

FAYETTEVILLE CITY COUNCIL
SPECIAL MEETING
MARCH 29,2007
7:00 P.M.
CITY HALL COUNCIL CHAMBER

Present: Mayor Anthony G. Chavonne
Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3) Darrell J. Haire (District 4); Lois A. Kirby (District 5); Paul Williams (District 6); Curtis Worthy (District 7); Juanita Gonzalez (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Kyle Sonnenberg, Assistant City Manager
Stanley Victrum, Assistant City Manager
Doug Hewett, Assistant City Manager
Karen M. McDonald, City Attorney
Michael Crowell, Tharrington, Smith, LLP
Candice White, City Clerk
Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Council Member Worthy. The Pledge of Allegiance to the American Flag followed and was led by Boy Scout Troop 584 from Church of Jesus Christ of Latter Day Saints.

1. PUBLIC HEARINGS

A. Discussion of the Mayor's voting authority under the proposed redistricting of City Council to six (6) districts and three (3) at-large members.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:05 p.m.

Mr. Clinton Harris, 4713 Watauga Road, Fayetteville, NC 28304 stated citizens should decide the Mayor's voting authority by referendum before the proposed six (6) districts and three (3) at-large becomes effective.

Ms. Rose Marie Hare, 7338 Pebblebrook Drive, Fayetteville, NC 28314 stated when she voted on the referendum to change the mode of election, she voted for a voting Mayor because she felt it would be best for the City.

Mr. Alex F. Wojcicki, 202 Addison Street, Fayetteville, NC 28314 stated he favors accountability and therefore favors a voting Mayor. Mr. Wojcicki further stated real or imagined inequities in the electoral system must be removed and the City Council must represent the interests of all citizens as far as is practical.

Mr. Felix Simmons, 6721 Pin Oak Lane, Fayetteville, NC 28314 shared research he conducted with nine North Carolina cities regarding the voting authority of the Mayor. Mr. Simmons stated the Mayor should be accountable by presiding over meetings and building consensus with Council Members and not by voting on every issue.

Mr. Bill Crisp, 3804 Sunchase Drive, Fayetteville, NC 28306 stated citizens elected a Mayor with the authority to vote and, if the Mayor's voting authority is taken away, it may force some citizens to look to a referendum to restore the vote. Mr. Crisp further stated the proposed district models do not take into consideration minorities other than blacks and a third model should be developed that takes into consideration the complete minority, racial and cultural diversity of the city.

Mr. Walter Murphy, 7033 Timbercroft Lane, Fayetteville, NC 28314 stated the issue of a voting Mayor is about the position of Mayor and also about the current Mayor. Mr. Murphy stated the former Mayor had the ability to vote and voted in favor of one of the largest annexations ever. Mr. Murphy offered comments regarding his recent annexation into the City of Fayetteville.

Mr. Ronald Harrison, 1575 Mintz Avenue, Fayetteville, NC 28303 stated in 2005 when the Mayor was elected, the understanding was that the Mayor would have a vote on all matters and since 2001, citizens want and expect the Mayor to have a vote on all matters coming before the Council.

Mr. Dean Jones, 302 Andover Road, Fayetteville, NC 28311 spoke in opposition to attempts to exempt the Mayor from voting on issues pertaining to the City. Mr. Jones stated Fayetteville must have a leader who is held responsible, which can only be accomplished by a Mayor who has the right to vote.

Ms. Sharron Sharp, 9395 Gooden Drive, Fayetteville, NC 28314 expressed concern that Council Members would want to take the voting authority away from the Mayor. Ms. Sharp stated Council Members need to keep in mind that citizens vote for the Mayor and want him to have the power to vote.

Mr. Karl Merritt, 4405 Biway Circle, Fayetteville, NC 28311 stated by position and in order to build trust, the Mayor should not have a vote. Mr. Merritt stated the Mayor should provide an atmosphere conducive to building consensus among Council Members and citizens.

Mr. Michael Evans, 1113 Simpson Street, Fayetteville, NC 28305 stated citizens are looking for a government they can trust and voted for a Mayor who had the authority to vote to lead them. There was no one further to speak and the public hearing closed at 7:40 p.m.

MOTION: Council Member Worthy moved to set the matter to a referendum as part of the November election to let the general public make a decision as to whether the Mayor has the right to vote.

SECOND: Council Member Kirby

Mrs. Karen M. McDonald, City Attorney, clarified that a referendum is a statutory process for which Council would have to adopt a resolution of intent, hold a public hearing and then adopt an ordinance to be effective after the referendum.

AMENDED MOTION:

Council Member Worthy moved to direct staff to draft a resolution of intent regarding the Mayor's right to vote.

Council Member Kirby accepted the amended motion.

Council Member Worthy stated when he proposed the matter of the voting authority of the Mayor, his thoughts were regarding the election of future Mayors.

Council Member Bates stated the Mayor and City Council Members are accountable to citizens by their vote and as the representative of the City, citizens need to be aware of where the Mayor stands on issues.

Council Member Meredith stated he supported the public hearing in order to hear from citizens so that Council could make a decision on the voting authority of the Mayor. Council Member Meredith stated Council Member Worthy should have proposed a referendum process if that was actually his intent.

Council Member Evans stated he was not in favor of putting the matter on the November ballot. Council Member Gonzalez stated all elected officials should be held accountable for their decisions and a change does not need to be made at this time.

VOTE: FAILED by a vote of 1 (Council Member Worthy) in favor to 9 in opposition (Council Members Meredith, Evans, Kirby, Chavonne, Massey, Bates, Williams, Haire and Gonzalez).

B. Consider approval of a resolution that will adopt a districting map pursuant to N.C.G.S. § 160A-101 revising the City of Fayetteville's nine (9) districts as required by the change approved at the February 6, 2007 referendum to have six (6) City Council members elected from districts and three (3) at-large.

Mayor Chavonne introduced Mr. Michael Crowell, Attorney with Tharrington, Smith, LLP in Raleigh, North Carolina. Mr. Crowell reviewed the process the City Council underwent to develop the plans for redistricting. Mr. Crowell explained the legal principles of one-person/one-vote and Section 5 of the federal Voting Rights Act that Council Members had to consider during the process. Mr. Crowell stated the test used by the U.S. Justice Department when pre-clearing

a change in electoral districts is whether the change would be retrogressive thereby making it more difficult for African-American voters to vote and elect candidates of their choice. Mr. Crowell stated the maps for Plan G and Plan J, as well as district population percentages for each, are being submitted by Council for citizen input prior to Council vote and submission to the U.S. Justice Department. Mr. Crowell explained the options available to the U.S. Justice Department upon submission of the plan and timeframes involved in effectuating the plan for the November 2007 election.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:55 p.m.

Mr. Clinton Harris, 4713 Watauga Road, Fayetteville, NC 28304 stated as a citizen, he believed in one man/one vote. Mr. Harris spoke in favor of single-member districts.

Ms. Rose Marie Hare, 73368 Pebblebrook Drive, Fayetteville, NC 28314 stated she does not favor either one of the plans because she is neither black nor white and the plans do not represent her. Ms. Hare stated under both plans, the annexed area in which she resides is split and lacks fair representation. Ms. Hare stated she would favor Plan J over Plan G if she had to choose.

Mr. Bill Crisp, 3804 Sunchase Drive, Fayetteville, NC 28306 reiterated that he would like a map that would factor in other minorities so the U.S. Justice Department could have a clear picture of the cultural and ethnic diversity of the City of Fayetteville.

Mr. Mark Ledger, 430 Lionshead Road, Fayetteville, NC 28311 stated race was a major topic throughout the process and it turned back the clock on progress made over the years towards racial harmony. Mr. Ledger stated it is imperative that Council Members understand the need for compromise and consensus because the future success of Fayetteville can only be found by looking forward with a common goal.

Mr. Ronald Harrison, 1575 Mintz Avenue, Fayetteville, NC 28303 expressed support for Plan J but stated both plans have split up the neighborhood around the Jasper Street/Murchison Road intersection. Mr. Harrison asked Council to consider adjusting the lines to keep the neighborhood intact for representation by one Council Member with one voice.

Mr. Michael Evans, 1113 Simpson Street, Fayetteville, NC 28305 expressed support for Plan J and asked Council to make a decision and send one of the plans to the U.S. Justice Department without delay.

Ms. Sharron Sharp, 9395 Gooden Drive, Fayetteville, NC 28314 questioned how District 5 would be represented if it did not contain an incumbent. Mayor Chavonne explained the current Council Member under the current structure would represent District 5 until the November 2007 election.

There was no one further to speak and the public hearing closed at 8:30 p.m.

Mayor Chavonne asked Mr. Crowell how other minorities would be considered by the U.S. Justice Department. Mr. Crowell explained Section 5 of the Voting Rights Act provides protection for different minorities and generally the U.S. Justice Department is interested in the percentage of African-Americans and the percentage of whites. Mr. Crowell stated in cases where there are other minorities, the U.S. Justice Department can figure them into the analysis and they may offer some prospect for crossover voting that will help African-Americans.

Mayor Chavonne asked Mr. Crowell about filtering out voters eighteen years or under. Mr. Crowell stated the U.S. Justice Department is interested in the make-up of registered voters in each district; however, the number of registered voters cannot be calculated until the districts are actually implemented because too many precincts are split. Mr. Crowell stated the Board of Elections divides the population by precincts and until the plans are implemented and voters are assigned to particular districts, the actual makeup of registered voter will remain unknown.

Council Member Worthy asked what could be done to come from under Section 5 of the federal Voting Rights Act. Mr. Crowell responded if Cumberland County were interested, there is a process called the "Bail-Out Provision" in which the County would have to show a clean record with no violations of the Voting Rights Act for the previous ten-year period. Mr. Crowell stated the process would have to be initiated by the entire County and not the City alone.

Council Member Bates asked if either of the plans stood out over the other for pre-clearance by the U.S. Justice Department. Mr. Crowell responded there was no appreciable difference between the two and the prospects for pre-clearance are the same for both.

MOTION: Council Member Bates moved to approve and adopt Plan J to send to the U.S. Justice Department.

SECOND: Council Member Gonzalez

VOTE: PASSED by a vote of 7 in favor (Council Members Gonzalez, Bates, Massey, Chavonne, Evans, Meredith and Kirby) to three in opposition (Council Members Williams, Haire and Worthy).

Council Member Bates provided closing remarks and thanked citizens for voicing their opinions. There being no further business, the meeting adjourned at 8:40 p.m.