

**FAYETTEVILLE CITY COUNCIL**  
**WORK SESSION MINUTES**  
**AUGUST 4, 2008**  
**5:00 P.M.**  
**LAFAYETTE ROOM**

Present: Mayor Anthony G. Chavonne  
Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2)(departed 9:20 p.m.); 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); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Kyle Sonnenberg, Assistant City Manager  
Doug Hewett, Assistant City Manager  
Karen M. McDonald, City Attorney  
Karyn Brunson, Assistant City Attorney  
Bobby Teague, Engineering and Infrastructure Director  
Greg Caison, Stormwater Division Manager  
James G. Alexander, Interim Inspections Director  
Bradley Whited, Airport Director  
Rusty Thompson, City Traffic Engineer  
Jeffrey Brown, City Engineer  
Jerry Dietzen, Solid Waste Management Director  
Jimmy Teal, Planning Director  
Karen Hilton, Assistant Planning Director  
Jackie Tuckey, Communications Manager/Public Information Officer  
Dr. Vick Hackley, Fayetteville State University  
Dr. Larry Keen, Fayetteville Technical Community College  
Dr. Elton Hendricks, Methodist College  
Michael Crowell, UNC School of Government  
Butch Raynor, Assistant County Attorney  
Bobby Howard, Cumberland County Solid Waste Director  
Candice H. White, City Clerk  
Press

**CALL TO ORDER**

Mayor Chavonne called the meeting to order at 5:05 p.m.

**INVOCATION**

Council Member Hurst provided the invocation.

**1. APPROVAL OF AGENDA**

Mayor Chavonne requested the addition of an item regarding upgrades to the City Council Chambers and the movement of Item 13.A. to Item 4.

**MOTION: Mayor Chavonne moved to approve the agenda to include the changes as requested.**

**SECOND: Council Member Meredith**

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

**2. PRESENTATION OF DRAFT PROPOSAL FOR CITY OF FAYETTEVILLE ETHICS COMMISSION**

Mayor Chavonne introduced Dr. Vick Hackley, Fayetteville State University; Dr. Elton Hendricks, Methodist College; and Dr. Larry Keen, Fayetteville Technical Community College; and stated the panel had agreed to conduct a review of various Ethics Commissions and provide a presentation to the City Council.

Dr. Hackley provided a PowerPoint presentation and explained under the proposal that the Fayetteville Code of Ethics gave the Ethics Commission the authority to render advisory opinions based on their interpretation of the Code. Dr. Hackley stated City officials, City

employees and members of City boards and commissions would be able to request an opinion in writing based on real or hypothetical circumstances. Dr. Hackley further stated persons who requested an opinion and fully disclosed all relevant facts would be able to rely on the opinion as a guide for their conduct. Dr. Hackley outlined ways in which the Ethics Commission would administer and enforce the Code of Ethics.

Dr. Hackley continued by stating the Ethics Commission would be an authority appointed board comprised of nine city residents selected by legal, business, civic, and educational groups to serve a three-year term of office. Dr. Hackley stated following the establishment of the Commission, the Commission would appoint an Ethics Officer who would serve a six-year term, subject to confirmation by the City Council and approval by the Mayor. Dr. Hackley briefly reviewed background checks and financial disclosures that would be required of all Ethics Commission members and prohibitions related to municipal election activities.

Council Member Haire inquired as to whether the Ethics Commission would rule on issues that occurred prior to its development. Dr. Keen stated there had been no discussions about investigating retroactive issues. Dr. Keen further stated after the Commission was duly formed and appointed, it would have responsibility from that point forward.

A question and answer period ensued regarding the possibility of staggered terms, whether Ethics Commission members should be paid, possible criteria for removal of Ethics Commission members, and education requirements of Ethics Commission members. Dr. Keen noted the issues could be discussed in greater detail as the Ethics Commission was created.

Council Member Massey inquired about the Ethics Commission's authority. Dr. Henderson stated the role of the Ethics Commission would be that of moral persuasion based on the opinions of the nine members. Dr. Henderson noted the commission would not be a judicial body. Dr. Keen explained the Ethics Commission could not discipline, and legal or civil issues would have to be dealt with by remedies of law.

Council Member Applewhite asked about the current involvement of the City Attorney's Office in ethical issues. Karen M. McDonald, City Attorney, stated under the current structure, her office rendered advisory opinions on employee related issues and opinions to Council Members on statutes dealing with conflict of interest issues.

Following further discussion, consensus of Council was to move forward towards implementation of the plan and for staff to return to a City Council work session in two months.

### **3. REDISTRICTING PROCESS**

Mayor Chavonne introduced Michael Crowell, UNC School of Government. Mr. Crowell described the process involved with the redrawing of City Council election districts as a result of the annexation of Ft. Bragg and noted population statistics would be based on 2000 census data. Mr. Crowell explained how election districts could differ radically from one part of the city to another and stated all districts would be affected. Mr. Crowell further stated the redistricting would have to be precleared by the U. S. Department of Justice based on opportunities for African Americans to elect candidates. Mr. Crowell briefly spoke to the Gates Four annexation process and noted additional voters from Gates Four would need to be taken into account. A brief discussion ensued regarding the Shaw Heights area.

Mayor Chavonne requested, where possible, that precinct lines be drawn along major neighborhoods and roadways. Mr. Crowell stated he would make every effort to do so while keeping in mind that the one-vote one-person voting requirement would have to be met. Mr. Crowell displayed a map depicting one example of the Ft. Bragg area divided into four districts and stated the first map he would provide for Council's consideration would attempt to keep Council Members in separate districts.

Follow-up meetings were scheduled with Mr. Crowell and City Council for Tuesday, August 19, 2008 at 5:00 p.m. and Thursday, September 4, 2008 at 5:00 p.m.

### **4. MUSEUM OF ART (MOA) IN FESTIVAL PARK - DISCUSS OTHER LOCATIONS FOR THE MOA**

Council Member Mohn provided a PowerPoint presentation titled "Community Support for a New Fayetteville Museum of Art" which focused on opening up dialogue and getting

citizens involved in finding solutions to various issues associated with the Museum of Art location. Council Member Mohn introduced a proposed plan for City Council to form an objective task force composed of Arts Council members, citizens nominated by City Council, city staff members and Museum of Art members. Council Member Mohn stated the proposed task force would study all options in the downtown area, verify any proposed sustainability plans for the new Museum of Art, and report back to City Council.

Questions were posed regarding the status of the deeds to the Museum of Art for the parcels of land in Festival Park. Mrs. McDonald responded one parcel had been deeded and the second parcel, which was subject to various Federal restrictions, should be deeded in late summer or early fall.

Council Member Mohn clarified that his proposal did not involve the revocation of previous transfers of property but was based on concerns that fund raising efforts for the Museum of Art could be hampered and the museum might not be constructed in the downtown Fayetteville area.

Council Member Applewhite inquired about the Arts Council's and Museum of Art's thoughts regarding the proposed task force. Council Member Mohn stated he had not spoken with the Arts Council but that Tom Grubb and Menno Penninck of the Museum of Art Board of Director's indicated they were open to discussion.

Council Member Hurst inquired about the estimated timeframe associated with the proposed plan. Council Member Mohn stated his hope would be for preliminary feedback in ninety days.

Following a brief discussion, consensus of City Council was for further discussion and action on Council Member Mohn's initiative.

The regular session recessed at 7:00 p.m.

The regular session reconvened at 7:10 p.m.

## **5. UPDATE ON STORMWATER MANAGEMENT ORDINANCE**

Greg Caison, Stormwater Division Manager, stated the stormwater management ordinance was intended to establish minimum requirements and procedures for new development and redevelopment to control the adverse effects of increased stormwater quantity and runoff quality. Mr. Caison followed with a brief overview of the draft stormwater ordinance and stated homeowner associations would be responsible for routine maintenance with an option for the city to take on functional maintenance of Best Management Practice (BMP) facilities in single-family subdivisions. Mr. Caison reviewed alternative provisions discussed during meetings of the stakeholder's group and Fayetteville-Cumberland Stormwater Advisory Board meetings and stated the consensus reached on the proposed stormwater management ordinance included the option of the city performing the functional maintenance, a developer contribution of 20%, the 10% downstream analysis or 25-year BMP design, and wider stream buffers. Mr. Caison stated an effective date of January 1, 2009 was recommended.

Bobby Teague, Engineering and Infrastructure Director, and Mr. Caison responded to questions and provided further clarification regarding city staff, stakeholder and advisory board recommendations.

Following discussion regarding homeowner association responsibilities and inspection provisions provided for in the ordinance, consensus of Council was for further discussion and action on the proposed ordinance.

## **6. AMENDMENTS TO THE MINIMUM HOUSING ORDINANCE**

James G. Alexander, Interim Inspections Director, provided a brief overview of proposed amendments to the minimum housing ordinance, which included requirements from the International Building Council's Maintenance Code. Mr. Alexander explained that the major effect of the amended ordinance were requirements associated with the painting of houses and the presence of a heating system rather than just a unit connection.

Mr. Alexander responded to questions and spoke to areas within the city affected by vacant and abandoned legislation and areas within the city in which state statutes specified whether properties were to be secured, demolished or repaired.

Following a brief discussion, consensus of Council was to move forward with the amendments to the minimum housing ordinance.

## **7. AIRPORT OVERLAY DISTRICT**

Bradley Whited, Airport Director, provided an informational PowerPoint presentation regarding draft revisions to the Fayetteville Regional Airport's zoning and height restriction ordinance and creation of an overlay district. Mr. Whited stated an overlay district was created because of concerns associated with commercial land near airports being converted to residential purposes, particularly in approach zones, which could cause concerns for airport access and noise complaints in the future. Mr. Whited outlined resource documents utilized in the development of the draft revisions and overlay district and presented maps depicting land and noise contours, airport impact zones and the airport overlay district. Mr. Whited reviewed anticipated outcomes associated with the overlay district process and incremental steps that would need to be taken for approval.

Mr. Whited responded to questions regarding the overlay district's relationship to the Unified Development Ordinance and zoning ordinances established by the County.

## **8. BIG BOX ORDINANCE**

Kyle Sonnenberg, Assistant City Manager, stated following the public hearing on the big box ordinance, Council requested that staff seek input from the development community. Mr. Sonnenberg stated the proposed ordinance had been revised to include some of the interests of the development community without changing the basic objective of the ordinance. A brief discussion followed regarding various options contained in the ordinance. Consensus of Council was for further discussion and action regarding the proposed ordinance.

## **9. AMENDMENTS TO SPECIAL EVENTS AND PICKETING ORDINANCE**

Mrs. McDonald provided an overview of amendments to the special events and picketing ordinance that were developed due to concerns regarding the constitutionality of the city's ordinance. Mrs. McDonald advised that the amendments were designed to ensure that the city's ordinance would withstand a constitutional challenge.

Mrs. McDonald responded to questions regarding picketing anonymously, picketing around the Market House, and assessments for administrative costs and costs related to traffic control. In response to a question posed by Council Member Crisp, Mrs. McDonald clarified that state law addressed obscenities and the ordinance would not supplant state law.

Consensus of Council was for further discussion and action on the amended ordinance.

## **10. DOWNTOWN PARKING PROPOSED REVISIONS**

Rusty Thompson, City Traffic Engineer, stated proposed revisions to the parking ordinance resulted from recommendations contained in the downtown parking study report and increased demand for parking in the downtown area. Mr. Thompson outlined recommendations cited in the parking study and addressed issues associated with the parking concepts to include the decrease in free parking downtown, controversial issues associated with booting and towing, reduction in delinquent fines and increase in parking revenues.

Mr. Thompson responded to questions regarding lease spaces; no enforcement during evenings, weekends and special events; automated pay stations; off-street parking; and parking options in other locations.

Mr. Sonnenberg stated the premise of the parking study was the need for additional parking on downtown streets and a way to provide the additional parking would eventually be the construction of a parking deck. Mr. Sonnenberg stated to afford a parking deck, hourly paid parking needed to be implemented so downtown parking would eventually become self-supporting. Mr. Sonnenberg further stated the parking study recommended the implementation of paid parking once occupancy rates on the street exceeded 85%. Mr. Sonnenberg stated a Request for Proposal (RFP) would be sent out for parking service firms to provide equipment, maintenance and enforcement contingent on direction by Council.

Consensus of Council was for the proposed revisions to the parking ordinance to come back to Council at a future meeting.

## **11. DISCUSSION OF REVISING SPECIAL USE PERMIT FOR DAYCARES**

Jimmy Teal, Planning Director, provided a brief overview of options that are currently available for the operation of daycare centers through the special use permit process and stated current requirements provide broad guidance and can be interpreted in many ways by both the City Council and the applicant. Mr. Teal further stated Council at their agenda briefing meeting requested staff to provide guidelines for Council when considering special use permits for daycare centers. Mr. Teal reviewed a list of potential requirements associated with the special use permit. Mr. Teal also noted a request that had been received related to Chapter 30-107(1) of the Fayetteville City Code that would permit incidental home occupation daycares to allow one employee.

Following discussion, consensus of Council was to pursue the following at a future work session: 1) restrictions on where commercial daycares with more than twelve children could be located; 2) restriction of daycares in heavily populated areas; and 3) consideration of allowing in-home daycares to employ persons not living in the residence.

## **12. INTERLOCAL AGREEMENT RENEWAL FOR SOLID WASTE COLLECTION DISPOSAL AND LANDFILL HOUSEHOLD USER FEE**

Butch Raynor, Deputy County Attorney, displayed a map of the Cumberland County Ann Street landfill to include surrounding properties and provided a brief history of the current interlocal agreement. Mr. Raynor stated recent changes in the law resulted in new regulations for landfills owned by a governmental entity located in another governmental entity's jurisdiction. Mr. Raynor further stated the County was in the process of renewing its construction and demolition permit and according to the State Attorney General's office, a franchise agreement from the other jurisdictions would be required. Mr. Raynor stated the County was requesting that the City grant a thirty-year franchise to continue to operate the Ann Street landfill and construction and demolition site. Mr. Raynor noted the County had approved the continued use of the landfill for the next thirty years and a public hearing for a first reading on the franchise agreement had been scheduled for August 11, 2008.

Discussion ensued regarding the negotiation of tipping fees as a result of waste being removed by the city's recycling program and the length of time for the franchise agreement. Bobby Howard, Cumberland County Solid Waste Director, spoke to the operation of the landfill and benefits to both the city and county. Dale E. Iman, City Manager, spoke to issues currently under discussion between the City and County.

Council requested to stay apprised of and involved with future discussions.

## **13. NARRATIVE DESCRIPTIONS FOR FY 2008-2009 STRATEGIC PLAN TARGETS FOR ACTION**

Doug Hewett, Assistant City Manager, called attention to the narrative descriptions of the FY 2008-2009 Strategic Plan Targets for Action and spoke to the distinctions between the Policy and Management Agendas. Mr. Hewett responded to questions regarding BRAC opportunities, the Parks and Recreation Master Plan, and the sidewalk policy. Consensus of Council was for staff to take suggested revisions under advisement and return to City Council for formal approval.

## **14. UPDATE ON COUNCIL CHAMBER UPGRADES**

Mr. Hewett provided a PowerPoint presentation as an update to the City Council Chamber Enhancement Project to include a project overview, project budget and project timeline. Mr. Hewett explained City Council Chambers would be ADA compliant with a presentation podium accessible by wheelchair and assisted listening devices. Mr. Hewett stated the project was ready for a bid award contingent on Council action.

Council Member Bates inquired whether closed captioning would be included in the upgrade. Mr. Hewett responded closed captioning was not part of the current project. Mr. Hewett responded to additional questions and noted the city had received a \$148,000 grant from the N.C. Rural Economic Development Center for labor and equipment. A brief discussion followed.

Consensus of Council was for to move forward with the Council Chamber upgrades.

**15. COUNCIL MEMBER REQUESTS**

**A.COMBINE TOWN HALL MEETINGS WITH FIRST MEETING OF THE MONTH EACH QUARTER**

Mayor Chavonne stated significant numbers of city staff attended Town Hall meetings and citizen attendance appeared to have decreased at the last two meetings. Mayor Chavonne suggested combining Town Hall meetings with the first meeting of the month each quarter. Majority of Council was in favor of the concept.

**B. AIR QUALITY STATUS**

Council Member Bates provided handouts and information related to the status of Cumberland County's air quality attainment as of July 12, 2008 and noted that should Cumberland County be designated as nonattainment for ozone, transportation projects in Cumberland County in excess of \$100 million dollars in road construction could hypothetically be in jeopardy. Council Member Bates spoke to measures that could be taken to bring Cumberland County into attainment status.

**C. GREEN INITIATIVE CHALLENGE**

Council Member Bates provided information related to North Carolina's Green Challenge initiative. Consensus of Council was to move forward in support of the initiative.

**D. SEPTIC TANKS**

Council Member Haire stated he had received requests from Phase V citizens for additional time to fill-in their septic tanks based on the costs for sewer and to close the septic tank. Council Member Haire asked Council to consider the citizens' request. Consensus of Council was for the matter to come back to a future City Council meeting.

**E. PARKS AND RECREATION CONSOLIDATION**

There was no discussion regarding this item.

There being no further business, the meeting adjourned at 9:50 p.m.