

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
COUNCIL CHAMBER  
MARCH 27, 2017  
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, Jr. (District 9)

Others Present: Douglas Hewett, City Manager  
Karen McDonald, City Attorney  
Kristoff Bauer, Deputy City Manager  
Jay Reinstein, Assistant City Manager  
Cheryl Spivey, Chief Financial Officer  
Scott Shuford, Planning and Code Enforcement Director  
Kevin Arata, Corporate Communications Director  
Rob Stone, Engineering and Infrastructure Director  
Michael Gibson, Parks, Recreation and Maintenance  
Director  
David Nash, Senior Planner  
Craig Harmon, Senior Planner  
Randy Hume, Transit Director  
Mark Brown, PWC Customer Relations  
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 Pastor Reginald Johnston, My Father's House.

**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 RECOGNITION**

Mayor Robertson recognized Mr. Seth Wofford and his mother, Ms. Lindsay Wofford, for their volunteer work with the homeless. Mayor Robertson presented a Mayor's coin to Mr. Wofford.

Mayor Robertson presented a Key to the City to Mr. Walter Bishop Drake in celebration of his 104th birthday, and naming March 27, 2017, as "Walter Bishop Drake Day" in the City of Fayetteville.

Mayor Robertson presented a Resolution to Mr. Frank Kinzer and members of the Eureka Lodge in celebration of the 150th anniversary of the Eureka Lodge.

Mr. Jay Reinstein, Assistant City Manager, presented the Distinguished Budget Presentation Award to Ms. Tracey Broyles, Budget and Evaluation Director, and stated the Budget and Evaluation Department had also received special recognition for Special Performance Measures from the Government Finance Officers Association.

Mayor Robertson recognized Coach Spencer and Fayetteville State University Men's Basketball team for their phenomenal season culminating at the CIAA title game.

Mayor Robertson recognized Council Member Kathy Jensen and Mr. Jay Reinstein, Assistant City Manager, for completing the Mike to Mike half marathon that was held on March 26, 2017.

Mayor Robertson recognized Mr. Dakhari Davis of the Fayetteville Cumberland Youth Council seated at the City Council dais.

Mayor Robertson recognized Boy Scout Troop 82 of Fort Bragg that was in attendance at the meeting.

Council Member Hurst announced the Fayetteville Beautiful clean-up event was taking place on April 1, 2017, and encouraged citizens to sign up and participate.

Council Member Arp announced the "Name the Baseball Team" contest organized by Mr. David Lane of the Houston Astros. This is your opportunity to pick a great name for the future Fayetteville baseball team.

#### **5.0 APPROVAL OF AGENDA**

**MOTION:** Council Member Arp moved to approve the agenda with an amendment to Item 9.02 to reflect the four different components of the item as the (a) Joint Fayetteville Cumberland 911 Emergency Operations Center, (b) Local Small Business Disadvantaged Enterprise, (c) Long-Term Leasing Authority, and (d) Shaw Heights Annexation and for each to be voted on separately.

**SECOND:** Council Member Wright

**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 with the exception of Item 6.03, removed for an explanation and separated vote.

**SECOND:** Council Member Crisp

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

**6.01 P17-01F.** The rezoning of property from R6/C Conditional Residential to SF-6 Single-Family Residential Zoning District, located at the end of Rock Creek Lane near the intersection of Rock Creek Lane and Zion Drive and being the property of Green Valley South LLC, c/o Chris Manning.

#### **6.02 City of Fayetteville Recycling Contract**

Council authorized the City Manager to execute the agreement with Waste Management for recycling collection services.

**6.03** This item was pulled from the consent agenda by Mayor Pro Tem Colvin for an explanation and separate vote.

**6.04 Bid Recommendation for the purchase of a Forestry Track Loader to Carolina Construction Equipment, Waxhaw, NC, the recommended lowest responsive, responsible bidder meeting specifications, in the total amount of \$89,997.00.**

Bids were received on February 9, 2017, as follows:

Carolina Construction Equipment, Waxhaw, NC .....	\$89,997.00
Sound Heavy Machinery, Wilmington, NC .....	\$98,573.00
Southland Rental & Supply, Fayetteville, NC .....	\$83,596.05
Gregory Poole Equipment Company, Hope Mills, NC .....	\$89,618.00

**6.05 Rescind Demolition Ordinances**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
RESCINDING DEMOLITION ORDINANCE NO. NS2016-021. RESOLUTION NO.  
R2017-011**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
RESCINDING DEMOLITION ORDINANCE NO. NS2017-001. RESOLUTION NO.  
R2017-012**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
RESCINDING DEMOLITION ORDINANCE NO. NS2017-002. RESOLUTION NO.  
R2017-013**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
RESCINDING DEMOLITION ORDINANCE NO. NS2017-003. RESOLUTION NO.  
R2017-014**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE  
RESCINDING DEMOLITION ORDINANCE NO. NS2017-004. RESOLUTION NO.  
R2017-015**

**6.06 Tax Refunds Greater than \$100.00.**

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Corken, Patrick C.	2015	Corrected Assessment	\$ 293.26
Holt Oil, Inc.	2011-14	Corrected Assessment	451.43
Holt Oil, Inc.	2011-14	Corrected Assessment	107.76
Holt Oil, Inc.	2011-14	Corrected Assessment	1,144.15
Holt Oil, Inc.	2013-14	Corrected Assessment	676.60
<u>TOTAL</u>			<u>\$2,673.20</u>

**6.07 Adoption of Special Revenue Project Ordinance Amendment 2017-3  
and Capital Project Ordinance Amendment 2017-35 for 2012 Transit  
Grant NC-90-X514**

The City of Fayetteville received a Federal Transit Administration (FTA) grant award in 2012 totaling \$3,292,240.00 for capital and planning activities. Adoption of Capital Project Ordinance Amendment (CPOA) 2017-35 and Special Revenue Ordinance Amendment (SROA) 2017-3 to transfer \$82,000.00 from the planning component to the capital component of the grant.

**6.03 Authorization to Accept Two Grants and Adoption of Capital  
Project Ordinance 2017-47 for the Construction of a Connector  
Trail between the Cape Fear River Trail and the Linear Park Trail**

Mr. Kristoff Bauer, Deputy City Manager, provided an overview of this item and stated the Parks and Recreation Department (PRM) has been awarded two grants to fund the construction of a connector trail between the Cape Fear River Trail and the Linear Park Trail. Council is asked to authorize acceptance of a \$161,392.00 Federal Transportation Alternatives Program grant awarded through the North Carolina Department of Transportation (NCDOT), and grant-in-aid totaling \$125,000.00 approved by the North Carolina General Assembly (NCGA) and administered through the North Carolina Office of State Management and Budget. Council is also asked to adopt Capital Project Ordinance 2017-47 to appropriate the grant funds.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE FOR  
ACCEPTANCE OF A TRANSPORTATION ALTERNATIVES GRANT AND A GRANT-IN-  
AID ALLOCATION BY THE NORTH CAROLINA GENERAL ASSEMBLY FOR THE  
CONSTRUCTION OF A CONNECTOR TRAIL BETWEEN THE CAPE FEAR RIVER  
TRAIL AND THE LINEAR PARK TRAIL. RESOLUTION NO. 2017-016**

**MOTION: Mayor Pro Tem Colvin moved to adopt the resolution  
authorizing acceptance of the two grants and execution of  
documents by the Mayor and City Manager, and to adopt  
Capital Project Ordinance 2017-47 as presented.**

**SECOND: Council Member Crisp**  
**VOTE: UNANIMOUS (10-0)**

## **7.0 REPORTS FROM BOARDS AND COMMISSIONS**

### **7.01 Annual Report from the Fayetteville Redevelopment Commission**

Mr. Stephen Barnard, Fayetteville Redevelopment Commission Chair, presented the Annual Report from the Fayetteville Redevelopment Commission with the aid of a PowerPoint presentation, and provided an overview and update of the 2015-2016 program year.

## **8.0 PUBLIC HEARINGS**

### **8.01 P17-03F. The staff-initiated rezoning of property from SF-6 Single-Family Residential Zoning to OI/CZ Office & Institutional Conditional Zoning, located at 120 Langdon Street and being the property of Family Endeavors, Inc.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the owners of 120 Langdon Street, the former Jubilee House, wish to have this property rezoned to OI/CZ to allow them to apply for a Special Use Permit for transitional housing. This rezoning has been initiated by the City and the conditions placed on this zone will prevent the structure from being used as anything other than transitional housing, single-family housing or as a duplex. In 2011 this property was the subject of ABC's Extreme Makeover Home Edition. The home was renovated into a duplex that was to serve homeless veterans. Jubilee House operated at this site until 2015. The home has remained mostly vacant since that time. Family Endeavors, a nationally recognized company for the benefit of female veterans and their families, has now purchased the property. Family Endeavors wishes to reopen the facility and help female veterans with mental illness or other significant disabilities and their family's transition back into society. The house will operate 24 hours a day, seven days a week. A combination of case managers, monitors, and staff will provide oversight of the facility. The home can accommodate up to 24 residents (women and children). Family Endeavors anticipates serving a total of 14 to 18 at any given time. The programs that will be offered at the home would be exclusively for the residents and their children. Spot Zoning is "a zoning ordinance, or amendment which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the smaller tract greater restriction than those imposed upon the larger area or so as to relieve the small tract from restrictions to which the rest of the area is subjected." Although spot zoning is not illegal in North Carolina, stricter scrutiny is applied by the courts. The courts have held that spot zoning cannot be arbitrary and capricious and a real showing of a reasonable basis must support the validity of the zoning and must be made in accordance with a comprehensive plan. The legislative body must not only address the benefits of the rezoning, it must also address the totality of circumstances and demonstrate that the change was reasonable for all involved, including the neighbors of the rezoned property and the surrounding community. The court has noted that if the rezoning "creates a great benefit for the owner of the rezoned property with only an accompanying detriment and no benefit to the community or the public interest, it may be illegal. If spot zoning provides a service needed in the community in addition to benefiting the landowner, it may be proper. Mr. Harmon presented the following conditions of approval:

- (1) Rezone the property to OI/CZ Office and Institutional Conditional Zoning and that the property will be used for transitional housing by a nationally recognized organization for the benefit of female veterans and their families.

- (2) This rezoning will also allow the owner to use the property for any residential purposes authorized in the SF-6 zoning district.

Ms. Karen McDonald, City Attorney, stated Council Member Jensen has requested to be recused from voting on Items 8.01 and 8.02 due to a potential conflict of interest.

**MOTION:** Council Member Arp moved to recuse Council Member Jensen due to a conflict of interest with this item.

**SECOND:** Council Member Wright

**VOTE:** UNANIMOUS (9-0) (Council Member Jensen abstaining)

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

Ms. Tammi Woodard, 535 Bandera Road, San Antonio, TX 78260, stated she is representing Family Endeavors and is a proponent for the rezoning request. Ms. Woodard thanked the City of Fayetteville for all the support they have received.

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

**MOTION:** Council Member deViere moved to approve the rezoning to OI/CZ Office and Institutional Conditional Zoning District, with the conditions listed above, as presented by staff, and that the amendment is consistent with applicable plans because (1) Goal 4 of the City's Strategic Plan for 2018 calls for solutions to homelessness, (2) the uses surrounding this property are compatible with the proposed conditions of this rezoning, and (3) the proposed zoning is reasonable and in the public interest because the proposed zoning does fit with the character of most of the development in this area and specifically with the character, intent, and previous operations of the existing building.

**SECOND:** Council Member Wright

**VOTE:** UNANIMOUS (9-0) (Council Member Jensen recusing.)

**8.02 P17-04F. The issuing of a Special Use Permit (SUP) to allow for transitional housing, located at 120 Langdon Street and being the property of Family Endeavors, Inc.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the owners of 120 Langdon Street, the former Jubilee House, wish to obtain a Special Use Permit for transitional housing. A rezoning of this property has been initiated by the City as well and is being processed parallel to the SUP request. This SUP request is contingent on the approval of the rezoning. In 2011 this property was the subject of ABC's Extreme Makeover Home Edition. The home was renovated into a duplex that was to serve homeless veterans. Jubilee House operated at this site until 2015. The home has remained mostly vacant since that time. Family Endeavors, a nationally recognized company for the benefit of female veterans and their families, has now purchased the property. Family Endeavors wishes to reopen the facility and help female veterans with mental illness or other significant disabilities and their family's transition back into society. The house will operate 24 hours a day, seven days a week. A combination of case managers, monitors, and staff will provide oversight of the facility. The home can accommodate up to 24 residents (women and children). Family Endeavors anticipates serving a total of 14 to 18 at any given time. The programs that will be offered at the home would be exclusively for the residents and their children. There are three group homes within the required half-mile separation of this property. Two of those group homes are separated from this site by Ramsey Street. The third is located behind this property but is separated by woods on the group home's property and fencing that surrounds the site in question.

Approval of the SUP must include a reduction or waiver in the separation standards between this proposed use and any group homes within the required separation distance. Article 30-4.C.2.6 of the City Code states that the 2,640-foot separation standard may be reduced or waived through the special use permit process based on mitigating circumstances, which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics (including proximity to social services and public transportation). Mr. Harmon presented the following conditions of approval:

- (1) Maintain the existing privacy and security fences around the property.
- (2) No more than 24 residents at any one time.
- (3) The facility will be operated by a nationally recognized organization for the benefit of female veterans and their families.

Mr. Harmon stated the Zoning Commission and City staff recommended approval of the SUP based on the following:

1. The only uses allowed would be for transitional housing or residential as permitted in the SF-6 district.
2. The facility will be operated by a nationally recognized group for the benefit of female veterans and their families.
3. This property is separated from the existing group homes in the area by a major road and privacy/security fencing.
4. A reduction or waiver of the required separation based on the physical barriers between this use and the group homes within one-half mile of this site.

Mr. Harmon advised the following eight findings must be met for a motion to approve:

- (1) The special use will comply 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.

Ms. Tammi Woodard, 535 Bandera Road, San Antonio, TX 78260, stated she is representing Family Endeavors and is a proponent for the special use permit request.

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

Discussion ensued.

**MOTION:** Council Member deViere moved to approve the Special Use Permit (SUP) to locate transitional housing in an OI/CZ District, located at 120 Langdon Street, as presented by staff, with the three conditions listed above, based on the standards of the City's development code with a reduction or waiver of the required separation from group homes within one half mile, and that the application is consistent with applicable plans because: (1) the development is not located in an Office and Institutional district and (2) that this use complies/does not comply with the findings listed below and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. This Special Use Permit shall become effective ten days after its approval by the City Council. Unless specified otherwise by the City Council, the SUP shall expire one year from its effective date of April 6, 2017, if a building permit is not issued within that time.

**SECOND:** Council Member Wright

**VOTE:** UNANIMOUS (9-0) (Council Member Jensen recusing)

### **8.03 Public Hearing Regarding Master Development Agreement with Prince Charles Holding ("PCH") and Adoption of Budget Ordinance Amendment 2017-18**

Mr. Kristoff Bauer, Deputy City Manager, presented this item with the aid of a PowerPoint presentation and stated PCH purchased the Prince Charles at auction and acquired the adjacent 2.5 acres shortly thereafter. Initial attempts to find redevelopment partners were hampered by the elimination of the state historic property tax credits by the general assembly. The City worked and was successful in getting those credits restored. The City executed a Memorandum of Understanding with PCH in March 2016. At that time, the main topics of discussion were the availability of parking and how to reconfigure the street system to support the renovation of the Prince Charles into a mixed use building, a phased hotel, and mixed use development on the site. That process was moving forward when the concept of placing a minor league baseball stadium was introduced in June 2016. The baseball feasibility study demonstrated that a ballfield could fit adequately on the Prince Charles site, but the City would need to acquire the parking and open space property owned by PCH. As the Baseball Committee began work on the financial plan to support stadium construction, it quickly became evident that the future tax revenue of private development on the site would be fundamental to that plan. The Baseball Committee directed staff to contract with HKS, the architecture firm that had been working with PCH to develop master plan alternatives for the site, to prepare a conceptual design for the stadium and private development to form the basis for the MDA. The MDA is a complex legal document that is dependent upon the successful completion of design, survey, and other activities performed by others. The City, however, requires control of the land in the development area in order to replat the property creating individual lots for the stadium, garage/hotel development, Amtrak, and a plaza area. These separate lots are required in order to move forward with financing, permitting, and other activities critical to the stadium development and redevelopment of the area. Accomplishing this will

require several individual property transactions and state law provides for the consummation of a package of transactions for economic development purposes to be considered and approved as part of public private partnership agreement (the MDA). The key proposed transactions include (this is revised since the public hearing notice):

Property Exchange: The City will purchase 2.5 acres of property owned by PCH adjacent to the existing Prince Charles Hotel (current parking and fountain areas) for a price of \$2.5 million. PCH will purchase land for the Garage/Hotel project for \$1.25 million.

Festival Park Plaza Sale: PCH will purchase the Festival Park Plaza building for \$4.2 million and PCH to purchase an option on the Festival Park Plaza Development Lot for \$25,000.00.

While these are the essential elements, timing and contingencies are important. Staff has engaged the National Development Council ("NDC") to assist with the review of PCH and with the MDA preparation. NDC is a national non-profit, having assisted over 250 cities and counties across the country that works to develop financing to support community development. NDC acts as partner, teacher, advisor, investor, developer and lender, bringing together technical know-how and capital for community and economic investment. Members of the NDC have reviewed detailed financial information provided by PCH in order to support their opinion. Utilizing NDC allows the Council to benefit from a neutral third-party assessment without violating confidentiality. NDC has provided an assessment that is included in the agenda packet. The proposed MDA focuses on property right exchanges in direct response to the City's need to secure site control for the development as discussed above. The design and budgeting process, however, has not yet progressed to the stage necessary to clarify several issues initially contemplated to be addressed in the MDA. The parties have agreed to enter into an initial MDA addressing the property transfers. A secondary agreement to provide further detail regarding the final composition of cooperative development projects will be needed once the design of the stadium has been finalized. For the implementation of the Proposed MDA, State law requires that the value of the land in question be disclosed during the public hearing process. Appraisals for the Festival Park Plaza Building and the Prince Charles lots were included with the agenda packet. Both raise some issues that merit further discussion. The remaining property rights do not yet exist and, as a result, have not been appraised, but some information regarding the relative value is available and will be shared. The Festival Park Plaza appraisal (included in the agenda packet) identifies the market value to be \$4.5 million or higher. This value is discounted, however, due to what the appraiser believes to be insufficient parking. The value was discounted to \$4.5 million due to the purchaser proposing to lease 60 parking spaces from the City. The value was further discounted by 50 percent to \$2.25 million based on parking inadequacy persisting after the 60 spaces are leased. While this value is labeled "As Is", it is clearly providing a discounted value based on the loss of parking expected to occur once the stadium project is started. The agreed price for this building was \$4.45 million subject to appraisal. This sale is not scheduled to close until June 2017. The parties have negotiated a compromise price of \$4.2 million with PCH also agreeing to rent 60 parking spaces from the City for \$50.00 per space per month for ten years. The City will also provide an option for the building owner to lease up to an additional 60 spaces if the City vacates the building at the end of its lease. This additional parking option is intended to protect the value of the building. The reduction from \$4.45 to \$4.2 is in recognition for the expense associated with the parking rental required to satisfy the minimum parking requirements of existing lease agreements. PCH will also purchase a five-year option on the Festival Park Plaza Development Lot for \$25,000.00. The appraisal of the Prince Charles lots (included in the agenda packet) identifies a market value of \$2 million. The agreed price for these



parcels is \$2.5 million. This is a \$500,000.00 premium over the appraised value. State law does allow the City to pay a price that exceeds an appraisal as part of a public private partnership for economic development purposes. The MDA and the proposed property transactions are designed to support private development that could exceed \$55 million. The estimated value of the Garage/Hotel lot using the same value per square foot indicated in the appraisal for the Prince Charles lots is \$800,000.00. PCH has, therefore, agreed to pay a \$450,000.00 premium (the \$1.25 million agreed price minus the \$.8 million estimated appraised value) back to the City on that purchase. The City's acquisition of the Prince Charles lots is scheduled to close on March 28, 2017. After that action, the City will need to move through the process of vacating a portion of Maiden Lane and performing a recombination. That process is estimated to require 30 to 45 days. The sale of the Garage/Hotel lot can then take place followed by the sale of the Festival Park Plaza building. The City's debt on that building is due on June 17, 2017. Staff is developing a refinancing for that debt, but if that sale can close before that date, then that step will not be required. The remaining actions are based on the timing of final design. The current estimate is that final design will be completed in May 2017. By the end of fiscal year 2017, it is expected that PCH will purchase the development parcel for \$1.25 million, Festival Park Plaza for \$4.2 million and an option to purchase the Festival Park Plaza development lot for \$25,000.00. The City's expenditures will include a \$2.5 million purchase of land, and approximately \$4,025,000.00 to retire the existing debt for Festival Park Plaza, resulting in an additional funding need of approximately \$1,050,000.00 during the current fiscal year. As discussed at the Council Baseball Committee meeting on March 21, 2017, the City will use an interfund loan from the Risk Management fund to provide the additional funding needed in fiscal year 2017. It is anticipated that just over \$800,000.00 of this loan will be repaid in fiscal year 2018 from funding sources identified in the stadium funding model, and the balance will be built into the long-term interfund loan between the Risk Management Fund and General Fund, similar to a line of credit.

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

**MOTION:** Council Member Arp moved to authorize the City Manager to execute the Master Development Agreement with PCH and any junior agreements contemplated therein and adopt Budget Ordinance Amendment 2017-18.

**SECOND:** Mayor Pro Tem Colvin

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

## **9.0 OTHER ITEMS OF BUSINESS**

### **9.01 Stadium Construction Manager At Risk ("CM@R") Contract Approval**

Mr. Kristoff Bauer, Deputy City Manager, presented this item with the aid of a PowerPoint presentation and stated the Request For Qualifications ("RFQ") for a CM@R to construct the stadium was issued on January 26, 2017, with the objective of issuing a notice to proceed the second week of February 2017. Four contractor teams submitted responses and were interviewed on February 9, 2017. The City Council Baseball Subcommittee recommended the selection of Barton Malow on February 13, 2017. Council adopted Capital Project Ordinance Amendment 2017-28 to appropriate the remaining \$30 million of the planned \$33 million project budget and directed staff to negotiate a contract with Barton Malow. That contract is now ready for Council consideration. The Council has taken several steps along the path of constructing a minor league baseball stadium and entertainment venue including the approval of a financing plan for stadium construction, the execution of a 30-year operating agreement with the Astros, the initiation of project design after selecting and contracting with the project architect, the adoption of capital project ordinance to support construction and the selection of Barton Malow as the CM@R

partner, and the consideration of a Master Development agreement also on this agenda to achieve site control and support private investment. The Astros agreement requires the stadium to be completed in advance of the 2019 baseball season. The target date for substantial completion is December 2018. After considering three firms, Council selected Barton Malow during the February 13, 2017, Council meeting and authorized staff to negotiate a contract.

Council expressed particular interest in the local and minority subcontractor participation program proposed by Barton Malow. That program is described in Exhibit G to the proposed contract included in the agenda packet. That exhibit was provided to the Baseball Council Subcommittee along with example provisions from Barton Malow's contract with the cities of Charlotte and Columbia. The detailed program includes a target of 30 percent participation and describes the activities and policies to be utilized in an effort to meet and exceed that target. The proposed agreement is a framework for the CM@R process establishing roles and responsibilities, but not containing schedules and cost information. That information will be developed during the "pre-construction" process which will culminate in the development and adoption of a Guaranteed Maximum Price Amendment that will include a detailed budget, construction phase fee, and an enforceable schedule. The proposed agreement is still in draft form and staff continues to review the agreement to ensure that the final agreement does not contain any erroneous references. Corrections will be made if necessary, but no material changes will be made. Council is also considering a Master Development Agreement with PCH that if approved would provide the City with the property ownership necessary to gain complete control of the stadium site. This agreement should not be executed until the City has control of all the property necessary to complete the anticipated work. Council has already executed the capital project ordinance authorizing the \$33 million stadium project development. The proposed contract has two phases--pre-construction and construction. The pre-construction phase is focused on cost estimation, value engineering, and detailed work toward the development of the Guaranteed Maximum Price Amendment. The price for the pre-construction phase is a lump sum fee of \$169,198.00. The price for the construction phase will be included in the Guaranteed Maximum Price Amendment.

Mayor Pro Tem Colvin thanked Mr. Bauer for all of his hard work on this project, especially meeting the Council's interest in the local and minority subcontractor participation program proposed by Barton Malow.

Discussion ensued.

**MOTION: Mayor Pro Tem Colvin moved to authorize the City Manager to execute a CM@R contract with Barton Malow.**

**SECOND: Council Member Wright**

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

#### **9.02 Council Resolutions - Legislative Priorities 2017 Long Session**

Mr. Jay Reinstein, Assistant City Manager, presented this item and stated this item reflects four different components which are the (a) Joint Fayetteville Cumberland 911 Emergency Operations Center; (b) Local Small Business Disadvantaged Enterprise (this resolution was approved March 11, 2016, and probably does not need to be re-approved; (c) Long-Term Leasing Authority; and (d) Shaw Heights Annexation.

**A RESOLUTION OF THE FAYETTEVILLE CITY COUNCIL TO SUPPORT AND ADVOCATE FOR THE PRIORITIZATION OF CAPITAL FUNDING FOR A JOINT FAYETTEVILLE CUMBERLAND 911 EMERGENCY OPERATIONS CENTER FROM NC 911 BOARD FUNDS, A SEPARATE GRANT, OR A COMBINATION OF THESE OPTIONS. RESOLUTION NO. R2017-017**

**MOTION: Council Member Arp moved to adopt a resolution to support and advocate for the prioritization of Capital Funding for**

a Joint Fayetteville Cumberland 911 Emergency Operations Center from NC 911 Board Funds, a Separate Grant, or combination of these options.

SECOND: Council Member Jensen

VOTE: UNANIMOUS (10-0)

A RESOLUTION SUPPORTING LOCAL AND LOCAL DISADVANTAGED BUSINESS ENTERPRISES. RESOLUTION NO. R2016-019

MOTION: Mayor Pro Tem Colvin moved to approve (resolution previously adopted).

SECOND: Council Member McDougald

VOTE: UNANIMOUS (10-0)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO SUPPORT AND ADVOCATE FOR PASSAGE OF SPECIAL LEGISLATION TO PERMIT THE CITY OF FAYETTEVILLE TO SELL OR LEASE ANY TRACT OF LAND IN THE CITY OF FAYETTEVILLE. RESOLUTION NO. R2017-018

MOTION: Council Member McDougald moved to adopt a resolution to support and advocate for passage of special legislation to permit the City of Fayetteville to sell or lease any tract of land in the City of Fayetteville.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

Council Member Mohn stated there has been a lot of discussion regarding Shaw Heights for decades, our local State delegation is asking for our support of the proposed legislative-initiated annexation of the Shaw Heights area through a Council resolution. I believe we need to work on the existing draft resolution that is included in our agenda packet.

MOTION: Council Member Mohn moved to support the intent of HB 109, the legislative annexation, through a Council resolution and we appoint a small group of Council members to work with staff to craft the final wording of the Council resolution.

SECOND: Council Member deViere

FRIENDLY AMENDMENT:

Council Member deViere made a friendly amendment to break the motion into two separate motions.

Council Member Mohn accepted the friendly amendment.

MOTION: Council Member Mohn moved to support the intent of HB 109, the legislative annexation of Shaw Heights, in accordance with State law.

SECOND: Council Member deViere

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Robertson, Jensen, and Crisp)

MOTION: Council Member Mohn moved that Mayor Robertson appoint three Council members to form a committee to work with staff to craft the final wording of the Council resolution.

SECOND: Council Member deViere

VOTE: UNANIMOUS (10-0)

Mayor Robertson stated the Shaw Height Committee will be comprised of Council Member Mohn (Chair), Mayor Pro Tem Colvin, and Council Member Crisp.

**10.0 ADMINISTRATIVE REPORTS**

**10.01 Tax Refunds Less than \$100.00.**

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Extended Reach Day	2015	Corrected Assessment	\$86.03
Total			<u>\$86.03</u>

**11.0 ADJOURNMENT**

There being no further business, the meeting adjourned at 8:58 p.m.