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**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER, CITY HALL
JANUARY 26 2023
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Shakeyla Ingram (District 2); Mario Benavente (District 3); D. J. Haire (District 4); Johnny Dawkins (District 5); Derrick Thompson (District 6); Brenda McNair (District 7); Courtney Banks-McLaughlin (District 8) (arrived at 7:10 p.m.); Deno Hondros (District 9)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Adam Lindsay, Assistant City Manager
Kelly Olivera, Assistant City Manager
Jeff Yates, Assistant City Manager
Kemberle Braden, Police Chief
Jodi Phelps, Chief of Staff
Sheila Thomas-Ambat, Public Services Director
Gerald Newton, Development Services Director
Lachelle Pulliam, Assistant City Attorney
Kecia Parker, Real Estate Manager
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order.

2.0 INVOCATION

The invocation was offered by Pastor Keith Smith, Faith Community Church.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 ANNOUNCEMENTS AND RECOGNITIONS

There were no announcements or recognitions.

5.0 CITY MANAGER REPORT

There was no report for this meeting.

6.0 APPROVAL OF AGENDA

MOTION: Council Member Hondros moved to approve the agenda.
SECOND: Council Member Thompson
VOTE: UNANIMOUS (9-0)

7.0 CONSENT AGENDA

MOTION: Mayor Pro Tem Dawkins moved to approve the consent agenda, with the exception of Item 7.019, pulled for presentation and separate vote.
SECOND: Council Member Ingram
VOTE: UNANIMOUS (9-0)

7.01 Approval of Meeting Minutes:
December 28, 2022 - Special
January 3, 2022 - Work Session
January 9, 2023 - Discussion of Agenda Items

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- 7.02 P22-46. Rezoning to amend the conditions in a Community Commercial Conditional Zoning District (CC/CZ) of 7.11 acres ±, located at 1707 Owen Drive (REID # 0426155731000), and is the property of Brandon Smith, HI Fayetteville LLC and represented by Tarek Shaer, Urbanest Group, Inc. and Akhil Hari, Good Homes.
- 7.03 P22-49. Rezoning to amend the Conditions of a Mixed-Residential 5/Conditional Zoning (MR-5/CZ) district and add five additional properties currently zoned Single-Family Residential 10 (SF-10), located at 0 Cliffdale Road, 0 Olted Road, 8506 Olted Road, 8510 Olted Road, 8541 Olted Road, and 0 Rim Road (REID #s 9487343260000, 9487339006000, 94874310116000, 9487432996000, 9487337848000, 9487434555000, 9487339796000, and 9487543570000), totaling 59.9 acres ± and being the property of K & G Developers LLC, Doris Bunnells, Michael Bunnells, represented by Scott Brown, 4D Site Solutions, Inc.
- 7.04 22-50. Conditional rezoning from Heavy Industrial (HI) to Heavy Industrial Conditional Zoning (HI/CZ) to allow retail and wholesaling on .39 acres ±, located at 203 Blount Street (REID # 0437419899000), and being the property of City Property, LLC, represented by Ali Abdo.
- 7.05 P22-51. Rezoning from Mixed Residential 5 (MR-5) to Limited Commercial (LC) of 0.54 acres ± located to the southwest of Murchison Road and southeast of Coley Drive (REID #s 0438105842000, 0438105807000, and 0438104800000), and being the property of the Board of Trustees of the Endowment Fund of Fayetteville State University and Fayetteville State University Development Corporation, represented by Victor Sharpe.
- 7.06 P22-52. Rezoning from Single-Family Residential 6 (SF-6) and Single-Family Residential 10 (SF-10) to Community Commercial (CC) zoning district, located at 2314 Hope Mills Road (REID # 0405997654000), totaling 6.76 acres of an 11.77 acre parcel and being the property of Turtle Run LLC, represented by Terry Wethington, Lampe Management and Matthew Prokop, Rivers & Associates, Inc.
- 7.07 P22-53. Rezoning from Light Industrial (LI) to Community Commercial (CC) zoning district of 2.08 acres ±, located at 0 Middle Road (REID # 0447553348000), and being the property of Middle Road Properties, LLC, represented by Lori Epler of Larry King & Associates.
- 7.08 P22-56. Request to amend the previously approved conditions for an Office and Institutional/Conditional Zoning (OI/CZ) zoned property consisting of 3.29 acres ±, located at 529 Terry Circle and 1601 Owen Drive (REID #s 0426077666000 and 0426077416000), and being the property of Fayetteville Area Health Education Foundation Inc, represented by Larry King & Associates.
- 7.09 P22-58. Rezoning from Agricultural-Residential (AR) to Single-Family 10 (SF-10) zoning district of 3.0 acres ±, located at 9755 Gooden Drive (REID # 9487827927000), and being the property of Mohler Investments, LLC, represented by Scott Brown of 4D Site Solutions, INC.
- 7.010 Adoption of Capital Project Ordinances 2023-13 and 2023-14 to Appropriate State Direct Grant Funds for the Lake Rim Park Improvement Project and the Reid Ross Track Improvement Project

Capital Project Ordinances (CPOs) 2023-13 and 2023-14 to appropriate \$1,750,000.00 State Direct Grant funding from the North Carolina Office of State Budget and Management. CPO 2023-13 will appropriate \$1,500,000.00 for the Lake Rim Park Improvement project, and CPO 2023-14 will appropriate \$250,000.00 for the Reid Ross Track Resurfacing project.

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7.011 Adoption of Capital Project Ordinance Amendments 2023-19 and 2023-20 to Appropriate Funding for the Dam Safety and Preservation Program

Capital Project Ordinance Amendments (CPOAs) 2023-19 and 2023-20, re-appropriating \$62,500.00 for the City's Dam Safety and Preservation Program. The funding is a transfer from the Local, Small, and Disadvantage Business Enterprise Program tracking software project which received initially General Fund funding that was replaced with ARPA funding.

7.012 Adoption of Capital Project Ordinance 2023-15 to Appropriate FY22 Airport Improvement Program Grant 53 (3-37-0021-053-2022) to Fund Aqueous Film-Forming Foam (AFFF) Testing Units

Capital Project Ordinance (CPO) 2023-15 to appropriate the \$65,000.00 Airport Improvement Program Grant 53, Project No. 3-37-0021-053-2022 from the Federal Aviation Administration to fund Aqueous Film-Forming Foam (AFFF) Testing Units for Station 10 at the Fayetteville Regional Airport.

7.013 Adoption of Budget Ordinance Amendment 2023-10 to Appropriate the 2022 First Responder Grant

Budget Ordinance Amendment 2023-10 to appropriate \$9,530.00 of 2022 First Responder Grant from Motiva for the purchase of an Indian Springs ERK Multipurpose Tank-Car Kit and in-house training and equipment familiarization to ensure team members proficiency to properly deploy kit when needed.

7.014 Adoption of Budget Ordinance Amendment 2023-11 and Special Revenue Fund Project Ordinance Amendment 2023-4 to Provide Additional Funding for NRCS-EWP Bank Stabilization Projects

Budget Ordinance Amendment (BOA) 2023-11 and Special Revenue Fund Project Ordinance Amendment (SROA) 2023-4 to appropriate \$50,000.00 from Stormwater Management Fund net assets for NRCS-EWP Bank Stabilization Projects.

The additional funds are needed to cover non-reimbursable construction items on the Green Street Bank Stabilization (EWP DSR #503) project. These non-reimbursable constructions items were determined by the US Department of Agriculture Natural Resources Conservation Service (NRCS) and the NC Department of Agriculture and Consumer Services, for Emergency Watershed Protection (EWP).

7.015 Adoption of Budget Ordinance Amendment 2023-12 to Appropriate Funding to Parks & Recreation FY2023 Annual Operating Budget for the Spring Lake Recreation Facility

Budget Ordinance Amendment (BOA) 2023-12, to appropriate \$278,971.00 of additional funding to the Parks & Recreational FY2023 Annual Operating Budget. The funding is for projected expenditures for the recently added Spring Lake Recreation Center. The sources of funding consist of \$241,547.00 Intergovernmental Revenue from County tax revenue, \$11,021.00 Functional Revenues from programs offered at the facility, and \$26,403.00 Restricted General Fund fund balance transfer used for Cumberland County Recreation Service District. This use of funds has been approved by Cumberland County.

7.016 Revision of Bylaws for the Millennial Advisory Commission

Amended bylaws are necessary for several items. City Council increased the membership from 13 Commissioners to 30 Commissioners on September 6, 2022.

Additional amendments to the bylaws are required as on January 3, 2023, Mr. Scott Davis, Public Information Specialist/Millennial

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Commission Liaison, introduced Mr. Malik Davis, Chair, and Ms. Kathryn Brown, Co-Chair, of the Millennial Advisory Commission. Mr. Malik Davis stated the Fayetteville Millennial Advisory Commission discussed and voted on the new rebranding proposal during their strategic planning retreat in 2022. The rebranding of the Commission will include a name change; Fayetteville Next Advisory Commission, and an age change to serve on the commission: 23 to 39 years of age.

In addition, the new mission statement now reads: The Fayetteville NEXT Advisory Commission is established to attract, retain, and engage Fayetteville residents between the ages of nineteen and thirty-nine. The Commission is dedicated to improving the quality of life for young adults through targeted event programming and community outreach initiatives, making Fayetteville a "desirable place to live, work and recreate" for this generation.

7.017 Uninhabitable Structures Demolition Recommendations

532 Cedar Creek Road, Unit 540 - District 2

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2023-001

803 Ashboro Street - District 2

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2023-002

225 Pennsylvania Avenue - District 4

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2023-003

322 Preston Avenue - District 4

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2023-004

7.018 Approval of Agreement Providing Extended Jurisdiction to Fayetteville State University (FSU) Department of Police and Public Safety

FSU Police Chief Roberto Bryan has requested this Agreement. The agreement would allow FSU Department of Police and Public Safety to enforce City ordinances on FSU property without having to call for a City Police Officer to assist.

7.019 This item was pulled from the Consent Agenda for presentation and separate vote.

7.020 Federal Action Plan FY 2024

The City of Fayetteville engages with the federal government and pursues funding assistance for strategic focus areas identified in the City's adopted Strategic Plan. These efforts ensure the protection and preservation of essential community assets and resources, allowing the City to thrive.

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7.021 Lease of Suite 301 of R. C. Williams Building

RESOLUTION OF THE CITY COUNCIL TO APPROVE LEASE FOR R.C. WILLIAMS BUILDING. RESOLUTION NO. R2023-005

7.022 Consideration of Cumberland County's Proposed Sales Tax Distribution Interlocal Agreement

In January 2019, City Council authorized a revision of the Sales Tax Distribution Interlocal Agreement with the County and other local municipalities which will conclude at June 30, 2023.

At a meeting of the Mayor's Coalition on January 6, 2023, the Mayors agreed to propose the Tax Distribution Interlocal Agreement for fiscal years 2024 through 2029. This agreement will extend the existing methodology through 2029.

7.019 Request for Legal Representation of City Employees

Ms. Karen McDonald, City Attorney, stated the purpose of this agenda item is to receive authorization from the City Council to provide legal representation for City employees Amanda Bell and Ryan Haddock in the matter of *Ja'Lana Dunlap-Banks v. Fayetteville Police Department, City of Fayetteville, Officer Ryan Haddock, Detective Amanda Bell and John and Jane Doe's 1-100, City of Fayetteville employees and police officers*. The employees were acting within the scope and course of their employment with the City when the alleged incident(s) occurred.

Discussion ensued.

MOTION: Mayor Pro Tem Dawkins moved to authorize the City to provide legal representation for Detective Amanda Bell and Detective Ryan Haddock in the matter of *Ja'Lana Dunlap Banks v. Fayetteville Police Department, City of Fayetteville, Officer Ryan Haddock, Detective Amanda Bell and John and Jane Doe's 1-100*.

SECOND: Council Member Hondros

VOTE: PASSED by a vote of 6 in favor to 4 in opposition (Council Members Colvin, Ingram, Benavente, and Banks-McLaughlin)

8.0 PUBLIC HEARINGS (Public & Legislative Hearings)

8.01 TA23-001: Text Amendments to Article 30 of the Unified Development Ordinance for Halfway Houses to Community Reintegration Centers

Dr. Gerald Newton, Development Services Director, presented this item and stated the following report contains suggested changes to the way the City of Fayetteville addresses the zoning of buildings known as Residential Reentry Centers (RRC) by the Federal Bureau of Prisons.

In Fayetteville, these RRCs are included in the Zoning uses as a Halfway House, which is not descriptive nor formerly contemplated when the local ordinances were written. Through a series of events, including a North Carolina Court of Appeals decision, a one-story, 14,000 square foot building designed to potentially accommodate 100 residents is now approved for development adjacent to businesses, multi-family and single-family residential areas. This court-ordered approval is in a property zoned Office and Institutional (OI). In order to ensure any future RRC are located only when compatible to the area and not in residential zoning districts, several changes are proposed.

The city zoning regulations are now under consideration for changes in:

- (1) Defining these uses;

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- (2) Identify the use as a treatment center rather than a form of housing in the use tables and text (essentially, removing RCCs from residential zoning districts and some transitional zones;
- (3) Limit the number of potential residents in relation to the surroundings; and
- (4) Ensure any future locations of RCCs within the City will only occur when standards for capability are vetted against the Special Use Permit standards revised after the Court of Appeals decision.

Several of these issues were presented at the City Council work session on May 3, 2021. Limiting size, limited locations, and clear definitions, not in residential zoning districts and the Multi-Family zone of MR-5 all were items to be examined. City Council directed staff to present the proposed changes for review by the Planning Commission. That occurred on June 15, 2021, the Planning Commission reviewed the proposed changes, and voted to recommend adoption (by a vote of 7 to 0), subject to a revision to limit the maximum number of facility residents when located within 2,640 feet (one-half mile) from residential districts, increased from the originally proposed 500 feet. Filing of the lawsuit appeal put a pause on these items. They are now returned for consideration of changes to address the four items.

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

Discussion ensued.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-9.D. DEFINITIONS, OF CHAPTER 30, UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2023-001

MOTION: Council Member Haire moved to adopt the proposed text amendments for Community Reintegration Centers with the addition of a requirement for a half mile for residential and multi-family separation and the notification letter to include the definition of a community reintegration center.

SECOND: Council Member Ingram

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

9.0 ADMINISTRATIVE REPORTS

9.01 City Manager's Update - City Council Agenda Item Requests

This item was for information only, and was not presented.

9.02 State Directed Grants Project Portfolio - Status Report

This item was for information only, and was not presented.

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:07 p.m.

Respectfully submitted,

PAMELA J. MEGILL
City Clerk
012623

MITCH COLVIN
Mayor