

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
SEPTEMBER 25, 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
Telly Whitfield, Assistant City Manager
Anthony Kelly, Assistant Police Chief
Cheryl Spivey, Chief Financial Officer
Kevin Arata, Corporate Communications Director
Brad Whited, Airport Director
Victor Sharpe, Economic and Community Development
Director
Ben Major, Fire Chief
Dwayne Campbell, Chief Information Officer
Randy Hume, Transit Director
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 Georgia Walker, New Hope Gospel Ministries.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Boy Scout Troop 6 and Cub Scout Pack 82.

4.0 ANNOUNCEMENTS AND RECOGNITION

Council Member Hurst announced he and Council Member deViere attended the Up and Coming Weekly 20th Annual Best of Fayetteville Awards Ceremony and stated the City of Fayetteville won the Best Local Landmark (Market House), the Coolest Downtown Venue (Festival Park), and the What Does Fayetteville Need Most (Parking) awards.

Ms. Giselle Rodriguez, City Engineer, presented an update on the following Hurricane Matthew projects: Offing Drive, North Cool Springs Drive, Shawcroft Road, and Devonwood Lower Dam.

Council Member Jensen introduced Ms. Lauren Lowe, Fayetteville-Cumberland Youth Council (FCYC) member, representing the FCYC and joining City Council at the dais.

Mayor Robertson presented the Lafayette Award to Dr. John R. Griffin, Jr., for his outstanding interest and untiring commitment to the City of Fayetteville.

Council Member Arp announced the assessment and evaluation of the City Manager and City Attorney took place during a closed session held on September 20, 2017.

MOTION: Council Member Arp moved that Council approve an annual salary increase for the City Manager and City Attorney of 2 percent with an effective date of August 7, 2017; consistent with the salary increase for all City employees.
SECOND: Council Member Wright
VOTE: UNANIMOUS (10-0)

5.0 APPROVAL OF AGENDA

MOTION: Council Member Mohn moved to approve the agenda.
SECOND: Council Member McDougald
VOTE: UNANIMOUS (10-0)

6.0 CONSENT

MOTION: Council Member deViere moved to approve the consent agenda with the exception of Item 6.07; pulled to be placed on the October 2, 2017, work session agenda.
SECOND: Council Member McDougald
VOTE: UNANIMOUS (10-0)

6.01 Approval of Meeting Minutes:
August 28, 2017 - Regular Meeting
September 5, 2017 - Work Session
September 11, 2017 - Regular Meeting

6.02 Authorization for the Mayor to Accept Fiscal Year 2018 and 2019 North Carolina Department of Transportation Aviation Grants for Terminal Renovations

On August 29, 2017, the State of North Carolina issued a Notice of Appropriation for \$1,139,670.00 of grant funds for improvements at the Fayetteville Regional Airport. On September 9, 2017, Airport staff also received an email notification that \$1,139,670.00 originally slated to be granted next fiscal year would also be awarded in the current fiscal year.

6.03 Administrative Correction of Capital Project Ordinance Amendment 2018-20 for Siple Avenue Hurricane Matthew Damage Repairs

On August 28, 2017, City Council adopted Capital Project Ordinance Amendment (CPOA) 2018-20 to appropriate an additional \$4,076.00 for the project to repair hurricane damage at Siple Avenue. Through clerical error, the CPOA understated the project budget prior to the amendment by \$6,000.00. This amendment provides a corrected presentation of CPOA 2018-20 effective with the amendment adoption date of August 28, 2017.

6.04 Adoption of Special Revenue Fund Project Ordinance Amendment 2018-2 (Transit Planning Grant NC-2016-030) and Capital Project Ordinance Amendment 2018-23 (Transit Capital Grants NC-90-X567 and NC-2016-030 MMTC Portion)

Construction of the FAST Multi-Modal Transit Center (MMTC) has experienced delays but is now nearing completion. The delays have required the City to extend the services of its project architect and construction manager. To provide funding for these additional costs, the City requested a grant budget revision through the Federal Transit Administration (FTA) for grant NC-2016-030 to transfer funding from planning activities, as originally awarded, to the MMTC capital project. Transit has sufficient planning funds in other grants to ensure planning projects will continue. Special Revenue Fund Project Ordinance Amendment (SROA) 2018-2 will reduce Federal grant funding under NC-2016-030 for planning activities by \$325,000.00, allowing for an additional \$260,000.00 of FTA grant funds to be available for the MMTC project and for the return of \$65,000.00 of the required local match to the Transit operating fund. Capital Project Ordinance Amendment (CPOA) 2018-23 will appropriate the \$260,000.00 of Federal

grant funds for the construction project, and utilize \$65,000.00 of local funding in excess of the required local match for grant NC-90-X567 to match the additional Federal grant funds under grant NC 2016-030.

6.05 Adoption of Special Revenue Fund Project Ordinance 2018-4 for Fayetteville Historic District Design Guidelines Update

Special Revenue Fund Project Ordinance (SRO) 2018-4 will appropriate \$20,000.00 for professional services to update the design guidelines for historic districts and landmarks, and other ancillary costs. Funding for the project is provided by a \$10,000.00 grant award of federal funds passed through the North Carolina Historic Preservation Office, and a \$10,000.00 required local match from a General Fund transfer.

6.06 Adoption of Budget Ordinance Amendment 2018-2 and Special Revenue Project Ordinance 2018-5 for a Rural Economic Development Grant for K3 Enterprises, Inc., from the North Carolina Department of Commerce

The City of Fayetteville has been awarded a \$400,000.00 Rural Economic Development Grant from the North Carolina Department of Commerce (NC DOC) for a building reuse loan for K3 Enterprises, Inc. (K3). K3 will undertake substantial renovations of its property at 504 Cumberland Street, and in turn, guarantee creation of 32 new full-time jobs. The grant requires that the City provide a 5 percent, or \$20,000.00, cash match for the project. Budget Ordinance Amendment 2018-2 will appropriate \$20,000.00 from General Fund fund balance to provide the required matching funds. Special Revenue Project Ordinance 2018-5 will appropriate \$400,000.00 of grant proceeds and the City's \$20,000.00 match for the project. At least \$800,000.00 of qualified project expenditures will have to be made by K3 to qualify for the funding.

6.07 Resolution Authorizing the Conveyance of an Easement of City-Owned Real Property to Parkview of Fayetteville Townhome Association, Inc., for a Traffic Turn-Around

This item was pulled from the agenda by Council Member deViere; item to be placed on the October 2, 2017, work session agenda.

6.08 PWC - Resolution Directing Construction of Areas 20 and 21 of the Phase 5 Annexation Utility Improvement Project be undertaken

**RESOLUTION DIRECTING CONSTRUCTION OF AREAS 20 AND 21 OF THE PHASE 5 ANNEXATION UTILITY IMPROVEMENT PROJECT BE UNDERTAKEN.
RESOLUTION NO. R2017-057**

6.09 Resolution to donate a 1995 Emergency One 75' Ladder Apparatus to Stoney Point Fire Department

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA AUTHORIZING THE DONATION OF PERSONAL PROPERTY.
RESOLUTION NO. R2017-058**

6.10 Resolution Downtown Parking Temporary Delegation of Authority

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE REGARDING DOWNTOWN PARKING AVAILABILITY DURING THE CONSTRUCTION OF THE BASEBALL STADIUM AND ASSOCIATED DEVELOPMENT PROJECTS.
RESOLUTION NO. R2017-059**

6.11 Resolution Authorizing the Execution and Delivery of a \$3,600,000.00 Installment Financing Agreement, Deed of Trust, Project Fund Agreement, Conditional Assignment of Construction Documents and Related Documents for the financing of Fire Station 12.

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A DEED OF TRUST, A PROJECT FUND AGREEMENT, A CONDITIONAL ASSIGNMENT OF CONSTRUCTION DOCUMENTS AND RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF A NEW FIRE STATION FOR THE CITY OF FAYETTEVILLE, NORTH CAROLINA. RESOLUTION NO. R2017-060

- 6.12 Bid Recommendation - Sewer Lift Station Rehabilitation at North Fayetteville and Cypress Lakes Lift Stations award to Carolina Management Team, the lowest responsive, responsible bidder in the total amount of \$811,910.10

Bids were received on August 16, 2017, as follows:

Carolina Management Team, LLC, Asheville, NC\$811,910.10

- 6.13 Authorization of a lease with Cape Fear Valley Hospital for lots to be used for parking

Authorizes the City Manager to execute the proposed lease with Cape Fear Valley Hospital.

10.0 PUBLIC HEARINGS

- 10.1 Ryan Ashley's Appeal of the Planning Commission's Decision to Deny a Neighborhood Compatibility Permit Regarding Parking of a Two-Axle Trailer in the Front Yard Driveway at 738 Fairview Street

Ms. Marsha Bryant, Development Advocate, presented this item with the aid of a PowerPoint presentation and stated the property owner is appealing the Planning Commission's decision to deny the request for a Neighborhood Compatibility Permit to allow a two-axle trailer to be parked in the front yard driveway where the code requires two-axle trailers to be parked in the rear yard. The Planning Commission decided the case on August 15, 2017. On September 15, 2015, Council adopted an ordinance amendment to allow parking of recreational vehicles, campers, and single-axle boat and utility trailers under certain conditions in residential districts and on an approved surface. Multi-axle trailers are not allowed to be parked in the front yard unless approved through the Neighborhood Compatibility Permit. On February 22, 2017, Mr. Ashley received a notice of violation from the City Code Enforcement Department. On March 15, 2017, Mr. Ashley requested a Neighborhood Compatibility Permit for the two-axle open trailer allowing it to be parked in the front yard. In April 2017 staff placed the item on hold pending City Council's review of the Code. In June 2017 City Council did not revisit or amend the Code. On August 15, 2017, the Planning Commission held a public hearing to review the request. The Planning staff recommended denial of the request. The applicant was not present at the Planning Commission hearing and the Planning Commission moved forward with the hearing and voted to deny the request.

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

Mr. Ryan Ashley, 738 Fairview Drive, Fayetteville, NC, stated he is the applicant and requested Council approve his appeal.

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

Discussion ensued.

MOTION: Council Member deViere moved to deny the Neighborhood Compatibility Permit.

SECOND: Council Member McDougald

VOTE: FAILED by a vote of 4 in favor (Council Members Hurst, McDougald, deViere, and Crisp) to 6 in opposition (Council Members Robertson, Jensen, Colvin, Wright, Mohn, and Arp)

Council Member Arp asked if the Council has the right to approve the appeal of the ordinance. Ms. Karen McDonald, City Attorney, stated Council does have the authority to uphold the appeal.

Council Member Crisp stated this Council adopted the ordinance to prohibit vehicles with more than two axles, and we have denied a number of people with the same request.

Council Member Wright stated Council has the authority to revise the ordinance, and this particular trailer is not a bother to the other residents. We need to take another look at the ordinance, and each case should be judged separately.

Council Member Mohn stated there are three options listed for this item in the agenda packet and proposed Option 3 which is to overturn the Planning Commission's decision and approve the Neighborhood Compatibility Permit with conditions.

MOTION: Council Member Mohn moved to approve the applicant's request for a Neighborhood Compatibility permit with conditions that the trailer is parked as far back as possible on the approved surface.

SECOND: Mayor Pro Tem Colvin

Council Member McDougald stated he would not like to have a trailer such as this parked next to his residence, and asked the Mayor and Council if they wanted this next to their home.

Council Member Crisp stated if we approve this, does Council understand we will have a deluge of truck drivers complaining that we denied their request and now we have approved this one.

Council Member deViere stated we need to be very specific of where the trailer has to be parked. Council Member Mohn responded the trailer would have to be parked within two feet of where it is depicted in the photograph on the bottom left hand side of the slide. Council Member deViere responded this could be problematic for the staff if they have to carry a photograph around with them.

Mayor Pro Tem Colvin stated just because we have a policy, does not mean we do not have a due process for residents to appeal the process. Each case is different, this case is non-intrusive.

Council Member Jensen stated she would prefer the trailer be parked on the approved surface.

Council Member Wright asked for the motion to be restated.

RESTATED MOTION:

Council Member Mohn moved to approve the applicant's request for a Neighborhood Compatibility permit with conditions that the trailer is parked as far back as possible on the approved surface.

SECOND: Mayor Pro Tem Colvin

VOTE: PASSED by a vote of 6 in favor (Council Members Robertson, Jensen, Mohn, Colvin, Arp, and Wright) to 4 in opposition (deViere, McDougald, Hurst, and Crisp)

10.2 Consideration of a Resolution and Order Closing a Portion of Thomas Avenue

Ms. Kecia Parker, Real Estate Manager, presented this item and stated N.C.G.S. § 160A-299 gives authority of the City to close a city street or alley. Cumberland County Hospital System, Inc., has petitioned to close a portion of Thomas Avenue to better enhance

future plans for redevelopment of their property. They currently own all of the surrounding parcels. Closing the portion of the street will not deny access to any property owners. The first step in the process is to have a resolution granting the public hearing which was passed on August 14, 2017. The property has been posted and all certified mail has been sent to the adjoining property owner as required by North Carolina General Statute.

This is the advertised public hearing set for this date and time. There being no one to speak, the public hearing was opened and closed.

**RESOLUTION AND ORDER CLOSING A PORTION OF THOMAS AVENUE.
RESOLUTION NO. R2017-061**

MOTION: Council Member Hurst moved to adopt the Resolution and Order closing a portion of Thomas Avenue.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

10.3 Consideration of Renaming of Meeting Street to Marion C George Street.

Ms. Marsha Bryant, Development Advocate, presented this item and stated this request was submitted to preserve the legacy of a prominent member of Evans Metropolitan A.M.E. Zion Church. Marion C. George also served the community as an attorney, professor, as well as a City Councilman and Mayor Pro Tem of the City of Fayetteville. Property owners were notified and given the opportunity for input on the respective road. There are six properties that abut this street. Those six properties are owned by only two entities, the Metropolitan A.M.E. Zion Church and the City of Fayetteville. An addressing change will only affect one structure which is owned by the church. All other property addresses will remain the same. Concern was raised that the name Meeting Street has a significant historical meaning to that area. Traditionally this area was not only used for church meetings but also as a gathering place and training area for military units that were local to Fayetteville.

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

Ms. Mary Ann Brown-Jackson, 1959 James Hanner Way, Fayetteville, NC, appeared in favor and stated she and the A.M.E. Zion Church members would very much like to have the street renamed.

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

MOTION: Council Member deViere moved to defer this item to a future work session; allowing time for staff to conduct further research.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

11.0 OTHER ITEMS OF BUSINESS

11.1 Presentation of Appointment Committee Recommendations for Boards and Commissions Appointments

Council Member Hurst presented this item and stated the Appointment Committee met on August 23, 2017, to review applications for appointments to boards and commissions. It is from that meeting the Appointment Committee presents the following recommendations for appointments to the City of Fayetteville boards and commissions:

Zoning Commission

Mr. Stephen McCorquodale

Oct. 2017-Sept. 2019

MOTION: Council Member Hurst moved to approve the Appointment Committee recommendation to appoint Mr. Stephen McCorquodale to serve on the Zoning Commission, effective October 1, 2017.

SECOND: Council Member Arp

VOTE: UNANIMOUS (10-0)

12.0 ADMINISTRATIVE REPORTS

12.01 Monthly Statement of Taxes - August 2017

2017 Taxes	3,384,970.80
2017 Vehicle,	0.00
2017 Taxes Revit	6,284.37
2017 Vehicle Revit	0.00
2017 FVT	0.00
2017 FTT	0.00
2017 Storm Water	554,943.74
2017 Fay Solid Waste Fee	383,527.24
2017 Annex	0.00
2016 Taxes	51,556.25
2016 Vehicle	00.00
2016 Taxes Revit	152.85
2016 Vehicle Revit	0.00
2016 FVT	0.00
2016 FTT	0.00
2016 Storm Water	4,581.15
2016 Fay Solid Waste Fee	3,232.67
2016 Annex	0.00
2015 Taxes	4,431.54
2015 Vehicle	0.00
2015 Taxes Revit	0.00
2015 Vehicle Revit	0.00
2015 FVT	0.00
2015 FTT	0.00
2015 Storm Water	135.76
2015 Fay Storm Water	271.51
2015 Fay S Waste Fee	405.29
2015 Annex	0.00
2014 Taxes	1,024.84
2014 Vehicle	0.00
2014 Taxes Revit	0.00
2014 Vehicle Revit	0.00
2014 FVT	0.00
2014 FTT	0.00
2014 Storm Water	15.00
2014 Fay Storm Water	27.00
2014 Fay S Waste Fee	40.00
2014 Annex	0.00
2013 and Prior Taxes	1,899.02
2013 and Prior Vehicle	1,209.36
2013 and Prior Taxes Revit	0.00
2013 and Prior Vehicle Revit	0.00
2013 and Prior FVT	266.86
2013 and Prior FTT	108.33
2013 and Prior Storm Water	36.00
2013 and Prior Fay Storm Water	72.00
2013 and Prior Fay S Waste Fee	114.00
2013 and Prior Annex	0.00
Interest	6,687.65
Revit Interest	11.08
Storm Water Interest	41.19
Fay Storm Water Interest prior	81.66
Fay Storm Water Interest 2017	0.00

Fay Storm Water Interest 2016	320.74
Annex Interest	0.00
Solid Waste Interest	355.56
Fay Transit Interest	58.02
 Total Tax and Interest	 \$4,406,861.48

12.2 Red Light Camera Fees

Mr. Douglas Hewett, City Manager, introduced this item 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. After review of peer cities with red light camera programs, staff recommends Council retain the existing \$100.00 late fee.

MOTION: Council Member Wright moved to adopt a late payment fee in increments, and break the late fees to \$50.00 after 30 days and an additional \$50.00 after 60 days.

Ms. Karen McDonald, City Attorney, stated the State Legislation does not allow for two incremental fees.

Council Member McDougald requested clarification on having discussion without a second on the motion.

The motion died for lack of a second.

MOTION: Council Member Wright moved to continue the \$100.00 fine, with a maximum \$50.00 late fee.

SECOND: Mayor Pro Tem Colvin seconded the motion contingent upon acceptance of a friendly amendment.

FRIENDLY AMENDMENT:

Mayor Pro Tem Colvin made a friendly amendment that the late fee be phased in, because it would not be over \$100.00, if permitted under State Legislation.

Ms. McDonald, City Attorney, responded the State Legislation does not permit phased in fees. Mayor Pro Tem Colvin withdrew his second.

The motion died for lack of a second.

MOTION: Council Member Arp moved to accept the report as presented by staff and direct staff to converse with the State Delegation and bring this item back to Council at a future work session.

SECOND: Mayor Pro Tem Colvin

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

Mayor Pro Tem Colvin requested the City Attorney and City Manager report their findings back to the Council via an e-mail or memorandum as soon as they receive the information.

13.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:59 p.m.