

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
NOVEMBER 28, 2011
7:00 P.M.**

Present: Mayor Anthony G. Chavonne
Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); James W. Arp, Jr. (District 9)
Others Present:

Dale E. Iman, City Manager
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Brian Meyer, Assistant City Attorney
Lisa Smith, Chief Financial Officer
Scott Shuford, Development Services Director
Michael Gibson, Parks and Recreation Director
Karen Hilton, Planning and Zoning Division Manager
Craig Harmon, Planner II
David Nash, Planner II
Bart Swanson, Housing and Code Enforcement Division Manager
James Rose, PWC Chief Administrator
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Haire.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Mayor Pro Tem Haire.

On behalf of the City Council, City employees, and citizens of Fayetteville, Mayor Chavonne presented outgoing Council Member Ted Mohn with a plaque, a key to the City, and a City coin and thanked him for his commitment to the City of Fayetteville. Council Member Mohn thanked the Mayor, Council members, City staff, and the citizens for their support during the past four years of his service.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Bates moved to approve the agenda.

SECOND: Council Member Arp

VOTE: UNANIMOUS (10-0)

5.0 CONSENT

MOTION: Council Member Arp moved to approve the consent agenda with the exception of Items 5.1, 5.5, and 5.11 for discussion.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

5.1 Pulled for discussion by Council Member Arp.

5.2 Case No. P11-55F. Rezone from SF-10 Single Family to NC Neighborhood Commercial, a more restrictive district than the requested LC Limited Commercial, for property at 2517 Legion Road, being 1.5 acres more or less. Owned by Rories Investments, LLC.

5.3 Special Revenue Fund Project Ordinance 2012-8 (FY 12 Juvenile Restitution Program).

The ordinance appropriated \$132,769.00 for the Juvenile Restitution Program for Fiscal Year 2012.

5.4 Special Revenue Fund Project Ordinance 2012-9 (2012 Sobriety Court).

The ordinance appropriated \$46,580.00 in federal court and local funds for the 2012 Sobriety Court Program.

5.5 Pulled for discussion by Council Member Arp.

5.6 PWC - Bid recommendation for replacement of 69kV transmission poles to C. W. Wright, Chester, VA, lowest responsive, responsible bidder in the amount of \$678,615.25 for Schedule No. 1 and \$434,444.00 for Schedule No. 2.

Bids were received as follows:

Schedule No. 1 – Year 1 – Fiscal Year 2012

C. W. Wright (Chester, VA)..... \$678,615.25

Lee Electrical Constructions, Inc. (Aberdeen, NC).....\$1,007,400.21

Schedule No. 2 – Morganton Road

C. W. Wright (Chester, VA)..... \$434,444.00

Lee Electrical Constructions, Inc. (Aberdeen, NC)..... \$493,600.05

5.7 PWC - Bid recommendation for water and wastewater chemical to Pencco, Inc., San Felipe, TX, low bidder in the amount of \$1,121,400.00.

Bids were received as follows:

Pencco, Inc. (San Felipe, TX)..... \$1,121,400.00

Kemira Water Solutions (Lawrence, KS)..... \$1,170,000.00

5.8 PWC - Ordinance revisions to Sewer Use Ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE II OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2011-015.

5.9 Approve meeting minutes:

- August 22, 2011 - Special Meeting Minutes
- September 6, 2011 - Work Session
- September 12, 2011 - Discussion of Agenda Items
- September 12, 2011 - Regular Meeting
- September 21, 2011 - Agenda Briefing
- September 26, 2011 - Discussion of Agenda Items
- September 26, 2011 - Regular Meeting
- September 29, 2011 - City/County Joint Meeting
- October 3, 2011 - Work Session
- October 6, 2011 - Discussion of Agenda Items
- October 10, 2011 - Regular Meeting
- October 18, 2011 - Legislative Update

5.10 Resolution to adopt the 2012 proposed City Council meeting dates calendar.

RESOLUTION OF THE CITY COUNCIL, CITY OF FAYETTEVILLE, NORTH CAROLINA, TO ADOPT THE 2012 CITY COUNCIL MEETING DATES CALENDAR TO CLARIFY THE TIME AND LOCATION OF THE CITY COUNCIL REGULAR MEETINGS. RESOLUTION NO. R2011-051.

5.11 Pulled for discussion by Council Member Arp.

5.1 Case No. P11-44F. Rezone from SF-6 and SF-10 Single Family to MR-5/C Mixed Residential Conditional Zoning for property east of Murchison Road at Country Club Road (PIN 0429-53-4492). Owned by March Riddle.

This item was pulled for discussion by Council Member Arp.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, 2010 Land Use Plan, and Murchison Road Study. He stated the request was not consistent with either the Land Use Plan or the Murchison Road Study and involved property identified by City Council for City-initiated rezoning consideration during the UDO remapping process. He stated the owner offered the conditions of (1) limiting the density to that of the former R-6 district and (2) retaining the existing CC zoning. He stated the Zoning Commission and staff recommended

approval, with the conditions offered by the owner, based on (1) the principles of the UDO remapping project and (2) serving as a buffer between low-density residential and commercial/industrial uses/zoning.

MOTION: Mayor Pro Tem Haire moved to approve.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

5.5 Parks and Recreation - Amendment to Ordinance Chapter 2 Administration, Chapter 8 Cemeteries, Chapter 18 Parks and Recreation, and Chapter 24 Streets and Sidewalks.

This item was pulled for discussion by Council Member Arp.

Ms. Karen McDonald, City Attorney, presented this item and stated effective December 1, 2011, Session Law 2011-268 (the "Act") would limit the authority of a local government to post a prohibition against carrying of a concealed handgun, by a permit holder, to local government buildings, their appurtenant premises and designated recreational facilities. She stated the Act further provided that recreational facilities would include only athletic fields, athletic facilities, playgrounds, and swimming pools specifically identified by the local government. She stated the Act provided that even where local governments have an ordinance to prohibit the carrying of concealed handguns in designated recreational facilities, the handgun could be kept in a trunk, glove box, or other enclosed compartment or area of a locked vehicle. She stated for the City's purposes, the passage of the Act meant that after December 1, 2011, the City could not prohibit the carrying of concealed firearms in parks in general. She stated the City could only do so with respect to the areas of parks consisting of City buildings, their facilities, and even then, the permit holder could secure the concealed weapon as provided by the statute. She stated Sections 2-12, 8-18, 18-7, 18-42, and 24-284 of the City Code would have to be amended to conform to the Act. She stated any postings in any City parks prohibiting the possession of a firearm in the entire park, instead of just the recreational facilities, buildings and their appurtenant premises, would have to be removed and altered to conform to the Act.

A brief discussion period ensued.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 2, ADMINISTRATION; CHAPTER 8, CEMETERIES; CHAPTER 18, PARKS AND RECREATION; AND CHAPTER 24, STREETS AND SIDEWALKS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2011-016.

MOTION: Council Member Massey moved to approve.

SECOND: Council Member Applewhite

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

5.11 Rental Action Management Program (RAMP).

This item was pulled for discussion by Council Member Arp.

Mayor Chavonne presented this item and stated the RAMP public hearing would be held on December 12, 2011, at 7:00 p.m. at City Hall. He explained that RAMP could impact multiple residents and property owners and there could be numerous RAMP stakeholders wishing to speak at the public hearing. As such, he stated the City Council should consider defining the guidelines for the public hearing so that all speakers can plan accordingly. He stated the recommendation was to allow each speaker to address the City Council for a maximum of 3 minutes, with up to 60 minutes allocated for the RAMP public hearing.

MOTION: Council Member Mohn moved to approve.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

6.0 PUBLIC HEARINGS

6.1 An amendment, referred to as Set #2, to City Code Chapter 30 Unified Development Ordinance, to correct, clarify and adjust various sections of the UDO, including: child care centers, cell towers, posting requirements, pre-application conference requirements for major COA, appeal processes and schedules, separation between multi-story buildings, use changes in NC, temporary uses, hotel and motel parking standards,

medical uses parking standards, cul-de-sacs and street stubs, performance guarantees, and definition and standards for nonconforming lots.

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item and provided background information on Amendment Set #1. She stated Amendment Set #2 was considered at a Planning Commission public hearing and one speaker was in favor of deferring action on the portions affecting setbacks to allow time for the UDO Advisory Committee to offer comments. She stated with deferral of the portions on setbacks, the Planning Commission recommended approval. She provided an overview of the changes highlighted in the ordinance. She stated the Planning Commission and staff recommended approval of the ordinance as recommended.

A brief discussion period ensued.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Ed Blanchard, 103 Roxie Avenue, Fayetteville, NC 28304, appeared in opposition and expressed concern regarding the section eight use changes for the NC (Neighborhood Commercial) District.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE TO ADDRESS ERRORS OR CLARIFICATIONS AFFECTING REFERENCES, CHILD CARE CENTERS AND CELL TOWERS, POSTING REQUIREMENTS, PRE-APPLICATION CONFERENCE REQUIREMENTS FOR MAJOR COA, APPEAL PROCESSES AND SCHEDULES, FRONT AND CORNER SIDE SETBACKS, REAR YARD REDUCTIONS, SEPARATION BETWEEN MULTI-STORY BUILDINGS, FRONT YARD SETBACK IN AR, ACCESSORY STRUCTURE SETBACKS, USE CHANGES IN NC, TEMPORARY USES, HOTEL AND MOTEL PARKING STANDARDS, MEDICAL USES PARKING STANDARDS, CUL-DE-SACS AND STREET STUBS, PERFORMANCE GUARANTEES, AND DEFINITION AND STANDARDS FOR NON-CONFORMING LOTS. ORDINANCE NO. S2011-013.

MOTION: Council Member Bates moved to approve.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

6.2 An amendment, referred to as Set #3, to correct, clarify or adjust several parts of the City Code Chapter 30 - Unified Development Ordinance including: setbacks; perimeter requirements in the hospital area overlay; listing of middle schools and high schools in the OI district; separation requirements for tattoo parlors and auto repair; landscaping standards; standards for certain non-conformities.

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item provided background information on Amendment Set #1. She stated Amendment Set #3 was considered at a Planning Commission public hearing and one speaker was in favor of deleting the separation requirement for tattoo parlors and auto repair shops. She stated the Planning Commission recommended approval with modifications as noted in the ordinance. She stated during the hearing and discussion at the Planning Commission meeting, the issues that emerged and were resolved were primarily (1) a fuller understanding of where tattoo parlors and auto repair, not auto body repair, shops could locate and the impacts of the separation requirement, and (2) what was a reasonable total timeframe to allow for permitting and reconstruction of nonconforming multifamily developments experiencing major casualty damage. She stated the Planning Commission and staff recommended approval of the ordinance as recommended.

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.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE TO ADDRESS ERRORS AND CLARIFICATIONS AND TO PROVIDE CHANGES TO STANDARDS AFFECTING SETBACKS; PERIMETER REQUIREMENTS IN THE HOSPITAL AREA OVERLAY; LISTING

OF MIDDLE SCHOOLS AND HIGH SCHOOLS IN THE OI DISTRICT; SEPARATION REQUIREMENTS FOR TATTOO PARLORS AND AUTO REPAIR; PENALTIES FOR NON-COMPLIANT AUTO/JUNK SALVAGE YARDS; LANDSCAPING STANDARDS; STANDARDS FOR CERTAIN NON-CONFORMITIES. ORDINANCE NO. S2011-014.

MOTION: Council Member Hurst moved to approve.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

6.3 Case No. P11-40F - Rezone from OI Office and Institutional to LC/C Limited Commercial Conditional District for property on Cliffdale Rd. (PIN 0417-26-2808), 10+ acres, owned by Joseph Riddle III. On appeal

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, 2010 Land Use Plan, and 2003 Glensford Road Area Study. He stated the request was not consistent with the Land Use Plan or the 2003 Glensford Road Area Study and involved property identified by City Council for City-initiated rezoning consideration during the UDO remapping process. He stated staff review of the request suggested that rezoning of the property to LC would be inconsistent with the surrounding development pattern. He stated after the request was advertised, the applicant requested a lesser zoning of NC Neighborhood Commercial with the following conditions: (1) no outdoor recreation, (2) no animal care, (3) no parks, (4) no government uses, (5) no group living, and (6) no multifamily. He stated the Zoning Commission and staff recommended denial of the rezoning to NC/C as requested by the applicant.

A brief discussion period ensued.

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

Mr. Johnathan Charleston, 201 Hay Street, Fayetteville, NC 28301, representing the property owner, appeared in favor and stated the rezoning would be an appropriate use.

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, representing the property owner, appeared in favor and requested the Council approve the rezoning.

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

MOTION: Council Member Arp moved to approve.

SECOND: Council Member Hurst

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

6.4 Case No. P11-41F. Rezone from LC Limited Commercial to CC/C Community Commercial Conditional District for 15+ acres at Sycamore Dairy Road (PIN 0418-53-3255). Owned by Joseph Riddle, III.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was identified by City Council for City-initiated rezoning consideration during the UDO remapping process. He stated the Zoning Commission and staff recommended approval of the rezoning from LC to CC/C with all conditions provided by the applicant and City staff.

A brief discussion period ensued.

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

Mr. Johnathan Charleston, 201 Hay Street, Fayetteville, NC 28301, representing the property owner, appeared in favor and stated the item should have been placed on the consent agenda.

Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, representing the property owner, appeared in favor and requested approval of the rezoning.

Mr. Michael Royal, 2316 Larkhaven Court, Fayetteville, NC 28303, appeared in opposition and expressed concern for the neighbor's protection and the need for a buffer requirement.

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

MOTION: Council Member Arp moved to approve.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

6.5 Case No. P11-57F. Rezone from SF-10 Single Family to O/C Office and Institutional Conditional District for property at 205 S. McPherson Church Road, being 1.16 acres more or less. Owned by Charles Stamitoles and Faye S. Stamitoles.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the Zoning Commission and staff recommended approval of the rezoning with the conditions offered and accepted by the owner.

A brief discussion period ensued.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Neil Yarborough, 115 E. Russell Street, Fayetteville, NC 28301, representing the property owners, appeared in favor and requested the City Council approve the rezoning.

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

MOTION: Council Member Arp moved to approve the rezoning as requested by the applicant.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

6.6 Case No. P11-10F. Request for Special Use Permit for Independent Living Facility in the LC Limited Commercial District, located along Eastwood Avenue. Containing 7.31 acres more or less and being the property of Tri-Walker Investments, LLC.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the City, through its Community Development Department, was a funding partner for the project. He stated the developer of the project, RHA, conducted a neighborhood meeting and approximately 20 people attended and only one was in opposition to the project. He stated there were no speakers in opposition to the proposal at the Zoning Commission meeting. He further stated approval of the facility would be based on the site plan. Finally, he stated the Zoning Commission and staff recommended approval of the Special Use Permit based upon the following findings of fact:

- 1.The special use complies 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.

A brief discussion period ensued.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Scott Redinger, 4553 Technology Drive, Wilmington, NC 28403, representing the developer, appeared in favor. He provided a brief power point and requested the Council approve the special use permit.

Mr. Joe Walker, 501 Walking Lane, Fayetteville, NC 28311, appeared in favor and stated no one had spoken in opposition at the Planning Commission meeting and requested the Council approve the request.

Ms. Lavern Oxendine, 325 Hay Street, Fayetteville, NC 28301, appeared in favor and expressed concern for homeless veterans and the need for the proposed facility and its programs.

Mr. Bob Measamer, 511 Thorncliff Drive, Fayetteville, NC 28303, appeared in favor and expressed his pride in supporting a transitional home for homeless veterans.

Ms. Tanya Hooks, 327 Eastwood Avenue, Fayetteville, NC 28301, appeared in opposition. She expressed support for the program but objected to the proposed location for the facility stating safety issues were a concern.

Ms. Georgina Muwakkil, 114 Eastwood Avenue, Fayetteville, NC 28301, appeared in opposition and expressed concern for this type of facility being located in her neighborhood. She stated she owned and operated a day care facility in the neighborhood and wanted the neighborhood to remain a safe place for children.

Ms. Sanya Eller, 275-2, Waterdown Drive, Fayetteville, NC 28314, appeared in opposition and expressed concern for safety in housing 24 homeless veterans in one facility with only one staff person in residence during the night hours.

Ms. Nettie Miller, 247 Eastwood Avenue, Fayetteville, NC 28301, appeared in opposition and expressed concern for the property values if the facility were located in her neighborhood.

Mr. Gregory Lane, 311 Eastwood Avenue, Fayetteville, NC 28301, appeared in opposition and expressed concern that the facility would be located too close to wooded areas, and wanted the neighborhood to remain a safe place to live.

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

MOTION: Council Member Bates moved to approve.

SECOND: Council Member Applewhite

VOTE: FAILED by a vote of 3 in favor (Council Members Bates, Applewhite, and Hurst) to 7 in opposition (Council Members Davy, Massey, Haire, Crisp, Mohn, Arp, and Chavonne)

6.7 Case No. P11-13F. Request for rezoning from SF-10 Residential District to MR-5/C Residential District/Conditional Zoning district to develop 78 duplex apartments on property located North of Fisher Road. Containing 8.29 acres more or less and being the property of Willie J Sigler and wife, Gabriele.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated in August the case was tabled by the City Council in order for the developer to bring the plans up to UDO standards. He stated there were a large number of specimen trees located on the property. He stated while the developer had proposed submitting an alternative landscaping plan for the development, the plan had not been received. He stated staff was not opposed to multifamily development on the property, and rather than delaying the case to allow the submittal of a final site plan meeting the specific standards of the UDO, they recommended approval of the rezoning with the 78-unit density limitation proposed by the applicant. He stated a final site plan addressing all UDO requirements would be required of the applicant prior to site development. He stated the plan would also address the specimen tree mitigation requirements. He stated the Zoning Commission recommended approval with the following conditions:

1. Condition offered by the developer concerning a maximum density of 78 units.
2. Uses allowed prior to the UDO implementation.
3. That it meet the requirements of the UDO.

He stated staff also recommended the request be approved subject to the above conditions, with the understanding that the final site plan would be fully compliant with the UDO.

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

Mr. Scott Brown, 409 Chicago Drive, Fayetteville, NC 28306, representing the property owner, appeared in favor and stated he was the site designer and requested the Council approve the rezoning.

Ms. Mindy Love-Stanley, 2287 Lakewell Circle, Fayetteville, NC 28306, appeared in opposition and expressed concern for potential traffic congestion issues.

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

MOTION: Council Member Crisp moved to approve.

SECOND: Council Member Bates

VOTE: PASSED by a vote of 7 in favor (Council Members Crisp, Bates, Applewhite, Hurst, Arp, Haire, and Chavonne) to 3 in opposition (Council Members Davy, Massey, and Mohn)

6.8 Case No. P11-14F. Request for rezoning from SF6 Residential District to LC/C Limited Commercial Conditional District on property located at 521 Cedar Creek Road. Containing 1.5 acres more or less and being the property of Regina Mock.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated this could be considered spot zoning since it was not adjacent to any other commercial and no other commercial was on the same side of the street as the project. He stated the owner offered the following conditions:

- 1.Site plan and general layout.
- 2.That the property will be used for log cabin sales and residents.
- 3.Hours of operation limited to between 8 a.m. and 8 p.m.
- 4.Allowed uses in the SF-6 district.

He stated the Zoning Commission recommended approval based on (1) the Zoning Commission's view that this was the same as a subdivision with a model home for sale, but on a permanent basis; and (2) the Zoning Commission did not believe this was a case of illegal spot zoning, noting that it was mostly a residential use. He stated Staff recommended denial based on (1) the Land Use Plan calling for medium-density residential, (2) the property being surrounded by residential zoning and uses, (3) the property could meet the tests for illegal spot zoning, and (4) the rezoning would convey the appearance of an approved evolution to more commercial uses.

A brief discussion period ensued.

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.

MOTION: Council Member Davy moved to deny the rezoning.

SECOND: Council Member Crisp

VOTE: Unanimous (10-0)

6.9 Case No. P11-22F. Request for rezoning from SF-6 Single Family Residential to LC Limited Commercial on property located at 792 Bunce Road. Containing 0.28 acres more or less and being the property of Leamon and Dorise Bonds.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the owner had indicated they wanted to expand their current beauty shop, which was next door and zoned OI, to include the property as well. He stated in 2002 the City rezoned the next door property from R10 to P4, the applicant had requested a C1A district. He stated the Zoning Commission recommended approval of a more restrictive district of OI based on (1) the adjoining property being zoned OI, (2) support from the neighborhood, and (3) the location being at an intersection. He stated staff recommended denial to the Zoning Commission based on (1) the Land Use Plans for the area calling for single-family residential, (2) the property bordering single-family zoning and uses on three sides, and (3) the uses in the LC and OI districts being too intense for a straight rezoning in a neighborhood setting. He stated the Zoning Commission recommended approval of the rezoning to Office and Institutional, a more restrictive zoning district than that applied for.

A brief discussion period ensued.

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

Mr. Leamon Bonds, 375 Kimberwicke Drive, Fayetteville, NC 28311, appeared in favor and stated he had collected 38 signatures from neighbors that were in favor of the rezoning.

Mrs. Dorise Bonds, applicant, 375 Kimberwicke Drive, Fayetteville, NC 28311, appeared in favor and requested the Council consider and approve the rezoning.

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

MOTION: Council Member Applewhite moved to accept the Zoning Commission recommendation.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

6.10 Case No. P11-47F. Request for rezoning from SF-10 Single Family Residential to LC Limited Commercial on property located at 1520 Hope Mills Road. Containing 1.59 acres more or less and being the property of Matilda Autry.

MOTION: Council Member Arp moved to table this item for the January 23, 2012, City Council regular meeting.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

6.11 Case No. P11-50F. Request for rezoning from AR Agricultural Residential to LC Limited Commercial on property located at the SW corner of Dundle and Stoney Point Roads. Containing 6.18 acres more or less and being the property of Dorothy Quick.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He briefly reviewed past zoning cases in the surrounding area. He stated the existing store had been there for approximately 30 years while zoned AR. He stated the rezoning would give the property an appropriate zoning district. He stated the Zoning Commission denied the case and it was now before Council on appeal based on (1) the Land Use Plan calling for residential, (2) six acres being a large amount of commercial property for a rural area, (3) the recent denial of a similar rezoning request across the intersection, and (4) the straight rezoning opening the property up to all allowed uses in the LC district. He stated the Zoning Commission and staff recommended denial of the rezoning to Limited Commercial. A brief discussion period ensued.

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

Ms. Debbie Liebers, 3439 Dundle Road, Fayetteville, NC 28306, appeared in opposition and expressed concern for diminished property values if the rezoning request was approved.

Mr. Andrew Napoli, 7481 Glen Raven Road, Fayetteville, NC 28306, appeared in opposition and request the Council deny the rezoning.

Mrs. Maria Napoli, 7481, Glen Raven Road, Fayetteville, NC 28306, appeared in opposition and expressed her love of her home and surroundings and requested the Council not allow the rezoning.

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

MOTION: Council Member Crisp moved to deny the zoning request.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

6.12 Case No. P11-54F. Request for rezoning from NC Neighborhood Commercial to LC Limited Commercial on property located at 3530 Boone Trail. Containing 0.3 acres more or less and being the property of Sherril Watkins and Ed Blanchard.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the property was recently remapped during the UDO process from C1 Commercial to NC Neighborhood Commercial. He stated the applicant was of the opinion that NC zoning was a down zoning and would cause undue hardship when trying to market the property. He stated during the UDO remapping process the property was mapped to NC to serve as an end point for commercial development on Boone Trail. He stated the uses allowed in NC fit more with the surrounding residential development. He stated the current use on the property would fit in the NC district and the nearest non-residential zoning to the property was also zoned NC. He stated the Zoning Commission denied the case and it was now before Council on appeal based on (1) the property being the last commercial property in the area of Boone Trail, (2) NC allowing the property to become a property buffer to the surrounding

residential development, and (3) there being other NC on the opposite side of the street ending commercial development on that side. He further stated the Zoning Commission and staff recommended denial of the rezoning to Limited Commercial as presented by staff.

A brief discussion period ensued.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Ed Blanchard, 103 Roxie Avenue, Fayetteville, NC 28304, appeared in favor and provided slides and a presentation to support his request to have his property rezoned, and stated this parcel of land should be a part of the UDO cleanup process.

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

MOTION: Council Member Hurst moved to deny the zoning request.

SECOND: Council Member Applewhite

VOTE: FAILED by a vote of 5 in favor (Council Members Hurst, Davy, Arp, Massey, and Applewhite) to 5 in opposition (Council Members Mohn, Crisp, Bates, Haire, and Chavonne)

MOTION: Council Member Bates moved to rezone the property to LC.

SECOND: Council Member Hurst

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

Mayor Chavonne announced that Item 6.15 would be the next item presented followed by Items 6.13 and 6.14 due to the amount of citizens that had been waiting to hear this item.

6.15 Public hearing to consider a petition requesting annexation submitted by the Household of Faith Church for property located at 468 N. Plymouth Street.

Mr. David Nash, Planner II, presented this item and stated the area had been reviewed by City operating departments and PWC. He stated the Fire Department would be able to serve the area from Station #1. He stated the Police Department would be able to serve the area. He stated Environmental Services would not serve the area because it was non-residential. He stated PWC water and sewer services were not currently provided to the area and the services would be provided by main extensions by the property owner. He stated PWC services the area with electrical services and street lights.

A brief discussion period ensued.

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

Mr. Robert D. Torry, 5245 Brownwood Court, Fayetteville, NC 28303, appeared in favor.

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

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA [HOUSEHOLD OF FAITH CHURCH – 468 N. PLYMOUTH STREET (PINS 0447-74-9148 AND 0447-73-8837). ANNEXATION ORDINANCE NO. 2011-11-533.

MOTION: Council Member Davy moved to approve with an effective date of November 28, 2011.

SECOND: Mayor Pro Tem Haire

VOTE: UNANIMOUS (10-0)

6.13 Public hearing to consider a petition requesting annexation submitted by Freedom Christian Academy for property located at 3130 Gillespie Street.

Mr. David Nash, Planner II, presented this item. He stated this was a satellite annexation and the area had been reviewed by City operating departments and PWC. He stated the area was 4.2 miles from the closest City fire station and therefore the Fire Department would need to contract with the Pearces Mill Volunteer Fire Department to provide primary coverage. He stated the Police Department would be able to serve the area. He stated since the area was nonresidential, the Environmental Services Department would not serve the area; instead, all waste would be hauled by a contract hauler at the school's expense. He stated sewer, water, fire hydrant, and electrical services were already provided to the area by PWC. He stated street light services were not currently provided to the area. He explained if the area were annexed, street light services would not be required. He stated staff was recommending an effective date of November 28, 2011.

A brief discussion period ensued.

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.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA [FREEDOM CHRISTIAN ACADEMY – 3130 GILLESPIE STREET (PIN 0425-82-6757). ANNEXATION ORDINANCE NO. 2011-11-534.

MOTION: Council Member Bates moved to approve with an effective date of November 28, 2011.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

6.14 Public hearing to consider a petition requesting annexation submitted by Mr. and Mrs. Patel for property located at 2765 Gillespie Street.

Mr. David Nash, Planner II, presented this item. He stated this was a satellite annexation and the area had been reviewed by City operating departments and PWC. He stated the area was 3.4 miles from the closest City fire station and therefore the Fire Department would need to contract with the Pearces Mill Volunteer Fire Department to provide primary coverage. He stated the Police Department would be able to serve the area. He stated for the time that the two units were rentals, the Environmental Services Department would provide garbage pickup services and contract for recycling services. He stated if the property converted to commercial use, the Department would contract for garbage pickup services. He stated PWC water and fire hydrants were currently available to the property and sewer was adjacent and extensions would be needed per PWC policy. He stated electrical service was being provided by PWC to the area but street light services were not currently provided. He explained if the area were annexed, street light services would not be required.

A brief discussion period ensued.

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.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA [PATEL PROPERTY – 2765 GILLESPIE STREET (PIN 0435-06-4623). ANNEXATION ORDINANCE NO. 2011-11-535.

MOTION: Council Member Mohn moved to approve with an effective date of November 28, 2011.

SECOND: Mayor Pro Tem Haire

VOTE: UNANIMOUS (10-0)

6.16 Phase 5 Annexation Areas 12 and 13 public hearing.

Mr. James Rose, PWC Chief Administrator, presented this item and provided procedural background information. He stated after the public hearing, the next step in the process was to approve the resolution directing the project be undertaken.

A brief discussion period ensued.

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

Ms. Helen Miller, 1775 Arrow Ridge Way, Fayetteville, NC 28304, appeared in opposition and expressed concern regarding the fees and costs associated with annexation.

Mrs. Henrietta Pummill, 107 Cypress Circle, Hope Mills, NC 28348, appeared in opposition and expressed concern regarding the fees and costs associated with annexation.

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

No action was taken on this item.

7.0 OTHER ITEMS OF BUSINESS

Mayor Chavonne announced that due to the late hour and length of the meeting, the following three items of business would be discussed at the next regular City Council meeting scheduled for December 12, 2011.

7.1 Presentation of the Audited FY 2010-2011 Comprehensive Annual Financial Report.

7.2 Construction Permit Fee Schedule amendments.

7.3 Uninhabitable structures demolition recommendations:

- 1103 Bunce Road
- 606 Mechanic Street
- 608 Mechanic Street
- 6526 Portsmouth Drive

8.0 ADMINISTRATIVE REPORTS

8.1 Monthly statement of taxes for October 2011.

2011 Taxes.....	\$1,693,020.48
2011 Vehicle.....	354,947.00
2011 Taxes Revit.....	3,085.90
2011 Vehicle Revit.....	270.57
2011 FVT.....	41,964.47
2011 Transit.....	41,964.50
2011 Storm Water.....	63,638.22
2011 Fay Storm Water.....	127,276.61
2011 Fay Recycle Fee.....	81,433.78
2011 Annex.....	0.00
2010 Taxes.....	37,551.34
2010 Vehicle.....	52,845.97
2010 Taxes Revit.....	130.55
2010 Vehicle Revit.....	10.06
2010 FVT.....	8,153.83
2010 Transit.....	8,153.82
2010 Storm Water.....	1,195.33
2010 Fay Storm Water.....	2,390.65
2010 Fay Recycle Fee.....	2,155.99
2010 Annex.....	0.00
2009 Taxes.....	1,260.60
2009 Vehicle	2,093.08
2009 Taxes Revit.....	4.94
2009 Vehicle Revit.....	6.12
2009 FVT.....	565.87
2009 Transit.....	565.85
2009 Storm Water.....	63.86
2009 Fay Storm Water.....	127.71
2009 Fay Recycle Fee.....	126.21
2009 Annex.....	0.00
2008 Taxes.....	409.75
2008 Vehicle	1,382.45
2008 Taxes Revit.....	0.00
2008 Vehicle Revit.....	0.00
2008 FVT.....	256.64
2008 Transit.....	191.64
2008 Storm Water.....	62.19
2008 Fay Storm Water.....	76.37
2008 Fay Recycle.....	7.65
2008 Annex.....	0.00
2007 and Prior Taxes.....	553.51
2007 and Prior Vehicle.....	1,474.72
2007 and Prior Taxes Revit.....	0.00
2007 and Prior Vehicle Revit.....	0.00
2007 and Prior FVT.....	330.78
2007 and Prior Storm Water.....	266.19

2007 and Prior Fay Storm Water.....	168.00
2007 and Prior Annex.....	0.00
Interest.....	12,051.03
Revit Interest.....	23.03
Storm Water Interest.....	281.71
Fay Storm Water Interest.....	313.70
Annex Interest.....	9.56
Fay Recycle Interest.....	201.12
Fay Transit Interest.....	1,008.08
Total Tax and Interest.....	\$2,544,071.43

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 12:15 a.m. on Tuesday, November 29, 2011.