FAYETTEVILLE CITY COUNCIL REGULAR MEETING MINUTES CITY HALL COUNCIL CHAMBER

JUNE 11, 2012 7:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Wade Fowler (District 8); James W. Arp, Jr. (District 9) Others Present:

Kristoff Bauer, Interim City Manager

Bradley Whited, Interim Assistant City Manager

Karen McDonald, City Attorney

Brian Meyer, Assistant City Attorney

Lisa Smith, Chief Financial Officer

Tom Bergamine, Police Chief

Michael Gibson, Parks, Recreation and Maintenance Director

Jerry Dietzen, Environmental Services Director

Craig Harmon, Planner II

David Nash, Planner II

Kecia Parker, Real Estate Manager

Steven K. Blanchard, PWC CEO/General Manager

Dwight Miller, PWC Chief Financial Officer

Pamela Megill, City Clerk

Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Reverend Dollie L. Manigo, Associate Minister, Lewis Chapel Missionary Baptist Church.

3.0 PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS

Council Member Hurst announced the City was accepting applications through the end of June for volunteers to serve on the City's boards and commissions to include the new Residential Rental Property Review Board. He stated the application form was available on the City website.

Council Member Davy announced an All America City Finale Celebration would be held on June 16, 2012, at 7:00 p.m. at the J. P. Riddle Stadium which would include a Swamp Dogs game. Council Member Haire announced citizens were invited to a series of public meetings on the Bragg Boulevard Corridor Redevelopment Plan. He stated the meetings were scheduled for June 11 through 13, 2012, and would be held at the AIT Festival Hall located at 402 Maiden Lane.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Bates moved to approve the agenda.

SECOND: Council Member Crisp VOTE: UNANIMOUS (10-0)

5.0 PUBLIC FORUM

Mr. Christopher Tober stated he was homeless. He stated that he was living in a car with his mother and 13 dogs and expressed concerns as to the Fayetteville-Cumberland County Animal Control Department removing all the dogs on April 20, 2012.

Ms. Charman Tober stated she was homeless. She expressed disappointment with the City of Fayetteville as she was expecting a warm welcome and that was not her experience. She

stated she was very upset that her dogs were taken from her.

Ms. Joyce Malone, 516 Spaulding Street, Fayetteville, NC 28301, stated she had been a citizen for over 50 years and requested the Council provide the citizens an opportunity to vote on the proposed parks and recreation bond referendum. She stated this was good for the whole City. Mr. Greg West, 506 Charleston Place, Fayetteville, NC, stated he was a native of Fayetteville and had served over ten years on the Cumberland County Board of Education. He spoke in favor of the proposed parks and recreation bond referendum.

Mr. Mike Kotlarek, 7001 Calamar Drive, Fayetteville, NC, stated he was a tattoo artist and owned a tattoo business in Fayetteville. He expressed concerns regarding the lax laws in Cumberland County and the City of Fayetteville that pertained to performing tattoo artistry, and stated specific training in the field was not required, therefore creating a safety and/or health risk.

Mr. J. D. Pone, 2802 Blossom, Hope Mills, NC, stated he was the current Chair of the Cumberland County-Fayetteville Parks and Recreation Advisory Commission and requested the Council allow the citizens to vote on the parks and recreation bond referendum.

Mr. Carey Berg, P.O. 87326, Fayetteville, NC, stated he was the current chair of the Joint Senior Citizen Advisory Commission and requested the Council decide either for or against the parks and recreation bond referendum.

Ms. Wendy Michener, 223 Hillside, Fayetteville, NC, stated she would like the Council to ask for citizen support regarding the post office closures and ask citizens to contact the legislature via letters and e-mails.

Mr. Jerry Schrecker, 1002 Asbury Road, Fayetteville, NC, stated he was giving official notice of offenses regarding racism and sexual harassment committed against City of Fayetteville police officer employees. He provided the Council with 90 documented cases.

Mr. Jimmy Kizer, 214 Woodcrest Road, Fayetteville, NC, expressed concerns regarding the bonding requirements in the storm water ordinance and suggested there should be more flexibility.

Mr. Chris Bostock, 424 Kingsford Road, Fayetteville, NC, stated he was the Chair of the Chamber of Commerce representing the Board of Directors and its 1,000 members and spoke in favor of the parks bond levy.

6.0 CONSENT

MOTION: Mayor Pro Tem Arp moved to approve the consent agenda with the exception of Items 6.1 and 6.4.

SECOND: Council Member Crisp VOTE: UNANIMOUS (10-0)

6.1 Pulled for discussion by Mayor Pro Tem Arp.

6.2 Budget Ordinance Amendment 2012-10 (General Fund and Parking Fund).

The amendment adjusted total General Fund appropriations by \$2,135,000.00 (across several departments) and Parking Fund appropriations by \$10,000.00, based upon mid-year projections with adjustments to ensure sufficient funding for unexpected expenditures through the fiscal yearend.

6.3 Capital Project Ordinance Amendment 2012-21 (Building Maintenance Projects).

The amendment appropriated an additional \$10,000.00 for building maintenance projects to fund improvements at the Cross Creek Police Station.

6.4 Pulled for discussion by Mayor Pro Tem Arp.

6.5 Approve Meeting Minutes:

April 2, 2012 - Work Session

April 18, 2012 - Agenda Briefing

6.6 PWC Financial Matters - FY 2012 Electric, Water/Wastewater and Fleet Maintenance Internal Service Fund Budget Amendment #1; Electric Rate Stabilization Fund Amendment #12; Electric Rate Stabilization Fund Amendment #13; Water and Wastewater Rate Stabilization Fund Amendment #9; Fort Bragg Interim Water Service Project Fund Amendment #3; Annexation Phase V - Areas 8-13 Capital Project Fund Amendment #2;

AnnexationPhase V Reserve Fund Amendment #5; Annexation Phase V Reserve Fund Amendment #6 and Resolution to Establish the Annexation Phase V - Areas 14-15 Capital Project Fund and Budget.

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, ESTABLISHING AN ANNEXATION PHASE V - AREAS 14 THROUGH 15 CAPITAL PROJECT FUND. RESOLUTION NO. R2012-022.

6.1 Award contract for the purchase of four automated side loader refuse trucks to Transource, Inc., Raleigh, NC, in the amount of \$929,420.00.

Mayor Pro Tem Arp pulled this item for discussion and stated he had received many complaints regarding the inefficiencies of the one-arm refuse trucks and suggested the City research privatizing trash collection.

Council Member Bates stated the City had researched privatizing trash collection twice and it was found that in-house collection was the most cost effective.

Bids were received as follows: **TOTAL FOR VENDOR CHASSIS BODY** COMMENTS **EACH UNIT** These units had \$218,449.00 multiple exceptions Transource Mack GS and did not meet specifications These units had multiple exceptions \$220,199.00 Transource Mack GS and did not meet specifications These units had GSP Marketing/GS Mack multiple exceptions GS \$222,178.72 **Products** and did not meet specifications Units were quoted \$230,605.00 subject to prior Transource Mack Heil sale – no longer available Mack Heil \$232,355.00 Recommended bid Transource Wayne \$233,616.00 Transource Mack Transource Mack Wayne \$235,366.00 CarolinaEnvironme Mack Heil \$236,595.00 ntal Services <u>_a</u>brie \$237,830.00 Transource Mack Mack Transource Labrie \$239,579.00 GSP Marketing/GS Crane Carrier GS \$240,682.72 Products Triple T Parks & Mack Labrie \$240,959.00 Equip. GSP Marketing/GS Autocar GS \$242,661.41 Products Southern Truck Crane Carrier Heil \$249,638.00 Southern Truck Crane Carrier McNeilus \$256,699.00 Southern Truck Crane Carrier _abrie \$260,813.00 AdvantageTruck Autocar Labrie \$263,041.69 Center

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MOTION: Mayor Pro Tem Arp moved to not approve the purchase of four automated side loader refuse trucks.

SECOND: Council Member Crisp

VOTE: FAILED by a vote of 3 in favor to 7 in opposition (Council Members Massey,

Haire, Davy, Chavonne, Hurst, Applewhite, and Bates)

MOTION: Council Member Bates moved to approve the purchase of four automated side loader refuse trucks.

SECOND: Council Member Haire

VOTE: PASSED by a vote of 7 in favor and 3 in opposition (Council Members Arp, Crisp, and Fowler)

6.4 Adopt a resolution to request to donate **0.92** acre to Cape Fear Botanical Garden. Mayor Pro Tem Arp pulled this item for discussion.

RESOLUTION TO CONVEY REAL PROPERTY TO THE CAPE FEAR BOTANICAL GARDEN. RESOLUTION NO. R2012-021.

MOTION: Council Member Crisp moved to donate 0.92 acre to Cape Fear Botanical Garden with the stipulation that the City would not incur any cost or obligation now or in the future for demolition of the fire tower.

SECOND: Council Member Bates VOTE: UNANIMOUS (10-0)

7.0 PUBLIC HEARINGS

7.1 Case No. P12-27F. Initial zoning from PND Planned Neighborhood District (County) to SF-10 Single Family District, or a more restrictive district, on property located on Williwood Road (proposed Liberty Hill Subdivision) in Kings Grant. Containing 106 acres more or less and being the property of Andrews Road Company, LP.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was being petitioned for annexation into the City in order to develop single-family residential and was located inside the City's MIA (Municipal Influence Area). He stated the current zoning of PND in the County would allow for 609 units/lots based on a minimum lot size/maximum density of one lot or unit per every 7,500 sure feet of land area and assuming some multifamily units. He stated if the area were developed in single-family lots in the County, the maximum density would be reduced by the right-of-way created to access the lots, resulting in a 15 to 20 percent reduction, resulting in between 487 and 518 lots. He explained under the Council's old policy, the property would come into the City with SF-10 zoning. He further explained the City's new policy would allow the applicant to request the zoning district that they would like to have in the City. He advised the owner would like to come into the City under a SF-10 Residential District. He explained under the SF-10 zoning district, the owner would be allowed to develop up to 561 units/lots with zero lot line development or 530 with a conventional development. He stated two other more restrictive zoning districts were available--AR which would allow a maximum of 212 units and SF-15 which would allow a maximum of 318 units or 339 units under zero lot line. He further stated the developer had an approved subdivision plan showing 304 lots and approval was conditional on obtaining appropriate City zoning and annexation approvals. He explained the property was accessed solely through the Kings Grant development and traffic was one of the neighborhood's chief concerns, but the ability to provide alternative access was very limited. He advised City's Engineering and Infrastructure Department had explored several options for additional access to the site, all of which had significant issues. He stated another neighborhood concern would be whether the proposed development would have comparable lot sizes to existing development. He advised that staff recommended that if the property were annexed, it should become an SF-15 district based on SF-15 (1) fitting with the existing lot sizes in the area (adjacent lots in Kings Grant range from 11,000 to 20,000 square feet), (2) only allowing single-family residential

development which matches most of the surrounding area, (3) allowing zero lot line which would provide enough flexibility in lot standards to respect environmental conditions and the existing development pattern. He further advised the Zoning Commission recommended that if the property were annexed, it should become an AR district based on AR (1) fitting with the largest existing lot sizes in the area (adjacent lots in Kings Grant range to 20,000 square feet) and (2) only allowing single-family residential development which would match the surrounding area. This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Richard Wiggins, Attorney, 202 Fairway Drive, Fayetteville, NC 28305, appeared in favor on behalf of the proponents. He stated a traffic impact study was completed by the Engineering Department and requested the City Council rezone the property to SF-15.

Mr. Sam Bright, 400 Swan Island Court, Fayetteville, NC 28311, appeared in opposition. He stated he was the President of the Kings Grant Homeowners Association and requested the Council maintain the integrity of Kings Grant.

Mr. James Flood, 6208 Gregg Court, Fayetteville, NC 28311, appeared in opposition. He stated he had lived in Kings Grant for 20 years and was a Kings Grant Homewwners Association Board Member. He requested the Council follow the Zoning Commission recommendation and rezone the property to AR.

Mr. Walt Tippett, 150 Fayetteville Street, Suite 1600, Raleigh, NC 28311, appeared in opposition. He stated he was an attorney representing the Kings Grant Homeowners Association and requested the Council not approve the rezoning.

Mr. Gregory Bean, 465 Shawcroft Road, Fayetteville, NC 28311, appeared in opposition. He requested the Council do what was best for the City and his neighborhood and requested compatible development and stated the proposed rezoning was not right for the City or the neighborhood.

Mr. Wayne Talley, 740 Kensington Park Road, Fayetteville, NC 28311, appeared in opposition and stated he was a homeowner in Kings Grant. He stated with all the potential additional homes the value of homes in Kings Grant would all depreciate.

Mr. Thomas Duckworth, 917 Kensington Park Road, Fayetteville, NC 28311, appeared in opposition and stated he was a member of the Kings Grant Homeowners Association.

Ms. Betty Whittington, 301 Shawcroft Road, Fayetteville, NC 28311, appeared in opposition. She stated they were a neighborhood and to please treat them like one.

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

Council Member Bates inquired of Mr. Koenig if he would accept AR zoning. Mr. Koenig responded AR zoning was not acceptable.

Council Member Crisp inquired of Mr. Harmon what Mr. Koenig's options would be if he does not accept AR zoning. Mr. Harmon responded he could withdraw his request for annexation and then fall under the rules of the county.

Council Member Crisp stated under the rules of the county, Mr. Koenig could build 600 plus units.

Council Member Fowler inquired of Mr. Harmon what types of development could take place under the present County zoning of PND. Mr. Harmon responded single family, multi-family, and commercial.

Council Member Fowler stated it was his understanding that in past years there had been opportunities to provide additional avenues to access Kings Grant and those opportunities were opposed by the residents. He further stated rezoning to SF-15 would give Kings Grant an opportunity for less density.

Council Member Bates stated if the Council rezoned to AR, Mr. Koenig would simply withdraw his petition for annexation and he would have the authority to build 609 homes and PWC would be required to provide water and sewer.

MOTION: Council Member Bates moved to zone the property to SF-15.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (10-0)

7.2 Public hearing to consider a petition requesting annexation for a contiguous area known as the Liberty Hill Subdivision.

Mr. David Nash, Planner II, presented this item. He provided background information on the petition and briefly reviewed the location of the property and surrounding area. He stated the land in the area was currently vacant, but the developer was proposing to develop the land into a single-family detached residential subdivision and the area was in the Fayetteville MIA. He stated the developer submitted a preliminary subdivision plan to the City in June 2011, even though the area was outside of the City, and on June 8, 2011, the City gave preliminary approval to a subdivision plan that showed 304 lots. He explained based on this, it was assumed that the developer would develop the land with 304 lots. He further explained based on the City's revised annexation petition/initial zoning policy, the owner had requested that if the area were annexed, it be initially zoned in the City as SF-10. He explained under the SF-10 zoning district, the owner would be allowed to develop up to 561 units/lots with zero lot line development or 530 with a conventional development. He stated was expected that the owner would only develop 304 lots. He advised staff recommended adoption of the ordinance with an effective date of June 11, 2012, and including approval of the final initial zoning action consistent with the prior action on the zoning.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Richard Wiggins, Attorney representing the owner, 202 Fairway Drive, Fayetteville, NC 28305, appeared in favor and requested the annexation petition be approved.

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

MOTION: Council Member Bates moved to approve the annexation consistent with the prior action of zoning to SF-15 with an effective date of June 11, 2012.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (10-0) 8.0 OTHER ITEMS OF BUSINESS

8.1 Fiscal Year 2012-2013 Budget Ordinance and Fee Schedule, Fiscal Year 2013-2017 Capital Improvement and Information Technology Plans, Capital Project Ordinances 2013-1 through 2013-13, and Capital Project Ordinance Amendments 2013-1 through 2013-12.

Mr. Kristoff Bauer, Interim City Manager, presented this item and statedCouncil was being requested to adopt the Fiscal Year 2012-2013 Budget Ordinance which would incorporate changes to the recommended budget as discussed at the May 30, 2012, budget workshop and detailed in the City Council action memo. He stated in addition to setting the general ad valorem tax rate at 45.6 cents, the Central Business Tax District rate at 10 cents, and the Lake Valley Drive Municipal Service District ad valorem tax rate at 34.5 cents, the ordinance was also levying the two Stormwater fees (\$3.00 per month) and the residential recycling fee (\$38.00 per year) and adopting the fee schedule presented. He stated Council was also being requested to approve the Fiscal Year 2013-2017 Capital Improvement and Information Technology Plans and related capital project ordinances and capital project ordinance amendments to establish project budgets as planned. He stated this was a balanced budget that had no increases in taxation. Council Member Applewhite expressed concerns regarding funding the Limited English Proficiency program and stated funds were not being specifically allocated for printing costs. Mr. Bauer stated staff was working on providing the Council with a cost estimate for printing all forms and City publications in a second language. He stated when the estimate was ready and presented to Council, funds could be appropriated if that was the desire of the Council. Council Member Massey stated the budget was a plan and they could make amendments if the need were to arise, they could not foresee everything that was going to happen. He thanked Mr. Bauer, Ms. Lisa Smith, Chief Financial Officer, and staff for all of their hard work on the budget. MOTION: Council Member Bates moved to adopt the proposed Fiscal Year 2012-2013 Budget Ordinance and Fee Schedule, Fiscal Year 2013-2017 Capital Improvement and

Information Technology Plans, Capital Project Ordinances 2013-1 through 2013-13 and

Capital Project Ordinance Amendments 2013-1 through 2013-12.

SECOND: Council Member Massey

VOTE: PASSED by a vote of 9 in favor and 1 in opposition (Council Member Applewhite)

8.2 Parks and Recreation - Resolution for preliminary authorization for GO Park Bond Referendum.

Mr. Michael Gibson, Parks, Recreation and Maintenance Director, presented this item with the aid of a power point presentation. He stated in 2006 the Fayetteville-Cumberland Parks and Recreation Department established a vision for its park system through a comprehensive Master Plan. He stated the planning process included extensive dialogue with the public and citizens providing input on facility needs through five public meetings held throughout the county, a county-wide telephone survey, interviews with community stakeholders, and a Park Planning Committee comprised of 21 local stakeholders. He stated the anticipated cost of the capital improvements recommended by the Master Plan was over \$82 million. He stated an initial fiveyear action plan of approximately \$47.5 million was recommended. He stated they were asked by elected officials to develop a plan to fund the Master Plan and a bond proposal was created using the Plan's executive summary and included a multipurpose aquatic center with senior center, neighborhood family aquatic centers, Cape Fear River Park, tennis center, sports complex, skateboard park, neighborhood/community parks, greenways, existing parks and building renovations, parkland acquisition, and planning and design. He provided a market analysis and stated 33 percent of the population were children/youth ages 0 to 20 and 35 percent of the population was family forming adults ages 21 to 44. He stated 72 percent of households had children. He provided maps that showed where the proposed facilities would be built in the City and itemized each of the proposed facility renovations and the anticipated cost associated with each renovation.

Mayor Pro Tem Arp inquired of Mr. Gibson why he thought previous bond packages had been unsuccessful. Mr. Gibson responded he believed the mindset of the community was not there, but said he believed the community was now ready, they wanted to be a thriving community, a growing community, and live a better life.

Council Member Haire stated the more he heard about the plan the more he liked it, and thanked Mr. Gibson for his excellent work. He stated the majority of e-mails he had received from residents on the proposal had been in favor.

Council Member Applewhite stated that her number one priority for the City was public safety and stated the citizens in her district were not in favor of the proposal, they were all in favor of crime prevention. She inquired if the parks and recreation proposal could be reduced and in its place a police substation substituted and if this would involve a cost increase. Mr. Kristoff Bauer, Interim City Manager, stated the Bond Counsel and Board of Elections would have to be consulted. Ms. Karen McDonald, City Attorney, further stated that bond funds could not be used to pay police officer salaries, they could only be used for capital purchases.

Council Member Crisp stated he had a lot of citizens that do not understand the bond proposal and stated he needed someone to go out to his district and sell the item to them. He stated the presentations given by Mr. Gibson had been excellent and requested an additional month in order to educate citizens.

Council Member Fowler stated smaller neighborhood parks would require additional staffing time due to the amount of trash staff had to pick up as people using the park were displaying a lack of care. Mr. Gibson stated that custodians were being moved to maintenance positions in order for them to work both inside the facilities and outside in the parks.

Council Member Fowler inquired if non-city residents would be required to pay additional fees for utilizing the facilities. Mr. Gibson responded this was correct and an identification process was already in place.

Council Member Massey stated feedback from his constituents was favorable for the item. He stated this was a plan that was the future for everybody. He thanked the committees for showing balance and thanked Mr. Gibson for his efforts.

Council Member Bates stated the only residents he knew that were in favor were from the Parks and Recreation Board and the Senior Advisory Board. He stated his main concern was the crime rate in the City, and requested an additional 30 days to further review the item. Council Member Hurst thanked the Parks and Recreation Advisory Board for their many years of hard work and thanked Mr. Gibson for his leadership. He stated he had a mix of feedback from his constituents on the item, and stated it was critical to provide education to the citizens and it was also critical to give the citizens the opportunity to vote on the proposal, and stated he supported the plan, that it was well balanced and well thought out, it was a value to the quality of life.

Mayor Pro Tem Arp inquired if the City was currently charging fees for any of the services provided by parks and recreation. Mr. Gibson responded fees were being charged. He stated the City could not rent out the pool for private use, because it was the only pool the City operated and was in constant use. He stated if the City could get into the swim business, the City would be able to generate revenue.

Mayor Pro Tem Arp inquired if the school district was committed to the swim business. Mr. Gibson affirmed they were.

Mayor Pro Tem Arp stated in principal he was in favor of the proposal, but expressed concerns regarding the timing and suggested an additional 30 days to re-evaluate the proposal.

Council Member Davy thanked the Parks and Recreation Advisory Board Members for their hard work and inquired of Mr. Gibson what the parks bond would do for youth at risk and the crime problem. Mr. Gibson stated the additional facilities and programs would provide the ability to be strong minded and how discipline works through a community, having constructive things for kids to do and providing them far better options.

Mr. Bauer stated they could not start the conversation in the community until Council took the first step and approved the resolution, providing staff with the authorization to educate the citizens.

Mayor Chavonne stated the City of Fayetteville with over 208,000 residents had no public pool, no tennis court, and no skateboard park for the first weekend of the summer season. He inquired if delaying the item for an additional 30 days would make a difference and stated all they were asking tonight was to be successful and give them the time to plan and allow the citizens to vote on the item.

MOTION: Council Member Davy moved to direct staff to place a general obligation bond referendum to finance various parks and recreation improvements for the City on the ballot in February 2013.

SECOND: Council Member Hurst

VOTE: FAILED by a vote of 5 in favor and 5 in opposition (Council Members Arp, Applewhite, Bates, Crisp, and Fowler)

MOTION: Council Member Bates moved to discuss this item at the July 9, 2012, City Council regular meeting and schedule subsequent meetings to specifically discuss this item.

SECOND: Council Member Applewhite

VOTE: PASSED by a vote of 8 in favor and 2 in opposition (Council Members Davy and Massey)

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:28 p.m.