; we are not voting on locations.

FRIENDLY AMENDMENT:

Council Member Arp made a friendly amendment to consider amending the motion to break it into two parts. One part to support the bond publicly and the second part as a vote for Scenario 4A.

Council Member Hurst deferred the friendly amendment to the City Attorney. Ms. Karen McDonald, City Attorney, stated all we need tonight is the approval of the list of proposed projects and therefore we only need one vote.

Council Member Arp withdrew his request for a friendly amendment.

VOTE: UNANIMOUS (10-0)

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:55 p.m.