

# DRAFT

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
COUNCIL CHAMBER  
APRIL 23, 2018  
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Tyrone Williams (District 2) (departed at 9:10 p.m.); 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  
Cheryl Spivey, Chief Financial Officer  
Tracey Broyles, Budget and Evaluation Director  
Gerald Newton, Development Services Director  
Rob Stone, Public Services Director  
Cindy Blog, Economic and Community Development Director  
Kevin Arata, Corporate Communications Director  
Dwayne Campbell, Chief Information Officer  
Jay Toland, Special Assistant to the City Manager  
Brandon Christian, Police Attorney  
Alicia Young, Assistant City Attorney  
Kecia Parker, Real Estate Manager  
Craig Harmon, Senior Planner  
Kim Toon, Purchasing Manager  
Mark Brown, PWC Customer Relations  
Jane Starling, Deputy 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 Matt Seals, St. Matthew's United Methodist Church.

## **3.0 PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the American Flag was led by Mayor Colvin.

## **4.0 ANNOUNCEMENTS AND RECOGNITION**

Ms. Taylor Bridges, Miss Fayetteville, announced she will be representing the City of Fayetteville at the Miss North Carolina pageant in June of this year and her platform is "Child Abuse Prevention". Ms. Bridges introduced Ms. Maura Westbrook, Miss Fayetteville's Outstanding Teen.

Mayor Colvin announced the SOAR Committee has developed a plan to prevent child abuse in our community and thanked the Committee Members in attendance for the handouts they provided.

Council Member Jenkins introduced Ms. Constance Woods, Senior at Jack Britt High School, Fayetteville-Cumberland Youth Council representative.

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Mayor Colvin presented a proclamation to Colonel (Retired) Bob Erwin proclaiming April 2018 in honor of United States Army Reserve 110th Birthday.

Mayor Colvin presented a proclamation to Mr. Robert Van Geons, Fayetteville-Cumberland Economic Development Corporation Director, proclaiming May 2018 Industry Appreciation Month.

Mayor Colvin presented a proclamation to Mr. LaVar Wright, Fayetteville Metropolitan Housing Authority Member, proclaiming April 2018 in honor of Mr. Calvin Parker Poole, Jr., a recently deceased member of the Housing Authority.

## 5.0 APPROVAL OF AGENDA

**MOTION:** Council Member Haire moved to approve the agenda with the exception of placing Item 8.03 as the first item under Other Items of Business.  
**SECOND:** Council Member Wright  
**VOTE:** UNANIMOUS (10-0)

## 6.0 CONSENT AGENDA

**MOTION:** Council Member Wright moved to approve the consent agenda with the exception of pulling Item 6.07 for discussion and separate vote.  
**SECOND:** Council Member Dawkins  
**VOTE:** UNANIMOUS (10-0)

## 6.0 CONSENT AGENDA

**6.01 Approval of Meeting Minutes:**  
March 26, 2018 - Regular  
April 18, 2018 - Agenda Briefing

### 6.02 Economic & Community Development 2018-2019 One Year Action Plan

Annually the Economic and Community Development Department prepares an Annual Action Plan for the use of the City's allocation of the Community Development Block Grant (CDBG) and the Home Investment Partnership Grant (HOME). The proposed 2018-2019 Annual Action Plan is the fourth year of the 2015-2019 Consolidated Plan.

### 6.03 Consideration of a Resolution of Support of Raising the Awareness of the Need for Re-Entry Policies

RESOLUTION OF THE CITY COUNCIL, CITY OF FAYETTEVILLE, NORTH CAROLINA, IN SUPPORT OF REENTRY PROGRAMS. RESOLUTION NO. R2018-022

### 6.04 Bid Recommendation - Tubular Steel Poles awarded to Summit Utility Structures, LLC, the lowest responsive, responsible bidder, in the total amount of \$957,975.00

Bids were received on March 20, 2018, as follows:

Summit Utility Structures, LLC, Allentown, PA .....	\$957,975.00
Sabre Industries, Fort Worth, TX .....	\$1,117,674.00
Trinity Steel Structures of America, Memphis, TN ...	\$1,165,357.00

### 6.05 Adopt a Resolution Declaring Jointly-Owned Real Properties Surplus and Authorizing a Quitclaim Deed of the City's Title to the County in Order to Expedite the Sale of Land by Cumberland County

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO DECLARE CITY PROPERTIES SURPLUS AND QUITCLAIM CITY'S INTEREST IN

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JOINTLY HELD PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO.  
R2018-022

## **6.06 Adoption of Budget Ordinance Amendment 2018-23 for PWC Assessments**

The Budget Ordinance Amendment will appropriate \$3,081,600.00 and \$434,400.00 in principal and interest amounts as assessment and interest revenues for PWC's assessment collections. In addition, \$3,516,000.00 will be appropriated as an intergovernmental expense. There is no effect on the City's fund balance.

## **6.07 Pulled for discussion and separate vote.**

## **6.07 Adoption of Capital Project Ordinance Amendments 2018-52 and 2018-53 to transfer funds from the Redevelopment Project to the Bridge Replacement Project for Project Management Services for the Louise Street Bridge Replacement**

Council Member Wright pulled this item for discussion.

Mr. Rob Stone, Public Services Director, presented this item and stated Capital Project Ordinance Amendments 2018-52 and 2018-53 will cancel the Redevelopment Fund project to allow for the use of \$200,000.00 of General Fund funding for contracted project management services for the Louise Street bridge replacement. At the direction of City Council, staff is to seek funding through the North Carolina Department of Transportation (NCDOT) for the costs to replace the bridge. The use of contracted project management services will facilitate project planning, grant application development and administration to meet NCDOT requirements.

Discussion ensued.

**MOTION:** Council Member Wright moved to move to adopt Capital Project Ordinance Amendments 2018-52 and 2018-53 as presented.  
**SECOND:** Council Member Arp  
**VOTE:** UNANIMOUS (10-0)

## **7.0 PUBLIC HEARINGS**

**MOTION:** Council Member Dawkins moved to excuse Council Member Williams from voting on Items 7.01, 8.01, 8.02, and 8.03.  
**SECOND:** Council Member Wright  
**VOTE:** UNANIMOUS (9-0) (Council Member Williams not voting on this item.)

## **7.01 P18-15F Modification to an elevation offset condition that was previously approved due to the City's request to add an additional floor to the parking deck and resultant finalized design.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated Prince Charles Holdings, LLC, (PCH) has requested one revision to the DT/CZ Downtown Conditional Zoning district to accommodate the finalized design of the project's high-rise. The revision request pertains to the removal of the 10-foot front offset (Hay Street) requirement for building levels 8 feet and higher to be pushed back at least 10 feet from the lower floors. This request is a result of the City's additional parking deck which added a floor and structural load issues on the site. Much of the Hay Street frontage will be offset, but not all, now that the final design is in order. Because the condition does not offer an administrative option to accommodate for what is an appropriate design, the item is now before the City Council for action. This request brings clarity to a conceptual illustration for the high-rise office, hotel, and parking garage portion of the Hay Street Master Development Plan. The rezoning of property from DT/CZ Downtown

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Conditional to DT/CZ Downtown Conditional Zoning is for a change of conditions, located at 450 to 472 Hay Street and from 225 to 335 Ray Avenue near the intersections of Hay and Winslow Streets, and Maiden Lane and Ray Avenue and being the property of the City of Fayetteville and PCH Development Company, LLC.

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 at 8:45 p.m.

Discussion ensued.

**MOTION:** Council Member Arp moved to approve the rezoning to DT/CZ Downtown Conditional Zoning District, as presented by staff with the conditions, removing the previously approved Site Specific Condition No. 3.

**SECOND:** Council Member Wright

**VOTE:** UNANIMOUS (9-0) (Council Member Williams excused from voting on this item.)

**7.02 P18-17F Rezoning of property from NC Neighborhood Commercial and MR-5 Mixed Residential to MR-5/CZ Mixed Residential Conditional Zoning, located at the northwest corner of the intersection of Hoke Loop and Cliffdale Roads, containing 6.4 acres and being the property of HAROLD J and WIFE KIDD and HAROLD KIDD.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated this is a conditional rezoning from Neighborhood Commercial to Mixed Residential Conditional zoning. 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 Mixed Residential 5 (MR-5) districts 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. Conditional Zoning allows the owner to place conditions or restrictions within the district that are not common to other districts with the same base zoning. 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. The proposal reduces the impacts already latent from the existing zoning districts. By limiting the site's development to less than permitted by the current zoning (allowed by right), this zoning request provides an assurance of limits that do not presently exist with the current zoning. Issues of design and traffic are addressed during future reviews of any project determined for a site through a coordinated process known as the Technical Review Committee (TRC). Also, the user (i.e., developer, builder, owner, tenants) are not be considerations of zoning cases. The zoning stays with the property and is not user dependent. Conditional zoning permits uses to be considered and limited as further indicated in this report. On March 26, 2018, the City Council held a public hearing regarding a general or straight rezoning to MR-5 on this property. The Council voted to deny the rezoning and waive the one-year delay in reapplying. The owner/applicant has taken advantage of that waiver and has reapplied to now rezone the property to MR-5/CZ. While the applicant can develop the same number of units on the property with the addition of retail, the owner has offered the following three conditions as a part of the rezoning:

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1. Approval is based on the site plan with review and approval of the City TRC.
2. The number of dwelling units would be limited to 72.
3. Fencing as shown in the photo and on the site plan to separate this development from the adjoining single family.

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

Mr. William Owens, 1416 Pine Valley Loop, Fayetteville, NC 28305, appeared in favor.

Mr. Marvin Mercer, 325 Aiken Road, Asheville, NC 28804, appeared in favor.

Mr. Harold Kidd, Property Owner, 221 Northstone Place, Fayetteville, NC 28303, appeared in favor.

Mr. Issac Levy, 6874 Buttermere Drive, Fayetteville, NC 28314, appeared in opposition.

Mr. Marion Garvey, 6867 Bryanstone Way, Fayetteville, NC 28314, appeared in opposition.

Mr. Jason Davis, 6873 Ferncreek Place, Fayetteville, NC 28314, appeared in opposition.

Ms. Antoinette Graves, 6817 Woodmark Drive, Fayetteville, NC 28314, appeared in opposition.

Ms. Annie Rose, 6837 Woodmark Drive, Fayetteville, NC 28314, appeared in opposition.

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

Discussion ensued.

**MOTION: Mayor Pro Tem Mohn moved to deny the rezoning to MR-5/CZ Mixed Residential Conditional, as presented by the staff.**

**SECOND: Council Member Crisp**

**VOTE: FAILED by a vote of 5 in favor (Council Members Colvin, Waddell, Mohn, Wright, and Crisp) to 5 in opposition (Council Members Jensen, Williams, Haire, Dawkins, and Arp)**

**MOTION: Council Member Dawkins moved to approve the rezoning to MR-5/CZ Mixed Residential Conditional.**

**SECOND: Council Member Arp**

**FRIENDLY AMENDMENT:**

**Council Member Arp made a friendly amendment to include an additional buffer between the four properties that will abut the rezoned property.**

Council Member Dawkins accepted the friendly amendment.

Mr. Craig Harmon stated the additional condition can only be included if the owner of the property is in agreement.

Mr. Harold Kidd, property owner, stated he is in agreement with the additional condition. Mr. Owen stated there are several pine trees along the property line, which can probably be left in place.

Discussion ensued regarding the buffer.

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Council Member Crisp expressed concerns with the additional condition as it relates to the Unified Development Ordinance (UDO) regulations pertaining to sidewalks; eliminating a sidewalk requirement.

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

## **8.0 OTHER ITEMS OF BUSINESS**

### **8.03 Adoption of City Council Policy Setting Forth the Procedures for Conducting a Hearing on Petition in Amotion to Remove a Council Member from Office**

Ms. Karen McDonald, City Attorney, presented this item and stated the draft "Policy Setting Forth the Procedures for Conducting a Hearing on Petition in Amotion to Remove a Council Member from Office" was distributed in the agenda packet and also provided to Mr. Poppe (attorney representing Council Member Williams) on April 20, 2018. The information provided to Mr. Poppe was to allow for his review and feedback. He responded with several changes. The City Attorney's office reviewed all of those changes and we have incorporated some (not all) of those changes into the amended document you have before you this evening.

Discussion ensued.

**MOTION: Council Member Crisp moved to adopt the City Council Policy Setting Forth the Procedures for Conducting a Hearing on Petition in Amotion to Remove a Council Member from Office.**

**SECOND: Council Member Waddell**

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

### **8.01 Resolution Approving and Authorizing the Sale and Issuance of Limited Obligation Bonds and the Execution and Delivery of a Master Trust Agreement, a First Supplemental Trust Agreement, a Deed of Trust, and Related Documents in Connection with the Financing of a Baseball Stadium and Parking Deck**

Ms. Cheryl Spivey, Chief Financial Officer, presented this item and stated on April 9, 2018, City Council held a public hearing to receive comments on a financing agreement in the form of limited obligation bonds to provide funds to pay the costs of acquiring, constructing, and equipping a baseball stadium and a parking deck. By entering into the proposed agreement, the City will secure its obligations by executing and delivering a deed of trust granting a lien on the site of the baseball stadium, including all improvements or fixtures. Actual bond principal will be the amount necessary to provide sufficient funds, together with any other available funds, to pay (a) the costs of the baseball stadium and parking deck and (b) the fees and expenses incurred in connection with the sale and issuance of the bonds. The principal amount will not exceed \$52,000,000.00. Interest rates on the bonds will be determined at the time of the execution of the bond purchase agreement; provided that such interest rates will not result in a true interest cost in excess of 5 percent per year. The Bonds will initially be sold to Robert W. Baird & Co. Incorporated and PNC Capital Markets LLC (underwriters) pursuant to the terms of a bond purchase agreement, between the City and the underwriters. In connection with the offering and sale of the bonds by the underwriters, a preliminary official statement will be prepared and distributed to potential purchasers of the bonds. The bonds may be sold to the underwriters at a discount below the amount of the principal amount of the Bonds. The final maturity of the Bonds shall not be later than December 1, 2038. By adopting the resolution, City Council approves these draft documents in substantially the form presented at this meeting, approves the distribution of the preliminary official statement, and authorizes and directs the Mayor,

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City Manager, Chief Financial Officer, City Attorney and City Clerk, and any other officers, agents and employees of the City, to take such actions and to deliver such certificates, opinions and other items of evidence as shall be deemed necessary to execute the bond sale. This resolution shall take effect immediately upon its adoption.

Discussion ensued.

RESOLUTION APPROVING AND AUTHORIZING THE SALE AND ISSUANCE OF LIMITED OBLIGATION BONDS AND THE EXECUTION AND DELIVERY OF A MASTER TRUST AGREEMENT, A FIRST SUPPLEMENTAL TRUST AGREEMENT, A DEED OF TRUST AND RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF A BASEBALL STADIUM AND PARKING DECK. RESOLUTION NO. R2018-024

MOTION: Council Member Crisp moved to adopt the Resolution Approving and Authorizing the Sale and Issuance of Limited Obligation Bonds and the Execution and Delivery of a Master Trust Agreement, a First Supplemental Trust Agreement, a Deed of Trust, and Related Documents in Connection with the Financing of a Baseball Stadium and Parking Deck in the City of Fayetteville.

SECOND: Council Member Wright

VOTE: UNANIMOUS (9-0) (Council Member Williams excused from voting.)

Council Member Crisp stated Council Member Williams did not abandon this meeting, he simply left as he was not permitted to vote on the last item or the next.

8.02 Astros’ Founders Program - Downtown Baseball Stadium

Mr. Kristoff Bauer, Deputy City Manager, presented this item and stated the City of Fayetteville broke ground on August 21, 2017. The stadium will be home to the Houston Astros minor league affiliate. The stadium is expected to be complete by spring 2019 and will serve as the cornerstone of a project expected to revitalize the western end of Hay Street with many leisure and recreation opportunities. The Houston Astros and the City of Fayetteville entered into an operating agreement obligating the Astros to operate and maintain the baseball stadium for 30 years. The Houston Astros are requesting the opportunity to allow community members to purchase engraved brick pavers in the area to the left of the stadium main entrance. The Council discussed this request and program during the January 2, 2018, Council work session. There was broad support expressed by the Council for this program. The City will remain the owner of the stadium and this use of a public asset needs to be expressly authorized. The agreement authorizes the Founders program while placing specific duties on Fayetteville Baseball for installation and maintenance. It also apportions liability and provides the City with remedies should the pavers not be maintained in a safe condition. No budget impact is proposed as all revenues and costs of the program are proposed to be received and the responsibility of the Astros.

Discussion ensued.

MOTION: Council Member Arp moved to authorize the City Manager to execute the Astros’ Founders Program Agreement.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0) (Council Member Williams excused from voting.)

9.0 ADMINISTRATIVE REPORTS

9.1 Monthly Statement of Taxes - March 2018

2017 Taxes .....	619,648.15
2017 Vehicle, .....	1,154.12
2017 Taxes Revit .....	1,986.18

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2017 Vehicle Revit .....	0.00
2017 FVT .....	60.00
2017 FTT .....	60.00
2017 Storm Water .....	106,604.71
2017 Fay Solid Waste Fee .....	101,845.48
2017 Annex .....	0.00
2016 Taxes .....	12,928.49
2016 Vehicle .....	15.36
2016 Taxes Revit .....	0.00
2016 Vehicle Revit .....	0.00
2016 FVT .....	0.00
2016 FTT .....	0.00
2016 Storm Water .....	2,589.99
2016 Fay Solid Waste Fee .....	839.57
2016 Annex .....	0.00
2015 Taxes .....	2,764.58
2015 Vehicle .....	0.00
2015 Taxes Revit .....	0.00
2015 Vehicle Revit .....	0.00
2015 FVT .....	0.00
2015 FTT .....	0.00
2015 Storm Water .....	82.98
2015 Fay Storm Water .....	165.96
2015 Fay S Waste Fee .....	211.12
2015 Annex .....	0.00
2014 Taxes .....	1,162.60
2014 Vehicle .....	0.00
2014 Taxes Revit .....	0.00
2014 Vehicle Revit .....	0.00
2014 FVT .....	0.00
2014 FTT .....	0.00
2014 Storm Water .....	30.00
2014 Fay Storm Water .....	54.00
2014 Fay S Waste Fee .....	80.00
2014 Annex .....	0.00
2013 and Prior Taxes .....	677.04
2013 and Prior Vehicle .....	1,480.07
2013 and Prior Taxes Revit .....	0.00
2013 and Prior Vehicle Revit .....	0.00
2013 and Prior FVT .....	331.58
2013 and Prior FTT .....	232.08
2013 and Prior Storm Water .....	19.76
2013 and Prior Fay Storm Water .....	39.51
2013 and Prior Fay S Waste Fee .....	62.57
2013 and Prior Annex .....	0.00
Interest .....	25,766.08
Revit Interest .....	64.33
Storm Water Interest .....	35.94
Fay Storm Water Interest prior .....	70.47
Fay Storm Water Interest 2017 .....	3,158.31
Fay Storm Water Interest 2016 .....	319.86
Annex Interest .....	0.00
Solid Waste Interest .....	3,687.60
FTT Interest .....	137.52
Total Tax and Interest .....	\$888,366.01

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:21 p.m.

Respectfully submitted,



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PAMELA J. MEGILL  
City Clerk

MITCH COLVIN  
Mayor

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