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**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
COUNCIL CHAMBER  
MARCH 26, 2018  
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Tyrone Williams (District 2); Tisha S. Waddell (District 3); D. J. Haire (District 4); Johnny Dawkins (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  
Telly Whitfield, Assistant City Manager  
Gina Hawkins, Police Chief  
Cheryl Spivey, Chief Financial Officer  
Tracey Broyles, Budget and Evaluation Director  
Elizabeth Somerindyke, Internal Audit Director  
Gerald Newton, Development Services Director  
Rob Stone, Public Services Director  
Cindy Blog, Economic and Community Development Director  
Kevin Arata, Corporate Communications Director  
Jay Toland, Special Assistant to the City Manager  
Craig Harmon, Senior Planner  
Giselle Rodriguez, City Engineer  
Kim Toon, Purchasing 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 Reilly Halliday, Manna Church, Ramsey Street, Fayetteville.

## **3.0 PLEDGE OF ALLEGIANCE**

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

## **4.0 ANNOUNCEMENTS AND RECOGNITION**

Council Member Jensen introduced Ms. Caycee Lee, Fayetteville-Cumberland Youth Council (FCYC), representing the Youth Council this evening.

Mayor Colvin presented a Certificate of Excellence to the Pine Forest High School Bowling Team for winning the State Championship.

## **5.0 APPROVAL OF AGENDA**

**MOTION:** Mayor Pro Tem Mohn moved to approve the agenda with the exception of moving Item 6.05 from consent and re-numbering it as Item 7.07.

**SECOND:** Council Member Wright

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

# DRAFT

## 6.0 CONSENT AGENDA

**MOTION:** Council Member Jensen moved to approve the consent agenda with the exception of Item 6.08; pulled for discussion and separate vote.

**SECOND:** Council Member Haire

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

**6.01 P18-11F City-initiated rezoning of property from MR-5 Mixed Residential to CC Community Commercial Zoning, located at 135 Blount Street (E.E. Smith House) near the intersection of Blount and Chase Streets, containing 1.19 acres and being the property of the City of Fayetteville.**

### **6.02 Uninhabitable Structure Demolition Recommendation**

**603 Deep Creek Road**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY 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 (603 Deep Creek Road, PIN 0446-38-7911). ORDINANCE NO. NS2018-009**

### **6.03 Purchase Ballpark Scoreboard and Field Lighting for Baseball Stadium off Cooperative Agreements**

Authorization to access Inter-local Cooperative Purchasing agreements to obtain competitive pricing for the Ballpark Scoreboard and Field Lighting system.

**6.04 Bid Recommendation - Ballpark Food Service Equipment and Installation Services to Stafford-Smith, Inc., the lowest responsive, responsible bidder, in the total amount of \$1,183,287.00.**

Three proposals were received from the following vendors:

Thompson and Little Inc. ....	\$1,316,700.00
Trimark Foodcraft .....	\$1,286,000.00
Stafford-Smith Inc. ....	\$1,183,287.00

**6.05 This item was moved and re-numbered Item 7.07.**

**6.06 Bid Recommendation - Annexation Phase V, Area 20 - Hackney Hills, Lake Point, Robin Hill Estates, to T2 Contracting, the lowest responsive, responsible bidder, in the total amount of \$5,837,472.50.**

Bids were received on February 28, 2018, as follows:

T2 Contracting, Fuquay Varina, NC .....	\$5,837,472.50
TA Loving Co., Goldsboro, NC .....	\$6,369,846.00
Billy Bill Contracting, Fayetteville, NC .....	\$6,775,749.18

**6.07 Bid Recommendation - Annexation Phase V, Area 21 - Arran Lakes West Subdivision, to TA Loving Co., the lowest responsive, responsible bidder, in the total amount of \$5,017,469.50.**

Bids were received on February 21, 2018, as follows:

TA Loving Co., Goldsboro, NC .....	\$5,017,469.50
T2 Contracting, Fuquay Varina, NC .....	\$5,170,770.00
Billy Bill Contracting, Fayetteville, NC .....	\$5,601,924.80

**6.08 This item was pulled from the consent agenda for discussion and separate vote.**

# DRAFT

## **6.09 Adopt a Resolution Declaring Jointly-Owned Real Property Surplus and Authorizing a Quitclaim Deed of the City's Title to the County**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO DECLARE CITY PROPERTY SURPLUS AND QUITCLAIM CITY'S INTEREST TO CUMBERLAND COUNTY. RESOLUTION NO. R2018-016**

## **6.08 An Ordinance Prohibiting Passing Items Into/Out of Motor Vehicles**

Mr. Brandon Christian, Police Attorney, presented this item and stated he is presenting for the Council's consideration a new ordinance based off of an ordinance enacted by Charleston, SC, to protect the occupants of vehicles and persons seeking to solicit donations from vehicle operators by restricting the passing of items between persons in vehicles on public streets and persons outside the vehicle. Council previously requested staff to review the ordinances of other cities to determine whether Fayetteville has appropriate ordinances regulating activities associated with panhandling. It is the goal of the City to ensure that all residents have the right to be free from unwanted advances and that the constitutionally protected rights of everyone are protected. To that end, staff reviewed the ordinances of other North Carolina municipalities and presented those findings to Council previously. Council then expressed an interest in addressing the safety of panhandlers on the side of public streets and highways and the safety issues it creates for the panhandlers and occupants of motor vehicles. One item of interest specifically addressed by Council was an ordinance from Charleston, SC, that restricted the passing of items to and from vehicles on public streets. At the March 5, 2018, work session, staff presented Council with a draft ordinance based upon the Charleston, SC, ordinance. Council directed staff to advance the ordinance prohibiting the passing of items into or out of motor vehicles on the public streets for consideration at a formal Council meeting. Council further directed staff to incorporate two changes: (1) that the ordinance only be enforceable on streets that have permanent lane markings, thereby exempting the ordinance from applying on neighborhood streets; and (2) adding a time limit of 12 months to the heightened penalties for subsequent violations. The draft ordinance incorporates both changes as directed.

Discussion ensued.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE CREATING A NEW SECTION 16-266 TO PROHIBIT THE PASSING OF ITEMS TO AND FROM THE OCCUPANTS OF MOTOR VEHICLES ON PUBLIC STREETS OR HIGHWAYS OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2018-004**

**MOTION:** Council Member Arp moved to adopt the ordinance as presented, to also include an educational component.

**SECOND:** Council Member Wright

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

## **7.01 P18-01F The issuing of a Special Use Permit to allow a free standing cellular communications tower to be located in a MR-5 Mixed Residential District, the structure will be located at 1268 Ireland Drive near the intersection with David Street, containing 5.06 acres and being the property of REFUGE CHURCH.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation.

The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards. The following eight findings must be met:

# DRAFT

- (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;
- (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.

Mr. Frank Longest, Burlington, NC, appeared in favor and stated he is the attorney representing the applicant, Beacon Towers.

Mr. Jonahan Yates, 105 Broad Street, Charleston, SC, appeared in favor and thanked Mr. Harmon for working so diligently with him on this case.

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

Discussion ensued.

**MOTION:** Council Member Wright moved to approve the Special Use Permit (SUP) to allow a communications tower in a MR-5 residential zoning district, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because: (1) the development is located in a Mixed Residential District, (2) this use complies with the eight findings of fact listed, 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, which is April 5, 2018. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

**SECOND:** Council Member Crisp

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

7.02 P18-08F Rezoning of property from NC Neighborhood Commercial to MR-5 Mixed Residential Zoning, located at the northwest corner of the intersection of Hoke Loop and Cliffdale Roads, containing 2.7 acres (of 5.39 total acres) and being the property of HAROLD J & WIFE KIDD and HAROLD KIDD.

# DRAFT

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated this item is a general rezoning from Neighborhood Commercial (NC) to Mixed Residential 5 (MR-5) zoning. Mr. Harold Kidd wishes to have the option to redevelop this property by rezoning to MR-5. The applicant wishes to develop a 72-unit multi-family development. With the combination of MR-5 and NC zoning that currently covers these properties, the applicant can already develop 72 units. The purpose of this rezoning is to allow the developer the option to create a better design and include more open space. These properties are located at the intersection of Hoke Loop and Cliffdale Roads to the northern side of Hoke Loop Road and west of Cliffdale Road. The rezoning would affect part of the 3.6 acres on Parcel ID 9487-15-2202 and all 1.79 acres on Parcel ID 9487-05-7158. In the existing zone the purpose of the NC District is to "accommodate small-scale, low-intensity, and 'convenience' retail and service uses that provide goods and services serving the residents of the immediately surrounding neighborhood including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings and zero lot line development." The intent of a Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities. The applicant's proposal is congruous with the types of zoning and development along Clifford Road as you travel east towards the center of town. The recommended zoning in the 2010 Future Land Use Plan is Low-Density Residential, which has been accommodated by the surrounding zoning, so it is therefore appropriate for rezoning this area for a denser development. Also, the Unified Development Ordinance encourages multi-family uses to be located along major roads and not within single-family subdivisions.

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

Mr. Bill Owen, 1416 Pine Valley Loop, Fayetteville, NC, appeared in favor and stated he is representing the developer, United Developers.

Mr. Marion Garin, 6867 Bryan Stone Way, Fayetteville, NC, appeared in opposition and expressed concerns regarding safety and traffic.

Ms. Antoinette Graves, 6817 Woodmark Drive, Fayetteville, NC, appeared in opposition and expressed concerns regarding safety for children and noise from the increased traffic.

Ms. Savannah Gricuis, 6920 Timbercroft Lane, Fayetteville, NC, appeared in opposition and expressed concerns regarding home values, and requesting more stimulation for this neighborhood.

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

Discussion ensued.

**MOTION:** Mayor Pro Tem Mohn moved to deny the rezoning.

**SECOND:** Council Member Wright

**VOTE:** PASSED by a vote of 7 in favor to 3 in opposition (Council Members Williams, Dawkins, and Arp)

**MOTION:** Council Member Arp moved to waive the requirement to wait a period of one year to revisit the rezoning request, and to authorize the petitioner to establish conditional zoning that identifies only 72 units can be built and that the Zoning Commission hold a special meeting if necessary in order to meet the timeline of the petitioner.

**SECOND:** Council Member Haire

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

# DRAFT

Mayor Colvin recessed the meeting at 9:03 p.m. Mayor Colvin reconvened the meeting at 9:14 p.m.

## **7.03 Small Cell Antennas Text Amendment to align the City's Unified Development Ordinance with the State General Statute recently adopted regarding reform of wireless communications infrastructure licensing and permitting to aid in the deployment of new technologies and Budget Ordinance Amendment 2018-22 to amend the fee schedule for related fees.**

Mr. Craig Harmon, Senior Planner, presented this item and stated N.C. General Statutes have been amended to include a section on the siting and placement of small cellular antennas. The proposed text amendment will align the City's Unified Development Ordinance (UDO) with the amended State Statute. Budget Ordinance Amendment (BOA) 2018-22 will amend the City's fee schedule to add fees for applications for small cell antenna right-of-way encroachment and for associated technical reviews. The City Code must be consistent with the NC General Statutes. The State Statutes were recently amended to include a section on small cellular antennas. The proposed text amendments add text to comply with (1) the use of public right-of-way for wireless communications infrastructure, (2) the collocation of small cell antennas on existing utilities poles, and (3) the siting of new utility poles for the sole purpose of housing small cellular antennas and their equipment. Text amendments are required by Code to be reviewed by the Planning Commission and forwarded to City Council for final disposition. The proposed text amendments align the City's Unified Development Ordinance with the NC General State Statute regulations regarding small cell antennas. The State legislation falls under Section 160A-400.52 and is treated the same as the review of a traditional cell tower. A municipality can review (1) "aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones" and (2) information regarding "an identified public safety, land development or zoning issue," including whether other approved structures can "reasonably be used;" whether residential, historic, or scenic areas can be served from outside the area; and that the height is "necessary to provide the applicant's designed service." A municipality can also require applicants to evaluate collocation. Once built, an antenna can be replaced in-kind without municipal review and is subject to future "eligible facilities requests." The municipality can also review any encroachment request and can deny such request under G.S. § 160A-296(a)(6). Under the new State Statute 160A-400, small cell antennas are not subject to zoning review or approval, if located in municipal right-of-way and does not obstruct or hinder the usual travel or public safety, does not obstruct legal use by other utilities, and does not exceed greater than 50 feet in height or 10 feet in height above tallest existing utility pole (as of July 1, 2017) within 500 feet of a new pole. (Historic Districts are the exception to this. These antennas are bound to the restrictions of those districts and require Certificates of Appropriateness before being constructed.) If height limits are not met for the pole and antenna, the municipality may not prohibit a new pole if it complies "with all applicable zoning requirements." Applicants "shall comply" with "undergrounding requirements" in areas zoned for single-family residential. Municipalities can charge for use of municipal right-of-way; fee shall not exceed "direct and actual costs of managing" right-of-way and shall not exceed charge "imposed" on municipal utilities (which means fee to use right-of-way will most likely be \$0 for most municipalities). The State legislation is silent as to what happens in NCDOT right-of way. G.S. 136-189.3A was added to give NCDOT some authority. Municipality may not prohibit or regulate collocation of small wireless facilities "except as expressly provided in this Part" (160A-400.54). This removes all proprietary authority and all authority to regulate in NCDOT right-of-way by a municipality.

# DRAFT

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

Discussion ensued.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 30-4.C.3.i, TELECOMMUNICATIONS FACILITIES, UNDER ARTICLE 30-4., USE STANDARDS, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2018-005**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-9, DEFINITIONS, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2018-007**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-4, USE STANDARDS, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2018-009**

**MOTION:** Council Member Arp moved to approve the amendment to align the City's UDO with the NC General Statute, and to adopt Budget Ordinance Amendment 2018-22 to add fees for small cell antenna right-of-way encroachment applications and technical reviews.

**SECOND:** Council Member Dawkins

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

**7.04 Code Amendments to clarify an Administrative Zoning Permit review and approval process within the following Code Sections: Review Procedures, Standards and Requirements for Development Applications, and Definitions**

Mr. Michael Martin, Assistant Development Services Director, presented this item and stated the intent of this proposed amendment is to clarify existing code language regarding permit requirements that currently address zoning regulations related to projects that may be exempted from the State Building Code. This proposed amendment will clearly delineate the requirements of building permits and administrative zoning permits. Building permits have a statutory definition specifically relating to the compliance requirements of the State Building Code. Smaller projects (such as smaller outdoor sheds or fences less than 6 feet in height) are exempted from building code requirements, yet still have to meet the zoning requirements within the Code. These requirements include, but are not limited to, the minimum setbacks from lot lines, restrictions on the placement in rights-of-way and easements, and approval of certain temporary uses. The change to the code will allow clarity in the requirement of permits and subsequent applicable regulations for projects that are required to meet either or both the State Building Code and zoning ordinances.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-2.A., REVIEW AND DECISION-MAKING BODIES, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2018-006**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-9, DEFINITIONS, OF CHAPTER 30, THE UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. Administrative Zoning Permit. ORDINANCE NO. S2018-010**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-2.C.12., BUILDING PERMIT, OF CHAPTER 30, THE**

# DRAFT

## UNIFIED DEVELOPMENT ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2018-008

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

Discussion ensued.

**MOTION:** Mayor Pro Tem Mohn moved to adopt the amendments as presented by staff.  
**SECOND:** Council Member Dawkins  
**VOTE:** UNANIMOUS (10-0)

### 7.05 Resolution and Order for Closing a Portion of Merrimac Drive

Ms. Kecia Parker, Real Estate Manager, presented this item and stated N.C.G.S. § 160A-299 gives authority to the City to close a street or alley. Several adjacent property owners have petitioned to close a portion of Merrimac Drive that is currently unopened and not constructed. Closing this portion of Merrimac Drive will not deny access to any property owners. The first step in the process is to have a resolution granting the public hearing which was passed on February 12, 2018. The property has been posted and all certified mail has been sent to the adjoining property owners as required by North Carolina General Statute. No access will be denied to anyone as a result of the proposed closing. Easements will be retained over the closed portion of Merrimac for existing and needed utilities. The County Mapping Division is responsible for determining how the property is divided amongst the adjoining property owners. There is no significant impact to the budget for closing a portion of Merrimac Drive.

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

Ms. Lori Capps, 7306 Manassas Street, Fayetteville, NC, appeared in favor and requested Council approve the closing.

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

Discussion ensued.

### A RESOLUTION AND ORDER CLOSING A PORTION OF MERRIMAC DRIVE. RESOLUTION NO. R2018-017

**MOTION:** Council Member Crisp moved to adopt the resolution as presented.  
**SECOND:** Council Member Arp  
**VOTE:** UNANIMOUS (10-0)

### 7.06 Prince Charles Holding ("PCH") Parking Lease, for Hay Street

Council Member Williams read from a statement he had prepared and stated "Mr. Mayor, I am again writing to formally inform you that I am recusing myself in any voting involving Prince Charles Holding. I had indicated to you and the City Attorney in early February that I have a financial interest in regards to the entity and would like to recuse myself to avoid any conflict".

**MOTION:** Mayor Pro Tem Mohn moved to approve Council member Williams's request for recusal.  
**SECOND:** Council Member Haire  
**VOTE:** UNANIMOUS (9-0) (Council Member Williams not voting)

Mr. Kristoff Bauer, Deputy City Manager, presented this item and stated the City executed a Memorandum of Understanding with PCH in March 2016. At that time, the main topics of discussion were the



# DRAFT

availability of parking and how to reconfigure the street system to support the renovation of the Prince Charles into a mixed use building, a 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 Downtown Development Agreement (DDA) is a complex legal document the full completion of which is dependent upon the successful completion of design, survey, and other activities performed. The City, however, required control of the land in the development area in order to plat 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. The final amendment to the DDA and Garage Contract were approved by Council on December 11, 2018. These agreements have been executed and included in part:

## Garage/Hotel Project:

- Garage design elements and City design approval
- City surface demolition (anticipated and in process)
- Future requirement for a Garage Purchase Agreement based on cost of construction
- Key terms of parking space leases
- City's authority to approve the hotel flag.

Another key term of that agreement is the execution of a lease between the City and PCH. The lease is necessary for PCH to secure funding for the redevelopment of the historic Prince Charles Hotel. The lease will also provide a long-term funding source to the City for the operation of the Hay Street parking garage. Council acted on March 7, 2018, to call for a public hearing on March 19, 2018. In order to meet the statutorily required notice period, the public hearing was noticed for March 26, 2018.

The lease must be considered by Council through the same process as a sale. The key terms include 90 spaces subject to joint use, 33-year initial term, 3 renewal options of 25 years, \$50.00 rent per space per month for first 7 years, rental rate subject to increase by up to 5 percent each year dependent on a number of factors. Due to the length of the lease obligation, state law requires that Council's approval process mirror that of a sale of land. This requires a public hearing with a 10-day advance notification including specific information to be provided in that notice. The lease will not be effective until the garage is completed. The lender funding the renovation of the Prince Charles Hotel has also asked for the execution of the attached Recognition and Non-Disturbance agreement. This agreement simply requires that the lender be notified to any potential breach so that they can choose to cure the breach and maintain the lease. It also requires that the lender approve any amendment during the term of their loan on the property. The request for the non-disturbance agreement is evidence of the importance of the parking lease to the financing of the Prince Charles Hotel restoration project. The lender has made the execution of this lease a pre-condition to that financing. That was reason for including this mutual obligation in the Downtown Development Agreement executed by the City and PCH. Initial revenue, upon completion of the garage and commencement of the lease, will be \$54,000.00 per year.

**MOTION:** Council Member Arp moved to authorize the City Manager to execute the parking lease and non-disturbance agreements.  
**SECOND:** Council Member Wright  
**VOTE:** UNANIMOUS (9-0) (Council Member Williams recused from voting)

## 7.07 Call for Public Hearing on Limited Obligation Bonds to Finance a Baseball Stadium/Entertainment Venue and Parking Garage

# DRAFT

Ms. Cheryl Spivey, Chief Financial Officer, presented this item and stated the City has entered into a 30-year agreement with the Astros to bring minor league baseball to Fayetteville. The City plans to issue limited obligation bonds not to exceed \$52 million to finance the minor league baseball stadium/entertainment venue and parking garage. Section 160A-20 of the General Statutes of North Carolina requires that the City hold a public hearing prior to entering into this financing agreement. In order to finance the baseball stadium and entertainment venue, the City would issue limited obligation bonds and enter into a trust agreement or similar financing agreement. The City would execute and deliver a deed of trust granting a lien on the site of the project, together with all improvements and fixtures, as security for its obligations under the agreement. In accordance with Section 160A-20(g) of the North Carolina General Statutes, the City is required to hold a public hearing on the proposed agreement. City Council is requested to call for the public hearing to be held at 7:00 p.m. on April 9, 2018.

**RESOLUTION CALLING A PUBLIC HEARING IN CONNECTION WITH A PROPOSED  
INSTALLMENT FINANCING BY THE CITY FOR THE ACQUISITION,  
CONSTRUCTION AND EQUIPPING OF A BASEBALL STADIUM AND PARKING DECK  
PROJECT. RESOLUTION NO. R2018-018**

**MOTION:** Council Member Arp moved to call for the public hearing to be held at 7:00 p.m. on April 9, 2018, in the Council Chambers of City Hall, to receive input from the citizens.

**SECOND:** Council Member Haire

**VOTE:** UNANIMOUS (9-0) (Council Member Williams recused from voting)

There being no further business, the meeting adjourned at 9:38 p.m.

Respectfully submitted,

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PAMELA J. MEGILL  
City Clerk

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MITCH COLVIN  
Mayor

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