

**FAYETTEVILLE CITY COUNCIL  
SPECIAL MEETING MINUTES  
LAFAYETTE CONFERENCE ROOM  
AUGUST 20, 2014  
5:00 P.M.**

Present: Mayor Nat Robertson

Council Members Kathy Jensen (District 1); Kady-Ann Davy (District 2); 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  
Kristoff Bauer, Deputy City Manager  
Rochelle Small-Toney, Deputy City Manager  
Jay Reinstein, Assistant City Manager  
Karen McDonald, City Attorney  
Lisa Smith, Chief Financial Officer  
Rusty Thompson, Engineering and Infrastructure Director  
Karen McIsaac, ABEO Group Managing Director  
Andy Honeycutt, DavenportLawrence Managing Director  
Michael Lallier, PWC Commission Chair  
Lynne Greene, PWC Commissioner  
Darsweil Rogers, PWC Commissioner  
Wick Smith, PWC Commissioner  
Steve Blanchard, PWC Chief Executive Officer  
Bill Berry, PWC Customer Programs  
Carolyn Justice Hinson, PWC Communications Officer  
Susan Fritzen, PWC Chief Corporate Services Officer  
Dwight Miller, PWC Chief Finance Officer  
Joan Starling, Senior Executive Assistant/Clerk to the PWC Board  
David Trego, PWC Chief Operations Officer  
Jane Starling, Deputy City Clerk  
Members of the Press

#### **1.0 CALL TO ORDER**

Mayor Pro Tem Davy called the meeting to order at 5:06 p.m.

#### **2.0 INVOCATION**

The invocation was offered by Council Member McDougald.

#### **3.0 APPROVAL OF AGENDA**

**MOTION: Council Member Arp moved to approve the agenda.**

**SECOND: Council Member Wright**

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

#### **4.0 OTHER ITEMS OF BUSINESS**

##### **4.01 Report on the City/PWC Steering Committee Progress**

Ms. Karen McIsaac, ABEO Group Managing Director, and Mr. Andy Honeycutt, DavenportLawrence Managing Director, presented this item with the aid of a powerpoint presentation. Ms. McIsaac provided a status update of the following Best Practices projects initiated under Resolution No. R2013-052.

- Call Center: The transition of this project is in progress. It transitioned to City of Fayetteville/Fayetteville Public Works Commission implementation in April due to urgency of staffing.
- Risk Management: This project is incomplete. It was suspended in May and June 2014 for budgetary preparation purposes and resumed July 7, 2014. A report of the findings and recommendations will be issued to the Steering Committee on August 28, 2014.

- Communications: This project was suspended in May and June 2014 for budgetary preparation purposes and resumed July 7, 2014. A report of the findings and recommendations will be presented to the Steering Committee in late September 2014.
- Legal: This project is completed.
- Fiber Optics: This project is completed.
- Economic Development: This project is completed.
- Finance and Treasury: This project consists of two phases. Phase one is completed and phase two is 'on hold'.
- Branding: This project is incomplete, specifically re-branding by PWC.
- Purchasing: This project is incomplete. This project's scope was expanded at the July Steering Committee meeting to include all requisition processes.
- Fleet Services: status is not completed.

Ms. Mclsaac emphasized that determining the cost of services provided by either the City of Fayetteville or PWC was to be conducted between the City Manager and PWC General Manager as staff driven projects do not include this activity.

Discussion ensued.

The Council was also provided with calculation assumptions for City Fiber. During the Fiber Optics portion of the progress report a discussion of the cost of each program ensued.

Council Member Arp stated that this issue is not just about fiber, it is about whatever fee will be allocated and how it will be allocated and defined. It is going to touch the call center, it is going to touch fiber, and it is going to touch the City going back on the legal services. Council Member Arp recommended the City Manager and PWC General Manager come back on how this will be done and by the first work session have an answer on what standard will be used to calculate the cost of each program and the Council can deliberate whether it is good or bad.

Discussion ensued.

Consensus of Council was for the City Manager and PWC General Manager to bring back this information for the September work session.

#### **4.02 Review of Resolution No. R2013-52 Regarding the Public Works Commission**

Mr. Ted Voorhees, City Manager, provided a status report regarding Resolution No. R2013-052 and a PowerPoint presentation. He stated the report is a duplicate of the material presented to the previous Council prior to their passing Resolution NO. R2013-052. The report reiterates the five objectives in the first substantive paragraph of the resolution, stating that the Council shall (1) reinforce its oversight and policy responsibilities inherent in its role as the governing body of the City of Fayetteville; (2) reestablish the City's treasury role as defined in the Charter; (3) realign oversight for (a) legal, (b) communications, and (c) branding; (4) revise cost plans and Service Level Agreements for existing joint services; and (5) continue the study of support services to identify any efficiency from possible realignment and consolidation of support services.

Discussion ensued.

Consensus of Council was to confirm to the City Manager and PWC Commissioners to proceed with realignment as directed in Resolution No. 2013-052 and improve the pace in order to complete within 12 months or sooner. Mayor Robertson, Council Members Jensen, Arp, and Mohn dissenting.

#### **4.03 Proposed Budget, Audit and Organizational Performance Function**

Ms. Lisa Smith, Chief Financial Officer, presented this item with the aid of a PowerPoint presentation. Ms. Smith stated during budget deliberations in late May, a budget proposal was presented at one of the budget work sessions to develop a comprehensive Budget, Audit and Organizational Performance office proposal. Council requested the information be brought back sometime in August. Ms. Smith pointed out that the City's current environment without a formal internal audit function includes payment collections, tracking of small equipment/computers valued at less than \$5,000.00, audit of revenue contract, procurement cards, grant risk, service contracts missing ongoing examination, payroll methods are inconsistent, and receivables are decentralized.

Discussion ensued.

Consensus of Council was to direct the City Manager to proceed with build out of these functions; ensure that the new functions represent 'the enterprise' which includes PWC and require quarterly updates on progress and 'Quick Hits'.

#### **4.04 Authorization to Study City Divestiture of Utility Assets**

Mr. Ted Voorhees, City Manager, stated this item was requested by Mayor Pro Tem Davy and Council Member Colvin. Mr. Voorhees said there is interest in understanding where the Public Works Commission or at least one of the Commissioners is with realignment. A document was circulated entitled "City of Fayetteville and Fayetteville Public Works Commission Stability Initiative for the Future" produced by PWC. City staff has no documentation of its own for presentation. This was a subject raised in the PWC Steering Committee meetings and Council felt it should be brought into the open and directly addressed.

Council Member Colvin stated because he wished for open communication and transparency between City Council and the Public Works Commission, he requested this item be placed on the agenda. He stated on August 17, 2014, there was a quote in the Fayetteville Observer from Mr. Voorhees saying that he was caught off guard by a public information request for e-mails concerning possible divestiture or sale or transfer of PWC. Council Member Colvin asked Mr. Blanchard if he or any of the Commissioners have discussed a plan or made any attempt to form any type of planning for the removal or transfer of PWC and its assets from under the control of the City of Fayetteville to the best of his knowledge. Commissioner Lallier responded that the document referred to was penned primarily by him and was aimed at coming together to talk. He said the question we wanted to pose in this agenda item is, are we aligned in the best way possible to serve the citizens and taxpayers. Mr. Lallier asked if we want to take a look at how we are aligned in the charter, and stated it is within the Council's purview to say we would like to have that discussion or are happy with the way things are.

Discussion ensued.

Consensus of Council was that Council, staff, and PWC will eliminate any further discussion regarding divestiture of PWC.

#### **4.05 Review Phase V Annexation Utility Infrastructure Funding**

Mr. Ted Voorhees, City Manager, and Ms. Lisa Smith, Chief Financial Officer, provided a PowerPoint presentation. The presentation suggested realigning priorities to reduce and ultimately eliminate the City's Annexation Phase V utility construction contribution from the City's General Fund over a three-year period. Mr. Voorhees stated there was a transfer agreement between the City and PWC established in May 2008 which has been adjusted from time to time, based on budget negotiations. The City Attorney has informed Council that the agreement is not a legally binding contract for two main reasons. First, the PWC is not a separate legal entity from the City itself. The Commission, created by the City Charter, is simply a delegation of Council authority to perform specific functions related to the governance of the City's utility operations. It is not possible to contract with yourself. Second, a contract in which one party commits to taking actions that that party is already required to undertake is not an enforceable contract. The PWC is statutorily required to operate the City's utilities in compliance with state and federal law and Council policy in the best interests of the City. The Commission is obligated to install utility infrastructure in the Phase V area under state annexation law and the City's Charter. Even if the PWC was a separate legal entity, which it is not, they could not enforce an obligation on the City to contribute General Fund resources to that effort as they are mandated to perform that installation regardless.

Mr. Voorhees continued by stating in 2006, and updated thereafter, staff has worked to create community-wide plans for Parks & Recreation infrastructure investment. This culminated in a proposal for a capital bond ballot measure that would have supported some \$54 million in Parks infrastructure investment over a seven-year period. The City Council ultimately decided not to place that issue before the City's voters and the Council has sought alternative means of financing these projects in the months since. During FY15 budget deliberation, Council asked staff to explore how the funding currently being provided by the General Fund to support Phase

V infrastructure costs could be used to support the completion of the projects included in the parks master plan and the previously proposed ballot measure. Staff provided this information during a budget workshop. Council, at the request of PWC Chair Lallier, deferred further consideration of this alternative until August 2014. Two key areas create opportunities for funding Council priorities. The first was strengthening governance by City Council (in the past, working with PWC was viewed as a “negotiation with equals”). Secondly, clarifying City Council and PWC roles, the City Council decides annexation and land use policy, and utility costs should be borne by utility revenues. Changing priorities and a desire to realign revenues and responsibilities presents an opportunity to shift financial responsibility for Phase V utility costs back to PWC where they belong.

Discussion ensued.

Consensus of Council was that unless directed otherwise, the City’s Budget Officer (City Manager) will include phasing out Phase V funding from the Enterprise Fund Transfer to the General Fund over three years beginning in the budget development instructions for FY16. Mayor Robertson, Council Members Mohn, Jensen, and Arp dissenting.

## **6.0 ADJOURNMENT**

There being no further business, the meeting adjourned at 9:07 p.m.