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FAYETTEVILLE CITY COUNCIL  
WORK SESSION MINUTES  
COUNCIL CHAMBER, CITY HALL  
JANUARY 2, 2024  
5:00 P.M.

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Malik Davis (District 2); Mario Benavente (District 3); D. J. Haire (District 4); Lynne Greene (District 5); Derrick Thompson (District 6); Brenda McNair (District 7); Courtney Banks-McLaughlin (District 8); Deno Hondros (District 9)

Others Present: Douglas Hewett, City Manager  
Lachelle Pulliam, Interim City Attorney  
Adam Lindsay, Assistant City Manager  
Kelly Olivera, Assistant City Manager  
Jeffrey Yates, Assistant City Manager (via zoom)  
Jodi Phelps, Chief of Staff  
Sheila Thomas-Ambat, Public Services Director  
Michael Gibson, Parks, Recreation and Maintenance Director  
Loren Bymer, Marketing & Communications Director  
Paul Allen, Assistant City Attorney  
Craig Harmon, Senior Planner  
Pamela Megill, City Clerk (via zoom)  
Jennifer Ayre, Deputy City Clerk  
Members of the Press

## 1.0 CALL TO ORDER

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

## 2.0 INVOCATION

The invocation was offered by Council Member Thompson.

## 3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City Council.

## 3.0 APPROVAL OF AGENDA

**MOTION:** Council Member Benavente moved to approve the agenda.

**SECOND:** Council Member Davis

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

## 4.0 OTHER ITEMS OF BUSINESS

### 4.01 Proposed Text Amendments to Chapter 30 - Unified Development Ordinance (UDO).

Mr. Craig Harmon, Senior Planner, presented this item and stated generally, twice per year, the Development Services Department proposes a batch of text amendments to adjust the UDO and other City Codes. The aim of these amendments is to ensure that the City's regulations reflect modern development standards and community preferences. These suggested amendments are the result of issues identified through ordinance cleanup, the development community's suggestions, and case law implications. The reason to limit the potential amendments is a combination of staff and City Council time spent on the items to fully vet items for consideration.

The first step in bringing a proposed amendment before City Council is to have it reviewed, modified, and recommended by the City's Planning Commission, following City policies and State Statutes as shown below. The Commission is an integral part of any text amendment process.

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According to the following excerpts from Section 160D-301 of the North Carolina General Statutes, Development Services staff proposes eight code areas to be amended:

- (a) Composition. - A local government may by ordinance provide for the appointment and compensation of a planning board or may designate one or more boards or commissions to perform the duties of a planning board. A planning board established pursuant to this section may include, but shall not be limited to, one or more of the following: . . .
- (b) Duties. - A planning board may be assigned the following powers and duties: . . .
  - (3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

The following are the eight code areas Development Services staff proposes be amended:

1. Reduce the parking calculations for Adaptive Reuse sites.
2. Reduce the parking calculations for Infill Projects.
3. Further define office-warehouse use by amending which districts they are allowed in and what the minimum ratio of office to warehouse space is appropriate.
4. Amend the definitions and standards to better differentiate between standard gas stations and truck stop gas stations.
5. Resolve the ordinance conflicts between general canopy height and canopies for gas stations.
6. Reduce the off-street parking standards for Industrial Uses. Currently warehouse space requires more parking than office uses.
7. Reintroduce sign height and setback standards for signs in residential districts - these standards were lost during the adoption of the UDO.
8. Amend UDO to allow for backing into streets for two-to-four family dwellings and townhomes, which is already allowed for single-family residential uses.

Discussion ensued.

Consensus of Council was to direct staff to present all the proposed text amendments to the Planning Commission for their review, modification, and recommendation.

### **4.02 Solid Waste - Yard Waste - Acceptable Containers**

Mr. Daniel Edwards, Assistant Public Services Director, presented this item and stated during a presentation to the Council in January, staff presented proposed revisions to the operations ordinance. The main objective of the proposed new ordinance was to address service limits, correct ordinance ambiguity, update definitions, and update the operation language (specifically Sec. 22-10). There were no recommendations or discussions regarding changing the acceptable yard waste containers or any of the other containers for Solid Waste services other than the general statement regarding tighter enforcement of the whole ordinance moving forward.

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Pursuant to Sections 22-5(a) and 22-10(8) in the previous Solid Waste Ordinance, the following were the approved containers for yard waste:

### Sec. 22-5(a)

- (2) *Nonautomated collection system.* All households and businesses not part of the automated rollout collection system shall provide approved containers for all solid waste for removal by the city. Wet and dry garbage containers shall have a capacity of no more than 32 gallons. The following provisions shall be complied with:
- a. Containers shall be cans made substantially of metal or plastic. Cans shall have tight-fitting covers and strong handles, and the covers shall be kept on at all times except when cans are being filled or emptied. Plastic bags may be used as approved containers for household solid waste collection by city forces and shall be properly secured at the bag opening with a twist tie or other secure means to eliminate any spillage of contents.
  - b. Plastic bags to be used to containerize household materials shall be constructed from film made from high quality polyethylene or similar product. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed.

### Sec. 22-10(8)

- (8) Yard waste containerization requirements and collection services.
- a. Yard waste collection shall be provided only to single-family residential units as approved by the solid waste director or designee.
  - b. Yard wastes shall be separated from all other refuse prior to collection. Collection forces shall collect yard waste that is customarily and reasonably associated with the residential unit served so long as it is properly prepared or containerized and in compliance with these regulations.
    - 1. Grass clippings, small shrubbery clippings, leaves, and other small lawn debris shall be collected at the curbside if they are placed in plastic bags or other approved containers for collection. If plastic bags are used, such bags shall be in good condition, and of such size and weight that, when full, do not weigh more than 50 pounds each and are such that one individual can pick up each bag, one at a time, for disposal. Plastic bags shall be secured at the top when placed at curbside for collection.
    - 2. City-approved/issued rollout refuse containers may be used for yard trash containerization when doing so does not inhibit proper disposal of household trash. Other approved containers used for yard waste shall have tight-fitting lids,

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equipped with strong handles, and shall not exceed 32 gallons in size or 50 pounds in weight when filled. All other yard waste containers shall be furnished by the owner or occupant and be made of metal or plastic for the purpose of solid waste disposal.

Pursuant to Sections 22-5(A) and 22-10(J) in the current Solid Waste Ordinance, the following are the approved containers for yard waste:

### Sec. 22-5(A)

3. *Yard Waste Non-Automated Collection System*, All Residential Units and Single Business Units that have not purchased a City-issued Yard Waste Rollout Cart shall provide an alternative City-approved can for all Yard Waste for removal by the City. The can shall have a capacity of no more than 32 gallons. The following provisions apply:
  - a. Cans shall be made substantially of metal or plastic. Cans shall have tight-fitting covers and strong handles, and the covers shall be kept on at all times except when cans are being filled or emptied.
  - b. Plastic bags used to containerize Yard Waste shall be constructed from film made from high quality polyethylene or a similar product. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed.
  - c. Cans provided by the user for Yard Waste shall not weigh more than 50 pounds.

### Sec. 22-10(J)

- J. Yard Waste containerization requirements and Collection.
  1. Yard Waste Collection shall be provided only to Units as approved by the City Manager or designee.
  2. Yard Waste shall be separated from all other Waste prior to Collection. The City shall collect Yard Waste that is customarily and reasonably associated with the Unit served so long as it is properly prepared or containerized and in compliance with these regulations. Yard Waste shall be placed within four (4) feet of the Curbside for Collection by the City.
    - a. Grass clippings, small shrubbery clippings, leaves, and other small lawn and Yard Waste debris shall be collected at the Curbside provided that they are placed in plastic bags, an approved can for Collection, or a Rollout Cart that is purchased from or provided by the City. If plastic bags are used, such bags shall be in good condition, and of such size and weight that, when full, do not weigh more than 50 pounds each, and are such that one individual can pick up each bag one at a time for disposal. The plastic bags shall be secured at the top when placed at Curbside for

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Collection. For each Collection day, a maximum combination of ten (10) Rollout Carts, plastic bags, and approved cans in total can be set out at the Curbside for weekly Collection.

- b. Loose Yard Waste comprised of branches and twigs are to be tied into bundles weighing no more than 50 pounds, be no longer than three (3) feet in length, three (3) feet in width, and the branches must not be larger than three (3) inches in diameter.
- c. Other approved cans used for Yard Waste that are provided by the user shall be made of metal or plastic, have tight-fitting lids, be made for Waste disposal, equipped with strong handles, and shall not exceed 32 gallons in size or 50 pounds in weight when lifted by one person.

Solid Waste services around 64,000 residents and have tagged approximately 2,852 tags since July 1, 2023. Staff tagged around 302 unapproved containers for yard waste. On the other hand, there were more tags for residents attempting to use their recycling cart, approximately 745, than tags for unapproved containers. Overall, 99 percent put their yard waste out right the first time and nearly 100 percent get it right after we have tagged them.

Residents who prefer using alternative methods for yard waste collection are encouraged to purchase brown carts. These carts can be used for both yard waste and household waste. They come with a ten-year warranty, unlike reusable bags, which may need to be replaced within three years. In case of any defects or damages, the City will replace or repair the brown carts for ten years. However, if reusable bags are ripped or destroyed while being emptied into the truck by the staff, the City will not bear the cost of replacing them. There are various types of reusable bags, boxes, and containers that residents can use to dispose of their yard waste during collection. Furthermore, providing such inconsistent collection compromises the safety and health of staff because of the unpredictability of collections. Although the plastic bags must be lifted in the hopper of the truck, they are cut within the hopper, and the plastic bag is disposed of by the crew without issues. Some residents desire to use biodegradable bags. Bio-bags are not accepted at the Wilkes Road Facility. It would be a challenge to regulate the variety of options available for yard waste collection use. Brown carts are the best option for the collection of yard waste. It is important to note that introducing alternative methods of containerizing yard waste might lead to requests for additional alternative methods, which could result in inconsistent, unpredictable, and unenforceable services from Solid Waste.

Discussion ensued.

Consensus of Council was to direct staff to continue using the accepted containerized methods for yard waste collection in the Solid Waste Ordinance. Council Member Hondros was opposed to the consensus vote.

### **4.03 Unaccompanied Minors in City Facilities**

Mr. Michael Gibson, Parks, Recreation and Maintenance Director, presented this item and stated the purpose of this report is to address and discuss the request received from Mayor Pro Tem Jensen to research and provide a proposed policy regarding unaccompanied minors in City facilities.

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North Carolina General Statute 14-318 remains the primary guidance acknowledged by most organizations polled during research.

Most agencies surveyed do not have a standard policy or a specific training program that can be cited, to address unaccompanied children. Most responses received were consistent in leaning on parental discretion. The following is a summary of the research:

Fayetteville-Cumberland Parks and Recreation (FCPR) contacted the following agencies or groups:

- 7 parks and recreation agencies within the State of North Carolina
- 3 additional parks and recreation agencies within the US of varying populations but similar amenities
- Cumberland County Schools
- Cumberland County Department of Social Services
- Cumberland County Child Advocacy Center
- Air, rail and automotive travel groups

The following is FCPR Policy:

FCPR operates at or above comparable department standards. Staff is empowered with the responsibility of site-based management. This includes becoming familiar with the local community and exercising reasonable judgment.

Staff practices the "JDLR" method as defined by the City of Fayetteville Police (POC - Detective S. Conrad). When something "Just Doesn't Look Right", staff take precautionary action. Staff also take precautionary measures as acknowledged by City of Fayetteville Fire (POC - Deputy Chief Hieu N. Sifford) and Cumberland County Department of Social Services (POC - CPS Intake SW II Erica Booher) citing North Carolina General Statute 14-318. FCPR does not allow school age children in the recreation centers without guardianship during school operating hours.

As stated in the FCPR Code of Conduct, "it is the department's obligation to maintain a controlled, safe and healthy atmosphere for everyone". When, in the staff's discretion, safety or health is compromised, they are authorized and expected to exercise prudent judgment. Staff are tasked with the responsibility of making every effort to achieve this goal as well as maintaining fairness and consistency across the board.

Even though FCPR's facilities have scheduled, structured, and paid programming, facilities provide free programs as well. Facilities are open to the general public and are considered to be safe havens where any citizen may gather/loiter/hang-out and take advantage of amenities such as air conditioning, heat, water, restrooms, etc. The City of Fayetteville and County of Cumberland consistently send out PSAs to that effect.

In unfortunate circumstances, FCPR recreation centers are the best and safest places for unaccompanied minors to be.

Discussion ensued.

Consensus of Council was to direct staff to send this item to the Parks and Recreation Advisory Commission for their review and recommendations.

#### **4.04 Consideration of Changing Council Meeting Start Times**

Mayor Pro Tem Jensen presented this item and stated the Council Policies Review Committee discussed the start times for Council

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meetings and work sessions. The Committee consensus was to recommend starting the meetings earlier.

Council Member Haire stated he recommends work sessions begin at 2:00 p.m., discussion of agenda items (dinner meeting) to begin at 5:30 p.m., and regular meetings to begin at 6:30 p.m.

Discussion ensued.

Consensus of Council was to direct staff to move this item forward to the January 8, 2024, regular Council meeting agenda, with the recommendation to have work sessions begin at 2:00 p.m., discussion of agenda items (dinner meeting) to begin at 5:30 p.m. and regular meetings to begin at 6:30 p.m. Council Members Benavente, Greene, McNair and Banks-McLaughlin were opposed to the consensus vote.

#### **4.05 City Council Agenda Item Request - Vape Shops - Council Member Haire**

Council Member Haire presented this item and stated he has an interest in helping protect residents in low-income neighborhoods and children at school sites from Vape shops locating close by. Council Member Haire stated Cumberland County has recently adopted an ordinance concerning areas that Vape Shops may be operated.

Discussion ensued.

Consensus of Council was to direct staff to review the County Ordinance pertaining to Vape Shops and report back to Council with findings.

#### **4.06 City Council Agenda Item Request - Censure of Mayor Colvin and Council Member Benavente - Council Member Banks-McLaughlin**

Council Member Banks-McLaughlin presented this item and stated she wants to reassure the public that Council takes serious notice of disrespectful and discourteous treatment of staff and fellow Council members, and further stated she wants to hold the Mayor and Council Member Benavente accountable for their actions towards former Police Chief Gina Hawkins.

There was no consensus to move this item forward.

#### **5.0 ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:19 p.m.

Respectfully submitted,

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PAMELA J. MEGILL  
City Clerk  
010224

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MITCH COLVIN  
Mayor