

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
SEPTEMBER 12, 2016
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Katherine K. Jensen (District 1); Kirk deViere (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 (District 9)

Others Present: Douglas Hewett, Interim City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Rochelle Small-Toney, Deputy City Manager
Ben Major, Fire Chief
Randy Hume, Transit Director
Kevin Arata, Corporate Communications Director
Tracey Broyles, Budget and Evaluation Director
Rob Stone, Engineering and Infrastructure Director
Cheryl Spivey, Chief Financial Officer
James Palenick, Economic and Business Development
Director
Craig Harmon, Senior Planner
Karen Hilton, Planning and Zoning Manager
Mark Brown, PWC Customer Relations Director
Bill Fiden, Planning Commission Chair
Jane Starling, Deputy City Clerk
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 Ms. Renee Elder, Veterans Empowering Veterans.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 ANNOUNCEMENTS AND RECOGNITIONS

Ms. Shauna Hopkins and Mr. Sonny Kelly introduced three young ladies that sang "In this Life that we are Living". The Find a Friend organization works with young people to help them empower themselves and feel worthy.

Mayor Robertson recognized and congratulated the Fayetteville Fire Department for Accreditation with the Commission on Fire Accreditation International (CFAI) and stated the Fayetteville Fire and Emergency Management Department (FFD) in Fayetteville, NC, received the Accreditation for meeting the criteria established through the CFAI's voluntary self-assessment and accreditation program. The FFD is one of only 234 agencies to achieve Internationally Accredited Agency status with the CFAI and the Center for Public Safety Excellence, Inc. (CPSE). FFD first received accreditation from CFAI in August of 2011 and is reassessed every five years for reaccreditation purposes. In addition to being an Accredited Agency, the FFD also earned the Insurance Services Office Class 1 Public Protection Rating--the highest possible inspections

rating for fire departments. The ISO rating classification is based on an inspection of its operations, water supply and distribution, emergency communications, and efforts to prevent and reduce fire risk. FFD is one of a handful of fire departments in North Carolina that share both an accreditation status and an ISO Class 1 public protection rating.

5.0 APPROVAL OF AGENDA

MOTION: Mayor Pro Tem Colvin moved to approve the agenda with the addition of Item 10.02, Proposed Baseball Stadium and Finance Committee Report.

SECOND: Council Member Arp

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

6.0 CONSENT

MOTION: Mayor Pro Tem Colvin moved to approve the consent agenda.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

6.01 Approval of Meeting Minutes:

August 8, 2016 - Discussion of Agenda Items

August 17, 2016 - Agenda Briefing

August 17, 2016 - Special

August 22, 2016 - Discussion of Agenda Items

6.02 Capital Project Ordinance 2017-13 (2016 Transit Capital Grant NC-2016-021-00) for a Federal Transit Administration grant award for the purchase of two buses.

Capital Project Ordinance 2017-13 will appropriate \$840,000.00 for the purchase of two 35-foot buses to increase the bus fleet to accommodate fixed-route service expansions. The Federal Transit Administration will provide 85 percent funding through a \$714,000.00 grant, with the local match being funded by a \$126,000.00 transfer from the Transit Operating Fund.

6.03 Special Revenue Fund Project Ordinance 2017-3 (FY 17 Juvenile Restitution Program)

The City has been awarded grant funding for FY 2016-2017 for the Fayetteville-Cumberland Juvenile Restitution Program. The Juvenile Restitution Program is a sentencing alternative for Fayetteville and Cumberland County youth. This ordinance will appropriate \$111,287.00 needed for personnel and operating costs for FY 2016-2017. The funding sources for this program are \$86,984.00 in grant funds awarded by the North Carolina Department of Public Safety, a local match of \$12,152.00 from Cumberland County and the City's local match of \$12,151.00.

6.04 Appropriation of 2016 Transit Grant Award NC-2016-030-00 for Various Capital Items, Planning Activities and Downtown Multi-Modal Transportation Center Construction (Capital Project Ordinance 2017-14, Capital Project Ordinance Amendment 2017-21, and Special Revenue Fund Project Ordinance 2017-4)

Federal Transit Administration (FTA) has awarded Transit Grant NC-2016-030 to provide federal funding for eligible projects in support of the City's transit activities. Capital Project Ordinance 2017-14 will appropriate \$400,800.00 for capital items including replacement buses, fare boxes, capital maintenance items, maintenance equipment, bus shelters and installation costs, paratransit scheduling software, and equipment and furniture for the new transit center. This project ordinance will be funded by a \$328,640.00 grant from the FTA and a \$72,160.00 transfer from the Transit Operating Fund. Capital Project Ordinance Amendment 2017-21 will update the funding source for the Multi-Modal Transportation Center (MMTC) to show the

application of \$232,800.00 of grant proceeds from Transit Capital Grant NC-2016-030 in place of anticipated grant proceeds appropriated with Capital Project Ordinance Amendment 2016-29. The \$58,200.00 local match for the MMTTC funding was previously appropriated to the capital project. Special Revenue Fund Project Ordinance 2017-4 will appropriate \$382,000.00 for various transit planning activities and will be funded by \$305,600.00 from the FTA grant and \$76,400.00 to be transferred from the Transit Operating Fund.

6.05 Request for Legal Representation of City Employee

Authorization from the City Council to provide legal representation for City employee Nelson Leal in the matter of *Billy Jerome Green v. City of Fayetteville, et al.* The employee was acting within the scope and course of his employment with the City when the alleged incident occurred.

6.06 Resolution to Set Public Hearing to Consider Closing a Portion of Mintz Mill Road

A RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF MINTZ MILL ROAD. RESOLUTION NO. R2016-063

6.07 Resolution to Set Public Hearing to Consider Closing a Portion of Farrell Avenue

A RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF FARRELL AVENUE. RESOLUTION NO. R2016-064

7.0 REPORTS FROM BOARDS AND COMMISSIONS

7.01 Planning Commission Annual Report FY 15-16

Dr. Bill Fiden, Planning Commission Chair, presented this item and stated the Planning Commission holds hearings and makes recommendations to City Council on proposed text amendments and plans, whether for small areas, functional elements, or a component of the comprehensive plan. It also handles approvals of alternative signage plans and neighborhood compatibility permits, either of which may be appealed to City Council. Dr. Fiden provided an overview of the annual report that reviews the activity and major issues during the past fiscal year.

8.0 PUBLIC FORUM

Ms. Pam Samuels, 183 Blueberry Place, Fayetteville, NC 28301, requested Sunday bus services be implemented.

Dr. Johnny Hunter, 1817 Broadell Drive, Fayetteville, NC, expressed concerns regarding his electric bill and varying rates from PWC, and stated the policy is unjust and unfair.

Mr. Mike Lewis, 8512 Deertrot Drive, Fayetteville, NC 28314, spoke in opposition to the red light cameras installed in the City of Fayetteville, and questioned the legality of operating the Red Light Camera program.

Mr. Mark White, 1008 Clarendon Street, Fayetteville, NC 28305, spoke in opposition of the proposed salvage yard near the Cape Fear River, and said he wanted to keep Fayetteville from being uglier than it already is.

Dr. Tony Haire, a member of the John Maxwell Team Youth Leadership, 1480 Pamalee Drive, Fayetteville, NC 28303, announced the Youth Max Program helps youth to develop a positive self-image, develop strong personal character, and teaches how fail forward to success, adding value to themselves and others.

Mr. Jerry Reinhoel, 516 Deerpath Drive, Fayetteville, NC 28311, expressed concerns regarding his political signage being vandalized and stolen, which are crimes against freedom of speech, and commended the Fayetteville Police Department for their quick response.

Mr. Mike Thompson, 727 Three Wood Drive, Fayetteville, NC 28312, spoke in opposition to the proposed salvage yard to be located next to the Cape Fear River and further requested all discussions regarding this item be in the public forum; not in closed meetings.

9.0 PUBLIC HEARINGS

9.01 P16-15F. **The rezoning of property from OI Office and Institutional to LC Limited Commercial, located at the northwest corner of Stacy Weaver Drive and McArthur Road, and being the property of Thomas R. and Elizabeth McLean Foundation Inc. [NC Neighborhood Commercial is recommended]**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the applicant wishes to rezone the undeveloped property at the corner of Stacy Weaver Drive and McArthur Road. The property was rezoned to OI Office and Institutional in 2013. The applicant had asked to be rezoned to NC Neighborhood Commercial, but the City Council rezoned the property to a more restrictive OI district. Staff and the Zoning Commission are now recommending a NC Neighborhood Commercial zoning for the property, more restrictive than that proposed by the applicant but the applicant agrees to the NC designation. This proposed rezoning is located at the intersection of Rosehill, Stacy Weaver, and McArthur Roads. In 2012 the owners asked for and were granted right-of-way abandonment for the unopened portion of Farmview Drive that bisected this property. Currently the north side of McArthur Road is all zoned for Office and Institutional. The south side of McArthur Road, however, has both a library branch and a shopping center. The shopping center consists of a grocery store and several outparcels. A portion of the property in question does extend to the single-family neighborhood to the north as well. Office uses are not prevalent in this part of the City. In 2013 the City Council rezoned this property from SF-10 to OI. The applicant had requested NC. In the three years since that rezoning the owner has not been successful in finding a buyer for the property as OI. Although the owner has requested a rezoning to LC, he is willing to accept a zoning change to NC. On July 12, 2016, the Zoning Commission held a public hearing regarding this case. There were two speakers in favor and none in opposition to this case. After closing the public hearing, the Commission voted 5 to 0 to recommend approval. The Zoning Commission and staff recommend approval of a more restrictive district than what was requested, NC Neighborhood Commercial, based on:

1. The Land Use Plan calls for office use; however, OI zoning already exists on two of the other points of this intersection, one of which is undeveloped.
2. Office use is not prevalent in this area of the City.
3. The NC district would be the City's most restrictive commercial district.
4. A type D buffer would be required between the NC district and the SF-10 residential to the rear of the property.

Discussion ensued.

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

Mr. Harry Shaw, 1225 Haymount Court, Fayetteville, NC 28305, appeared in favor and stated he is representing the McLean Foundation,

a charitable foundation, and stated the Foundation intends to sell this property and requested Council approve the rezoning request.

Council Member Jensen asked Mr. Shaw if he had attended any of the Community Watch events or reached out to any of the residents in this neighborhood. Mr. Shaw responded he had not, and stated he had found very little opposition from the community, and further stated he had no plans as to what commercial activity might develop there.

Council Member Crisp asked Mr. Shaw if he had a prospective buyer for the property. Mr. Shaw responded he did not due to the current zoning.

Council Member Wright quoted "2030 Growth Management Plan: Policy 1.1: the expansion of existing businesses and the start-up of new businesses shall be a critical component of the area's economic development effort. Policy 9.2: local governments should be cautious of rezoning residentially zoned land to commercial zoning solely because it adjoins a major highway or street. Proper design and/or buffering has shown that land tracts adjoining major streets can be properly developed for residential use" and asked Mr. Harmon how this statement affects this property. Mr. Harmon responded these are policy statements, the first promotes new business and growth in the City and the second is cautionary of putting commercial everywhere.

Ms. Sandra Williams, 5429 Sandstone Drive, Fayetteville, NC 28311, appeared in opposition and stated traffic congestion is a concern of hers.

Mr. Dennis Murphy, 462 Bayshore Drive, Fayetteville, NC 28311, appeared in opposition and stated the residents are asking for protection from increased traffic, pollution, and crime.

Mr. Willie Snow, 5232 Chesapeake Road, Fayetteville, NC 28311, appeared in opposition and stated he has been a resident of the College Lakes neighborhood for over 25 years, and asked the Council to consider the wishes of the residents in this neighborhood.

Ms. Karen Gilmore, 559 Farmview Drive, Fayetteville, NC 28311, appeared in opposition and stated she lives adjacent to the property in question and expressed concerns for the safety of children crossing the roads in that area.

Mr. Carter Broadhurst, 450 Grayton Place, Fayetteville, NC 28311, appeared in opposition and thanked the Council for the opportunity to speak and expressed his concerns regarding increases in crime and traffic if the property is rezoned for commercial.

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

MOTION: Council Member Jensen moved to deny the request for rezoning.

SECOND: Council Member Mohn

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Hurst and McDougald)

10.0 OTHER ITEMS OF BUSINESS

10.01 Presentation of Appointment Committee Recommendations for Boards and Commissions Appointments

Council Member Hurst, Appointment Committee Chair, presented this item and stated the Appointment Committee met on Wednesday, August 24, 2016, to review applications for appointments to boards and commissions. It is from that meeting the Appointment Committee presents the recommendations for appointments to the City of Fayetteville boards and commissions as follows:

Fayetteville City Planning Commission

Mr. Clabon Lowe (2nd Term) (Full Member)	Oct 2016 - Sept 2018
Mr. Marshall Isler (1st Term) (Full Member)	Oct 2016 - Sept 2018
Mr. Michael Clark (1st Term) (Full Member)	Oct 2016 - Sept 2018
Mr. Jack Cox (1st Term) (Full Member)	Oct 2016 - Sept 2018
Mr. Teddy Warner (1st Term) (Full Member)	Oct 2016 - Sept 2018
Mr. Christopher Davis (1st Term) (Alternate Member)	Oct 2016 - Sept 2018
Ms. LaKeshia Payton (1st Term) (Alternate Member)	Oct 2016 - Sept 2018

Fayetteville City Zoning Commission

Mr. Alex Keith (1st Term) (Full Member)	Oct 2016 - Sept 2018
Mr. Kevin Hight (2nd Term) (Full Member)	Oct 2016 - Sept 2018
Mr. James Kratovil (1st Term) (Alternate Member)	Oct 2016 - Sept 2018

Fayetteville Finance Corporation

Mr. William M Brooks Jr.	Oct 2016 - Sept 2017
Mr. C Keith Love	Oct 2016 - Sept 2017

Fayetteville Public Works Commission

Mr. D. Ralph Huff (1st Term)	Oct 2016 - Sept 2020
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Fayetteville-Cumberland Human Relations Commission

Ms. Shelia Cuffee (2nd Term)	Oct 2016 - Sept 2018
Ms. Antoinette Morris (2nd Term)	Oct 2016 - Sept 2018
Mr. Craig Wymer (1st Term)	Oct 2016 - Sept 2018
Mr. Ngozi Kamalu (1st Term)	Oct 2016 - Sept 2018
Ms. Rebecca Campbell (1st Term)	Oct 2016 - Sept 2018
Ms. Melba Conley (1st Term)	Oct 2016 - Sept 2018
Mr. Jonathan Warren (1st Term)	Oct 2016 - Sept 2018

Fayetteville-Cumberland Parks and Recreation Advisory Commission

Ms. Mary Ellen Lavoie (2nd Term)	Oct 2016 - Sept 2019
Mr. Troy Lindsey (1st Term)	Oct 2016 - Sept 2019
Ms. Rita Pope (1st Term)	Oct 2016 - Sept 2019

Joint Fayetteville-Cumberland Senior Citizens Advisory Commission

Ms. Reva G. McNair (1st Term)	Oct 2016 - Sept 2018
Mr. Mario Miller (1st Term)	Oct 2016 - Sept 2018

Stormwater Advisory Board

Mr. David Guy (1st Term)	Oct 2016 - Sept 2018
Mr. Charles Jones (1st Term)	Oct 2016 - Sept 2018

Wrecker Review Board

Mr. Douglas Maxwell (1st Term)	Oct 2016 - Sept 2018
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MOTION: Mayor Pro Tem Colvin moved to approve the Appointment Committee recommendations for boards and commissions appointments, effective October 1, 2016.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

10.02 Proposed Baseball Stadium Financial Committee Report

Mayor Pro Tem Colvin, Baseball Committee Chair, introduced this item and stated the Baseball Committee along with staff has been working diligently over the summer to come up with the Memorandum of Understanding and a potential funding model for the proposed baseball stadium.

Council Member deViere, Baseball Finance Subcommittee Chair, stated he wanted to take this opportunity to thank Mr. Doug Hewett, Ms. Tracey Broyles, Ms. Cheryl Spivey, and Mr. Jim Palenick for their hard work putting this financial model together.

Ms. Rochelle Small-Toney, Deputy City Manager, stated in order to become a host City for a Class A-Advanced, Minor League Baseball affiliate of the Houston Astros, the City of Fayetteville has developed a plan and financing model for a not-to-exceed \$33 million baseball stadium with multipurpose functionality and state-of-the-art fan amenities. The financing model does not require an increase in the City's ad valorem tax rate to repay the long-term debt necessary to finance the stadium. The financing model includes upfront funding from the City; contributions from increased City, County, and MSD tax revenues generated from private development near the stadium and from the sale of Festival Park Plaza; stadium lease payments from the Houston Astros; additional revenues from event parking; and savings to be realized in the City General Fund budget through efficiencies and restructuring, the sunset of current economic development incentive agreements, and the ongoing savings from the sale of Festival Park Plaza. Combined, these sources are projected to fully cover the debt repayment on the expected 30-year limited-obligation bonds required for the project. In early 2016, the City commissioned a baseball stadium feasibility study to assess the market and financial feasibility of a proposed minor league baseball stadium. The report, which also included information on the total economic and fiscal impact of the proposed stadium, concluded that "[ongoing operations of the [Venue] would generate considerable new spending and resulting economic impacts on an annual basis" amounting to \$7.2 million in annual economic output, \$1.7 million in annual labor income and \$365,000.00 in additional new taxes. The Feasibility Study also concluded that the proposed venue would have additional benefits such as catalyzing economic development, attracting and retaining businesses, national exposure, civic and community pride and improved quality of life for local residents. Based upon the strength of the report, the City executed both a "Letter of Intent" and subsequently the attached non-binding 'Memorandum of Understanding' with the Houston Astros to construct a new baseball stadium. Key to advancing this project, tentatively titled Project Homerun, is identifying an acceptable financing model to construct the baseball stadium with the stated budget established by City Council not to exceed \$33M. Staff has reviewed the variety of funding streams used for many large public projects. Fayetteville is constrained from accessing many of the traditionally used financing sources for these types of facilities which, in other states or jurisdictions, might have included: lodger or occupancy tax revenues; meal or beverage taxes; rental car taxes; or special sales tax levies. Instead, the City has looked to a responsible mix of tried-and-true methods to finance the stadium while mitigating any additional burden on local taxpayers.

Ms. Tracey Broyles, Budget and Evaluation Director, briefed the Council on the Financial Model and stated the financial model proposed for this project is designed to cover the full cost of the stadium without the need for a property tax increase to fund the anticipated debt service for a proposed 30-year term. To create such a workable financial model, the City will dedicate new revenues anticipated from stadium lease payments and event parking, and, in partnership with Cumberland County, increased tax revenues from private development commitments at the site by Prince Charles Holdings, LLC. Additionally, recurring savings of current General Fund resources from efficiencies and restructuring, from the sunset of existing economic development incentive agreements, and from the sale of Festival Park Plaza will be dedicated to fund the debt service. The chart attached illustrates the blend of funding sources for the financing of the construction of the stadium at a cost not to exceed \$33 million. With the City of Fayetteville and the Houston Astros having entered into a nonbinding, good-faith Memorandum of Understanding to jointly pursue a Minor League Baseball franchise to be housed at a new, permanent stadium in downtown Fayetteville, and the period during which efforts to draft documents to memorialize specific, binding terms to commit both parties now nearing its conclusion, it is necessary for the City to be prepared to make a final decision on its willingness and capacity to finance and build the stadium. The City's current General Fund operating budget includes \$250,000.00 for costs associated with

preliminary design and consulting services to support the decision-making process to go or not go forward with the construction of the stadium. If the decision is made to move forward in financing and constructing the stadium, future budgets will be developed consistent with the financing model to ensure funding availability to support the anticipated 30-year financing.

Council Member McDougald stated he wanted to personally thank the Baseball Committee. In addition he thank Ms. Small-Toney, Deputy City Manager, and the former City Manager Mr. Ted Voorhees, for originally bringing this item to Council more than two and a half years ago.

MOTION: Mayor Pro Tem Colvin moved to accept the financial model as presented and direct staff to continue to work with Cumberland County staff for County adoption as well.

SECOND: Council Member Wright

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

11.0 CLOSED SESSION

MOTION: Mayor Pro Tem Colvin moved to go into closed session for consultation with the attorney for an attorney-client privileged matter.

SECOND: Council Member Jensen

VOTE: UNANIMOUS (10-0)

The regular session recessed at 9:19 p.m. The regular session reconvened at 10:37 p.m.

MOTION: Council Member Arp moved to go into open session.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

OTHER ITEMS OF BUSINESS

10.03 Settlement Agreement with Sandhills Pick-N-Pull

Ms. Karen McDonald, City Attorney, presented this item and stated Council has been provided a copy of the settlement agreement, and will need to take a formal vote in open session to approve it.

MOTION: Council Member Crisp moved to approve the settlement agreement; effective September 12, 2016.

SECOND: Mayor Pro Tem Colvin

VOTE: PASSED by a vote of 6 in favor to 4 in opposition (Council Members deViere, McDougald, Hurst, and Mohn)

12.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:42 p.m.