

**FAYETTEVILLE CITY COUNCIL  
WORK SESSION MINUTES  
LAFAYETTE ROOM  
JANUARY 3, 2012  
5:00 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:

Dale E. Iman, City Manager  
Doug Hewett, Assistant City Manager  
Kristoff Bauer, Assistant City Manager  
Karen M. McDonald, City Attorney  
Brian Leonard, Assistant City Attorney  
Tom Bergamine, Chief of Police  
Patricia Bradley, Police Attorney  
John Kuhls, Human Resources Development Director  
Michael Gibson, Parks and Recreation Director  
Victor Sharpe, Community Development Director  
Jerry Dietzen, Environmental Services Director  
Rebecca Rogers-Carter, Management Services Manager  
Chris Franks, LSV Partnership  
Leslie Mazingo, the Ferguson Group  
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 Council Member Darrell J. Haire.

**3.0 APPROVAL OF AGENDA**

Approval of the agenda was by consensus with a show of hands.

**4.0 OTHER ITEMS OF BUSINESS**

**4.1 Update/Overview of Fayetteville 250th Celebration**

Mr. Michael Gibson, Parks and Recreation Director, presented this item with a power point presentation. Mr. Gibson provided the Council members with a proposal for funding several events to celebrate the 250th year anniversary of the City. He stated it was estimated there would be a 65 to 70 percent return on an investment of \$180,000.00 for the celebrations. He stated the estimate was based on revenues from ticket sales, vending fees, and possible private sponsorship.

Mayor Chavonne stated \$50,000.00 had been allocated in this year's budget for the celebration. Mr. Gibson stated the City would be organizing and coordinating the event with Ms. Carrie King, Dogwood Festival Director.

A discussion period ensued on the type of events and funding for the celebration.

**4.2 Update from LSV Partnerships on Substation(s).**

Mr. Chris Franks, LSV Partnership, presented this item with a power point presentation. Mr. Franks provided the Council members with a handout entitled "Fayetteville Police Department Substation Study" dated January 3, 2012. He stated LSV Partnerships had reviewed a number of development options and site locations based on discussions with department and municipal staff and reviews of other municipalities in order to illustrate potential solutions. He stated other locations and options could become available over time and should be seen as opportunities to enhance the intent of the study. He stated the options presented in the report were intended to illustrate the requirements of Police Substations for the Fayetteville Police Department in

general terms and for general sites. He stated the space requirements of the Fayetteville Police Department had grown beyond the capacity of their existing facilities. He stated the buildings were not expandable, and certain inherent site deficiencies would hamper efficient service and operations. He stated the image of the buildings, especially the current Cross Creek Substation, presented to the public were institutional and not indicative of the Police Department's Mission Statement and its efforts to establish the Fayetteville District Policing Team. He stated substation facilities should be full-service police stations designed to be cost effective to build and maintain, and durable enough to function 24 hours per day, 365 days per year. He stated high quality materials and a design that reflected an appropriate architectural character for the City would demand a significant financial investment for the City, however the payback in increased police efficiency, staff morale, and community convenience would be obvious. He stated an effort to relieve the overcrowded conditions and efficient operations would need to happen eventually. He stated the least expensive approach would be to take advantage of the current lower real estate prices and historically low interest rates before the market began to recover.

A question and answer period ensued.

Mr. Franks listed the following three proposed options:

Option A: New Building- This option proposes construction of a new building on an undeveloped or previously developed site. This requires the acquisition of the site through purchase, testing the site for suitable soils, bringing in utilities, developing ingress and egress drives and other development requirements.

Option B: Renovation of Existing Building- This option proposes the purchase of an existing suitable structure and site of proper size and location. The building would be renovated to meet the program requirements. Construction costs could vary greatly due to the unknown condition of the existing structure.

Option C: Lease of Existing Building- If funding for purchase options were temporarily unavailable, Option C proposes leasing a suitable building and renovating it to meet program requirements. This option does have several added benefits.

The question and answer period continued regarding the best option to proceed with.

Consensus of Council was to direct staff to bring this item back for further discussion at the annual retreat.

#### **4.3 Calendar 2012 Federal Legislative Agenda Preliminary Draft**

Ms. Rebecca Rogers-Carter, Management Services Manager, presented this item and introduced Ms. Leslie Mozingo from The Ferguson Group. Ms. Rogers-Carter stated the City, Cumberland County, and the Fayetteville-Cumberland County Chamber of Commerce had partnered with The Ferguson Group to develop a community-wide federal legislative agenda for calendar year 2012. She stated the partnership had returned more than \$46,613,900.00 in federal assistance to the community since its inception in 2005. She stated in order to continue the successful efforts, the partners met November 30, 2011, in a series of meetings with City and County department heads to discuss community federal advocacy needs with The Ferguson Group lobbyists, Ms. Leslie Mozingo and Ms. Debra Bryant. She stated during the day-long conference, time was allocated for City Council members and County Commissioners to meet with the lobbyists. She stated based on the sessions with elected officials and local government staff, The Ferguson Group developed a preliminary draft of the Calendar Year 2012 Federal Legislative Agenda for Council's review and discussion. She stated the agenda was based on projects and issues which the partners identified as community priorities and which the lobbyists thought federal grants could be successfully secured.

Ms. Leslie Mozingo, the Ferguson Group, explained this year's process and The Ferguson Group's shift to providing competitive grant services.

A question and answer period ensued.

Ms. Mozingo informed the City Council that she had provided the same presentation to the County Commissioners at a meeting earlier in the day.

Consensus of the City Council was to place this item on a future City Council regular meeting agenda.

#### **4.4 Police – Consent Search Update**

Mr. Tom Bergamine, Chief of Police, presented this item and stated 126 in-car cameras were currently installed and being used on the road. He stated 19 cameras were on hand to be installed in the new Dodge Chargers to be delivered in January 2012. He stated grant funding was providing for the purchase of 24 cameras to be shipped in January 2012. He further stated as of the end of the second quarter of 2012, they would have 170 cameras installed and operational. He also stated a request for use of federal forfeiture money was being drafted to purchase an additional 9 in-car cameras which would bring the total to 179. He stated Operating Procedure No. 3.5, Securing, Searching and Transporting Arrested Persons, was updated and became effective January 1, 2012. He reported the Police Attorney had provided training on the policy and documentation changes for all sworn personnel during the fourth quarter 2011 training. He stated the revised policy and instructions for completing the RMS Field Contact Module (record keeping) were disseminated via the electronic policy module on December 20, 2011. He stated effective January 1, 2012, when consent searches were requested during a traffic stop, officers would be required to document the request in the “Field Contact” module in RMS. He stated in addition to the information required by the State (Traffic Stop Report), the module would capture the traffic stop location, date and time, whether consent was given or not, and the factor of reasonable suspicion that the request was based upon. He stated using the module would allow for the data to be captured in a format that could be mapped (location) by the Crime Analysis Unit. He concluded his update by providing a report of traffic stop reporting validations and distributing a copy of the 120-day “Types of Searches by Initial Reason for Stop” report to the Mayor and Council members.

A discussion period ensued regarding the consent search policy.

Mayor Chavonne stated he believed the collective will of the Council had changed regarding the consent search policy.

Mayor Pro Tem Arp stated there was an ongoing public perception of the consent searches that was damaging to the Police Department, and suggested the Department take a “stand down” and review the policy.

**MOTION: Mayor Pro Tem Arp moved to implement a 120-day moratorium on consent searches effective February 1, 2012, during which an identified and specific number of tasks would be completed.**

**SECOND: Council Member Haire**

Mayor Pro Tem Arp then recommended the following action plan:

#### **STEP 1**

**ACTION:** Identify an organization external to the Fayetteville Police Department to review all traffic stop policies, procedures, and standards of conduct. Review the Fayetteville Police Department Accreditation Process to identify training areas. Review audit findings and determine if the issues identified were also identified in the audit for corrective action. Review and analyze all data collected to determine if biased-based policing has occurred and if so, determine if it is a departmental problem or the result of individual officers. Immediately implement acceptable CALEA Accreditation training standards and identify specific and measurable goals to ensure the conduct of traffic stops (Self-assessment and External assessment) meet the standards.

**GOAL:** Initiate Self-Assessment and External Assessment. Conduct Code of Conduct training during this period for officers and the department to establish an organizational culture where any biased based policing is immediately detected and corrected. Include citizen representative(s) for input into training elements design and delivery.

#### **STEP 2**

**ACTION:** Complete purchase and installation of cameras into patrol vehicles, collect audio and video data, and utilize that new technology to monitor the activities of all traffic stops and conduct additional assessment as necessary.

**GOAL:** Provide the ability to record audio and video every time a traffic stop takes place to provide evidence of illegal/improper activity and to protect officers against false complaints of misconduct. Fully Mission Capable cameras should be required for all traffic patrol operations.

### **STEP 3**

**ACTION:** Develop a reliable and valid police-citizen contact data collection and reporting system method to collect and analyze data in a timely and cost effective fashion which would be minimally disruptive to the daily responsibilities of our officers.

**GOAL:** Establish system to analyze and track the police-citizen contact data to include time, date, reason and location of consent search requests and probable cause searches. Provide an objective and impartial analysis of the data of our officer-initiated traffic stops to identify trends (trend analysis) and institute corrective actions as necessary to meet established metrics for conduct of officers and public safety. Data shall be reportable on a monthly, quarterly, and annual basis. Identify an outside agency or organization to help design a reporting system and help ensure accurate and timely information and analysis is provided.

### **STEP 4**

**ACTION:** Review, revise, and implement changes to the current Citizen and Employee Complaint process that increases citizen and employee confidence in goals, objectives, policies, and practices of the FPD. Ensure all complaints are investigated thoroughly and criticism is made an integral part of the department's analysis of day-to-day services. Working with the external organization identified in Step 1, fully explore an external review process for citizen complaints.

**GOAL:** Develop and implement a plan for internal reviews of complaints and resolutions on a regular basis. Fully explore an external review process for citizen complaints (by an organization external to the Fayetteville Police Department such as a modified Ethics Commission).

Mayor Pro Tem Arp stated the City Manager would be charged with working with the Fayetteville Police Department during the 120-day period to ensure the action items were completed. He stated assuming the actions were completed in a satisfactory manner, consent searches would be re-instated in 120 days. He stated City Council would identify Council representatives to work with the City Manager and keep the City Council informed.

Council Member Applewhite inquired of Ms. Karen McDonald, City Attorney, as to when she received a copy of the proposed moratorium, and inquired if she had reviewed the document. Ms. McDonald responded she received a copy of the final document at 4:30 p.m. today, and had not had an opportunity to review it. She acknowledged she had seen and reviewed a draft earlier that day.

Council Member Applewhite inquired of Mr. Dale Iman, City Manager, as to when he had first been notified of the proposed moratorium. Mr. Iman responded the week of December 15, 2011, the Mayor had shared with him that the Council had an interest in the proposed moratorium, and a conference call had taken place on December 28, 2011, between the Mayor, Mayor Pro Tem, City Attorney, and himself.

Council Member Applewhite inquired of Chief Bergamine as to when he was provided a copy of the proposed moratorium. Chief Bergamine responded he had received a copy several minutes before the meeting began.

**MOTION: Council Member Bates moved to go into closed session for consultation with the City Attorney.**

**SECOND: Council Member Applewhite**

**VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Crisp)**

The regular session recessed at 7:34 p.m. The regular session reconvened at 7:41 p.m.

**MOTION: Council Member Bates moved to go into open session.**

**SECOND: Council Member Crisp**

**VOTE: UNANIMOUS (10-0)**

A discussion period ensued on consent searches and the public perception of the Police Department handling of the issue.

Chief Bergamine stated he and the Police Department would do whatever the City Council directed and that he would not embarrass himself, the department or the City.

Mayor Chavonne asked for an informal vote on a motion to bring the item back to the Council at a later date, therefore allowing the City Manager, City Attorney, and Chief of Police a reasonable period of time to review the proposed moratorium. The consensus of Council was to bring the item back to Council at a later date with Council Member Applewhite in opposition.

#### **4.5 Community Development – Substantial Amendment of the 2011-2012 Community Development Annual Action Plan for funding the construction of a neighborhood resource center by Fayetteville Metropolitan Housing Authority in the HOPE VI Revitalization Project area**

Mr. Victor Sharpe, Community Development Director, presented this item. Mr. Sharpe stated the City of Fayetteville had committed \$937,500.00 of Community Development Block Grant (CDBG) funds to the Fayetteville Metropolitan Housing Authority (FMHA) over a five-year period as part of its commitment to the Old Wilmington Road HOPE VI Revitalization Project. He stated currently the funds had been approved for the acquisition of land to construct single-family affordable housing. He stated FMHA had determined that the entire amount allocated was not needed for land acquisition in meeting their five-year deadline for completing the project. He stated to date the City had approved and budgeted \$749,000.00 as part of the funding for the acquisition of land for single-family housing development. He stated the remaining \$188,500.00 was scheduled to be budgeted for the 2012-2013 program year. He stated FMHA had requested to use the current budgeted amount of \$749,000.00 for the construction of the neighborhood resource center that would be rebuilt on Old Wilmington Road. He stated the remaining amount of \$188,500.00 proposed for next year's budget would be used for acquisition of land to continue the construction of single-family affordable housing. He stated the Fayetteville Redevelopment Commission considered this item on December 14, 2011, and recommended approval of the substantial amendment. He stated the budgeted CDBG funds would need to be expended as soon as possible to assure that they meet the required timeframe for expending the funds. He stated the amendment would allow a change in the use of Community Development Block Grant funds already committed to the Old Wilmington Road HOPE VI Revitalization Project. He concluded his presentation by stating the item would be placed on the City Council's January 23, 2012, agenda for a public hearing.

A brief question and answer period ensued.

Consensus of the City Council was to hold a public hearing on January 23, 2012.

#### **4.6 Proposed Outsourcing of Environmental Services Waste Collection**

Mr. Doug Hewett, Assistant City Manager, presented this item and stated in February 2011, the City Council tasked City staff with investigating potential savings in outsourcing a portion of the City's garbage collection. He stated the competition with the private sector could sometimes increase government efficiency, although privatization also had risks. He stated the government's role of protecting the public health, safety, and wellbeing would make it necessary to ensure that privatization does not place those services beyond the control of the public's representation (elected officials). He stated the City undertook a thorough analysis to determine the effects of outsourcing a portion of the City's garbage collection. He stated staff developed a Request for Proposal (RFP) from local vendors for the collection of Monday garbage routes. He stated the RFP was developed by the Purchasing Department at PWC, in consultation with the City Attorney's Office, the City Manager's Office, and Environmental Services. He stated the proposal was based on the City of Charlotte's managed competition model for waste collection. He stated the current contract with the City holds with Waste Management for curbside recycling was used as a template to ensure similar language and service standards. He stated performance requirements and service quality was established. He stated also included in the RFP were elements of policy from other local municipalities that have investigated outsourcing for their garbage collection services. He stated research with other municipalities indicated that the best practice for beginning an outsourcing program should involve only a portion of the City's service, to allow the City to maintain control. He stated therefore, the RFP was developed on

the basis that a quarter of the City's routes would be considered for outsourcing. He stated PWC received five submissions from local vendors. He stated all of the vendors submitted proposals with a base first year cost per household, and a Consumer Price Index (CPI) inflation allowance that would be assessed each June for a period of four additional years, for a total five-year contract. He stated the vendors varying profit structures, retirement and benefit plans, and economies of scale offer explanation of the substantial differences in the submitted proposals. He stated the highest proposal was from Inland Service Corporation with \$9.49 cost per household per household per month (CPHHPM) for the first year. He stated the lowest proposal was submitted by Waste Management of Carolinas, Inc., at \$3.99 CPHHPM for the first year. He stated City staff developed a thorough cost analysis of the Environmental Services curbside waste collection program to determine the City's current CPHHPM for consideration and comparison with the outside bidders and to determine the human and financial impact for the Department should outsourcing be approved. He stated the analysis determined that the CPHHPM under the City's current service delivery structure which utilizes both the semi-automated and fully-automated trucks was \$3.59. He stated City-wide indirect costs were not included in CPHHPM (i.e., Finance, HRD, CMO cost allocation). He stated Environmental Services administration costs were not included in the CPHHPM Summary. He stated the Environmental Services Department could perform the job at the lowest cost to the City, while still maintaining desired service levels and protecting the public interest. He stated if the City entered into an agreement with the lowest bidder, the annual cost would be \$718,200.00. He stated the City would then reduce equipment and staff accordingly ("go away costs"), choosing the most inefficient service delivery options to cut, which would further increase overall efficiencies. He stated in this case, it would result in cutting five semi-automated trucks and ten employees (\$684,000.00). He stated total resources needed above the current General Fund appropriation would be \$34,200.00.

Mr. Hewett stated an additional impact of outsourcing was the City's entire service route plan for garbage collection would be revised, potentially changing all residents' service days. He stated considerable advertisement would be needed to notify all City residents of the change in service, resulting in additional costs to the City and an increase the demand on the City's Call Center. He stated an estimate for \$25,000.00 in advertising was based on FY 08 route change advertising.

Mr. Hewett stated the RFP was issued on September 26, 2011. He stated the pre-bid conference was held on October 6, 2011. He stated the proposals were due October 20, 2011, with a possible bid award from the City Council on January 9 or 23, 2011.

Mr. Hewett stated staff's recommended action was to not outsource a quarter of the City's residential garbage collection routes, but continue to evaluate services for efficiency.

A discussion period ensued.

Consensus of City Council was to direct staff to not outsource environmental services waste collection and continue to evaluate City operations for efficiency.

Mr. Hewett stated this item would be placed on the January 9, 2012, City Council meeting agenda for an official vote of the Council.

#### **4.7 Deleting Having a Primary Election**

Council Member Haire presented this item and stated he would like to propose eliminating the primary election.

A brief discussion followed on election expenses and the typical low percentage of registered voters that actually voted and participated in the election process.

Mayor Chavonne cautioned that eliminating the primary election could be perceived as giving the incumbent protection over an unknown candidate.

Council Member Bates stated it was an advantage rather than a protection.

Council Member Applewhite stated the Department of Justice would have to be consulted regarding the impact on minority voting.

All Council members were in favor of directing the legal department to conduct research and provide input on the item.

#### **4.8 Bulky Item Pick Up Policy**

Council Member Bates presented this item and stated he wanted to request that staff reinstate the prior bulky item pick up policy. He stated that many citizens were not calling in for bulky item pick up for fear of being charged a fee. He stated his concern was to have the neighborhoods cleaned up.

Council Member Crisp stated there was a lot of misunderstanding on how the policy operates, despite the amount of information that had been distributed.

Council Member Fowler inquired of Mr. Jerry Dietzen, Environmental Services Director, if the new policy had been implemented due to budget constraints. Mr. Dietzen responded there were several cases of citizens abusing the service. He stated new brochures detailing the program had recently been mailed out.

Consensus of the City Council was to return to the Bulky Item Pick Up pre-policy change, request Mr. Dietzen to revise the policy, and bring the item back before City Council at a later date.

#### **4.9 Mayor Pro Tem Selection Process**

Council Member Haire presented this item and provided a handout that listed suggestions for selecting a Mayor Pro Tem. He requested the following suggestions be considered:

1. Every Council member that has a desire to serve as Mayor Pro Tem should have the opportunity.
2. Candidates for Mayor Pro Tem should have served at least two terms of office on the Council.
3. A policy for the selection could be written (similar to the County).
4. Prospective candidates for the Mayor Pro Tem position could be asked to speak before the Council and citizens and state their reasons for seeking the position.

Council Member Haire proposed a committee be formed to draft a Mayor Pro Tem selection process policy. The following Council members voted in favor: Council Members Davy, Fowler, Crisp, Haire, and Applewhite. The following Council members voted in opposition: Council Members Massey, Chavonne, Arp, Hurst, and Bates.

#### **5.0 ADJOURNMENT**

There being no further business, the meeting adjourned at 9:18 p.m.