

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
COUNCIL CHAMBER  
APRIL 10, 2017  
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Katherine K. Jensen (District 1); Kirk deViere (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, Jr. (District 9)

Others Present: Douglas Hewett, City Manager  
Karen McDonald, City Attorney  
Kristoff Bauer, Deputy City Manager  
Jay Reinstein, Assistant City Manager  
Cheryl Spivey, Chief Financial Officer  
Tracey Broyles, Budget and Evaluation Director  
Scott Shuford, Planning and Code Enforcement Director  
Victor Sharpe, Community Development Director  
Kecia Parker, Real Estate Manager  
David Nash, Senior Planner  
Rob Stone, Engineering and Infrastructure Director  
Michael Gibson, Parks, Recreation and Maintenance Director  
Michael Petti, Assistant Police Chief  
Craig Harmon, Senior Planner  
Randy Hume, Transit Director  
Mark Brown, PWC Customer Relations  
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 Renee Elder, Veterans Empowering Veterans

**3.0 PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the American Flag was led by Mayor Robertson and City Council.

**4.0 ANNOUNCEMENTS AND RECOGNITION**

Council Member Hurst announced 683 volunteered for the annual Fayetteville Beautiful clean-up event, and picked up 12,177 pounds of trash.

Council Member Hurst introduced Miss Fayetteville, Crystal Byrd, and Miss Outstanding Teen, Christin Oliver. Ms. Byrd and Ms. Oliver gave an overview of their respective platforms.

Mr. Jay Reinstein, Assistant City Manager, announced the City has received \$1.2 million in grant funds from the Gold Leaf Foundation to provide relief for projects related to Hurricane Matthew recovery efforts.

Ms. Giselle Rodriguez, City Engineer, introduced Mr. Mike Wayts, Project Engineer, Freeze and Nichols. Mr. Wayts with the aid of a PowerPoint presentation, provided an overview and update of the roadway repairs on Offing Drive, North Cool Spring Street, and Shawcroft Road.

Mayor Robertson presented a proclamation to Mr. Tim O'Loane, Cape Fear Valley Scottish Clans, proclaiming April 6, 2017, to be Tartan Day.

Council Member Jensen introduced and welcomed Ms. Preia Shaw of the Fayetteville Cumberland Youth Council. Ms. Shaw stated it is an honor to attend the City Council meeting.

## **5.0 APPROVAL OF AGENDA**

**MOTION:** Council Member Arp moved to approve the agenda with the removal of Items 6.02 and 6.05.  
**SECOND:** Mayor Pro Tem Colvin  
**VOTE:** UNANIMOUS (10-0)

## **6.0 CONSENT**

**MOTION:** Council Member McDougald moved to approve the consent agenda, with the exception of Item 6.06; pulled to move the item to the May 1, 2017, City Council work session agenda.  
**SECOND:** Council Member Wright  
**VOTE:** PASSED by a vote of 9 in favor to 1 in opposition (Council Member Hurst)

**6.01 Approval of Meeting Minutes:**  
February 27, 2017 - Regular  
March 6, 2017 - Work Session  
March 13, 2017 - Regular  
March 22, 2017 - Agenda Briefing

**6.02 Acceptance of Arts Commission Recommendation and Approval of Contract for Public Art at the FAST Transit Center**

This item was removed from the agenda by Council Member Arp.

**6.03 Resolution to Set Public Hearing to Consider Closing a Portion of Maiden Lane**

**A RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF MAIDEN LANE. RESOLUTION NO. R2017-019**

**6.04 Adopt a Resolution Declaring Jointly-Owned Real Property Surplus and Authorizing a Quitclaim Deed of the City's Title to the County in Order to Expedite the Sale of Land by Cumberland County**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO DECLARE CITY PROPERTY EXCESS AND QUITCLAIM CITY'S INTEREST IN JOINTLY-HELD PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2017-020**

**6.05 Call for Public Hearing on Limited Obligation Bonds to Finance a Baseball Stadium and Entertainment Venue**

This item was removed from the agenda by Council Member Arp.

**6.06 Approval of acquisition strategy for Catalyst Site 1.**

This item was pulled from the agenda by Council Member McDougald to be placed on the May 1, 2017, City Council work session agenda.

## **7.0 PUBLIC FORUM**

Mr. Ralph Huff, 606 Forest Lake Road, Fayetteville, NC, spoke in favor of Vision 2026.

Mr. John McCauley, 2054 Middle Road, Eastover, NC, spoke in favor of Vision 2026.

Mr. John Lee, 313 Reid Court, Fayetteville, NC, requested assistance from the City to repair Loch Lomond Dam.

Mr. Chris Williams, 1528 Paisley Avenue, Fayetteville, NC, stated he is representing the Aaron Lakes Homeowners Association and requested assistance from the City for the repair of Aaron Lake Dam.

Mr. Robert Walls, 1436 Valencia Drive, Fayetteville, NC, made comments of the quality of life in the City of Fayetteville.

Mr. Jerry Reinoehl, 516 Deerpath Drive, Fayetteville, NC, spoke in favor of House Bill 64 regarding even year municipal elections.

Mr. Ernest J. Darden, 1653 McArthur Road, Fayetteville, NC, spoke in opposition of the inclusion of Eureka Springs in the Extraterritorial Jurisdiction (ETJ) Resolution pertaining to the annexation of Shaw Heights.

Mr. Charles Mathews, 3618 Tindall Court, Fayetteville, NC, stated the City is responsible for the Roses Lake Dam.

## **8.0 PUBLIC HEARINGS**

### **8.01 Transit Service Change - Route 11 Reduction**

Mr. Randy Hume, Transit Director, presented this item with the aid of a PowerPoint presentation and stated in 2014, Fayetteville State University (FSU) and the City of Fayetteville Transit Department developed a partnership, whereby FSU students are issued semester passes to ride all FAST fixed route buses without further fare payment. In exchange FSU provided funding to support a new route providing direct service to Cross Creek Mall and to the Ramsey Street retail corridor. The route (#11) enabled FAST to introduce service along the Country Club Drive-Pamalee Drive corridor. In the past, FSU contracted for a van service to transport students on specified days to various retail locations around the City. The van service was limited in terms of hours and capacity. The new agreement took effect in January 2015. In FY 2017, FSU will pay the City \$148,000.00 to support Route 11. That amount was scheduled to increase to \$152,000.00 in FY 2018. FSU contacted Transit staff to find ways to reduce their cost of the program due to budget constraints. Staff provided FSU Administration some options to reduce the cost. FSU has selected an option that would reduce service on Route 11 but maintain the overall pass program. This reduction would eliminate service from approximately 6:30 a.m. to 2:53 p.m. Service during that period operates with one bus on a two-hour interval. After 2:53 p.m. the route operates with two buses at 60-minute frequency and ridership more than triples in the afternoons with the added frequency with 65 percent of Route 11's ridership occurring after 3:00 p.m. Without additional funding sources to offset the approximate \$50,000.00 cutback by FSU, Transit must reduce the service to balance its budget. A service reduction of this magnitude requires a public hearing. A notice of public hearing was published on March 31, 2017. Two public meetings to gather citizen feedback were held on April 4 and April 6, 2017. The meeting notice is included in the agenda packet.

Following the public hearing, if Council approves the reduction, the change would take effect in June, in conjunction with the service changes for the new Transit Center. The reduction in service will impact other transit customers in addition to FSU students. FAST would have no service along Pamalee Drive from Murchison Road to Bragg Boulevard prior to 2:53 p.m. each day. On average Route 11 provides 47 passenger trips per day prior to 3:00 p.m. Almost 90 percent of these trips are non-student riders. Some of these will be able to access service on other routes serving Murchison Road and Bragg Boulevard. Current revenues are not sufficient to absorb the loss of revenue from FSU. The reduced service level will reduce Transit's operating costs to offset the lost revenue.

Council Member McDougald asked if there is a way of re-routing the service or reduce the route distance, and go from FSU to the mall and not Ramsey Street. Mr. Hume responded he had discussed with FSU officials and this was the option they had selected.

Council Member Crisp stated in order to continue the route as is, we need approximately \$50,000.00; this is about servicing the public, we need to take care of these students attending our university and the other residents utilizing this service.

This is the advertised public hearing set for this date and time, the public hearing was opened.

Mr. Elliott Jackson, 2305 Tate Drive, Charlotte, NC, appeared in opposition and stated he is the President of the Student Body of Fayetteville State University and expressed concerns from students regarding the proposed reduction of Route 11 bus services. Mr. Jackson requested Council keep Route 11 operational as is.

There being no one further to speak, the public hearing was closed.

Council Member McDougald stated there is a need, and well expressed by Mr. Jackson, the route needs to continue as is.

Council Member Crisp stated this is a necessary task; to carve out \$50,000.00 for this service. People of moderate income that are dependent on the bus, need us.

Discussion ensued.

**MOTION: Council Member McDougald moved to identify funds in Fiscal Year 2018 budget to keep Route 11 service in place.**

**SECOND: Council Member Wright**

**VOTE: UNANIMOUS (10-0)**

Mayor Robertson recessed the meeting at 8:15 p.m. Mayor Robertson reconvened the meeting at 8:29 p.m.

## **9.0 OTHER ITEMS OF BUSINESS**

### **9.01 City Dam Policy Revision**

Mr. Kristoff Bauer, Deputy City Manager, presented this item with the aid of a PowerPoint presentation and stated Hurricane Matthew resulted in unprecedented flooding in the City. Four dams supporting City streets were damaged, including Greenock Avenue (Arran Lake Dam), McFadyen Drive (Devonwood Lower Dam), Mirror Lake Drive (Mirror Lake Dam), and Siple Avenue (Rayconda Upper Dam). Current City policy (provided in the agenda packet) directs that the City will reconstruct the roadway but will not repair the dam. That policy was followed when Siple Avenue was reconstructed without repairing the dam it used to cross.

The current policy will allow the City to reconstruct a dam only if the property owners take responsibility for 90 percent of the costs in excess of that for repairing the roadway alone. It also offers a loan program that has never been used, does not provide sufficient funding to cover anticipated costs, and has not been funded for a number of years. The current policy also does not address how the availability of federal reimbursement or other grant funds would impact the City's participation in dam repairs. At a minimum, the financial tool identified in the current policy must be revised. At the January 3, 2017, City Council work session, staff briefed Council regarding this policy and its application to the roads, dams, and lakes damaged by Hurricane Matthew. Staff had received and continues to receive inquiries from impacted neighborhoods regarding what role the City will play in addressing this issue. Staff sought policy clarity in advance of those discussions. The Council directed staff

to prepare a revised draft of the policy for further consideration. At the February 6, 2017, City Council work session, staff provided the Council a revised policy that focused on the use of Municipal Service Districts to fund unreimbursed repair and ongoing maintenance costs. The issues prompting the proposed revisions include:

- Clarifying the process for forming an MSD;
- Addressing how potential supplemental funding should be utilized; and
- Removing references to a loan program.

Additional issues presented to Council for consideration included:

- How the policy may apply to dams that do not have a City street over them; and
- Potential requirements regarding the conversion of private lakes to public amenities.

Council discussion raised a number of issues, but no consensus regarding a policy revision was achieved. Some of those issues included FEMA and other reimbursement funding, City financing capacity and methodology, and information regarding private facilities. Staff performed additional research regarding the City's financial options. The City's Bond Counsel, Paul Billow, provided an analysis. He finds that assessments are the only financeable method of seeking contribution from benefitted property owners. He also discusses the limitation resulting from constitutional "public purpose" restriction on the use of public funds. Staff also clarified that no private facilities, roads, dams, lakes, etc., had been assessed. No estimates of damage or repair costs are available as a result. During the March 6, 2017, work session, Mr. Tim LaBounty, Department of Environmental Quality (DEQ) Regional Engineer, provided a brief presentation of their Dam Safety program and responded to questions from Council. In regards to FEMA reimbursement, the information received to date indicates that the repair of the two dams that are owned and have been maintained by the City (Mirror Lake and Devonwood) should be a project eligible for 75 percent FEMA and 25 percent state reimbursement. There is no greater uncertainty regarding this funding than other repair project reimbursement requests. Staff presented the revised Council Policy 125.1, Drainage, Lakes and Dams. After discussion, Council consensus was to repeal the existing policy and replace it with the revised version. While working to respond to questions, in the absence of clear policy direction, staff has not proactively engaged the impacted neighborhoods. In addition, no progress is being made on project design, permitting, or construction. Replacement of a dam structure under the best conditions can take 18 to 24 months due to the additional scrutiny these structures receive during the permitting and construction processes. The only "public purpose" recommended by the Bond Counsel as applicable is to enhance water quality and reduce floods, that is stormwater and drainage management. A lake designed for this purpose operates differently from an amenity lake and significant design and land acquisition tasks will need to be completed. Community expectations will also need to be revised to recognize that the new lake must now have settlement basins and a lower water level in order to allow for storage during storm events.

Staff has provided assessments and funding information regarding the dam or lake projects that impacted City streets. There are dams and lakes that have been damaged that are private and have not been assessed. There are also dams that are at risk; that is, they have been identified as "high hazard" and maintenance or repair has been ordered by the state. Finally, there are dams that have been breached in the past with adjacent property owners who would like those dams to be rebuilt and the lakes restored.

Mayor Robertson asked if this policy would prevent the City from being eligible for state funding such as the rainy day fund. Mr. Bauer responded the proposed policy would not prohibit eligibility for state funding.

Discussion ensued.

**MOTION:** Council Member Arp moved to rescind the current dam policy and adopt the proposed draft policy.

**SECOND:** Council Member McDougald

**VOTE:** UNANIMOUS (10-0)

#### **9.02 Proposed Resolution for the Legislative Annexation of Shaw Heights**

Mr. Jay Reinstein, Assistant City Manager, presented this item and stated at the March 27, 2017, City Council meeting Mayor Robertson appointed three Council members to form a committee to work with staff to craft the final wording of the Council Shaw Heights resolution. Mayor Robertson stated the Shaw Heights committee will be comprised of Council Member Mohn (Chair), Mayor Pro Tem Colvin, and Council Member Crisp. The first meeting of the Shaw Heights Committee was held on April 5, 2017. The draft resolution was provided to City Council on April 8, 2017, to be considered for adoption this evening. The bill's sponsor, State Representative Elmer Floyd, has asked for City Council input on the bill revision before it moves any further in the House.

Council Member Mohn thanked Mayor Pro Tem Colvin and Council Member Crisp and staff for their collective hard and collaborative work on this project. Council Member Mohn read the draft resolution in its entirety.

Council Member Crisp stated he has always been opposed to forced annexation, but thinks he has a responsibility to yield to the consensus when there is a clear majority of Council members in favor of this; I am prepared to support this item.

Mayor Pro Tem Colvin thanked Council Member Mohn for his long-term commitment working on the Shaw Heights project. My support of this is to not spot fix, and the ETJ is a nice compromise; good job.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO SUPPORT AND ADVOCATE FOR PASSAGE OF SPECIAL LEGISLATION BY THE NORTH CAROLINA GENERAL ASSEMBLY TO PROVIDE THE CITY OF FAYETTEVILLE EXTRATERRITORIAL JURISDICTION (ETJ) AUTHORITY AND THEN ANNEX SHAW HEIGHTS. RESOLUTION NO. R2017-021**

**MOTION:** Council Member Mohn moved to adopt the resolution supporting the Shaw Heights legislative annexation.

**SECOND:** Mayor Pro Tem Colvin

**VOTE:** PASSED by a vote of 7 in favor to 3 in opposition (Council Members Robertson, Jensen, and Arp)

#### **11.0 ADJOURNMENT**

There being no further business, the meeting adjourned at 8:53 p.m.