

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
DECEMBER 8, 2014  
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Kathy Jensen (District 1); Kady-Ann Davy (District 2) (via telephone); 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:

Theodore Voorhees, City Manager  
Rochelle Small-Toney, Deputy City Manager  
Jay Reinstein, Assistant City Manager  
Karen McDonald, City Attorney  
Ben Major, Fire Chief  
Hieu Sifford, Deputy Fire Chief  
Lisa Smith, Chief Financial Officer  
Scott Shuford, Development Services Director  
Karen Hilton, Planning and Zoning Manager  
Craig Harmon, Senior Planner  
Barbara Hill, Human Resource Development Director  
Mark Brown, PWC Customer Relations Manager  
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 Dr. Maxie Dobson, Senior Pastor, of Tabernacle of Miracles Church.

#### **3.0 PLEDGE OF ALLEGIANCE**

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

#### **4.0 APPROVAL OF AGENDA**

**MOTION: Council Member Arp moved to approve the agenda with the exception of Item 6.4 for discussion and a separate vote.**

**SECOND: Council Member Colvin**

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

#### **5.0 ANNOUNCEMENTS AND RECOGNITION**

Mayor Robertson announced that Pamela Megill, City Clerk, has attained Master Municipal Clerk Certification (MMC). The MMC program is one of the two professional designations granted by the International Institute of Municipals Clerks (IIMC).

Mr. Ted Voorhees, City Manager, announced Ms. Barbara Hill is the new Human Resource Development Director, and stated Barbara comes to us most recently from the City of Nashua, NH, as their Human Resources Director serving approximately 3,000 City and school employees and bargaining units. Prior to the City of Nashua, she worked as the Human Resources Director for the City of Ardmore, OK. She also has experience in the private sector. Barbara has a Bachelor's degree in Psychology, Juris Doctorate in Employment Law, and possesses an IPMA-HR, Executive Level Professional Certification.

Mayor Robertson and Deputy Fire Chief Hieu Sifford presented the Fire Officer of the Year award to Lt. Jason Bass.

Mayor Robertson recognized Ms. Lucille Graham Moseley for celebrating her 100th birthday. Council Member Crisp read the certificate of recognition; Mayor Robertson presented the

certificate to Ms. Moseley. Ms. Moseley received a standing ovation from all present.

## **5.0 PUBLIC FORUM**

Mr. Kemp Burdette, 617 Surry Street, Wilmington, NC 28401, spoke in opposition to the proposed Sanderson Farms chicken plant.

Mr. Jerry Reinoehl, 516 Deerpath Drive, Fayetteville, NC 28311, spoke in favor of establishing a Cumberland County Vocational High School.

## **6.0 CONSENT**

**MOTION:** Council Member Arp moved to approve the consent agenda, with the exception of Item 6.4 for discussion and a separate vote.

**SECOND:** Council Member Wright

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

### **6.1 Resolution to Adopt the Proposed 2015 City Council Meeting Dates Calendar RESOLUTION OF THE CITY COUNCIL, CITY OF FAYETTEVILLE, NORTH CAROLINA TO ADOPT THE 2014 CITY COUNCIL MEETING DATES CALENDAR TO CLARIFY THE TIME AND LOCATION OF THE CITY COUNCIL REGULAR MEETINGS. RESOLUTION NO. 2014- 051**

### **6.2 Capital Project Ordinance Closeouts and Partial Closeouts 2015-2 through 2015-7 and Special Revenue Fund Project Ordinance Closeouts 2015-1 through 2015-11**

Staff proposes to close or partially close 17 capital and special revenue project ordinances. The projects have been completed and audited, and if applicable, the grantor agencies have closed the projects. Two of the actions (Capital Project Ordinance Partial Closeout 2015-2 and 2015-6) include additional appropriations of \$18,103.00 for sidewalks and \$6,524.00 for downtown brick paver and sidewalk maintenance, respectively.

### **6.3 Special Revenue Fund Project Ordinance 2015-7 (Phase II Tree Inventory Project funded by the NC Urban and Community Forestry Grant Program)**

The Parks and Recreation Department has received a second grant to be utilized in the completion of the tree inventory project. The grant provides \$15,000.00 of funding, to be matched with a \$1,095.00 cash match and \$13,906.00 in-kind local match.

### **6.4 PULLED FOR DISCUSSION AND A SEPARATE VOTE.**

### **6.5 Integrated Forensic Laboratories - Contract Approval**

The Police Department, Cumberland County Prosecutor's Office, and Cumberland County Sheriff's Office have worked together on this contract that has been negotiated with Integrated Forensic Laboratories to provide sample analysis for both law enforcement organizations.

### **6.6 P14-41F. The rezoning of properties from MR-5 Mixed Residential District to LC Limited Commercial Zoning District, or to a more restrictive district, located at 6321 and 6317 Raeford Road, and being the property of Carroll Rentals LLC and Alexander H. Thomas.**

### **6.7 P14-44F. The rezoning of property from SF-10 Single-Family Residential District to AR/CZ Agricultural Residential Conditional Zoning District, or to a more restrictive district, located at 5581 Shenandoah Drive, and being the property of Joshua Woehr.**

### **6.4 Contract with Cherry Bekaert to Audit Accounts for FY 2014-2015**

This item was pulled for discussion and a separate vote by Council Member Arp.

Ms. Lisa Smith, Chief Financial Officer, presented this item and stated Cherry Bekaert (CB), a regional accounting firm, has provided excellent and timely audit services to the City. CB qualifies as a local business under the definition confirmed by Council at the November 2012 work session for the Hire Fayetteville First Policy. In addition, the firm subcontracts with a local minority certified public accountant for a portion of the audit work consistent with the City's interest to increase contract opportunities with minority businesses. The firm has extensive local government audit experience and conducts audit services for many large governmental units across the state. CB has agreed to provide Fiscal Year 2014-2015 audit services to the City for a total amount not to exceed \$108,000.00. This represents a fee increase of less than 2 percent over Fiscal Year 2013-2014. The fee covers audit work performed at the City's offices and its Public Works Commission. If approved, the General Fund's share of the contract for Fiscal Year

2014-2015 will be \$64,800.00 and the Electric, Water and Wastewater Funds' share of the contract will be \$43,200.00. The annual fee for Fiscal Year 2014-2015 is \$14,720.00 less than the fee for Fiscal Year 2008-2009, which is primarily due to City staff's commitment to internally produce the comprehensive annual financial report.

Council Member Colvin asked if this item had been rendered out for bid. Ms. Smith responded it had not, although that is the intention of the Audit Committee for the future.

**MOTION: Council Member Arp moved to authorize the Mayor to execute a contract with Cherry Bekaert to audit accounts for Fiscal Year 2014-2015.**

**SECOND: Council Member McDougald**

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Colvin and Crisp)**

## **7.0 PUBLIC HEARINGS**

**7.1 P14-43F. The issuing of a Special Use Permit for a private golf course (parking lot expansion) located at 2237 Winterlochen Road, and being the property of Highland Country Club.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated Highland Country Club's parking already abuts this property on two sides. While on the remaining two sides there are residences, those units are separated from this property by road rights-of-way. One of those rights-of-way is a thoroughfare, Raeford Road. The owner has submitted an alternative landscaping plan so that they may save as much of the existing landscaping as possible. On November 12, 2014, the Zoning Commission held a public hearing regarding this case. There was one speaker in favor and none in opposition. The Commission voted 5 to 0 to recommend approval of this Special Use Permit (SUP) application.

The Zoning Commission and City staff recommends approval of the proposed SUP based on the following:

1. This property is adjacent to the main entrance and existing parking at the club.
2. This property is located at an intersection that separates it from the closest residential properties.
3. The Technical Review Committee (TRC) has already given preliminary site plan approval.
4. The submitted alternative landscaping plan will help to save existing vegetation on the property.

Mr. Harmon stated the SUP must meet the following findings of fact:

1. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
7. The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
8. The special use complies with all other relevant City, State, and Federal laws and regulations.

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

Mr. George Rose, 1206 Longleaf Drive, Fayetteville, NC 28305, stated he is the Engineer for this project and is representing Highland Country Club. He asked Council to approve the request for a SUP and stated the area residents are happy to see this plan.

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

Council Member Crisp asked Mr. Harmon to verify that if the request for the SUP is approved, access to the facility will be via the existing parking lot, and there would be no new curb cuts. Mr. Harmon confirmed this was an accurate statement.

**MOTION: Council Member Arp moved to approve the Special Use Permit application as presented by staff, with the eight conditions listed and based on the findings of fact.**

**SECOND: Mayor Pro Tem Davy**

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

**7.2 An ordinance to amend Chapter 30, Unified Development Ordinance, to establish regulations regarding tobacco oriented businesses; to create definitions for cigar bar/lounge, cigarette tobacco, electronic cigarettes, hookah cafés, pipe tobacco, roll-your-own tobacco, shisha, smokeless tobacco and tobacco shops; and to assign cigar bar/lounges, hookah cafés, and tobacco shop uses to zoning districts.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated a little over a year ago, Fayetteville's Police Chief asked that City Council look at amending our City Code to better regulate the placement of retail stores that specialize mainly in the sale of tobacco and tobacco related products. The City of Greenville, North Carolina, had just amended its Zoning Ordinance in February of 2013 to better regulate these types of uses. Greenville's ordinance was then used as a starting point for our proposed amendments. Since May of this year, the Planning Commission has held three public hearings and discussed this issue at two additional meetings. Many changes have been made to the proposed ordinance including separation distances, amortization, hours of operation, SUPs, and signage. The reason the City is looking to regulate the location of tobacco oriented business stems from during a 22-month period between January 2012 and November 2013 these businesses generated over 13,000 calls for service (CFS) from the City's Police Department. Ten of these locations accounted for over 50 percent of these calls by themselves. The calls received around these establishments run the gamut from petty crimes to felonies. Many of these establishments are also located at the entrance to or within very close proximity to residential developments. Currently there are 60 plus establishments in Fayetteville that could qualify as a tobacco oriented business. Mr. Harmon referenced a map that represents the locations of each such shop in the City, with stars depicting those located within the DT and NC Districts. Some roads and intersections have a clustering of these types of businesses. For instance, one can see five such shops from the intersection of Cliffdale and Reilly Roads. The proposed changes start by defining a range of tobacco related uses: tobacco shops, cigar bars, and hookah cafés. Next, the ordinance places standards on where these uses may be located. Each new location, except Class 1 shops, would require a SUP to be approved by the City Council.

Mr. Harmon stated since the agenda for this meeting was published there has been further discussion regarding vapor stores, it has been suggested vapor stores should be removed from the proposed ordinance.

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

Ms. Johna Derosier, 308 Hay Street, Fayetteville, NC 28301, appeared in opposition and stated her business does not sell tobacco, only vapors.

Mr. Thimi Kollar, 590 Cedar Creek Road, Fayetteville, NC 28301, appeared in opposition and stated he is the TRO Manager at the store located on Rosehill Drive.

Mr. Chad Whitaker, 3300 Rosehill Road, Fayetteville, NC 28311, appeared in opposition and stated he is the Vice President of TRO.

Mr. Ben Amstead, 3456 Sugarcane Circle, Fayetteville, NC 28303, appeared in opposition and stated he is representing Amstead Tobacco.

Mr. David Courie, 230 Green Street, Fayetteville, NC 28302, appeared in opposition and stated he is an attorney representing several tobacco store businesses.

Mr. Dan Dippel, 4717 Yadkin Road, Fayetteville, NC 28303, appeared in opposition and stated he is the district manager for Electro Vaping.

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

Council Member Colvin addressed Mr. Courie and stated he does not want to curb business growth and would like to see delayed action on this item.

Council Member Arp stated this item needs further research; we do not want unintended consequences.

**MOTION: Council Member McDougald moved to table this item to the January 5, 2015, City Council work session, and asked interested individuals participating in this evening's public hearing to work with Mr. Harmon.**

**SECOND: Council Member Wright**

**FRIENDLY AMENDMENT: Mayor Pro Tem Davy made a friendly amendment to include adding information on this item to be discussed at Community Watch meetings.**

Council Members McDougald and Wright accepted the friendly amendment.

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

### **7.3 Phase 5 Annexation Areas 12 and 13 - Public Hearing**

Mr. Mark Brown, PWC Customer Relations Manager, presented this item with the aid of a PowerPoint presentation and stated the City Council approved a Resolution Declaring Cost and Ordering Preparation of Preliminary Assessment Roll and Setting Time and Place for Public Hearing on Preliminary Assessment Roll at their meeting of November 24, 2014. The resolution set the date of the public hearing for December 8, 2014, to hear public comment. A notice was published in The Fayetteville Observer and the preliminary assessment letters were mailed November 26, 2014, informing the property owners of the public hearing date. A certificate of mailing was included in the agenda packet. After the public hearing, the next step in the process is for Council to consider approving the Resolution Confirming Assessment Roll and Levying Assessments at their January 12, 2015, meeting.

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

**MOTION: Council Member Mohn moved to accept the report and place this item on the January 12, 2015, regular City Council agenda.**

**SECOND: Council Member Arp**

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

## **8.0 OTHER ITEMS OF BUSINESS**

### **8.1 Renewal of Memorandum of Agreement between the City of Fayetteville and Fayetteville-Cumberland County Chamber of Commerce for Economic Development Services for the Remainder of FY 2015**

Ms. Rochelle Small-Toney, Deputy City Manager, presented this item and stated the City of Fayetteville has contracted with the Fayetteville-Cumberland County Chamber of Commerce for economic development services since 2009. In 2012 the Fayetteville-Cumberland County Chamber of Commerce established The Alliance as its economic development division. The Alliance, in partnership with the City of Fayetteville, Cumberland County, and the Chamber of Commerce, work collaboratively and diligently to maximize our local talents and resources to promote opportunities for new industries and businesses to locate or expand in our community.

The City of Fayetteville financially supports the mission of The Alliance and allocates funding in its General Fund and its Public Works Commission budget. On October 6, 2014, City Council authorized the renewal of an Agreement for the first two quarters of FY 2015 and the payment of \$50,000.00 from the General Fund and \$157,000.00 from the Public Works Commission. The current agreement will expire on December 31, 2014. The remaining funding for FY 2015 is available; however, a renewal of the agreement is required for services from January 1 through June 30, 2015. As previously directed by City Council, the proposed agreement does not include an automatic annual renewal clause for an additional two years, as in previous agreements. The level of funding and services to be provided will be considered each year by City Council. The proposed agreement terminates on June 30, 2015, and does not include an

automatic renewal for two subsequent years; therefore, it is recommended that the agreement be renewed on an annual basis should funding be authorized by City Council in the annual budget. With the start-up of the City's new Economic and Business Development Department in the third quarter of the year, The Alliance will continue to focus its efforts on industrial and commercial recruitments with opportunities for both agencies to develop marketing strategies that will benefit the City. In the past, The Alliance was expected to work in the area of redevelopment projects, however, those responsibilities will now come under the direction of the City's Economic and Business Development Department. The remaining funds are budgeted and available in FY 2015 in the amount of \$50,000.00 from the City of Fayetteville's General Fund and \$157,000.00 from the Public Works Commission to support The Alliance's economic development initiatives and to provide services to the City of Fayetteville.

**MOTION: Council Member Hurst moved to approve the agreement between the City of Fayetteville and Fayetteville-Cumberland County Chamber of Commerce for Economic Development Services for the remainder of FY 2015.**

**SECOND: Council Member Arp**

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

### **8.2 Presentation of the Audited FY 2013-2014 Comprehensive Annual Financial Report**

Ms. Lisa Smith, Chief Financial Officer, presented this item and stated the City Council's audit firm, Cherry Bekaert, presented their report on the City's FY 2013-2014 Comprehensive Annual Financial Report (CAFR) at the December 1, 2014, work session. Ms. Smith also provided an overview of the Statement of Revenues, Expenditures and Changes in Fund Balance for the General Fund for the same reporting period.

**MOTION: Council Member Arp moved to accept the Audited FY 2013-2014 Comprehensive Annual Financial Report and to direct PWC staff to provide an update to Council on the two listed deficiencies; the first report due by January 31, 2015.**

**SECOND: Council Member Colvin**

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

### **8.3 Amendment to Article 30 to modify standards for utility trailer storage (Section 4 in Misc. Set 11)**

Ms. Karen Hilton, Planning and Zoning Manager, presented this item with the aid of a PowerPoint presentation and stated "Trailers" are affected by standards in City Code Chapter 6 on housing, Chapter 16 on motor vehicles, and Chapter 30 on Development Standards. They are often in the same context as RVs, mobile homes, and/or large tractor trailers and other heavy or multi-axle vehicles, with no differentiation in terms of number allowed or parking standards. Under City Code Chapter 16 in Section 311, by not being listed, single-axle trailers with licenses and in good working order could be parked or stored on the street in residential districts where on-street parking is allowed. Citations for violations of most of the standards in Chapter 16 are issued by the Police Department. However, Code Enforcement Officers from Development Services will send a notice as a courtesy to the property owner letting them know if they are in violation of a section in Chapter 16, and they will continue with formal enforcement actions when the trailer is deemed abandoned or junked. The pending amendment is limited to Chapter 30, which is focused on development and use of private property. Parking on the street is regulated by Chapter 16 of the City Code. Any amendment to Chapter 16 or any other chapter of the City Code would require research and evaluation by the affected City department(s) and advertising for a public hearing before City Council action. The amendment was proposed to recognize the relatively large number of single-axle trailers used by residents and small landscaping or handyman businesses run from homes, and to provide an option that, in the limited instances where there was no access to an interior side or rear yard, did not negatively impact the appearance and values of the neighborhood. There are no direct budget impacts. This particular change would help small landscaping or handyman businesses and residents keep a utility trailer nearby for ready use but would restrict the number and location enough to help maintain stable neighborhood environments, thus strengthening the local economy and quality of life and associated revenues and growth.

Council Member Crisp asked if the property owner does not have access to park in their back yard can they can park in the front yard. Ms. Hilton responded the ordinance does recognize that some property owners cannot access the back yard and so this allows for a single-axle trailer to be parked on an improved surface; not on dirt or grass.

Council Member Hurst stated there are many small landscaping businesses operating out of their homes using 16-foot single-axle trailers; with this new ordinance they could store three or four trailers in their back yard and then an additional trailer in the front drive as long as it is hooked up to a vehicle.

Council Member Mohn asked where a side yard begins and asked what the definition of a side yard is. Ms. Hilton responded a covered structure such as a porch or a deck in the front and sometimes eaves would begin the front of the house.

Council Member Colvin asked if a resident has access to the rear yard are you permitted to park a trailer in the front drive. Ms. Hilton responded it is permissible if the trailer is attached to a vehicle.

Council Member Wright asked if only one trailer is allowed in the front yard. Ms. Hilton responded that is correct, so long as the trailer is attached to a vehicle.

Council Member Arp asked if a trailer is to be parked on the street must it be attached to a vehicle. Ms. Hilton responded it should, and if not, this will be a police matter.

Council Member Arp asked how this ordinance will be enforced, as it will require both police and code enforcement involvement.

Council Member Jensen asked if a person has two trailers and they are unable to access their back yard, can they park one on the street if it is hooked up to a vehicle and the second one in the drive way. Ms. Hilton confirmed that was correct.

Council Member McDougald stated he currently has a neighbor that has six cars with four of them parked on the street and they have nowhere to put their garbage cans in an appropriate place for collection and the same issue for mail delivery. He stated this does not look good for the neighborhood and one trailer parked in the driveway is enough.

**MOTION: Council Member Hurst moved to adopt the proposed amendment as presented by staff.**

**SECOND: Council Member McDougald**

**VOTE: FAILED by a vote of 3 in favor to 7 in opposition (Council Members Robertson, Jensen, Colvin, Crisp, Wright, Mohn, and Arp)**

## **9.0 CLOSED SESSION**

**MOTION: Council Member Arp moved to reconvene the closed session recessed at the December 8, 2014, discussion of agenda items meeting.**

**SECOND: Council Member Colvin**

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

The regular session recessed at 9:20 p.m. The regular session reconvened at 10:30 p.m.

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

**SECOND: Council Member Colvin**

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

**MOTION: Council Member Colvin moved to engage a lobbyist.**

**SECOND: Council Member Crisp**

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Robertson and Mohn)**

**MOTION: Council Member Arp moved to set a special meeting for December 15, 2014, at 5:00 p.m.**

**SECOND: Council Member Colvin**

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

**MOTION: Council Member Mohn moved to direct the City Attorney to proceed.**

**SECOND: Council Member Arp**

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

## **10.0 ADJOURNMENT**

There being no further business, the meeting adjourned at 10:35 p.m.