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3 **A RESOLUTION OF THE CITY COUNCIL**
4 **OF THE CITY OF FAYETTEVILLE**
5 **REGARDING THE PUBLIC WORKS COMMISSION**
6

7 **WHEREAS**, the City of Fayetteville is authorized to own and operate utilities including water,
8 wastewater, and electricity as set out in Article 16 of the North Carolina General Statutes (NCGS) §
9 160A; and

10 **WHEREAS**, the City has delegated a portion of its authority to operate these utilities to a Public
11 Works Commission (“PWC”) appointed by the City Council through terms specified in Chapter VI of
12 the City of Fayetteville Charter (“Charter”); and

13 **WHEREAS**, the Charter of the City of Fayetteville grants Fayetteville PWC specific property
14 management and rate setting authority with the charge of exercising that authority in the “best interest of
15 the City;” and

16 **WHEREAS**, the City Council, by operation of law, is the policy making and financial oversight
17 body for all municipal operations of the City of Fayetteville; and

18 **WHEREAS**, the City Council recognizes the opportunity for improved operational coordination
19 between the entities, and desires to streamline support function so as to promote better coordination of
20 policies and practices, as well as to identify and realize any potential cost savings and provide more
21 complete support services to the entire City organization; and

22 **WHEREAS**, the Fayetteville PWC, in a letter from the members of the Commission signed and
23 dated February 1, 2013, acknowledged and agreed “that both the City and PWC have a strategic goal to
24 review and consider consolidation of duplicate functions”...declared a willingness “to work
25 cooperatively with the City to jointly determine where further consolidation should be considered and
26 would be beneficial to both the City and PWC”... and stated that “PWC has the same desires to act in
27 the best interest of the taxpayers and ratepayers as the City Council does in terms of being good fiscal
28 stewards, eliminating unnecessary redundancy and duplication, and operating as efficiently and cost
29 effectively as practicable;” and

30 **WHEREAS**, the City initiated a study by DavenportLawrence to identify areas for potential
31 change that would be beneficial to the City of Fayetteville through capturing efficiencies and improving
32 operational coordination consistent with best industry and local government practices (the “Study”);

33 **WHEREAS**, the City Council has determined that the actions set out in this Resolution are in
34 the best interest of the City of Fayetteville and its citizens.
35

36 **NOW, THEREFORE, BE IT RESOLVED** on behalf of the citizens of Fayetteville, that the
37 City Council, through the actions described herewith, shall reinforce its oversight and policy
38 responsibilities inherent in its role as the governing body of the City of Fayetteville; shall reestablish the
39 City's treasury role as defined in the Charter; shall realign oversight for legal, communications and
40 branding; shall revise cost plans and Service Level Agreements for existing joint services; and shall
41 continue the study of support services to identify any efficiencies from possible realignment and
42 consolidation of support services.

43
44 **BE IT FURTHER RESOLVED** that the City Manager and Fayetteville PWC are directed to
45 work collaboratively to identify organizational, procedural, and other changes necessary to fully and
46 effectively provide for the City Council to satisfy its fiduciary responsibilities. A review of all accounts
47 held by the Fayetteville PWC shall be conducted to determine which accounts shall be transitioned over
48 to the control of the City's Treasurer (Chief Financial Officer) to manage for the benefit of the utility
49 and administered in accordance with the terms of the City's bond order. Such transition shall be made
50 within the current fiscal year, and shall be done in full consultation with appropriate local government
51 finance authorities, the City Attorney, bond counsel, and in accordance with Generally Accepted
52 Accounting Principles (GAAP) so as to offer full assurance of financial stability while maintaining
53 continuous and reliable utility operations.

54
55 **BE IT FURTHER RESOLVED** that the City Council has the statutory responsibility under
56 NCGS § 159-13 to annually adopt a budget ordinance making appropriations for the budget year in such
57 sums as the City Council may consider sufficient and proper, whether greater or less than the sums
58 recommended by the City Manager, or the Fayetteville PWC, for operations under the respective control
59 of each. To aid in the City Council's effort to pursue shared services and the elimination of duplication,
60 the City's Budget Officer shall present the budget for FY2015 in sufficient detail to identify proposed
61 appropriations for all support services by department, function or project, and for matters relating to
62 employee pay and benefits. The Fayetteville PWC is directed to provide this information in a format
63 acceptable to the City's Budget Officer to assist with the furtherance of this objective.

64
65 **BE IT FURTHER RESOLVED** that the statutory authority for the appointment of a City
66 Attorney rests with the City Council. The City Attorney is charged with the responsibility of providing
67 legal guidance to the City Council and all operations of the City of Fayetteville. As such, all legal
68 services, including any need for specialized legal services shall be provided through the City Attorney.

69 The City Attorney is directed to develop a Service Level Agreement to describe performance
70 expectations and identify operational and procedural changes necessary to ensure that all City Functions
71 are appropriately supported with legal services and to implement those changes within 90 days.
72

73 **BE IT FURTHER RESOLVED** that the City Council desires a consistent and coordinated
74 overall messaging and branding effort in the community and recognizes that it has an interest in
75 supporting a variety of cultural arts, recreation, and other programs that promote the general welfare,
76 and has the authority to do so under Article 21 and Article 18 of NCGS § 160A. Accordingly,
77 Fayetteville PWC is directed to develop a logo and utility name transition consistent with the overall
78 City of Fayetteville branding and communicate any new or alternative branding or logos to the City
79 Council for review and approval prior to adoption and implementation. Fayetteville PWC is directed to
80 seek authorization and direction from City Council on all “Legislative Advocacy” issues. Fayetteville
81 PWC is directed to identify and track essential utility public information and education expenditures that
82 are necessary to continue to support utility operations. In addition, Fayetteville PWC is directed to
83 identify and track “community support” and other non-essential expenditures and administer such funds
84 for the remainder of the fiscal year to avoid disruption. The City Manager shall recommend to the City
85 Council a new policy for budgeting such resources in the next fiscal year so that the responsibility for
86 these expenditures transfers to the City Council.
87

88 **BE IT FURTHER RESOLVED** that the City Council has determined that Fayetteville PWC’s
89 current practice of operating a fiber optic communications network is not consistent with its delegation
90 of authority under the Charter. Additionally, the City Council has expressed concern that the existing
91 cost plans for Fleet Maintenance and Purchasing are not acceptable. The City Manager and the
92 Fayetteville PWC are directed to develop new Service Level Agreements and cost plans that eliminate
93 that inconsistency and unsupported overhead expenses and mark-ups and to implement those plans
94 within 90 days.
95

96 **BE IT FURTHER RESOLVED** that the City Council recognizes that it has an interest in supporting
97 economic development activities as set out in NCGS Chapter 158. The City Manager and PWC
98 Commission are directed to develop a transition plan updating the terms of the transfer of financial
99 resources budgeted for economic development activities as soon as practicable within the current fiscal
100 year. A Service Level Agreement should be developed to describe performance expectations. This
101 Agreement should include resource allocations appropriate to advance the utility’s continued interest in

102 supporting economic development insofar as such development supports the continued growth and
103 sustainability of the utility by expansion of the customer base and improvement in the City's overall
104 economy.

105
106 **BE IT FURTHER RESOLVED** that an appropriate City Council Member(s) will be identified to
107 serve as liaison to PWC and coordinate the study of support services. The City Manager and Fayetteville
108 PWC are directed to work with the Council designee(s) and DavenportLawrence to review support
109 services departments; to identify any efficiencies from possible realignment and consolidation in the
110 following departments; and to identify and recommend a plan for the realignment and consolidation, and
111 improved coordination, of support services functions to include by way of example and not limitation:
112 human resources, communications, finance and treasury, budgeting and capital planning, information
113 technology, organizational development, strategic planning, audit, procurement, fleet management, call
114 center, emergency management and disaster preparedness, and such other activities as may be in the best
115 interest of the City consistent herewith. Furthermore, the City Manager and the Fayetteville PWC are
116 directed to partner with each other to initiate a second phase of the Study; and are authorized to execute
117 a service contract within budgeted resources.

118
119 This Resolution shall be interpreted to authorize the City Manager, the City Attorney and Fayetteville
120 PWC to broadly carry out the intent of the City Council, and any errors or omissions shall not be
121 deemed to be limiting upon either in the furtherance of the policy objectives of the City Council.

122
123 **PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE,**
124 **NORTH CAROLINA**, on this, the __ day of _____, 2013; such meeting was held in
125 compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

126
127 CITY OF FAYETTEVILLE

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132 _____
133 ANTHONY G. CHAVONNE, Mayor

134
135
136 ATTEST:

137 _____
PAMELA J. MEGILL, City Clerk