

**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
LAFAYETTE ROOM
FEBRUARY 6, 2012
5:00 P.M.**

Present: Mayor Anthony G. Chavonne
Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); 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); Wade Fowler (District 8); James W. Arp, Jr. (District 9)

Others Present:

Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Brian Leonard, Assistant City Attorney
Tom Bergamine, Chief of Police
Patricia Bradley, Police Attorney
Lisa Smith, Chief Financial Officer
Rusty Thompson, Engineering and Infrastructure Director
Scott Shuford, Development Services Director
Dwayne Campbell, Chief Information Officer
Michael Gibson, Parks and Recreation Director
Jerry Dietzen, Environmental Services Director
Greg Caison, Stormwater Manager
Rebecca Rogers-Carter, Management Services Manager
David Nash, Planner II
Rick Moorefield, Cumberland County Attorney
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Council Member Haire.

3.0 APPROVAL OF AGENDA

Approval of the agenda was by consensus with a show of hands.

4.0 OTHER ITEMS OF BUSINESS

4.1 Amending Chapter 6, Animals and Fowl

Ms. Karen McDonald, City Attorney, presented this item and provided background information. She stated consistent with Council's direction, City staff was providing for Council's consideration the proposed County ordinance, a comparison between the current City ordinance and the proposed County ordinance, the County Attorney's memo to the Board of Commissioners regarding the proposed ordinance, and modifications to the ordinance that would be applicable only within the City limits. She introduced Mr. Rick Moorefield, Cumberland County Attorney.

Mr. Rick Moorefield, Cumberland County Attorney, provided an overview of the proposed significant changes and stated that duplicative provisions and requirements which had not been or could not be enforced were removed.

A brief question and answer period ensued. Discussion followed regarding the leash laws, zoning requirements, limiting the number of pets per household, coyotes, licensing, and nuisance calls.

Consensus of Council was once the Cumberland County Board of Commissioners adopted the amended ordinance, the ordinance would be presented to the City Council for adoption.

4.2 R.A.M.P. – Rental Action Management Program

Mr. Doug Hewett, Assistant City Manager, presented this item with a power point presentation. Mr. Hewett stated on January 9, 2012, staff presented a finalized version of RAMP to Council for consideration and at that time Council deferred action and requested staff research several options to address stakeholder concerns. He stated the revisions addressed several stakeholder concerns while still providing a comprehensive approach to deal with problem residential property in Fayetteville. He further stated based upon feedback from Council and the stakeholders, staff was proposing the following modifications to the original RAMP ordinance:

1. Adding a definition for apartment house/apartment complex.
2. Changing the definition of “Residential Rental Property” to include single-family homes, duplexes, and triplexes, but specifically exempting apartments.
3. Adding Section 14-78, which would give Council the ability to add a property to the RAMP program by ordinance. Problem apartments and complexes could be added to RAMP following Council action.
4. Removing the property categories and references to the same.
5. Adding a provision specifying that if a property was determined not to meet the disorder threshold, registration would not be required. Additionally, the registration fee would not be deposited for ten days (the appeal period) or longer if it were actually appealed.
6. Changing the appellate process to allow for appeals of the police official’s decision to require the property to register as well as any decision to revoke registration. The appeal would address the police decision but not the code violation decision. There was an appellate process already in place for code violations so it seemed unnecessary to allow an appeal of a decision to include a property in RAMP due to code violations. The right to appeal would however still exist for the properties that had their registration revoked due to an additional code violation. Also included would be a standard required showing that must be met in order for the Board to uphold the decision of the staff.

Mr. Hewett then reported the personnel requirements would be one full-time housing inspector, one part-time office assistant II, two full-time crime analysts, and one sworn police officer. He briefed the Council on the assumptions of estimated costs and estimated revenues for the program.

A brief question and answer period ensued.

Consensus of Council was to discuss and consider the item again at the February 27, 2012, City Council regular meeting.

4.3 Recommended Fiscal Year 2013-2017 Capital Improvement Plan (CIP) and Information Technology Plan (ITP).

Mr. Dale Iman, City Manager, presented this item and recognized and thanked Mr. Rusty Thompson, Engineering and Infrastructure Director; Mr. Dwayne Campbell, Chief Information Officer; and Ms. Lisa Smith, Chief Financial Officer, for their effective team effort.

Mr. Rusty Thompson, Engineering and Infrastructure Director, presented the recommended FY 2013-2017 Capital Improvement Plan (CIP) with a power point presentation. Mr. Thompson stated the process for capital planning required updating and evaluating existing projects, engaging departments to identify major capital projects or equipment needs to support strategic goals, prioritizing needs and developing a funding plan, developing project schedules based on organizational capacity, and communicating the recommended plan. He further stated the CIP goals were to increase department director participation while engaging Council and citizens, ensure staff resources were aligned with approved project schedules, and coordinating the proposed and approved CIP with PWC. In conclusion, he stated vehicle and new and replacement equipment purchases were not included in the CIP.

Mr. Dwayne Campbell, Chief Information Officer, presented the recommended FY 2013-2017 Information Technology Plan (ITP) with a power point presentation. Mr. Campbell explained the ITP definition was the replacement, upgrade, or purchase of new technology with a combined implementation cost of \$25,000.00 or greater (e.g., hardware, software, communication devices, etc.); expansion, renovation, or replacement of an existing system if the cost was greater than

\$10,000.00; a multi-year technology project; and a project with enterprise-wide impacts (e.g., server virtualization).

Ms. Lisa Smith, Chief Financial Officer, presented information regarding the funding of the CIP and ITP projects with a power point presentation. Ms. Smith explained the “Pay as you Go” was funding from the general fund, revenues, and use of the fund balance. She further explained other funds included airport, stormwater, County revenues, grants, etc. In addition, she stated funding could also be provided through debt issuance with installment financing. She further explained the Capital Funding Plan (CFP) was to maintain the tax rate equivalent contribution at 5.65 cents per fiscal year, dedicate Hope VI incremental tax revenues to the CFP through 2021 to repay inter-fund loan for the project, and dedicate incremental tax revenues in CBTD and other funding to pay debt service for the parking deck. She reported the low point in debt capacity would occur in FY 2012 and FY 2016 and there would be significant debt capacity in FY 2018 and beyond as portions of current debt were retired. She provided handouts with the recommended CIP/ITP projects and stated the next steps in the process were to receive feedback from the Council; follow up with another discussion at the March 5, 2012, work session; and adopt a five-year CIP and ITP with the adoption of the annual budget in June 2012. A brief discussion period ensued.

Consensus of the Council was to revisit this item at the March 5, 2012, City Council work session.

4.4 Parks and Recreation – Financial Package for Park Bond Proposal.

Mr. Kristoff Bauer, Assistant City Manager, presented this item with a power point presentation and stated staff had prepared a preliminary list of Parks and Recreation capital projects, based upon the adopted facilities master plan, and presented it to Council and Cumberland County Commissioners during a joint meeting. He then stated the feedback was to refine the list looking for ways to reduce the cost and potential tax impact and staff was also charged with clarifying the process to achieve voter consideration. He stated staff had taken the revised cost estimates based upon the work of Site Solutions and worked with Ms. Janice Burke of First Southwest Financial to develop a financial plan and the plan was reviewed and refined in consultation with City and County Finance staff as well as the bond counsel and the Local Government Commission. He stated the capital project proposal was designed to be supported by new revenue and the project was self-supporting from an operational perspective. Additionally, he stated Council could consider providing funds to support the effort to educate the community regarding the proposal as the general obligation bonds must be voter approved, which would be scheduled for the February 2013 election. He further stated the Cumberland County-Fayetteville Parks and Recreation Advisory Board had given unanimous support for the proposal. He also stated he would be briefing the Cumberland County Commissioners in March and was also working with neighboring municipalities. In conclusion, he stated the next steps would be to execute a memorandum of understanding, set a ballot measure, and initiate an informational campaign.

A brief discussion period ensued.

The consensus of Council was to bring the item back for further information and discussion in March 2012.

4.5 Revisions to Policy 150.2 relating to annexation requirements in exchange for PWC services that have not been implemented with complete success. Revisions to policies and implementation practices to address issues will be presented.

Mr. Kristoff Bauer, Assistant City Manager, presented this item with a power point presentation. Mr. Bauer stated the Council adopted a revised policy entitled “Provisions of Water and Sewer to Municipal Influence Area” on December 14, 2009, which established the requirement that property owners within the City’s growth area seeking PWC water or sewer service must file a petition for voluntary annexation before the service would be provided. He also stated PWC policy at that time allowed developers to get water and sewer availability permits without petitioning for annexation as required by the policy. He also stated the policy was enforced at the time when water meters were requested and at that point, the development would be very

close to completion. Additionally, he stated case law established the standard that petitions for annexation must contain the signatures of all property owners at the time of Council consideration instead of the time of petition in order to be valid. However, he stated the combination of factors created two challenges to the successful implementation of the policy: (1) it allowed development to proceed to completion under County standards and (2) it created the opportunity for the annexation petition to be invalidated through sale of lots, pre-sale of homes, or sale of completed homes during the period after the petition for annexation was filed. He reported subsequent to that action there was an incident when a property owner filed a petition for annexation and then took actions that invalidated that petition before the City Council was able to act thereon. He stated staff had worked with PWC and representatives of the development community to develop an implementation strategy designed to address the issues without negatively impacting the development process. In conclusion, he stated key elements of the strategy included the following:

1. A clarified Policy 150.2;
2. Adding language to water and sewer availability permits as well as the PWC service agreement;
3. Expediting the annexation review process to allow it to run parallel with the initial zoning process; and
4. Revision to Policy 165.1, Initial Zoning After Annexation, to address an order concern and give the Council additional flexibility in establishing the initial zoning. Staff will review how these changes respond to concerns raised and how the new process will be implemented.

Consensus of Council was to bring this item back for consideration at the February 27, 2012, City Council regular meeting.

4.6 Consideration of adoption of revisions to Chapter 23, Article II, Stormwater Management Ordinance.

Mr. Greg Caison, Stormwater Manager, presented this item and stated the Stormwater Management Ordinance, also referred to as Article III, Stormwater Control, initially became effective January 1, 2009, and established minimum requirements and procedures for new development to control the adverse effects of increased stormwater quantity and runoff quality. He stated the ordinance also included state-mandated stormwater requirements developed directly from language as contained in the state's stormwater model ordinance. He stated a local stakeholders group, the Stormwater Advisory Board, and City staff originally developed the ordinance in 2008, and that same group recently worked for several months to craft and review the proposed changes. He stated as part of that effort, a new Stormwater Administrative Manual was developed to help all users apply the ordinance to their specific needs. He stated the original Article III first became effective in early 2009 and City staff and those affected by the requirements had wrestled with several technical matters, particularly those regarding stormwater Best Management Practices (BMPs). He stated the proposed revisions would address those areas of concern and provide for clarification and/or other resolutions had now been fully reviewed by the stakeholders group, the Stormwater Advisory Board, and City staff. He stated all parties expressed agreement with both the proposed changes and the new Administrative Manual. He stated the NC Division of Water Quality recently reviewed the ordinance and proposed the majority of the requested revisions. He stated to continue to maintain the municipal NPDES stormwater permit compliance, and as part of the NC Division of Water Quality's (DWQ) recent review, the City was required to add specific new language as contained in the state's model ordinance to meet Phase II requirements. He stated when adopted, the ordinance would better align with the State's Stormwater Phase II Model Ordinance, and the state agreed to immediately delegate authority to the City to administer post-construction requirements. He stated doing so would provide for internal and external efficiencies, eliminating a duplication of services between the City and local NC DENR office, thereby allowing developers to need only a single (stormwater) permit rather than two. He stated a performance guarantee was required by the ordinance to effectively ensure that stormwater BMPs were built/installed in accordance with the engineering design. He stated the

original ordinance performance guarantee was 150 percent of the estimated BMP construction cost and was established to guard against the “unknown” as the City prepared to move into the BMP business. He stated now that City staff had gained experience and a comfort level over time, a change had been proposed to reduce the performance guarantee to 75 percent of estimated construction which would reduce financial burden and also be more consistent with similar UDO requirements. He stated the Stormwater Advisory Board unanimously requested that the changes be adopted. He stated the City also received a letter from the Home Builders Association of Fayetteville in support of the changes. He requested the Council set a public hearing for consideration and voting on the proposed revisions to the Stormwater Control Ordinance, Article III of Chapter 23 of the City Code of Ordinances.

Council Member Hurst stated the revised ordinance was a significant improvement that was well coordinated and thanked Mr. Caison for his good work.

Consensus of Council was to hold a public hearing on February 13, 2012, on the revisions to Chapter 23, Article II Stormwater Management Ordinance.

4.7 Backdoor Yard Waste

Mr. Jerry Dietzen, Environmental Services Director, presented this item and stated Council Member Bates requested information on what it would take to provide back door yard waste service for individuals who currently receive back door garbage collection. Mr. Dietzen stated traditionally they had found that individuals with disabilities who were not physically able to pull or push the garbage cart to the curb were also not able to complete weekly yard work so they had a relative or yard service company complete the work. He stated the person completing the yard work would then place the carts at the curb for collection. He stated in their analysis of the request, the department recorded the time it would take to leave the truck, go to the back yard location where the trash carts were located, and return to the truck and then to double that time to return the cart to the same location in the yard. He stated the average time was 3.5 minutes per service location. He stated they had not included the loading time since that would be constant. He stated in order to keep the cost of the new program reasonable, every back door resident would have to participate and would be charged the service rate. He stated this would apply if they used the service or not. He stated providing the additional service would cause the department to be less efficient in its delivery of services during holidays and peak season collections. He stated the analysis indicated that it would take a minimum of two additional garbage trucks, four additional personnel, and the associated supplies, materials, vehicle maintenance, and fuel to serve these households in this manner. He stated the beginning cost for the new service as reviewed by Finance would be approximately \$683,757.00 per year, subject to annual increases due to inflation. He stated the cost per household, based upon mandatory participation of all 650 households, would begin at \$45.58 per year or \$3.80 per household per month. He stated staff recommended keeping yard waste collection as it was currently.

Consensus of Council was to keep yard waste collection as it was currently.

5.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:42 p.m.