

**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
COUNCIL CHAMBER
AUGUST 7, 2017
5:00 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 (District 9)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Jay Reinstein, Assistant City Manager
Bob Morgan, Interim Special Projects Manager
Rob Stone, Engineering and Infrastructure Director
Kevin Arata, Corporate Communications Director
Cheryl Spivey, Chief Financial Officer
Kim Toon, Purchasing Manager
Giselle Rodriguez, City Engineer
Victor Sharpe, Community Development Director
Barbara Hill, Human Resource Development Director
Rebecca Rogers-Carter, Strategic Performance Analytics Director
Ben Major, Fire Chief
Michael Gibson, Parks, Recreation and Maintenance Director
Elmer Floyd, NC State Representative
Adam Svolto, Deputy Director for Policy, NC Justice Center
Norma Houston, UNC School of Government
Rick Benton, Recovery Liaison Officer, Governor's Office
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Robertson called the meeting to order, and announced the meeting would relocate to the Council Chamber due to the number of citizens attending the meeting. Mayor Robertson recessed the meeting at 5:02 p.m. Mayor Robertson reconvened the meeting in the Council Chamber at 5:07 p.m.

2.0 INVOCATION

The invocation was offered by Council Member McDougald

3.0 APPROVAL OF AGENDA

MOTION: Mayor Pro Tem Colvin moved to approve the agenda.
SECOND: Council Member Arp
VOTE: UNANIMOUS (10-0)

4.0 OTHER ITEMS OF BUSINESS

4.01 Pathways for Prosperity Update

Mr. Jay Reinstein, Assistant City Manager, introduced Mr. Adam Svolto, Deputy Director for Policy, NC Justice Center. Mr. Svolto presented this item and stated the Pathways for Prosperity (P4P) process will require the assembly of a Community Revitalization Task Force (CRTF). He advised the members of this task force should include neighborhood associations, churches, nonprofit service organizations, elected officials, military personnel, and permanent City and County

staff. P4P's objective is to address poverty in economically distressed neighborhoods. The City of Fayetteville plans to demonstrate how a local community can use neighborhood task forces to align systems, enact policies, and leverage public and private investments to reduce poverty. The P4P Summit will bring together residents, nonprofit organizations, advocacy groups, faith communities, government partners, academics, and individuals with lived experience of poverty to learn and collaborate about solutions to reduce generational poverty in our community. City Council at their February Strategic Plan retreat identified Poverty Reduction, now referred to as Pathways for Prosperity, as a Target for Action in FY 18. Included in the City Manager's Office departmental FY 18 budget request is an additional \$10,000.00 for the Pathways to Prosperity Summit to be held in November. There will be several challenges for the P4P initiative and City staff to work through, including helping the community understand poverty as everyone's issue, moving community-based organizations out of their silos to increase synergy, communicating frequently and openly with the public on progress against goals, leaning into issues of race and inequity, and ensuring the process is informed by input from directly impacted individuals.

Council Member Hurst asked if Cumberland County had committed any funding towards this project. Mr. Svolto responded the County had not committed any funding, but they are likely to offer the Social Services conference room for the summit venue.

Council Member McDougald asked when the summit will be held. Mr. Svolto responded the summit will be held on November 18, 2017.

Mayor Pro Tem Colvin asked if the program was statewide. Mr. Svolto responded Pathways to Prosperity is working in nine different communities across the State.

Council Member Arp cautioned we need to be careful to not double dipping on the taxpayers of the City of Fayetteville and pay for services that are County-supported services.

Mayor Pro Tem Colvin stated we have a community problem, and we need to be mindful of the problem.

Council Member Wright stressed the importance of the program, and stated we need to grab this thing by the horns and run with it.

Further discussion ensued.

No Consensus provided.

4.02 Strategy for Supporting Small Local Business Enterprises

Mr. Douglas Hewett, City Manager, introduced this item and stated the City Council has taken several actions to increase the number of City contracts with small local businesses. On June 28, 2017, the General Assembly adopted House Bill 198 guided through the legislature by Senator Ben Clark and the rest of our State delegation. The City administration has put together a single strategy to support small local businesses combining the Council's actions to date to be in compliance with State Law. The City aspires to spend 40 percent of eligible contract dollars with small local businesses. The challenge is that local governments can only do those things the legislature specifies it can do. The City is required to award contracts to the lowest, responsible, and responsive bidder. House Bill 198 does allow the City to establish bid and proposal specifications that include contracting goals and good-faith effort requirements to enhance participation of small local businesses in Cumberland and Hoke Counties. The City has the authority to refuse to award a contract to a bidder if it determines the bidder has failed to comply with the small business enterprise program requirements of House Bill 198. The City would then award the contract to the next lowest, responsible and responsive bidder if they met the requirements of the small business

enterprise program. The strategy would implement the City's approach to supporting small local business enterprises. It also establishes the goal of 10 percent for construction and repair contract dollars going to small local businesses. The City would also comply with State procurement statutes relative to minority, disadvantaged, and historically underutilized businesses. The City Purchasing Division will track dollars spent by the following business categories: local, local small, local disadvantage, and local veteran. A report will be submitted twice a year to inform Council on progress in an effort to meet the 40 percent threshold by these categories.

Mr. Hewett introduced Professor Norma Houston, UNC School of Government. Professor Houston presented "Local Preferences in Public Contracting: Legal Limitations and HB 198" with the aid of a PowerPoint presentation. The presentation consisted of basic public contracting principals, State law requirements, House Bill 198, and limitations. At the conclusion of the presentation, a question and answer session ensued.

Mayor and Council thanked Ms. Houston for her presentation. No consensus was provided.

4.03 Discussion of the contract for Enhanced Services for the Arts and Entertainment Focused Downtown Municipal Service District with Cool Spring Downtown District Incorporated.

Mr. Victor Sharpe, Community Development Director, introduced this item and stated on June 26, 2017, City Council approved the contract award with Cool Spring Downtown District, Inc., to provide enhanced services for an arts and entertainment focused Downtown Municipal Service District. The Council asked for a review of the contract prior to contract execution. The proposed contract and performance metrics are included in the agenda packet. The enhanced services for an arts and entertainment focused Downtown Municipal Service District contains the following five service elements: economic vitality and development, art and design enhancements, promotion and marketing, special events and programming; and partnership, organizational support and conflict resolution. Changes in the State statutes invalidated the City's contract with the Downtown Alliance as the managing organization of the City's Downtown Municipal Service District. In an effort to comply with the new rules, the City solicited Requests for Proposals (RFPs) seeking qualified agencies to contract for enhanced services in the arts and entertainment focused Downtown Municipal Service District. Cool Spring Downtown District, Inc., was selected to provide these services. The first year of the contract will cover an 11-month period beginning in August 2017. The contract language allows for renewal for an additional year for a period of two years contingent upon the availability of funds. The budget impact is \$219,000.00 from the Municipal Service District (MSD) Fund and the General Fund is budgeted.

Mr. Sharpe introduced Mr. Mark Regensburger, President/CEO of Cool Spring Downtown District, Inc. Mr. Regensburger stated today is his fourth day in this position. Mr. Regensburger stated the Cool Spring Board wants to be a facilitator of collaboration, and wants to bring voices to the table that have not typically been heard in the downtown district. A question and answer session ensued.

Council Member Jensen asked if Council does not approve the contract, would the City still have a seat on the Board. Mr. Douglas Hewett, City Manager, responded the contract was authorized at the June 26, 2017, meeting with the direction to bring it back with the matrix. The two items were to authorize the contract for the enhanced services and authorize the money to support the Arts and Entertainment District.

Mayor Robertson stated we did not authorize the contract. Mr. Hewett responded the Request for Proposal (RFP) was approved.

Council Member Arp stated he objects to the City of Fayetteville being the only funding source.

Council Member Jensen stated these things need to be done, as they are both great projects, but the City residents cannot handle these projects by themselves.

Mr. Hewett stated the motion and vote from the June 26, 2017, meeting was as follows:

MOTION: Council Member deViere moved to approve the contract award to Cool Spring Downtown District, Inc., for Enhanced Services for the Arts and Entertainment Focused Downtown Municipal Service District in the amount of \$119,500.00 from the Municipal Service District funds and approve \$100,000.00 from the General Fund to provide enhanced services. The total contract award would be \$219,500.00.

SECOND: Council Member Crisp

FRIENDLY AMENDMENT:

Mayor Robertson made a friendly amendment that the motion include directing the City Manager to bring the draft contract back to Council for review and final approval at the August 7, 2017, City Council work session.

Discussion ensued.

MOTION: Council Member Mohn moved to suspend the rules for this one single item on the agenda.

SECOND: Council Member McDougald

Council Member Crisp stated he objects to suspending the rules and Council should take the formal action on August 14, 2017, when the meeting is televised.

Mayor Pro Tem Colvin stated he would feel more comfortable voting on August 14, 2017.

Council Member Mohn withdrew his motion.

Consensus of Council was to direct staff to place this item on the August 14, 2017, regular meeting agenda as an Other Item of Business item (not consent).

4.04 Discussion and update on the Community Development Block Grant - Disaster Recovery Funds

Mr. Victor Sharpe, Community Development Director, presented this item and stated Governor Cooper announced additional Hurricane Matthew recovery funding through the CDBG-DR (Disaster Recovery) program for Cumberland County in the amount of approximately \$35 million. These funds are a part of the \$198 million received by the State of North Carolina. Eligible Cumberland County residents who were directly impacted by the hurricane will have an opportunity to apply for assistance from a variety of Housing Recovery Programs. Administrative costs may be available to support the process of administering the grant. The proposed projects are consistent with the City's Consolidated Plan which includes providing decent affordable housing and in meeting HUD's national objectives of the Community Development Block Grant Program. The CDBG-DR program does not require a match. The City is requesting \$23,367,500.00 to implement its activities. The Cumberland County/City of Fayetteville CDBG-DR proposal is included in the packet. Mr. Sharpe introduced Mr. Rick Benton, Recovery Liaison Officer, Governor's Office. Mayor Robertson welcomed Mr. Benton, and thanked him for his assistance.

Discussion ensued regarding hiring a consultant to oversee the administration of the program, identifying gaps, and folks falling through the cracks, homeless shelter, private dams and property values, and affordable housing.

No Consensus provided.

4.05 Red Light Camera Fees

Ms. Karen McDonald, City Attorney, presented this item and stated Representative Elmer Floyd has requested that the City Council reconsider the \$100.00 late fee for failure to pay the civil penalty or to file an appeal within 30 days after notification of a red light camera violation. Session Law 2014-84 was ratified July 25, 2014. This law amended the civil penalty for a red light camera violation from \$75.00 to \$100.00 to become effective July 1, 2015. Council adopted Ordinance No. S2015-003 on March 23, 2015, increasing the civil penalty for a red light camera violation from \$50.00 to \$100.00, with an additional penalty of \$100.00 for failure to pay the civil penalty or to file an appeal within 30 days after notification of a violation. Article IX of the North Carolina Constitution requires that clear proceeds of all penalties and forfeitures and all fines be remitted to the school board. Clear proceeds has been codified in state statute to be an amount that does not exceed 10 percent of the civil penalty assessed. Thus, all the money collected minus the 10 percent is remitted to the school board.

Council Member Mohn stated he is amenable to reducing the \$100.00 late fee.

Council Member Jensen recommended a 45-day timeframe to pay the violation penalty, before a late fee is applied.

Council Member Arp stated the goal of the ordinance is for safety; to reduce T-bone accidents, and questioned the cost of an accident; monetary amount of damage to vehicles, medical costs for injured parties, public safety costs, etc.

Council Member Wright stated it is outrageous to charge \$100.00 for a late fee penalty; the late fee is overkill.

Mayor Pro Tem Colvin said he would like consensus to look at fees charged by other cities.

Representative Floyd thanked the Council for taking this item up for discussion and stated the legislation was put in place for safety reasons, and please bear in mind that not all citizens have the same means.

Discussion ensued.

Consensus of Council was to move this item to a future work session (date not specified) for further discussion on the maximum late fee, and directed staff to have information from peer cities regarding red light camera fees.

4.06 City Street Maintenance Program

Mr. Rob Stone, Engineering and Infrastructure Director, presented this item with the aid of a PowerPoint presentation and stated the Council requested information related to the maintenance of City-maintained streets and how streets are prioritized for resurfacing. All City streets are rated every three years and the street resurfacing prioritization is developed based on those ratings. Staff will present the current process and contrast with industry standards making recommendations for program changes for Council consideration. Currently City streets are prioritize for resurfacing based on the pavement rating treating the lowest rated streets first. This practice has developed based on past political feedback indicating that the

only acceptable maintenance method is a full overlay. This is not the recommended industry best practice and means that only the lowest rated streets receive treatment and, since overlay is the most expensive maintenance method, results in the least lane miles receiving maintenance of any alternative. Providing preventive maintenance utilizing lower cost treatments such as cape seals and crack sealing, at the appropriate time in a pavement's lifespan can double the expected life of pavement, and offers the opportunity to improve the average quality of City streets within existing resources. The City's current street maintenance policy is to only resurface the streets with the lowest rated pavements. This is not the current industry best practice and by using various lower cost, preventative maintenance processes, the life expectancy of the streets can be doubled, and the street maintenance budget will be utilized more effectively. The budget impact will increase the average pavement rating of City streets and utilize funding more effectively.

Brief discussion ensued.

Council thanked Mr. Stone for the update.

4.07 Update of Fire Department Diversity Efforts

Mr. Ben Major, Fire Chief, presented this item and stated the Fire/Emergency Management Department continues to develop strategic plans to improve diversity within the department through the recruitment and retention of minority and female firefighters. The Fire/Emergency Management Department historically has recognized the lack of sufficient numbers of minority and women within its ranks of firefighters. Various strategies have been employed, to include introducing measures to help increase the number of minority and female applicants received during recruitment periods, identifying and adjusting the components of the recruitment and hiring process to address barriers that hinder minorities and women from successfully competing for positions and the continuous review and evaluation of recruitment processes. In spite of implement changes in components of the recruiting process, the Fire/Emergency Management Department continues to face challenges in improving diversity within the organization. Measures to be taken to assist the department in increasing the diversity of its workforce will include employing a consultant to assist with the development of a strategic plan to improve the diversity and retention of minority firefighters (and police officers). An RFQ has been made available with a request for responses due on August 18, 2017. The Fire Department is planning on hosting a symposium on recruiting for diversity. The symposium will include speakers discussing best practices and what have worked well for other municipal departments and organizations. There have been continued conversations with partner agencies (FTCC, CCS, etc.) to assist in process development conducive to the recruitment of minorities and females.

A question and answer period and discussion ensued.

No consensus was provided.

4.08 Personnel Ordinance Proposed Revision

Ms. Barbara Hill, Human Resource Development Director, presented this item and stated the City of Fayetteville's present Personnel Ordinance, Chapter 19, is outdated and difficult for employees to understand. The Employee Handbook required updates and most of our existing policies were antiquated. An Employee Relations Manual has been developed, replacing the Employee Handbook and antiquated policies, resulting in a Manual easier for employees to understand while making information current and user friendly. The current ordinance speaks to details covered in federal and state law as well as the new manual. To facilitate remaining current with changing employment laws and practices, we ask that Council approve the proposed ordinance which regulates City of Fayetteville employment at

a higher level. There is no budget impact involved in approval of the modifications to the Personnel Ordinance.

Council Member McDougald stated he had read through the two documents, but for the betterment of the employees we need thorough time to look at it and compare, and we have not had adequate time to review it, and recommended we establish a committee to review this and make sure the employee is being taken care of.

Council Member Mohn asked if Council could be provided with the redlined mark-up copy that would illustrate exactly what changes were made.

Mayor Robertson asked if we could send this item to the Personnel Review Board, and suggested Council Member McDougald and all Council members could attend, if they have an interest.

Mr. Douglas Hewett, City Manager, stated staff will report back to Council no later than August 11, 2017, to confirm if the Personnel Review Board are permitted to review this item.

Council Member Crisp stated he understands the Personnel Review Board's primary function is to review post dismissal appeals.

Ms. Karen McDonald, City Attorney, stated she believes it is permissible for the Personnel Review Board to review this item.

Council consensus was to direct staff to provide them with the redlined version that shows all the changes that have been made to the ordinance. The City Manager will inform Council by August 11, 2017, if it is permissible for the Personnel Review Board to be tasked with review of the proposed ordinance.

4.09 City Council Member Agenda Item Request - Employee Evaluation Timeline - Council Member Mohn

Council Member Mohn presented this item and reviewed the process for evaluating the City Manager and City Attorney. Council Member Mohn volunteered to collect all of the evaluations via hard copy and to consolidate the comments without sending this information out on e--mail.

Consensus of Council was to approve Council Member Mohn's recommendation; City Manager and City Attorney self-evaluations are due to City Council no later than August 21, 2017. Council to review and provide individual evaluations to Council Member Mohn, August 21-31, 2017. City Manager and City Attorney evaluations to be scheduled early September 2017.

4.010 City Council Member Agenda Item Request- Discussion of Selling City Owned Property - Council Member Crisp

Council Member Crisp presented this item and stated there are approximately 1,100 properties and lots owned by the City or jointly owned with the County that are not on the tax rolls. Mr. Douglas Hewett, City Manager, stated staff will take a look at the list, and further stated some of the properties have been identified for economic development, future parks and recreation trails, or are held for PWC use. Mr. Hewett said he has asked Mr. Dwayne Campbell, Chief Information Officer, to create a GIS database in order to provide us with a visual of these properties' locations.

Consensus of Council was to move this item forward, and directed staff to place it on the September work session.

4.011 City Council Member Agenda Item Request - Consideration of action on the NCGA "Brunch Bill" - GS 106A-205.3 - Mayor Robertson

Mayor Robertson presented this item and stated he is asking City Council to consider NCGA "Brunch Bill" - GS 106A-205.3. Allowing businesses within the City of Fayetteville to remain compliant with the least restrictive North Carolina statutes concerning alcohol sales has the potential to increase the sales revenue for those establishments. This in turn making those businesses more profitable, encouraging expansion of the business as well as the tax base and employment opportunities. Mayor Robertson stated he had received a call from the Chamber of Commerce asking for support of the proposed ordinance.

Discussion ensued.

Consensus of Council was to move this item forward to the August 14, 2017, regular City Council meeting. Item to be placed on Other Items of Business (not consent). No public hearing for this item. Citizens may address the item during the public forum section of the meeting.

Council Members Colvin and Wright were opposed to the consensus vote.

4.012 City Council Member Agenda Item Request - Tax Incentive for Freedom Town Centers - Council Member Wright

Council Member Wright presented this item and stated he is asking to bring this item back to the Council for a formal vote.

Mayor Pro Tem Colvin stated when we discussed this last time, there was concern over setting a precedent for developers building shopping centers. Also, there was a relentless drive to include Legends Drive in this budget.

Council Member Mohn stated tax incentives for this item were not included in the FY 2017-18 budget; we would need to address the budget impact and we would need a financial update.

Council Member deViere asked for an update on this item from Mr. Robert Van Geons on the \$2.2 million ask from the developers.

Council Member Wright stated we do need an update; this incentive is for the road to cut through from Cliffdale to Raeford Roads.

Consensus of Council was to move this item forward for further discussion (no meeting date specified), and direct the City Manager to report back to Council no later than August 11, 2017, with an update and budget impact.

Council Members deViere and Crisp were in opposition to the consensus vote.

4.013 City Council Member Agenda Item Request - Refund for Festival Park Event 5K Glow Run Council Member Wright and Council Member McDougald

Council Member Wright presented this item and stated we have supported organizations and agencies by assisting them by waiving the fee. Christian Provision Ministries paid the fee, in the hopes we would reimburse them. Mayor Robertson stated in the past we have waived fees, but we have not reimbursed fees.

Council Member Wright moved for a consensus vote to approve the refund fees. The motion failed by a vote of 3 in favor (Council Members Wright, McDougald, and deViere) to 7 in opposition (Council Members Robertson, Jensen, Colvin, Hurst, Crisp, Mohn, and Arp)

Consensus of Council was to direct the City Manager to research if a waiver of fee for next year is permissible and to develop a formal policy pertaining to waiving fees.

5.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:40 p.m.