

FAYETTEVILLE CITY COUNCIL

SPECIAL MEETING

LAFAYETTE ROOM

February 19, 2007

5:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Council Charles E. Evans (District 2); Darrell J. Haire (District 4); Lois A. Kirby (District 5); Curtis Worthy (District 7); Juanita Gonzalez (District 8); Wesley A. Meredith (District 9)(present via telephone)

Absent: Robert A. Massey, Jr. (District 3); Paul Williams (District 6)

Others Present: Dale E. Iman, City Manager

Kyle Sonnenberg, Assistant City Manager

Stanley Victrum, Assistant City Manager

Karen M. McDonald City Attorney

Michael Crowell, Tharrington Smith LLP

Michael Reeves, Management Analyst

Candice H. White, City Clerk

Tim White, The Fayetteville Observer

Andrew Barksdale, The Fayetteville Observer

Mayor Chavonne called the meeting to order at 5:00 p.m. Council Member Haire offered the invocation.

Mayor Chavonne introduced Mr. Michael Crowell, Attorney with Tharrington Smith LLP in Raleigh, North Carolina. Mr. Crowell stated under North Carolina General Statute and according to the Resolution adopted by Council, Council's responsibility is to draw the six districts ninety days prior to the election in November. Mr. Crowell stated for purposes of planning, the primary election scheduled for October 9, 2007 should be considered the first election and as a practical matter, the districts should be in place prior to the opening date for filing which is July 6, 2007. Mr. Crowell further stated the Justice Department needs sixty days to review the submission therefore the districts should be drawn by the first of April. Mr. Crowell stated otherwise, the six districts/three at-large plan could not be used until the 2009 election. Dialogue ensued between Mr. Crowell and Council Member Evans regarding maps drawn for the six districts. Mr. Crowell explained his role in the process is to prepare district options, provide maps of the same and put together the submission for the Justice Department, all of which require legal experience and demographic capabilities.

Mr. Crowell explained the two principal constitutional requirements in drawing the six districts are one-person/one-vote and compliance with Section 5 of the Voting Rights Act. Mr. Crowell stated the test would be whether the six districts/three at-large plan provides opportunities to elect African-American candidates and whether or not the plan makes it more difficult. Mr. Crowell stated the districts drawn for Fayetteville should reflect a population between 27,500 and 30,000 with no more than a 5% variable above or below. Mr. Crowell stated the petition and referendum preceding the six/three vote did not specify whether the three at-large candidates would file as three separate seats or file simultaneously; however, the simultaneous filing of the three at-large seats stands a better chance of being cleared by the Justice Department. Mr. Crowell provided details as to how the analysis for retrogression is performed. Council Member Worthy expressed concern about the probabilities of an African-American candidate being elected as an at-large member and additional dollars that would be required for a citywide campaign as opposed to a district campaign.

Council Member Evans asked for direction in the event the Justice Department determined the submission is retrogressive. Mr. Crowell explained Council could submit the district plans to the Justice Department or the U.S. District Court in the District of Columbia for pre-clearance. Mr. Crowell stated submissions taken to the U.S. District Court take much longer and should time run out, the six districts/three at-large plan would not be in place for the 2007 election.

Council Member Haire asked whether the submission would continue to be subject to Section 5 once it was pre-cleared. Mr. Crowell explained how Fayetteville became subject to Section 5, the Bail Out Provision and reviewed the basic test for the Bail Out Provision.

Council Member Gonzalez asked what Council's responsibility would be in the event the submission was denied. Mr. Crowell stated he was unable to provide a definitive answer without looking into it further, but he felt Council would have satisfied its legal obligation through its submission to the Justice Department.

Council Member Evans asked whether the Justice Department's decision would be influenced by the voting status of the Mayor. Mr. Crowell responded the mayor's voting status would not affect their decision.

Council Member Haire expressed concern over differences in legal interpretations. Mr. Crowell assured Council that during review by the Justice Department, attorneys involved would argue all sides.

Council Member Evans asked how Council could be assured that the maps provided for their consideration originated with Mr. Crowell. Mr. Crowell explained there are multiple ways to configure the six districts and the principal issue under consideration is how to create three clearly drawn African-American districts out of the six districts. Mr. Crowell suggested that Council hold a public hearing to allow for public input and comments and further stated that Council may be well served by looking at other maps because these maps may address the principal issue.

Mr. Crowell distributed maps of a six-district plan as a starting point and requested Council's input. Council Member Gonzalez asked whether the maps should include Ft. Bragg since it is soon to be annexed. Mr. Crowell responded if Ft. Bragg were annexed by the 2007 election, it would provide greater options for the drawing of the districts. Mayor Chavonne asked if maps could be submitted with and without the inclusion of Ft. Bragg. Mr. Crowell responded in the affirmative. Council Member Meredith asked whether the Justice Department would pre-clear them simultaneously. Mr. Crowell responded the Justice Department would pre-clear the Ft. Bragg annexation and the maps reflecting the same simultaneously because the Justice Department would not look at maps including Ft. Bragg unless it had been annexed. Mayor Chavonne asked that the option be held open as Council gives additional thought to the process.

After reviewing the maps, Council Members advised Mr. Crowell they wanted to stick with precincts, use major arteries as dividing lines and keep neighborhoods intact where possible. Mr. Crowell suggested that he provide a big screen display to demonstrate how district numbers would be affected as Council considers various options. Council concurred and scheduled the next meeting for Tuesday, February 27, 2007 at 5:00 p.m.

There being no further business, the meeting adjourned at 6:45 p.m.