

**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
CITY HALL COUNCIL CHAMBER
AUGUST 3, 2009
5:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3) (arrived at 5:30 p.m.); Darrell J. Haire (District 4); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Absent: Council Member Bobby Hurst (District 5)

Others Present: Dale E. Iman, City Manager

Kristoff Bauer, Assistant City Manager

Doug Hewett, Assistant City Manager

Karen M. McDonald, City Attorney

Stanley Victrum, Chief Information Officer

Lisa Smith, Chief Financial Officer

Rob Anderson, Chief Development Officer

Rusty Thompson, Traffic Engineer

Craig Hampton, Special Projects Manager

Sgt. Matthew Dow, Police Department Operations Support Bureau

Jimmy Teal, Planning Director

Jackie Tuckey, Communications Manager/Public Information Officer

Nathan Walls, Public Information Specialist

Steven K. Blanchard, PWC CEO/General Manager

Dwight Miller, PWC Chief Financial Officer

James Rose, PWC Chief Administrative Officer

Joe Callis, PWC Business Planning Manager

Christina Smith, Wilmington Road Improvement Group

Jim Daughtery, Executive Director of RLUAC

Members of the Press

CALL TO ORDER

Mayor Chavonne called the meeting to order at 5:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Haire provided the invocation followed by the Pledge of Allegiance to the American Flag.

Mr. Dale Iman, City Manager, introduced Mr. Kristoff Bauer, the newly hired Assistant City Manager.

Mayor Chavonne announced they were recruiting applicants for vacancies on the boards and commissions.

1. APPROVAL OF AGENDA

Council Member Bates requested to move Item 10, Council member requests, to Item 2.

Ms. Karen McDonald, City Attorney, requested to add a closed session for (1) consultation with attorney and (2) discussion of litigation in the matter of *Gates Four v. City of Fayetteville*.

MOTION: Council Member Bates moved to move Item 10 to Item 2 and add a closed session for consultation with attorney and discussion of litigation in the matter of *Gates Four v. City of Fayetteville*.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (8-0)

2. Council member requests:

This item was moved from Item 10.

A. Explore options for red light cameras.

Council Member Bates requested to direct staff to look at the intersections that previously had red lights and advise if traffic accidents had increased since removal of the red lights and explore the possibility of reinstating the red light cameras.

Ms. Karen McDonald, City Attorney, informed Council that the red light cameras had been popular and generated revenue for the school systems. She explained that when the program had been discontinued, they had worked with the school system to find a way to legally reinstate the program without creating liability to either the City or school system. She stated Representative Dickson had also supported their efforts and would have assisted in introducing legislation if necessary. She stated they were unable at that time, and believed at this time there was no way, to craft a program that would not result in liability to the City.

Council Member Crisp inquired if the program had cost the City. Mr. Dale Iman, City Manager, responded in the affirmative and stated the State Constitution had been interpreted that the proceeds from the operation of the red light cameras go to the schools and there had not been enough net gain for the City to pay for the operation of the system. He stated they had exhausted every angle to relieve the burden on the City.

Council Member Mohn inquired if the possibility of an interlocal agreement with the School Board had been explored where the School Board would take on sole financial responsibility and then obtaining approval from the General Assembly. Mr. Iman responded this had been explored and advised the General Assembly would not do anything legislatively that would be in conflict with the Constitution.

The consensus of Council was not to proceed further with this item.

B. Amend City Code Section 6-226 (keeping hogs within corporate limits).

Council Member Bates requested to direct staff to explore amending the ordinance to exclude potbelly pigs.

Council Member Evans inquired how this ordinance would be enforced and who would enforce it. Mr. Iman responded provisions would be included for enforcement either by City staff or County Animal Control.

The consensus of Council was to direct staff to explore amendment of the ordinance and bring back to the September 3 work session.

C. Prohibit portable shelters.

Council Member Bates requested to direct staff to research the use of portable shelters as carports or garages and restricting those that use PVC pipes.

Mr. Iman explained the quality of the structures were not addressed under the Code but would be addressed under the Unified Development Ordinance.

The consensus of Council was not to proceed further with this item.

D. Review City Ordinance Section 16-311 (parking of vehicles in residential districts).

Council Member Bates requested to direct staff to research reclassifying the weight limits on commercial vehicles parked at residences, but not including all commercial vehicles such as PWC, CP&L, and Progress Energy.

The consensus of Council was to move forward with this item and direct staff to research this ordinance.

E. Mann Street Cemetery maintenance.

Council Member Evans requested to direct staff to research the possibility of the City maintaining the Mann Street Cemetery, which he felt could be part of the Hope VI beautification project.

Council Member Bates stated he would want confirmation from Parks and Recreation that they could maintain the cemetery under the current budget.

Council Member Crisp inquired who owned the cemetery. Ms. Christina Smith, Wilmington Road Improvement Group, was introduced and responded the cemetery was owned by several families.

Mr. Iman informed Council that three other cemeteries had made similar requests. He stated the current cutting schedule was such that they could not keep up with the properties they

have now on a regular basis, especially during the heavy growing season. He stated if they were to take on this cemetery they would likely have to take on the other three.

Ms. McDonald further explained that when staff had looked at this previously the issue had not been maintenance of the cemetery. She stated the issue raised in discussions she had with Ms. Smith had been that no one had accepted responsibility. She stated the Wilmington Road Improvement Group was maintaining the cemetery with limited funds, which impacts on the funds available to do other projects in the area.

The consensus of Council was to move forward with this item and direct staff to research.

F. Domestic Violence Task Force.

Council Member Bates stated domestic violence was on the increase not only in the City of Fayetteville but in the state of North Carolina and the United States as well. He felt it would be to their benefit if they could look into the possibility of having a task force deal with domestic violence.

Council Member Applewhite inquired if staff would be available to deal exclusively with domestic violence. Mr. Iman responded they had a number of programs within the Police Department targeted towards domestic violence. He stated the request was to assign a special unit specifically for domestic violence but they felt given the other challenges within the Department, they would not have the staffing level to do that. Mr. Iman further stated Mr. Tom Bergamine, Chief of Police, was scheduled to be at the September 3, 2009, work session to provide an update to Council and describe the programs they had on domestic violence issues in the Police Department.

The consensus of Council was not to proceed further with this item.

G. City of Fayetteville Ethics Commission.

Mayor Chavonne provided an update and stated an expensive proposal had been presented several months ago. He stated they had looked at a modification that would significantly require less resources but wanted to bring back to Council to determine if there was an interest to pursue further.

A question and answer period ensued regarding modification of the proposal.

The consensus of Council was to move forward with this item and have staff research.

2. Fort Bragg/Pope AFB Regional Land Use Advisory Commission (RLUAC).

Mr. Jim Daughtery, Executive Director of RLUAC, presented this item and briefed Council on RLUAC. He stated Council Member Bates was a very active member representing the City and they appreciated the City's involvement. He stated the purpose of RLUAC was to protect the military training mission in Fort Bragg from incompatible urban development surrounding it, the health and safety of the civilian population living near Fort Bragg, and the longleaf pine ecosystem and the red-cockaded woodpeckers. He stated their power was limited to making recommendations. He then presented a power point presentation showing the progression of the rural areas around the military base and the effect on training missions. He stated they had been involved in preparing several studies regarding land use, light pollution, telecom tower, and had also made the recommendation for the creation of the All American Trail.

A question and answer period ensued regarding the All American Trail. Mr. Daughtery responded the All American Trail would connect from Hefner Elementary School to Weymouth Woods State Park and would be a significant undertaking. He stated they would like to extend it from Fayetteville to Southern Pines. He stated it was a continuous trail now and would continue to be continuous.

3. Update on water and sewer assessment process.

Mr. Joe Callis, PWC Business Planning Manager, presented this item and provided an overview and update of the Phase 5 annexation water and sewer projects. He then provided the annexation schedule, procedure that would be followed, and timeline.

Mr. Dwight Miller, PWC Chief Financial Officer, then provided an overview of the funding for water and sewer installations. He stated the assessments would be capped at \$5,000.00 per

lot, with PWC and City equally funding a share to minimize the impact on PWC ratepayers and City revenues. He stated construction would begin in 2010 and complete in 2023. He stated the City would do the assessment but PWC would be responsible for collecting the assessment, which would result in no cost to the City. He stated PWC would bear the risk of not collecting 100 percent of the assessments, which would also include the interest and the legal cost on foreclosures. He stated that currently there were 42 parcels in various stages of foreclosure with a cost of \$233,000.00.

A question and answer period ensued regarding foreclosure of the properties. Mr. Miller explained the foreclosure process.

4. Update on the Fiber-To-The-Home (FTTH) concept exploration.

Mr. Stanley Victrum, Chief Information Officer, presented this item and provided information from an Executive Summary submitted by the Fort Bragg and Pope Air Force Base BRAC Regional Task Force. He explained that the Fiber To The Home (FTTH) concept involved connecting businesses and residences using fiber optic cable instead of coaxial or copper cables. He stated the cities of Wilson and Salisbury had either implemented or planned to implement high-speed broadband service for their residents and businesses and both viewed the high-speed FTTH networks as community infrastructure projects and as a means of differentiating their communities as preferred places for people to live, work, raise a family, and start new businesses. He stated the Executive Summary noted that without high-speed access, the region's business, institutional, and commercial interests would find it considerably more difficult to compete and succeed in the 21st century marketplace. He stated earlier this year the Level Playing Field Act had been introduced in the 2009 Session of the General Assembly and that Council opposed this Act. He stated the Act was a way of excluding local governments from being able to participate in offering services to citizens in underserved areas of the community. He stated that Council had noted that deployment of a true high-speed broadband internet was a new public utility vital to the future economic development, educational outreach, and community growth in North Carolina.

Council Member Haire inquired on the next step. Mr. James Rose, PWC Chief Administrative Officer, explained this would be a multi-step process. He stated the first step was to find out if there was an interest in researching this issue. He stated if there was an interest, the next step would be to find out if the incumbents would have any plans to modernize their networks and whether constituents would want high-speed internet access and lower cable rates.

Consensus of Council was to move forward with this item.

5. Blanket ordinance for no parking signs.

Mr. Rusty Thompson, Traffic Engineer, presented this item and stated the blanket no parking ordinance would be a blanket sign ordinance. He stated a survey had discovered that six cities followed the same process they follow now and five had special legislation to authorize the manager or his designee to authorize installation of signs. He stated they currently have ordinances that deal with safety concerns where a sign could be immediately installed without going before Council. He stated they do not bring many no parking ordinances to Council and currently bring stop sign ordinances to Council quarterly. He stated he preferred the process they use now. He stated if a citizen were to request a no parking ordinance, staff would go out and investigate the need for a sign. He stated if there was a need, they would ask the citizen to petition the surrounding neighbors. He stated that once they receive the request, it would be presented to Council to decide on whether to move forward with the ordinance. He stated through special legislation this similar request would not go before Council.

A question and answer period ensued regarding the process for adoption of the ordinances and signs erected due to safety issues.

Consensus of Council was to take no further action on this item.

6. Briefing on the status and process for approval of the first funding agreement under the Economic Development Property Tax Grantback Program.

Mr. Rob Anderson, Chief Development Officer, presented this item and announced the first participant in the program would be coming before Council for review and approval on August 24. He stated the project consisted of approximately 239 residential dwelling units on approximately 12 acres on Bragg Boulevard. He stated the benefits associated with this program, in addition to the economic activity, was that it put them at the table with the developer and they were able to negotiate on behalf of the City. He stated the negotiations resulted in the developer contributing a 100-foot wide right-of-way to the City necessary to connect Pamalee Drive to Bragg Boulevard. He stated the developer also agreed to remove old building foundations from the property adjacent to the site along Bragg Boulevard and replace the lighting influence with new sidewalks and landscaping. He stated per statute, this item would come before Council as a public hearing on August 24 to consider approval as recommended by staff.

Consensus of Council was to move forward with the public hearing on August 24, 2009.

7. Update on impending adoption of resolution authorizing placement of City-owned land into Clean Water Trust Fund conservation easement.

Mr. Craig Hampton, Special Projects Director, presented this item and stated Council would be requested to take action at the August 10 meeting to convey City-owned land adjacent to the Cape Fear River into a conservation easement for the Clean Water Trust Fund. He stated the City had received a \$1.3 million grant from the Clean Water Management Trust Fund in 2008 along with money from DOT for the second phase of the Cape Fear River Trail from Clark Park to Botanical Gardens. He stated part of that grant required that they convey up to 200 acres into the conservation easement. He presented a map showing the phases of the Cape Fear River Trail. He stated the current schedule showed completion of construction in November 2010.

Consensus of Council was to move this item forward to the August 10 meeting.

8. Presentation on wrecker rotation software.

Sgt. Matthew Dow, Police Department Operations Support Bureau, presented this item and provided a presentation on the services of the Complied Logic Software. He stated the benefits of the Fayetteville towing initiative would help provide enforcement against predatory towing. He stated there had been instances of predatory towing in the City and they would like to take a pro-active approach. He stated the software would also help them combat auto theft and erroneous stolen vehicle reports, which would provide a cost-effective measure for citizens to locate vehicles. He stated they would be meeting with representatives from Fort Bragg to offer a service to deployed soldiers where they would voluntarily register their vehicles in the system and provide contact information in case their vehicles are stolen. He stated an additional fee of \$10.00 would be tacked to the rotation schedule of fees, \$7.00 to be remitted to the repository owner and \$3.00 back to the towing companies as an incentive to report the vehicle.

Council Member Evans requested explanation as to where they were now and where they would be going with this. Sgt. Dow explained everything they do now was primitive, handwritten and very archaic in the recordkeeping. He stated this software would provide them a way to query any and all agencies participating.

Council Member Evans inquired if they were looking at the possibility of making it mandatory that towing companies participate in order to be on the rotation list. Ms. Karen McDonald, City Attorney, responded there was the possibility that they would transition to that. She explained if this program were adopted, they would amend the ordinance allowing the towing companies on the rotation list a specified period of time to acquire the necessary computer software to participate.

Sgt. Dow stated half of the list was already voluntarily participating. He stated the training was free and there was no software cost. He stated they only require that the wrecker companies have a computer and an internet connection.

9. Election 2009 information.

Mr. Dale Iman, City Manager, presented this item and announced that candidates for Mayor or Council could obtain answers to questions or information from City staff. He requested that questions be directed to Assistant City Manager Doug Hewett. He stated requests would be responded to within 48 hours with either an answer or when the answer would be available. He stated all answers to questions from candidates would be posted on the City's website. He then presented statute and City Code information pertaining to employees participating in political activity and reviewed the Mayor and Council protocol operating guidelines.

A question and answer period ensued regarding the public records law.

10. Council member request.

This item was moved to Item 2.

11. Closed session for (1) consultation with the attorney and (2) discussion of litigation in the matter of *Gates Four v. City of Fayetteville*.

MOTION: Council Member Crisp moved to go into closed session for (1) consultation with the attorney and (2) discussion of litigation in the matter of *Gates Four v. City of Fayetteville*.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS (9-0)

The regular session recessed at 6:05 p.m.

MOTION: Mayor Pro Tem Meredith moved to reconvene into open session.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (9-0)

The regular session reconvened at 6:35 p.m.

There being no further business, the meeting adjourned at 6:35 p.m.