

**FAYETTEVILLE CITY COUNCIL  
AGENDA  
WORK SESSION MEETING  
SEPTEMBER 8, 2009  
5:00 P.M.**

**VISION STATEMENT**

**The City of Fayetteville  
is a GREAT PLACE TO LIVE with  
a choice of DESIRABLE NEIGHBORHOODS,  
LEISURE OPPORTUNITIES FOR ALL,  
and BEAUTY BY DESIGN.**

**Our City has a VIBRANT DOWNTOWN,  
the CAPE FEAR RIVER to ENJOY, and  
a STRONG LOCAL ECONOMY.**

**Our City is a PARTNERSHIP of CITIZENS  
with a DIVERSE CULTURE and RICH HERITAGE,  
creating a SUSTAINABLE COMMUNITY.**

**FAYETTEVILLE CITY COUNCIL  
WORK SESSION AGENDA  
SEPTEMBER 8, 2009  
5:00 P.M.  
CITY HALL COUNCIL CHAMBER**

**CALL TO ORDER**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

- ITEM 1. APPROVAL OF AGENDA**
- ITEM 2. UPDATE ON THE DRAFT SUSTAINABILITY PLAN FOR THE CITY OF FAYETTEVILLE  
PRESENTED BY: Liz Burdock of Green Works Partners LLC  
PAGE: 4**
- ITEM 3. SECTION 6-226 (KEEPING HOGS WITHIN CORPORATE LIMITS) - PIA COMPLAINT  
PRESENTED BY: Kristoff Bauer, Assistant City Manager  
PAGE: 32**
- ITEM 4. PRESENTATION ON THE MURCHISON REDEVELOPMENT FUNDING STRATEGY  
PRESENTED BY: Victor Sharpe, Community Development Director & Marshall A. Isler, III, Real Estate Development/ Acquisition Consultant  
PAGE: 43**
- ITEM 5. UPDATE ON DOWNTOWN DEVELOPMENT ACTIVITIES  
PRESENTED BY: Jami Sheppard, Downtown Development Manager  
PAGE: 58**
- ITEM 6. CONSIDER RECOMMENDATION FROM THE PLANNING COMMISSION TO ESTABLISH A TASKFORCE REGARDING EARLY CHILDHOOD DEVELOPMENT AS PART OF THE PROCESS FOR DEVELOPING DAYCARE REGULATIONS  
PRESENTED BY: Karen Hilton, Assistant Planning Director  
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- ITEM 7. UPDATE ON COST TO MAINTAIN MANN STREET CEMETERY  
PRESENTED BY: Michael Gibson, Parks & Recreation Director  
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- ITEM 8. POLICE - CRIME STRATEGY REPORT  
PRESENTED BY: Tom Bergamine, Chief of Police  
PAGE: 82**

**ITEM 9. UPDATE OF RESIDENTAL RENTAL PROPERTY PROGRAMS**  
**PRESENTED BY:** Doug Hewett, Assistant City Manager  
**PAGE: 83**

**ITEM 10. COUNCIL MEMBER REQUESTS**

- A. SOIL STREET PAVING POLICY**  
**REQUESTED BY:** Mayor Anthony Chavonne  
**PAGE: 94**
  
- B. LIMITATION OF COUNCIL MEMBER REQUESTS AT WORK SESSIONS**  
**REQUESTED BY:** Council Member Valencia Applewhite  
**PAGE: 95**
  
- C. REZONE ALL FLOOD WAYS WITHIN FAYETTEVILLE TO CONSERVATION DISTRICT (CD)**  
**REQUESTED BY:** Council Member Theodore Mohn  
**PAGE: 96**

**COUNCIL MEETING WILL BE AIRED**  
**SEPTEMBER 8, 2009 - 5:00 PM**  
**COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED**  
**SEPTEMBER 9, 2009 - 10:00 PM**  
**COMMUNITY CHANNEL 7**

**Notice Under the Americans with Disabilities Act (ADA):** *The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Anyone who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in the City program, service, or activity, should contact the office of Ron McElrath, Acting ADA Coordinator, at [rmcelrath@ci.fay.nc.us](mailto:rmcelrath@ci.fay.nc.us), 910-433-1605 or 910-433-1696, or the City Clerk at [cityclerk@ci.fay.nc.us](mailto:cityclerk@ci.fay.nc.us), or 910-433-1989, as soon as possible but no later than 48 hours before the scheduled event.*

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council  
**Thru:** Doug Hewett, Assistant City Manager  
**From:** Gerald Dietzen, Director of Environmental Services  
**Date:** September 8, 2009  
**Re:** Update on the draft Sustainability Plan for the City of Fayetteville

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## **THE QUESTION:**

Does City Council support the current content and process in the development of the Draft Sustainability Plan?

## **RELATIONSHIP TO THE STRATEGIC PLAN:**

**City of Fayetteville Vision 2023**

**Principle D** - Green Buildings LEED certified;

**Principal J** - Sustainable Community Leaders Serving to better the community; Environmentally sensitive designs, standards and City operation; Conserving and protecting community natural resources; Comprehensive plan guiding our community's future; Local governments working together; Use of renewable resources

## **BACKGROUND:**

In the 2009 - 2010 Strategic Plan, City Council identified recycling for multifamily and commercial, air quality and green city policy development as priorities for management agenda. These items are all related to our sustainability. In February 2009, the president announced stimulus funding for cities by formula grant. The grant funding allowed the city to hire an energy consultant firm to assist in the development of a sustainability and energy conservation plan. In June, the City hired Green Works Partners to develop a comprehensive sustainability plan and assist in the submittal of a detailed list of projects to the Department of Energy for the ARRA grant funding. DOE has received our grant application and it is being reviewed. The project list will be submitted by early November per application requirements.

## **ISSUES:**

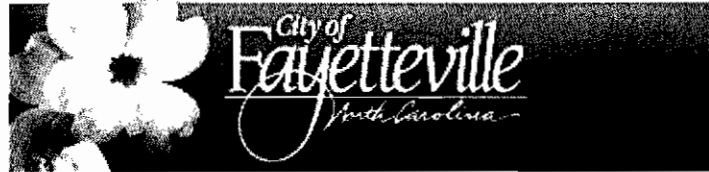
The sustainability/energy plan is a requirement as a part of the final submittal to DOE in October. Stake holders and the public will be providing input to this draft plan; therefore, the plan may be amended subject to public comment before the final plan is submitted for Council approval.

## **OPTIONS:**

Agree that the draft Sustainability plan should continue the process and include appropriate changes subject to stakeholder and/or public input. Agree to accept the draft Sustainability plan without stakeholder and public comments. Reject the draft Sustainability plan and offer a new direction to the City Manager.

## **RECOMMENDATION:**

Agree that the draft Sustainability plan should continue the process and include appropriate changes subject to stakeholder and/or public input.



# **City of Fayetteville Sustainability Master Plan**

**August 18, 2009 Draft**

**Prepared by  
GreenWorks Partners, LLC**

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- b. Public Works Commission**

**GUIDING PRINCIPLES**

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The following seven guiding principles, in alignment with the Federal Sustainable Communities Initiative, provide the foundation of the Fayetteville Sustainability Master Plan.

1. **Promote national energy independence, reduce carbon emissions & contribute to a healthier environment:** Establish sustainability goals and objectives to reverse the effects of climate change and achieve “absolute” reductions in carbon emissions through achieving federal, state and local priorities. These priorities include 1) allocating resources to infrastructure that will reduce vehicle miles traveled by promoting public transit, walking and biking and linking commercial and housing development with transit; and 2) by promoting the adoption of energy efficiency and renewable energy practices and technology.
2. **Increase competitiveness & produce economic benefits:** 1) Support regional multimodal transportation systems that provide access, mobility and connectivity throughout the region by leveraging modal efficiencies, existing infrastructure and development that encourages alternative forms of transportation; 2) improve opportunities for green jobs; and 3) support the development of clean energy and recycling industries.
3. **Promote regional cooperation:** Educate, involve and create partnerships with all stakeholders including individual citizens, community and regional based organizations, businesses, Fort Bragg, the School District, colleges and universities, the County and the State to take an active part in reaching sustainability goals and towards achieving a sustainable community.
4. **Preserve neighborhoods & maintain housing affordability:** Create affordable housing policies so that development utilizes existing infrastructure, encourages the use of alternative forms of transportation and incorporates green strategies that maximize energy and water efficiency and ensure occupant health.
5. **Develop healthier communities & social equity:** 1) Allocate resources to activities that improve air quality; 2) create public green space, including trails, alongside environmentally responsible and sustainable development that promotes improvements in public health and active lifestyles; and 3) ensure that residents, businesses and other stakeholders have access to the benefits of a sustainable community.
6. **Lead by example:** Serve as a model for the state and region by 1) integrating financially responsible sustainability into all appropriate city decision making in order to maximize environmental benefits and reduce or eliminate negative environmental impacts; 2) exploring, utilizing and sharing best practices with the community; and 3) meeting all environmental mandates while striving to exceed them to the extent practical.
7. **Utilize performance metrics & ensure accountability:** 1) Establish measurable sustainability goals and objectives; 2) regularly evaluate, measure and report the program’s status to ensure that resources are being utilized to their highest and best use and that the city is achieving national, state and local performance measures; and 3) determine each initiative’s cost effectiveness utilizing a life cycle assessment that incorporates all environmental, economic and social costs and benefits.



# 1. ENVIRONMENT & NATURAL RESOURCES

**Goals:**

- Minimize air pollution, including climate-impacting gases
- Prepare for projected adverse climate change impacts
- Maximize energy and water efficiency and the use of alternative sources in city operations and the community.
- Protect the Cape Fear River watershed.
- Minimize the generation of waste and maximize the use of recycled and regional content materials.
- Create an environment that expects the use of sustainability best practices and promotes the development of model programs.
- Embrace the sustainability principle that recognizes and takes advantage of the life cycle of goods and materials.

Sustainable Initiative	Short Term	Middle Term	Long Term	Department	Status (New, Complete or Ongoing)
<b>a. Air Quality &amp; Climate Protection</b>					
<b>Current Efforts</b>					
1. Work with Sustainable Sandhills, Sustainable Fort Bragg, FAMPO, NCDENR/DAQ, PWC, FAST, Mid-Carolina COG and others on the Combined Air Team, to plan and implement projects to improve air quality, reduce greenhouse gas emissions and avoid non-attainment status for ground level ozone.					
2. See 2.c Transportation					
3. See 4.a. City Facilities & Operations					
4. Fayetteville Technical College has signed American College & University Presidents Climate Commitment					
<b>Proposed Efforts</b>					
1. Adopt model city operations and citywide sustainability and green building programs that incorporate best practices utilized by other agencies and institutions such as the <i>Sustainable Fort Bragg</i> program					
2. Join and support appropriate local, regional and state sustainability-related organizations and partnerships					

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3. Adopt a program to limit city and commercial vehicle idling time, including delivery and construction vehicles, in alignment with School District policy						
4. Develop an urban forestry plan, including parking lot standards, to protect and expand the city's tree resources and to minimize the urban heat island effect (lower local temperatures); adopt an ordinance that assists with implementation and requires reforestation as a stormwater/air quality mitigation for tree removal						

**b. Energy Efficiency & Alternate Energy Sources**

**Current Efforts**

1. See 4.b Public Works Commission, below						
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**Proposed Efforts**

1. Maximize cost effective energy efficiency and the use of alternative energy sources in city facilities and operations (see 4.1 City Facilities & Operations)						
2. Maximize cost effective energy efficiency and the use of alternative energy sources by the community through Public Works Commission initiatives (see 4.2 Public Works Commission)						
3. Adopt minimum energy efficiency standards for all new buildings and modernization projects, such as the International Energy Conservation Code (IECC) or ASHRAE 90.1; identify key areas of opportunity such as parking lots						
4. Collaborate with local stakeholders to develop an integrated alternate fuels strategy for public and private vehicles that: a. Maximizes the use of locally derived fuels b. Ensures the development of required alternate fuel infrastructure such as electric vehicle charging stations						

**c. Water Efficiency & Quality**

**Current Efforts**

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<p>1. Enforce the Water Shortage Response Ordinance that mandates an odd/even irrigation schedule and modify as necessary to meet the adopted goals</p>						
<p>2. Stormwater Management Utility Ordinance, effective July 1, 2009 includes 1) programs designed to protect and manage water quality and quantity by controlling the level of point and non-point pollutants in stormwater runoff, and the quantity and rate of stormwater received and conveyed by structural and natural stormwater and drainage systems of all types, 2) establishes a schedule of charges, (3) defines the control, collection, and disbursement of funds, and 4) sets forth penalties, methods of appeals and exemptions</p>						
<p><b>Proposed Efforts</b></p>						
<p>1. Prepare and implement an integrated water resources plan that evaluates and plans for the use of water in City operations and communitywide. An integrated plan:</p> <ul style="list-style-type: none"> <li>a. Addresses all water issues in a unified manner to maximize water efficiency</li> <li>b. Maximizes the use of alternative sources of water (recycled water, gray water, stormwater and groundwater) which otherwise enters the stormwater system due to the dewatering of subterranean structures</li> <li>c. Protects groundwater and the watershed</li> <li>d. Ensures that the City's water infrastructure is maintained in a manner that minimizes leakage and ensures adequate supply</li> <li>e. Structures rates so as to encourage efficiency by charging more for higher, non-critical levels of consumption</li> </ul>						
<p>2. Work with other stakeholders to protect the Cape Fear River watershed, including the uplands, to ensure the future availability and quality of the city's water supply and its biological integrity</p>						

3. Adopt minimum water efficiency standards that go beyond Federal standards such as water fixture maximum flow rates					
4. Maximize the cost effective water efficiency and use of alternative water sources in City facilities and operations (see 4.1 City Facilities & Operations)					

**d. Recycling, Waste Management & Materials**

<b>Current Efforts</b>					
1. City facility and operations recycling program has 100% participation					
2. Commingled recyclables collected from single family residences with 70% participation					
3. October 1, 2009 State plastic bottle recycling requirement					
4. DAK industries plant (see 3.b Economic Development)					
<b>Proposed Efforts</b>					
1. Develop an integrated waste management plan that includes long range recycling and reuse goals, using treated waste to create clean energy and public education					
2. Expand the city's existing recycling program by adding multi-family residential , commercial and industrial buildings and parks and other public facilities					
3. Establish minimum construction and demolition waste recycling requirements for all development projects, including requirements for the appropriate disposal of hazardous materials such as mercury					
4. Work with local stakeholders to develop a regional deconstruction program to maximize the reuse of components from demolished buildings					
5. Work with local stakeholders to establish a regional electronic waste recycling and disposal program					
6. Work with local stakeholders to encourage the growth of markets for recycled content products					
7. Maximize the cost effective use of low emitting and recycled content materials and the recycling of waste in City facilities and operations (see City Facilities & Operations, below)					



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3. Ensure that the UDO's "Menu of Sustainability Features" reflects the city's priorities and that the individual items are weighted to their environmental value or of equal environmental value as determined through a life cycle assessment					
4. Develop a program to achieve LEED for Existing Buildings Certified standards for all City buildings of at least 25,000 square feet					
5. Ensure that all City regulations, codes, rates structures and other programs do not impede and, where possible, provide incentives for the adoption of sustainable products and strategies by the City, businesses and residents					
6. Conduct green building training for community housing development organizations (CHUDOs) which receive City financing assistance to build and rehabilitate low-income affordable housing					
7. Incorporate a module on energy and water efficiency, indoor air quality and other green building strategies for contractors working under the City's Community Development programs					
8. Work with vendors on securing best prices for energy and water efficient appliances and components (doors, windows, toilets) for replacements made under Fayetteville Urban Ministry Emergency Repair Program					
9. Build all low-income affordable housing financed with City resources to the Enterprise Community Green Building Criteria					
<b>b. Land Use &amp; Open Space</b>					
<b>Current Efforts</b>					
1. All new development is required to include 500 square feet of open space per residential unit					
2. Fayetteville and Cumberland County have adopted the 2030 Growth Vision Plan					

<b>Proposed Efforts</b>					
1. In the Uniform Development Ordinance: <ul style="list-style-type: none"> <li>a. Incorporate smart growth and school centered community principals</li> <li>b. Prioritize urban infill, transit oriented and walkable development</li> <li>c. Incorporate the planning and development of park and ride facilities to support existing and future transit</li> <li>d. Incorporate the planning and development of "complete streets" that accommodate all forms of transit along appropriate corridors</li> <li>e. Incorporate pedestrian-oriented sidewalks design standards, such as the separation of sidewalks &amp; traffic lanes</li> <li>f. Encourage the protection of the city's historic resources, including both buildings and neighborhoods</li> <li>g. Incorporate low impact development standards</li> <li>h. Incorporate strategies to minimize surface parking lots</li> </ul>					
2. Work with stakeholders to develop an integrated regional comprehensive development plan					
3. Utilize the Sustainable Sandhills Suitability maps to evaluate rezoning requests.					
4. Create an inventory of all brownfield properties in the city and establish goals, priorities and procedures for their abatement and reuse					
<b>c. Transportation</b>					
<b>Current Efforts</b>					



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1. Continue to work with local stakeholders to maximize the utility of the local transit system; develop programs and educate employers about employee rideshare and transit; and promote mass transit ridership through careful planning of routes, headways, origins and destinations, and types of vehicles					
2. Greater Fayetteville Futures II Objective 6 is Traditional Connectivity Infrastructure (transportation).					
3. New and improved bus routes and later scheduling will better align transit with employee work hours and locations					
4. Signal lights are being synchronized at all appropriate intersections					
5. City has joined Plug-in Partners, a national grass-roots initiative to demonstrate to automakers that a market for flexible-fuel Plug-in Hybrid Electric Vehicles (PHEV) exists today.					
<b>Proposed Efforts</b>					
1. Develop a program to connect and assist potential ridesharers					
2. Promote the use of high mileage, alternative fueled and low emitting vehicles by businesses and residents, including through participation in Project NC Get Ready! to facilitate the adoption of electric and plug-in electric vehicles					
3. Create a bicycle master plan consistent with the regional <i>Connectivity Report</i>					

### 3. COMMUNITY

**Goals:**

- Set an example for the community, region and state
- Protect and enhance environmental and public health by minimizing the levels of pollutants entering the air, soil and water, and, wherever possible, eliminating the use of hazardous or toxic materials by the City, residents and businesses.
- Encourage residents to improve their health by increasing access to a diverse mix of wellness activities and fresh, locally produced organic food.
- Ensure that all socioeconomic groups in the city are equally protected from environmental pollution.
- Nurture a diverse and stable local economy that supports the provision of basic needs for all segments of the community.
- Encourage the efficient and sustainable use of all resources to maximize the retention of dollars in the local economy.
- Encourage all local businesses, organizations and public agencies to adopt sustainable practices, led by City example
- Encourage business with services and products that increase sustainability to locate within the city.
- Ensure that all members of the community are able to meet their basic needs and are empowered to enhance the quality of their lives.
- Promote access for all community members to beneficial housing, health services, education, economic opportunity, and cultural and recreational resources.
- Communicate the City's sustainability commitment and goals to staff and the community through ongoing education programs, including providing information on how staff and residents can adopt sustainability practices in their lives.

Sustainable Initiative	Short Term	Middle Term	Long Term	Department	Status (New, Complete or Ongoing)
<b>a. Environmental &amp; Public Health</b>					
<b>Current Efforts</b>					
1. Better Health Cumberland County's has an Eat Smart Move More campaign.					
2. Greater Fayetteville Futures II Objective 7 is Improve and Sustain Health Services and Wellness					
<b>Proposed Efforts</b>					
1. Ensure public access to local rivers for recreation and other uses; develop a maintenance plan for public use areas					
2. Connect state park lands into an integrated whole, i.e., Long Valley Farm & the River Oaks Preserve					
3. Support and promote recreational activities and community gardens.					

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<b>Proposed Efforts</b>					
1. Establish sustainability, green jobs and sourcing local green products and services, including food, as a priority economic development strategy; work with stakeholders to develop and implement a green jobs training strategy, and develop a strategy and offer incentives as appropriate to attract green economy companies to the city					
2. Establish a community gardens program, especially in neighborhoods of citizens with limited incomes					
3. Develop a cultural and historic preservation strategy in conjunction with local stakeholders such as Fort Bragg to preserve the city's key cultural assets					
4. Develop a process to monitor and regularly report the city's economic health, including whether the city is developing in an economically sustainable manner					
5. Promote and support programs that encourage residents to maintain and improve their health through recreation, healthy eating and other similar activities					
6. Expand existing fiber optic network to allow high speed internet access for the purposes of economic growth and telecommuting					
<b>c. Social Equity</b>					
<b>Current Efforts</b>					
1. Greater Fayetteville Futures II objectives include Objective 3 – Security and Safety for All and Objective 6 – Connectivity (broadband access)					
<b>Proposed Efforts</b>					
1. Work with local education stakeholders and others to develop and offer green jobs training programs					
2. Encourage and support the development of affordable housing that maximizes green building strategies focused on indoor air quality and minimizing utility costs					

3. Incorporate human dignity and social equality concepts and other related principles and goals into the city's policies and programs					
4. Incorporate environmental and economic sustainability into the city's quality of life and human resources programs					
5. Expand existing fiber optic network to provide affordable, high-speed access to all citizens					

**d. Community Education & Civic Participation**

**Current Efforts**

1. Fayetteville recently established the Environmental Services Department; the Department's webpage provides consumer information					
2. Sustainable Sandhills' programs encourage and support the adoption of sustainability practices					
3. Greater Fayetteville Futures II process encourages community participation supports and supports education on sustainability and other topics of importance to the region					
4. Ft. Bragg was the first Army installation to accept the challenge to approach long-term planning using sustainable principles and concepts.					
5. The Fort Bragg and Pope Air Force Base BRAC Regional Task Force incorporates sustainability into their planning and activities					
6. Fayetteville State University has incorporated sustainability into its strategic planning has establish a faculty/staff/student committee to assist with implement of the goals; and is serving as Sustainable Sandhills' model for certifying green campuses					
7. Cumberland Community Foundation is developing a Community Awareness Database of key indicators of community health					

**Proposed Efforts**

1. See 4b Public Works Commission Proposed Effort 1 on education program regarding projected electric rate increases					
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8. Continue to support and expand as beneficial the Sustainable Sandhills Green Business Program that recognizes and certifies green businesses						
9. Coordinate educational efforts between PWC and the City's Community Development program, i.e., disseminate energy saving tips etc at neighborhood meetings, community development week and other marketing programs						

**4. CITY AGENCIES**

**Goals:**

- Create a model and lead by example with programs and strategies that successfully incorporate practice sustainability principals into the city's facilities and operations
- Educate internal and external stakeholders on the benefits of such products and programs
- Ensure that the Public Works Commission serves as a model utility in sustainability practices, including energy efficiency, load management and the use of alternate sources of power and water for both its facilities and operations and for its customers

Sustainable Initiative	Short Term	Middle Term	Long Term	Department	Status (New, Complete or Ongoing)
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**a. City Facilities & Operations**

**Current Efforts**

1. Fire Station # 19 in Veteran's Park is being designed to LEED standards					
2. LED (light emitting diode) streetlights are being studied					

**Proposed Efforts**

1. Develop and implement a comprehensive, integrated City facilities and operations sustainability strategy, including baseline information (carbon footprint; energy and water use; waste production), measurable goals, policies, strategies and timelines; report at least annually on the strategy's status					
2. Develop a funding strategy to support the implementation of sustainability initiatives, especially capital investments; analyze all available options including in-house and outside capital sources and a revolving fund that is repaid through utility cost savings					
3. Utilize the Sustainability Task Force convened to develop the Sustainability Master Plan to work on and report the status of its implementation					

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<p>4. Assist residents, businesses and institutions in implementing sustainability practices wherever joint efforts would help implement the Plan's goals, through strategies as assisting large landowners with stormwater management programs.</p>					
<p>5. Make success in implementing the Sustainability Master Plan an element in departmental manager reviews</p>					
<p>6. Provide adequate staff and other needed support to implement the Plan's goals and policies; ensure adequate staff training on sustainability principles; utilize volunteers where possible, particularly for the outreach campaign</p>					
<p>7. Generate a baseline of city facility and operations energy and water usage and cost and include these costs as line items in the budget with projected price increases; develop a plan, including goals and a timeline, to maximize energy and water efficiency and the use of cost effective alternate sources; and work with and identify best practices from local stakeholders such as Cumberland County</p>					
<p>8. Design new City building to maximize, on a cost effective basis, their energy and water efficiency and the use of renewable sources</p>					
<p>9. Continue to maintain and upgrade the City's infrastructure according to the infrastructure plan utilizing schedules based on the anticipated life of each system, while adopting proven practices and technologies that will advance environmental sustainability goals, maintain high quality standards and reduce long-term costs.</p>					

<p>10. Develop and implement an environmentally and socially green procurement program for all products and services utilizing life cycle assessment that incorporates, at a minimum, the following elements:</p> <ul style="list-style-type: none"> <li>a. Purchase recycled and regional content and low emitting products wherever viable, including recycled content carpet for City facilities to support the DAK recycling plant and carpeting industry and recycled materials for road construction and repair</li> <li>b. Minimize the waste and maximize the recycling from all City services and operations</li> <li>c. Utilize green cleaning practices in city facilities</li> <li>d. Install cool roofs whenever a roof on a city facility is upgraded</li> <li>e. Purchase vehicles which are the most efficient in their class and which use alternate fuels to the maximum extent viable</li> <li>f. Purchase electric powered equipment such as mowers whenever possible</li> </ul>					
<p>11. Incorporate sustainability principals into all city services, including:</p> <ul style="list-style-type: none"> <li>a. Minimize the emissions of all city vehicles through strategies such as installing diesel particulate traps and after-market small engine diesel emission controls</li> <li>b. Develop an alternate fuels strategy for city vehicles, including biodiesel blend B20</li> <li>c. Utilize integrated pest management strategies for all city owned facilities and open space to minimize the use of toxic chemicals</li> <li>d. Provide incentives for City employees to carpool, use transit and walk or bike to work</li> <li>e. Utilize grass mulching mowers (mowers that leave the clippings in place) on all City property</li> </ul>					

**b. Public Works Commission**

**Current Efforts**

<p>1. Sustainable community, one of six PWC Strategic Plan goals adopted in February 2008, has the following objectives</p> <ul style="list-style-type: none"><li>a. Reduce customer use of water and electricity</li><li>b. Develop models for environmentally sensitive buildings and programs</li><li>c. Increase the use of renewable energy resources at the Public Works Commission and in the community</li><li>d. Work with the City to develop policies and to become designated as a "Green City"</li><li>e. Become responsible environmental stewards</li><li>f. Reduce vehicle emissions by 10% over the next five years</li></ul>						
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| <p>2. Current programs</p> <ul style="list-style-type: none"> <li>a. Energy and water audits in partnership with Sustainable Sandhills Green Business Program</li> <li>b. Fleet maintenance, including for City vehicles, to ensure clean burning engines</li> <li>c. Biosolid recycling from water reclamation facilities</li> <li>d. Tree planting and watershed tree planting programs</li> <li>e. Water wise landscaping at operations complex</li> <li>f. Purchase, restore and manage land for watershed protection</li> <li>g. Operations Complex includes numerous green elements</li> <li>h. New Customer Service Center, under construction, will be LEED certified</li> <li>i. Butler-Warner Generation Plant upgrades proposed to improve environmental performance</li> <li>j. Internal recycling program</li> <li>k. To meet North Carolina mandate that 10% of all retail sales stem from renewable resources by 2018, evaluating emission credits, carbon credits and renewable energy market opportunities with the focus on solar projects, waste-to-energy applications and various energy efficiency measures</li> <li>l. Developing 10-year Electric Division Sustainability Business Plan</li> <li>m. Established alternative fuels/hybrid vehicle program, including conversion of PWC's diesel fuel to a Biodiesel Blend (B20)</li> <li>n. Sustainability public education and outreach program, and community partnerships</li> <li>o. Participating member in Sustainable Sandhills Green Business Program that recognizes and certifies green businesses</li> <li>p. Offer customers opportunity to participate in NC GreenPower, a voluntary environmental program through which customers can purchase blocks of green (renewable) power</li> <li>q. Participates in Good Sense Housing Program which promotes the construction of new energy efficient housing</li> </ul> |  |  |  |  |  |
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<ul style="list-style-type: none"> <li>r. Developing a smart grid demonstration project with the goal of reducing on-peak electricity consumption to minimize demand charges</li> <li>s. Analyzing the potential for a methane fired boiler at the PWC waste water treatment plant</li> </ul>					
<b>Proposed Efforts</b>					
<p>1. Implement an aggressive program to educate all PWC customers about the projected electric rate increases due to the Progress Energy Full Requirements Contract taking effect in 2012, and how these increases can be mitigated through energy efficiency technical and behavioral measures; within this initiative develop targeted programs for key sectors such as residential, hotels and retail</p>					
<p>2. Provide a model for the community through the maximum cost effective utilization of energy and water efficiency, renewable energy and other sustainability practices and technologies in PWC facilities</p>					
<p>3. Develop and adopt a strategy to fund aggressive energy and water efficiency and renewable energy programs through the use of a Public Benefit Fund or other mechanism</p>					

<p>4. Strengthen PWC's residential, commercial and industrial energy efficiency programs to encourage the installation of cost effective technologies; as part of this effort:</p> <ul style="list-style-type: none"> <li>a. Increases program funding</li> <li>b. Establish energy efficiency or energy use reduction goals by sector</li> <li>c. Offer incentives</li> <li>d. Provide electronic and consolidated billing and energy use history upon request</li> <li>e. Encourage the installation of submeters when requested</li> <li>f. Coordinate energy efficiency retro-fit and weatherization efforts between PWC, City Community Development Office and Cumberland County Community Action, including sharing information from smart grid demonstration</li> </ul>					
<p>5. Strengthen PWC's program to encourage PWC customers to use renewable energy power; as part of this effort:</p> <ul style="list-style-type: none"> <li>a. Increase program funding</li> <li>b. Finalize and adopt the proposed renewable energy system interconnection agreement to establish requirements</li> </ul>					
<p>6. Establish residential and commercial water efficiency incentive programs to encourage the installation of cost effective technologies such as plumbing fixtures more efficient than required under Federal standards and water efficient irrigation strategies such as smart irrigation controllers; as part of this effort establish water efficiency goals by sector</p>					
<p>7. Establish a program that encourages Fayetteville's many short term residential property owners to weatherize and install energy and water efficiency measures (the average Fayetteville home is only owned for three years)</p>					

<p>8. Establish a smart grid program that explores regional opportunities and, among other initiatives:</p> <ul style="list-style-type: none"> <li>a. Expands the existing fiber optic network system to deploy smart grid functionality</li> <li>b. Incorporates electric vehicle charging stations</li> </ul>					
<p>9. Assist the City with its proposed energy efficiency and sustainability initiative, including the implementation of the proposed street light LED demonstration project and fee abatements for projects that incorporate sustainability measures</p>					
<p>10. Implement at PWC sites and work with the City, County and other stakeholders on developing renewable energy systems such as the proposed:</p> <ul style="list-style-type: none"> <li>a. Solar farm at the Butler-Warner Generation Plant</li> <li>b. In-line hydroelectric generators</li> <li>c. Methane powered electricity plant at the County landfill</li> <li>d. Alternate energy systems at the water treatment plants</li> <li>e. Non-incineration waste to energy plant</li> </ul>					
<p>11. Undertake a fleet utilization study to maximize the efficiency of city and PWC vehicles and trucks through efficient routing and the use vehicles appropriate for their tasks</p>					
<p>12. Establish a pilot program to minimize "unaccounted for energy" such as system losses and theft</p>					
<p>13. Monitor developing energy and water efficiency technologies, including smart grids, LEDs for lighting, renewable energy technology, fuel cell for combined heat and power (CHP) and smart irrigation controllers</p>					

## CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council  
FROM: Kristoff Bauer, Assistant City Manager  
DATE: September 8, 2009  
RE: **CMO-SECTION 6-226 (KEEPING HOGS WITHIN CORPORATE LIMITS)-PIA COMPLAINT**

### **THE QUESTION:**

On August 3rd, the Council directed staff to "explore amending City Code ordinance 6-226" and report back during the Sept. 8th Council Work Session.

### **RELATIONSHIP TO STRATEGIC PLAN:**

### **BACKGROUND:**

On Friday, June 26th, City staff received a complaint regarding the keeping of a hog within the City limits. Section 6-226 of the City code prohibits the keeping of hogs within City limits. A City zoning code enforcement officer responded to the address given in the complaint and, finding no one home, left a door hanger requesting a call about the complaint. Ms. Pia called the City later that day and reported that no pig was being kept at that address. The enforcement officer commented that an illustration on the window of the home consisted of family members and what appeared to be a pig. Ms. Pia responded that the animal in the illustration was a rabbit and stated again that no pig resided at that location. In the absence of supporting evidence, the City did not issue a notice of violation. Other than the initial site visit, the City has not taken any enforcement action, nor directed the Tibbetts & Pia household to take any action.

On Monday, June 29th, City zoning enforcement staff received a call from Council Member Bates stating that the pig had been moved and that he intended to initiate action to revise the City's ordinance relating to the keeping of hogs within City limits.

The end of July, the Mayor received the attached anonymous complaint, dated July 29th, raising concerns about the keeping of a pig at the Pia & Tibbetts household.

On August 1st, the Fayetteville Observer published an article titled "City Banishes Boy's Porcine Pal." In this article, Ms. Pia admits to having had a pot-bellied pig at her home in the College Lakes area as a pet for her Autistic son, Anthony. The article indicates the pig had been returned to a farm outside the City limits.

At the August 3rd Council Work Session, in response to a Council Member request sponsored by Council Member Bates, the Council directed staff to research the City ordinance related to keeping hogs within City limits and bring back analysis specific to the issues raised by the August 1st article. This analysis was scheduled to return to Council for further discussion at the next Work Session on September 8th.

Beginning August 4th, City Staff contacted the state and other agencies to research the issue of "Service Animals" and other areas of federal and state law as they relate to accommodation for persons with disabilities. This included conversations with the Department of Justice regarding the Americans With Disabilities Act, the U.S. Department of Housing and Urban Development (HUD) regarding the Fair Housing Act, and the Human Relations Commission.

On August 18th, the City Attorney's office received a letter from a psychologist that reported, based upon two recent office visits, that the pig in question did not meet the statutory definition of a "Service Animal" under the Americans With Disabilities Act ("ADA"). Staff had already been researching the application of the provided information on the City's authority through direct contact with federal and state agencies. The resulting analysis is discussed further below.

On August 24th, the Pia & Tibbetts family filed a housing discrimination complaint with the U.S. Department of Housing and Urban Development (HUD) alleging that the City had failed to make a reasonable accommodation for an individual qualifying under the Fair Housing Act (Attached). Again, staff had already researched the potential for this Act to impact the City's authority in this case.

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ITEM

3,



## **ISSUES:**

The classic policy issue raised in this case is one of individual rights versus community interest or that of adjacent property owners and residents. Which interest is dominant? That of the disabled boy and his family, or that of the community in which they live as expressed by those who have complained about this specific instance of keeping a pig or those whose interests generated this ordinance in the first instance. Balancing these interests in this specific case and into the future for analogous cases is Council's difficult responsibility.

In order to understand the breath of options available in responding to this issue, staff's analysis began with an investigation into whether the Council's authority was restricted in this specific case by federal law. There has been an assertion that the City's authority to prohibit this specific animal is preempted, voided by the ADA or Fair Housing Act or, perhaps, state law.

## **Service Animal**

The ADA and state law both provide significant protection for "Service Animals." The characteristics that define a Service Animal are fairly well established. It begins with the individual who must have a disability that interferes with their ability to engage in normal life activities. The animal must be trained to perform specific tasks that the disabled individual can't perform for themselves and that assist that individual in performing normal life activities. It is a working animal that pulls, hears, sees, or provides other specific services for the disabled individual.

The federal and state law protections for Service Animals are also fairly well established. Service Animals cannot be prohibited by zoning, local ordinance, or even private commercial property policies. In fact excluding a Service Animal from a place of business otherwise open to the public is a misdemeanor under state law.

Conclusion: There is no credible assertion in this case that the animal in question is a Service Animal.

## **Accommodation Under Fair Housing Act**

The Act requires housing providers to provide reasonable accommodation to disabled persons necessary to afford equal opportunity to use and enjoy a dwelling. Two areas of inquiry are instructive in analyzing the application of this law to the current case; scope, that is does the law apply to the given facts, and ripeness, that is has an action occurred that triggers the law.

In this case, the analysis of ripeness comes down to "has the City actually acted to enforce a law that is in violation of the act?" Since the City has never verified that there is a violation of Section 6-226, no notice of violation has been issued and the City has taken no action to restrict the equal opportunity to use and enjoy a dwelling. Therefore, the resident has not had an opportunity to request a reasonable accommodation from ordinance and the City certainly hasn't denied the same.

Conclusion: The Pia & Tibbetts complaint is clearly premature.

Analysis of whether the Act would apply if the case was ripe is less clear. This is an area of law that is evolving. The application of the Act to physical accommodations such as wheel chair ramps, cabinetry, doors size, etc. is fairly well established. The application of the Act to Service Animals is also well established. The area of ambiguity surrounds attempts to create a new class of protected animals termed "emotional or psychiatric service animals." These terms are not defined by statute or case law and their protection under the Act is not clear. It is being asserted in this case that any animal that a doctor is willing to agree is beneficial to a disabled person is protected under the Act. If this becomes the law then the ability of housing providers to place any restriction on pets could be seriously eroded.

Those concerned by potential broad expansion of the Act argue that the test is not whether a disabled person is "benefited" by a pet, but whether that pet is necessary to provide equal opportunity to use and enjoy a dwelling. There is no requirement under the Act to provide a benefit to a disabled person that is not enjoyed by other residents.

Analysis by the City Attorney's Office of the facts in this case as understood at this point concludes that the Act is not likely to apply and, therefore, the City's authority is not restricted. The only way to find out for sure would be to get a case before the Federal District Court.

### Options Analysis

Staff analyzed the following alternatives:

1. Take No Action – The actions of the Pia's and whether it is determined that the ordinance actually applies and the outcome of the HUD complaint, etc... The current policy would be preserved unless overturned by a federal court.
2. Amend The Ordinance – There are several sub-options here. The Council could, for example, exempt vaccinated, neutered, pot-bellied pigs under 80 pounds, or repeal the swine prohibition completely. The nature of the ordinance change will determine the breadth of future applicability and change in balance between individual and community interests.
3. The City Manager Could Adopt A Policy Of Administrative Accommodation – This provides an opportunity for a narrowly tailored implementation policy designed to preserve the intent and effectiveness of the current policy. This would make the HUD Complaint no longer relevant. The City Manager has the authority to take this action without further Council action.

### Administrative Accommodation

The City Manager is statutorily charged with the responsibility of enforcing the City's laws and implementing Council policy. In this case there is the opportunity to clarify the application of City's ordinances relating to the possession of animals within the City limits in the face of unclear federal law to preserve as much of the Council's intent as possible while being sensitive to individuals with special needs.

The proposed policy (Attached) provides clear guidelines for animals and the homes in which they will be kept in order to receive an accommodation. It also has an initial policy to deal with the specific case that has developed without the guidance of the proposed policy and then provides a more restrictive future policy that requires more deliberative actions to qualify. To qualify, the animal must be recommended as part of a therapeutic process before it is acquired. The purpose being to prevent attempts in the future to use the policy to defend, after the fact, the keeping of exotic or otherwise prohibited animals. It also includes a number of specific terms intended to mitigate the impact of the accommodation on adjacent property owners; limiting the accommodation to a single animal and requiring screening for example.

The policy also contains an opportunity to appeal a denial to the City's Human Relations Commission. This provides an extra level of review to ensure equitable application of the policy and City law.

### OPTIONS:

1. Take No Action - No Expected Staff Follow-Up
2. Direct Staff To Develop An Amendment To Section 6-226 of City Code
3. Take No Action - Administrative Accommodation

### RECOMMENDED ACTION:

Staff recommends that the Council authorize City staff to take the necessary action to implement the proposed Animal Accommodation policy.

### ATTACHMENTS:

Complaint letter

Pia & Tibbetts HUD Complaint

Accommodation Policy

7/29/09

Dear Mayor Chavonne,

**I WISH TO REMAIN ANOYMOUS CONCERNING THIS COMPLAINT BECAUSE OF  
RETRIBUTION AGAINST MY FAMILY**

I am writing regarding the attempt of Lisa Pia to get the Fayetteville City ordinance changed regarding her having a "Vietnamese" Pot Bellie Pig living at her home for a year. I can understand how her son Anthony became attached to the pig he calls Loopey. I am glad the pig has shown Anthony and his siblings unconditional love that he may not have been receiving and that he was able to bond with the pot bellied pig. Lisa should have asked the proper agency or agencies if it was alright for her living in the city limits to have the pot bellied pig before she bought it and brought it home. This simple question could have avoided all the emotional turmoil that Anthony and the family had to go thru. It seems the only tool or assistance being used by Lisa to help her son Anthony, with his Autism is the pot bellied pig. My question to Lisa is have you sought help from the many Autism agencies to help you and your family understand the needs and effects of Autism on Anthony and your family? Ignorance of the ordinance is no excuse to break it. There is also the concern of "Swine Flu", that pigs carry, the "cleaniness" of the backyard and the home where the children live and play. Lisa did conceal that she had the pig for a year in her backyard by putting a black covering around her fence that goes all around her backyard so you can't see into her backyard. The fact that Lisa is using her maiden "Pia" instead of her married name of Tibbetts leads me believe that she has not been forth right in all areas of this story that the city is trying to take Loopey away from her Autistic son and family. It seems she is using her son's Autism to try to get the pig back even though she disobeyed the ordinance, concealed the fact she had the pig for over a year, and is just mad because she got caught by the city.

Here are some of the comments I found in reading about these pigs I understand they can be aggressive if not neutered or spayed. The article asks the question which makes a better pet the female or the male? The article stated it has been found that as long as either sex has been neutered or spayed it really doesn't matter. Unspayed females suffer from "PMS" and strong mood swings; the intact males produce a pungent odor in addition to displaying other unpleasant traits. Neither are "Desirable Pets". They require a special diet, a place to root, they are sensitive to extreme hot or cold and they would need a child's small pool to cool off in because they are unable to sweat. When kept inside the house they would need adequate space to move around, with a separate litter area away from the feeding area. A large tub lined with newspapers and pine chips could be used as the litter area. Annual vaccinations are required along with hooves being trimmed at least once a year.

I would like to know how you would feel if you had a neighbor across the street from you, or next to you or that lived behind you had a pig and when you get up everyday you had to smell pig manure. I don't think you would like it, so put yourself in our place and please do not allow the ordinance to be changed. The Fayetteville city council needs to also think about how it would effect the evaluation of our property.

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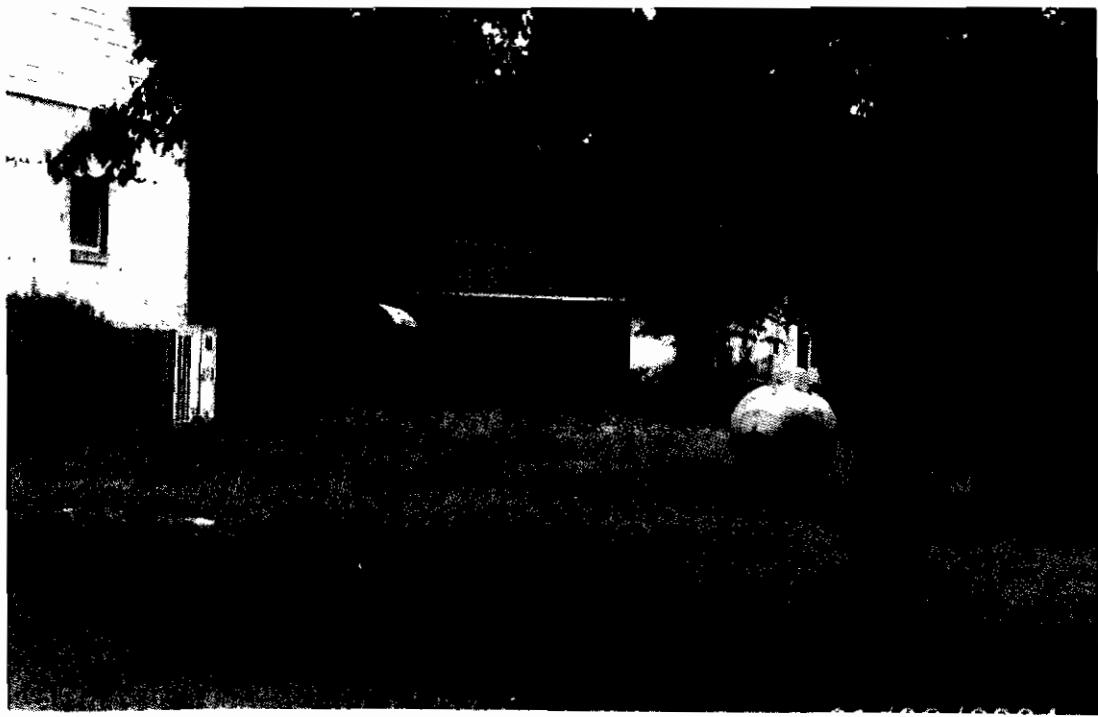
I think Lisa's time would be better spent with Anthony and her other 3 children in participating in Autism programs.

Sincerely,  
Concerned Neighbor

P.S. Lisa (Pia) Tibbetts residence is located in the College Lakes Subdivision at 431 Stacy Weaver Dr. Fayetteville, N.C. 28311. Please find enclosed photos of the black plastic around her yard to conceal the pig.

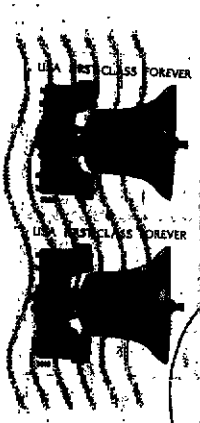


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COASTAL CAROLINA AREA  
NC 283 3 1  
30 JUL 2002 PM



Margie Tony Chavonne  
City Hall - Hwy 28  
Day. N.C. 28302



28302/3333  
Do not bend pictures enclosed

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U.S. Department Of Housing and Urban Development  
Georgia State Office  
Five Points Plaza  
40 Marietta Street  
Atlanta, GA 30303-2806

August 24, 2009

City of Fayetteville, NC - City Council  
433 Hay Street  
Fayetteville, NC 28301-5531

RECEIVED

AUG 26 2009

Dear Respondent:

Subject: Housing Discrimination Complaint  
Pia & Tibbetts v. City of Fayetteville, NC, et al  
Inquiry No. 283743  
HUD Case No. 04-09-1498-8/4/ADA

On 08/24/2009, the U.S. Department of Housing and Urban Development (HUD) accepted the subject complaint of housing discrimination under the Fair Housing Act (the Act) [42 U.S.C. 3601, et seq.]. You have been named as a respondent in this complaint. Please retain the attached copy of the complaint for your records. This letter refers only to the complaint listed above. HUD will send separate notice(s) regarding any other complaints, in which you are named as a party.

Additionally, the complaint was filed under the Rehabilitation Act of 1973 (Section 504), as amended (29 U.S.C. 794). Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. The HUD regulation implementing Section 504 at 24 CFR, Part 8, requires that no qualified individual with disabilities shall, solely on the basis of disability, otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department. For your records, we are enclosing a copy of your complaint, and, as required by law, a copy has been sent to the respondent(s).

The complaint was also filed under Title II of the Americans with Disabilities Act. Title II prohibits discrimination on the basis of disability by public entities. Public entities include any State or local government and any of its departments and/or agencies. There may be other applicable federal, state or local statutes under which you may initiate court action. You may consult a private attorney in this regard.

HUD has referred this complaint to the North Carolina Human Relations Commission for investigation as required by the Act [42 U.S.C. 3610(f)]. HUD has determined that the fair housing law that the North Carolina Human Relations Commission enforces is substantially equivalent to the Act, and it has the authority to address housing discrimination complaints within the area where this complaint arose. The North Carolina Human Relations Commission, therefore, will take all further action on this complaint. Please direct any questions you may have about the processing of this complaint, or any additional information that may refute it, to that agency. If the North Carolina Human Relations Commission fails to begin processing this complaint within 30 days, HUD may take up the complaint again. Otherwise, HUD will not send you any further correspondence regarding this complaint.

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During its investigation of the complaint, the North Carolina Human Relations Commission will attempt to informally resolve the complaint through conciliation. If the parties cannot reach an agreement, the North Carolina Human Relations Commission will complete its investigation and issue a decision on whether there was a violation of the law.

In addition to filing this complaint, the complainant may file a civil lawsuit in Federal district court [42 U.S.C. 3613]. The complainant must file any civil lawsuit no later than two (2) years after the alleged discriminatory housing practice occurred or ended. The time during which the North Carolina Human Relations Commission handles this complaint does not count towards this two-year limit.

Be aware that it is unlawful to coerce, intimidate, threaten, or interfere with a person in the exercise of their rights under the Act [42 U.S.C. 3617].

Please keep the North Carolina Human Relations Commission informed of your current address and contact information. You may contact that agency at the following address.

NORTH CAROLINA HUMAN RELATIONS COMMISSION  
1318 MAIL CENTER  
RALEIGH, NC 27699-1318  
(919)807-4420

Sincerely,



James N. Sutton, Regional Director  
Region IV  
Office of Fair Housing and Equal Opportunity

Enclosures

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**HOUSING DISCRIMINATION COMPLAINT**

**CASE NUMBER:** 04-09-1498-8/4/ADA

**1. Complainants**

Lisa Pia  
431 Stacy Weaver Drive  
Fayetteville, NC 28311

Bobby Tibbetts  
431 Stacy Weaver Drive  
Fayetteville, NC 28311

**2. Other Aggrieved Persons**

Minor #1 Romich

Minor #2 Romich

Minor #3 Mott

Minor #4 Mott

**3. The following is alleged to have occurred or is about to occur:**

Failure to make reasonable accommodation.

**4. The alleged violation occurred because of:**

Handicap.

**5. Address and location of the property in question (or if no property is involved, the city and state where the discrimination occurred):**

431 Stacy Weaver Drive  
Fayetteville, NC 28311

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**6. Respondent(s)**

City of Fayetteville, NC  
Fayetteville Cumberland Human Relations Dept  
Director Ronald McElrath  
433 Hay Street  
Fayetteville, NC 28301-5531

City of Fayetteville, NC - City Council  
433 Hay Street  
Fayetteville, NC 28301-5531

**7. The following is a brief and concise statement of the facts regarding the alleged violation:**

The complainants, who reside in Fayetteville, North Carolina, have a son with autism. According to the complainants, they obtained a therapy animal, a pot-bellied pig, for their son. They noted that their son's condition markedly improved while the service animal was in their home. On June 26, 2009, the complainants received a notice from the City of Fayetteville informing them it was unlawful to keep a "hog" in city limits. The complainants contacted the City Council, explaining their son's need for the service animal and providing appropriate documentation from the child's doctor. They requested permission to keep the service animal as a reasonable accommodation for their son's disability. The city council has denied their request, most recently on August 3, 2009, stating the city would need to change the ordinance before the animal could return to the complainants' home. The complainants allege that the respondents have failed to make a reasonable accommodation for their son's disability.

**8. The most recent date on which the alleged discrimination occurred:**

August 3, 2009, and is continuing.

**9. Types of Federal Funds identified:**

Community Development Block Grant.

**10. The acts alleged in this complaint, if proven, may constitute a violation of the following:**

Section 804f3B of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

Section 504 of the 1973 Rehabilitation Act.  
The Americans with Disabilities Act of 1990.

**Please sign and date this form:**

**I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.**

\_\_\_\_\_  
Lisa Pia


\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Bobby Tibbetts

\_\_\_\_\_  
(Date)

**N O T E : HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED.**

000040d

<b>Policy # X</b>	<b>CITY OF FAYETTEVILLE STANDARD POLICY DOCUMENT</b>	
	<b>Animal Accommodation Policy</b>	
<b>Effective Date: 09/08/09</b>	<b>Revised Date: xx/xx/xx</b>	<b>Number of Pages: 2</b>

**I. Purpose:**

This policy shall apply to the application of City Code sections related to the keeping of animals within City limits. An exemption from a prohibition there under City Code Chapter 6 may be provided if the following is determined:


(Initial Criteria for current case)

1. That the individual requesting accommodation has a disability for which an animal is recommended as part of a treatment program.
  - a. A letter from a physician, psychiatrist, or licensed psychologist will be sufficient to establish compliance with this section.
2. Proof that the subject animal has received all up-to-date vaccinations.
3. Determination that the animal is not a threat to other animals or people.
4. Proof that the animal has been spayed or neutered. If too old for spaying or neutering, the requester will agree to "no breeding."
5. The animal will be kept under control at all times and screened from view by adjacent property owners.
  - a. Keeping the animal inside an approved residence is evidence of compliance. If the animal must go outside, then it must be kept under physical control at all times, through use of a leash for example. If fencing is used, then opaque fencing consistent with City Code must be used.
6. The requester must comply with the City Code of Ordinance standards with regard to nuisance. In particular, the property on which the animal is kept will be held to at least the same standards as for dogs found in 6-241 and 17-15.
7. There will be only one animal allowed per household.

For future requests for a reasonable accommodation must comply with the following **additional** criteria:

8. The request for a reasonable accommodation must be made prior to the animal being acquired and brought home.
9. The specific type of animal must be recommended as part of a treatment plan developed by a treating physician, psychiatrist, or licensed psychologist.

Denials of a reasonable accommodation request may be based on the following:

<b>Policy # X</b>	<b>CITY OF FAYETTEVILLE STANDARD POLICY DOCUMENT</b>	
	<b>Animal Accommodation Policy</b>	
	<b>Effective Date: 09/08/09</b>	<b>Revised Date: xx/xx/xx</b>
	<b>Number of Pages: 2</b>	

1. An undue financial or administrative burden on the municipality
2. It is a fundamental alteration in the nature of a program or in a zoning scheme.
3. The health, safety and welfare of its citizens.

It is anticipated that before any denial is made, there should be consultation with the City Attorney's office and the Human Relations Department.

Any appeal from the denial will be made to the Fair Housing Board who will make a subsequent determination and recommendation to the City Manager.

*Initiating Department:*

*Inspections Department* \_\_\_\_\_

*Approved By:*

\_\_\_\_\_  
*Dale Iman, City Manager* *Date*

# CITY COUNCIL ACTION MEMO

**To:** Dale Iman, City Manager  
**From:** Victor D. Sharpe, Community Development Director  
**Date:** September 8, 2009  
**Re:** Funding Plan for the Murchison Road Corridor.

**THE QUESTION:** Does the Murchison Road funding plan provide gap financing needed for the implementation of the Murchison Road Implementation Plan?

**RELATIONSHIP TO STRATEGIC PLAN:** Greater Tax Base Diversity – Strong Local Economy and More Attractive City Clean and Beautiful.

**BACKGROUND:**

- The attached report provides potential City funding sources for the redevelopment of the Murchison Road Corridor.
- At the May 11<sup>th</sup> City Council meeting, the Implementation Feasibility Analysis Report for the Land Use and Economic Development Plan for the Murchison Road Corridor was received as information with the staff reporting back in 90 days with an action plan for implementation.
- The City has contracted with Marshall Isler to prepare an implementation plan as a follow up to the Land Use and Economic Development Plan for the Murchison Road Corridor. The initial Land Use and Economic Development Plan for the Murchison Road Corridor was prepared by LandDesign, Inc. and Basile Baumann Prost Cole & Associates, Inc.
- The funding plan contains strategies for various projects in catalyst sites #1 and #3.
- The City's investments for the project total \$8,830,766.
- Funding and Programs identified available to the City include: City's general fund, City's Capital fund, Sale proceeds from sale of City redevelopment property, City Downtown Loan Pool, City Property Tax Incentive Program, Special Tax District, Tax Increment Financing, HUD Section 108 Loan Guarantee, HUD HOME Program, North Carolina Housing Finance Agency Second Mortgage Program and North Carolina Housing Finance Agency Down Payment Assistance Program.

**ISSUES:**

None

**OPTIONS:**

This item will be placed on the September 14, 2009 agenda for consideration.

**RECOMMENDATIONS:**

Receive report as information.

**ATTACHMENTS:**

Copy of Report of Potential City Funding Sources for Murchison Road Redevelopment.



Marshall A. Isler III

REAL ESTATE DEVELOPMENT/ACQUISITION CONSULTANT

## MEMORANDUM

Date: July 28, 2009

To: Victor Sharpe

cc: Dale Iman

Subject: Funding Sources for Murchison Road Redevelopment

This memorandum follows the Implementation Feasibility Analysis for the redevelopment of Murchison Road dated February 13, 2009, prepared by Marshall Isler pursuant to his consulting contract with the City of Fayetteville. Specifically Isler was asked to identify, evaluate, and recommend potential funding sources for the city's contribution to the recommended financing for the projects proposed in the report.

Chart #1 is a summary of the required funding for the next 15 years. This is essentially the financing plan recommended by the Feasibility Analysis; however it only looks at 15 years as opposed to 25 years, and it adds \$300,000 for improvements to the proposed Linear Park West. The total required for this period is \$10M. This is greater than the \$8.6M net investment shown in the report because it does not credit the Developer and Homebuyer loan paybacks in years 16 through 25, and \$300,000 is added for the park improvements.



CITY INVESTMENT SUMMARY FOR MURCHISON RD							
	LINEAR PARK WEST	ROMAN PLAZA	PANORAMA TOWNHOMES	JASPER PLAZA	UNIVERSITY TOWNHOMES		
		RETAIL (GROCERY) RETAIL (OTHER) PARKING	8,720 SF 33,500 SF 217 SPACES	64 Units 24 Affordable	RETAIL (GROCERY) RETAIL (OTHER) OFFICE DAYCARE PARKING	14,040 SF 7,884 SF 10,080 SF 200 SP	30 Units 20 Affordable
TOTAL INVESTMENT	\$ 28,719,192	\$ 1,801,067	\$ 5,949,446	\$ 12,870,287	\$ 4,732,007	\$ 3,986,385	
CITY INVESTMENT (15 YEARS)							
LAND ACQUISITION (1.3 X TAX VALUE)	\$ 3,274,766	\$ 1,151,067	\$ 289,649	\$ 644,364	\$ 1,159,558		
DEMOLITION & RELOCATION	\$ 330,000	\$ 150,000	\$ 80,000		\$ 100,000		
LINEAR PARK WEST IMPROVEMENTS	\$ 300,000	\$ 300,000					
SHOPPING CENTERS ASSISTANCE 2ND MORTGAGES	\$ 1,320,000		\$ 700,000		\$ 620,000		
RELOCATEE ASSISTANCE RENT SUBSIDY	\$ 1,350,000		\$ 750,000		\$ 600,000		
AFFORDABLE HOUSING ASSISTANCE 2ND MORTGAGES City	\$ 2,256,000			\$ 1,296,000		\$ 960,000	
TOTAL CITY INVESTMENT NEEDED	\$ 8,830,766	\$ 1,601,067	\$ 1,819,649	\$ 1,840,364	\$ 2,609,558	\$ 960,000	
AFFORDABLE HOUSING ASSISTANCE NCHFA	\$ 880,000			\$ 430,000		\$ 400,000	
DOWNPAYMENT ASSISTANCE NCHFA	\$ 352,000			\$ 182,000		\$ 180,000	
TOTAL NCHFA INVESTMENT NEEDED	\$ 1,232,000		\$ -	\$ 612,000	\$ -	\$ 580,000	
TOTAL DEVELOPMENT INVESTMENT NEEDED	\$ 10,062,766	\$ 1,601,067	\$ 1,819,649	\$ 2,452,364	\$ 2,609,558	\$ 1,540,000	
			CHART 1				

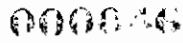
Chart #2 is a list of potential funding sources available to the city for community redevelopment. Based on detailed analysis of the availability and acquisition process of these sources, present budget commitments, and discussions with city staff, the consultant recommends the budget presented in Chart #3.

REDEVELOPMENT FUNDING SOURCES/PRORAMS (AVAILABLE TO CITY)	
1	City General Fund
2	City Capital Fund
3	Sale Proceeds from Sale of City Redevelopment Property
4	City Downtown Loan Pool
5	City Property Tax Incentive Program
6	Special Tax District
7	Tax Increment Financing
8	HUD CDBG Section 108 Loan Guarantee
9	HUD HOME Program
10	North Carolina Housing Finance Agency Second Mortgage Program
11	North Carolina Housing Finance Agency Down Payment Assistance Program
CHART 2	

PUBLIC FINANCING SOURCES SCHEDULE

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
<b>CITY LAND ACQUISITION</b>											
CATALYST SITE #1	\$ 151,087		\$ 1,151,087								
LINEAR PARK (MILKISON RD WEST)	\$ 289,949										
ROYAN PLAZA	\$ 644,394										
CATALYST SITE #2	\$ 1,139,626										
ASPER PLAZA/LINCOLN TOWNS	\$ -										
<b>DEMOLITION, RELOCATION &amp; CLEARING</b>											
LINEAR PARK (MILKISON RD WEST)	\$ 150,000		\$ 150,000								
ROYAN PLAZA	\$ 80,000										
JANPER PLAZA	\$ 100,000										
<b>LINEAR PARK WEST IMPROVEMENTS</b>	\$ 300,000		\$ 300,000								
<b>SHOPPING CENTERS ASSISTANCE</b>											
ROYAN PLAZA DEVELOPER LOAN	\$ 700,000										
ASPER PLAZA DEVELOPER LOAN	\$ 650,000										
<b>AFFORDABLE HOUSING ASSISTANCE</b>											
CITY 2ND MORTGAGE	\$ -										
PARADE TOWNHOMES (24 UNITS)	\$ 1,286,000	\$ 54,000 2% at 20%									
UNIVERSITY TOWNHOMES (20 UNITS)	\$ 360,000	\$ 44,000 7% at 20%									
<b>MCHA 2ND MORTGAGE</b>											
PARADE TOWNHOMES (24 UNITS)	\$ 480,000										
UNIVERSITY TOWNHOMES (20 UNITS)	\$ 400,000										
<b>MCHA DOWN PAYMENT ASSISTANCE</b>											
PARADE TOWNHOMES (24 UNITS)	\$ 182,000										
UNIVERSITY TOWNHOMES (20 UNITS)	\$ 182,000										
<b>RELOCATEE ASSISTANCE</b>											
RENT SUBSIDY	\$ -										
ROYAN PLAZA	\$ 750,000										
JANPER PLAZA	\$ 680,000										
<b>GRAND TOTALS</b>	\$ 10,822,748	\$ 2,625,692	\$ 1,050,000	\$ 2,315,067	\$ 712,000	\$ 638,000	\$ 418,000	\$ 418,000	\$ 418,000	\$ 418,000	\$ 379,000
<b>SOURCES</b>											
<b>CITY</b>											
CR20 SECTION 108	\$ 2,823,859	\$ 2,823,859									
SALE PROCEEDS FOR BRADCO BLVD PROPERTY	\$ 1,000,000	\$ 1,000,000									
SALE PROCEEDS FOR MURKIN/SUBLOT PROPERTY	\$ 46,351	\$ 46,351									
CAPITAL FUND	\$ 1,580,000	\$ 1,580,000	\$ 1,001,087								
DEVELOPER PAYMENTS	\$ 465,104	\$ 465,104	\$ 330,000	\$ 33,000	\$ 288,000	\$ 216,000	\$ 216,000	\$ 216,000	\$ 216,000	\$ 216,000	\$ 216,000
GENERAL FUND	\$ 846,145	\$ 846,145	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000	\$ 180,000
<b>TOTAL CITY</b>	\$ 6,820,758	\$ 6,820,758	\$ 2,117,967	\$ 516,000	\$ 468,000	\$ 368,000	\$ 368,000	\$ 368,000	\$ 368,000	\$ 368,000	\$ 368,000
<b>MCHA</b>											
2ND MORTGAGE	\$ 680,000	\$ 680,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000	\$ 140,000
DOWN PAYMENT ASSISTANCE	\$ 352,000	\$ 352,000	\$ 182,000	\$ 182,000	\$ 182,000	\$ 182,000	\$ 182,000	\$ 182,000	\$ 182,000	\$ 182,000	\$ 182,000
<b>TOTAL MCHA</b>	\$ 1,032,000	\$ 1,032,000	\$ 322,000	\$ 322,000	\$ 322,000	\$ 322,000	\$ 322,000	\$ 322,000	\$ 322,000	\$ 322,000	\$ 322,000
<b>GRAND TOTAL</b>	\$ 10,822,748	\$ 10,822,748	\$ 2,625,692	\$ 2,315,067	\$ 712,000	\$ 638,000	\$ 418,000	\$ 418,000	\$ 418,000	\$ 418,000	\$ 379,000

CHART 3



It is recommended that the city capitalize \$200,000 of CDBG allocation for the next 20 years under the HUD Section 108 program. This would immediately raise about \$2.7M. This along with the expected \$1M sale proceeds from the sale of the Bragg Boulevard property would be sufficient to acquire, demolish, and clear the land and relocate tenants in Catalyst Sites 1 and 3, except for the proposed park site on the west side of Murchison Road. In addition these funds will provide for the city's portion of the developer's financing for the shopping centers at Rowan and Jasper. This would allow these projects to start immediately and be completed within the next 2-3 years.

In order to fund the acquisition, demolition, and clearing of the proposed park site on the west side of Murchison Road in Catalyst Site 1, the relocation of existing businesses, and the development of Linear Park West, the consultant recommends allocating \$1.6M of the city's capital fund in the year 2015. Based on discussions with the city manager, there will be about \$6M of capacity in the debt management fund beyond 2014. Development of this park is an appropriate use of these funds; however, this would delay starting this project by about two years unless appropriate adjustments are made in the capital budget for the out-years.

To fund the 2<sup>nd</sup> mortgage and down payment assistance required to reach the goals for the 44 affordable homes in the proposed residential projects, the consultant recommends using a combination of the city's HOME allocation and the North Carolina Housing Finance Agency's affordable housing programs starting in year 2015. The average HOME budget would be about \$250,000 per year for 9 years. The residential development will follow the completion of the shopping centers, and the clearing of the residential development sites.

To fund the proposed rent subsidies for the relocating businesses, the consultant recommends using 2<sup>nd</sup> mortgage loan payments from the developer, and the city's general fund as a last resort funding source. Assuming these developer 2<sup>nd</sup> mortgage payments to the city are deferred for 5 years, they will start in 2018. The general fund cash requirement would be about \$140,000 per year for 7 years starting in year 2013.

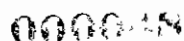
Chart #2 is a list of potential funding sources available to the city for community redevelopment. Below is a brief discussion of the eligibility, applicability, and practicality of each for use in funding the redevelopment of Murchison Road. This is based on the consultant's research and evaluation of eligibility and other program requirements, and discussions with city staff.

**CITY GENERAL FUND:** It is assumed that there is no near term capacity, and therefore it will be considered only in out-years and as a last resort.

**CITY CAPITAL FUND:** Capital Project Funds are used for the acquisition or construction of major capital facilities, improvements, and equipment. Principal resources for these activities include proceeds of general obligation bonds and transfers from other funds. The City has capital project funds for activities such as general government, economic and physical development, public safety, recreation and culture, transportation and bond improvements. Based on discussions with the city manager, there is about \$6M of capacity in the debt management fund for these purposes beyond 2014.

**SALE PROCEEDS FROM THE SALE OF CITY REDEVELOPMENT PROPERTY:**

Presently the city is soliciting prospective developers for the sale of approximately 5.4 acres of city-owned land on Bragg Boulevard for residential development as part of the Northwest Gateway vision. The site is across from the Airborne and Special Operations Museum and the soon-to-be constructed North Carolina Veterans Park.



The Murchison Road corridor south of the MLK Freeway is included in this Northwest Gateway area. The city requires a minimum bid value of \$1,000,000 for the site. The property is offered as is with no warranties expressed or implied as to the existing condition of the property. These potential sale proceeds could be reinvested in the Northwest Gateway redevelopment which includes the southern portion of the Murchison Road Corridor.

**CITY DOWNTOWN LOAN POOL:** The City in partnership with participating banks, has a loan program for new and existing businesses located in the downtown Fayetteville area which for the purpose of the program includes Murchison Road up to Pamalee. These loans can be up to \$300,000 to be used for (1) Buying property for a project which creates or retains jobs; (2) Purchasing, constructing, and rehabilitating commercial buildings and structures; (3) Purchasing equipment and fixtures which are a part of the real estate; and (4) Improving energy conservation. A Loan Committee will use standard underwriting criteria when reviewing applications, including a financial statement. At a minimum, one full-time job must be created for each \$50,000 loaned by the Downtown Loan Program. With respect to the proposed redevelopment projects, these loans could be used by the prospective tenants to up-fit their leased spaces.

**CITY PROPERTY TAX INCENTIVE PROGRAM:** The City's property tax incentive program is meant to provide incentives to qualifying development projects in the City's Economic Development Incentive Zone which includes the Murchison Road corridor south of Pamalee. The primary objective of the program is to induce private investment thereby improving the economic health and diversity of the City and increasing the City's property tax base. Given the difficulty in determining the precise economic impact of a particular development project, the City has chosen to base the amount of the incentive on the increase in the taxable value of the property involved in the project. The taxable value of the property after improvements have taken place will be compared to the taxable value of the property before the improvements were made to determine the increase in the taxable value of the property. In order to be eligible for incentives under this program, a project must have improved the taxable value of the associated property by at least \$500,000.

The program provides incentive payments of 50% of the incremental amount of City taxes paid in each year, payable in annual installments for five years. A project becomes eligible for participation in the program in the year that taxes are paid on a property with a taxable value \$500,000 above the taxable value before the improvement occurred. Chart #4 below illustrates projected payments to the developer of the proposed Jasper Plaza and Rowan Plaza.

<b>CITY PROPERTY TAX INCENTIVE</b>				
		<u>EXISTING</u>	<u>NEW</u>	<u>INCREMENT</u>
<b>ROWAN PLAZA</b>				
TAX VALUE		\$ 222,807	\$ 5,949,446	\$ 5,726,639
	<u>TAX RATE</u>			
CITY	0.456	1,016.00	27,129.47	26,113.47
COUNTY	<u>0.766</u>	<u>1,706.70</u>	<u>45,572.76</u>	<u>43,866.05</u>
TOTAL	1.222	2,722.70	72,702.23	69,979.53
CITY ANNUAL GRANT @ 50%				<b>13,056.74</b>
TOTAL FOR 5 YEARS				<b>65,283.68</b>
<b>JASPER PLAZA</b>				
TAX VALUE		\$ 915,137	\$ 4,732,007	\$ 3,816,870
	<u>TAX RATE</u>			
CITY	0.456	4,173.02	21,577.95	17,404.93
COUNTY	<u>0.766</u>	<u>7,009.95</u>	<u>36,247.17</u>	<u>29,237.22</u>
TOTAL	1.222	11,182.97	57,825.13	46,642.15
CITY ANNUAL GRANT @ 50%				<b>8,702.46</b>
TOTAL FOR 5 YEARS				<b>43,512.32</b>

**CHART 4**

**SPECIAL TAX DISTRICT:** A special tax district such as that established for downtown, would be counter productive at this time because of the very low tax base. Such additional taxes could also be a disincentive for redevelopment. As successful redevelopment takes hold, the local businesses and property owners may wish to consider this approach.

**TAX INCREMENT FINANCING:** Tax increment financing (TIF) is a public finance mechanism by which local governments use bond proceeds to make public improvements that are necessary to spur private investment in a designated area. This new private investment is expected to raise property values within the designated area, which, in turn, increases property tax revenue. The increased tax revenue or "increment" is set aside to amortize the bonds that were used to pay for the public improvements. TIF funds may be used only for projects that enable, facilitate, or benefit private development within the development financing district, the revenue increment of which is pledged as security for the debt instruments. These investments could include anything from minor infrastructure improvements such as sidewalks and sewers to major land acquisitions.

In order to determine if TIF is appropriate for a particular project, it helps to understand how it compares to other types of financing that a local government might consider. With statutory TIF, a local government borrows money up-front to pay for the public improvements needed for a development project and pledges incremental tax revenues to repay the debt. One obvious alternative way to finance certain public improvements that are needed to attract private investment is to use general obligation bonds. G.O. bonds can be used for most any type of capital improvement in support of economic development including site acquisition, shell buildings, and industrial parks. Since G.O. bonds are backed by a local government's full faith and credit taxing power, they will likely be a less costly form of financing than TIF. A key difference between G.O. bonds and TIF is that G.O. bonds must be approved by voter referendum. TIF is more appropriate when specific private investment is imminent and contingent on a public improvement being made up-front.

Another alternative to TIF is to have the private developer pay all up-front development costs and be paid a cash grant to cover certain costs based on the amount of tax revenue generated by the project. A more common "synthetic" TIF scenario in North Carolina occurs when a local government does an installment financing with certificates of participation (COP's), to finance or purchase the public portion of the project. In this case, the debt is secured by the real property or asset being financed and repaid based on projected incremental tax revenues.

As of June 2008, only three TIF projects had received formal approval from the state's Local Government Commission (LGC). The first involves a \$21.5 million investment in the Carolina Crossroads Music and Entertainment District in Roanoke Rapids (population 16,505). The second is a \$25 million investment in roadways, parking, and other public utilities related to the development of the new town center in Woodfin, near Asheville. The third approved project to date is in the Kannapolis area, where the city of Kannapolis and Cabarrus County have been working together on a \$168 million public finance deal to provide infrastructure for the North Carolina Research Campus being developed by billionaire David Murdock. One major TIF proposal involves the North Hills development in Raleigh. In July 2006, developer John Kane asked the City of Raleigh for a \$75 million TIF package to support his North Hills development plan.

When the North Carolina TIF legislation was passed in 2003, there were great expectations. Although municipalities in other states frequently use TIF, only three in North Carolina have taken advantage of the legislation. Among the deterrents most commonly mentioned by municipalities are the complexity of the TIF adoption process, the lack of large and appropriate projects, the current negative perceptions of TIF, the lack of familiarity with TIF, and the need for county collaboration for TIF adoption. Each deterrent presents an opportunity for state and local officials to consider when evaluating the limited use of TIF in North Carolina. In addition to these deterrents, the availability of lower cost financing methods such as the "synthetic TIF" using general obligation bonds and installment financing with Certificates of Participation (COP's) provide a more cost effective alternative.



With respect to the Murchison Road redevelopment, Chart #5 shows the potential funds that could be raised using a TIF approach. Because of the relative small size of the project a “synthetic TIF” appears to be more appropriate. It should also be noted that without the county participation, only about \$540,000 could be raised.

<b>TAX INCREMENT FINANCING ANALYSIS</b>						
	<b>ROWAN PLAZA</b>			<b>JASPER PLAZA</b>		
	<u>EXISTING</u>	<u>NEW</u>	<u>INCREMENT</u>	<u>EXISTING</u>	<u>NEW</u>	<u>INCREMENT</u>
<b>TOTAL INVESTMENT</b>	\$ 11,819,397	\$ 222,807	\$ 5,949,446	\$ 915,137	\$ 4,732,007	
	<b>TAX RATE</b>					
CITY	0.456	1,016.00	27,129.47	26,113.47	4,173.02	21,577.95
COUNTY	0.766	1,706.70	45,572.76	43,866.05	7,009.95	36,247.17
<b>TOTAL</b>	1.222	2,722.70	72,702.23	69,979.53	11,182.97	57,825.13
<b>CAPITALIZE</b>	CITY ONLY @ 20 YEARS/5%		\$325,431.60			\$216,903.88
	CITY & COUNTY @ 20 YEARS/5%		\$872,099.80			\$581,264.30
<b>CHART 5</b>						

**HUD CDBG SECTION 108 LOAN GUARANTEE:** The city is an entitlement entity for the federal Community Development Block Grant (CDBG) program. As such it presently receives \$1,447,994 as an annual allocation which may be used for community and economic development purposes. Section 108 is the loan guarantee provision of the Community Development Block Grant (CDBG) program. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. This makes it one of the most potent and important public investment tools that HUD offers to local governments. It allows them to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects that can renew entire neighborhoods. Section 108 loans are not risk-free, however. Local governments borrowing funds guaranteed by Section 108 must

pledge their current and future CDBG allocations to cover the loan amount as security for the loan.

Activities eligible for Section 108 financing include: (1) economic development activities eligible under CDBG; (2) acquisition of real property; (3) rehabilitation of publicly owned real property; (4) housing rehabilitation eligible under CDBG; (5) construction, reconstruction, or installation of public facilities (including street, sidewalk, and other site improvements); (6) related relocation, clearance, and site improvements; (7) payment of interest on the guaranteed loan and issuance costs of public offerings; and (8) debt service reserves. For purposes of determining eligibility, the CDBG rules and requirements apply. As with the CDBG program, all projects and activities must either principally benefit low- and moderate-income persons, aid in the elimination or prevention of slums and blight, or meet urgent needs of the community.

An entitlement public entity such as Fayetteville, may apply for up to five times the public entity's latest approved CDBG entitlement amount, minus any outstanding Section 108 commitments and/or principal balances of Section 108 loans. The principal security for the loan guarantee is a pledge by the applicant public entity of its current and future CDBG funds. The maximum repayment period for a Section 108 loan is twenty years. HUD has the ability to structure the principal amortization to match the needs of the project and borrower. Interest rates on interim borrowing are priced at the 3 month London Interbank Offered (LIBO) rate plus 20 basis points (0.2%). Permanent financing is pegged to yields on U.S. Treasury obligations of similar maturity to the principal amount. A small additional basis point spread, depending on maturity, will be added to the Treasury yield to determine the actual rate.

Chart #6 below illustrates the amount of capital that could be raised by the city through this program by committing \$150,000 to \$200,000 of its annual allocation.

## CDBG SECTION 108 LOAN

<b>ANNUAL CDBG GRANT</b>					\$ 1,447,994
<b>MAXIMUM OUTSTANDING LOAN</b>		5X			\$ 7,239,970
<b>2009 LOAN</b>					\$ 750,000
<b>REMAINING CAPACITY</b>					\$ 6,489,970
<b>CAPITALIZE</b>	\$150,000/YEAR	@ 20YRS	3.80%	YIELD	<b>\$ 2,075,132</b>
	\$200,000/YEAR	@ 20YRS	3.80%	YIELD	<b>\$ 2,766,843</b>

**CHART 6**

**HUD HOME PROGRAM:** HOME is the largest Federal block grant to State and local governments designed exclusively to create affordable housing for low-income households. HOME funds are awarded annually as formula grants to participating jurisdictions. The program's flexibility allows States and local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancement, or rental assistance or security deposits. This fiscal year the City of Fayetteville received \$889,000 as its allocation. This annual allocation should increase shortly as a result of recent annexations.

The eligibility of households for HOME assistance varies with the nature of the funded activity. For rental housing and rental assistance, at least 90 percent of benefiting families must have incomes that are no more than 60 percent of the HUD-adjusted median family income for the area. In rental projects with five or more assisted units, at least 20% of the units must be occupied by families with incomes that do not exceed 50% of the HUD-adjusted median. The incomes of households receiving HUD assistance must not exceed 80 percent of the area median.

Participating jurisdictions may choose among a broad range of eligible activities, using HOME funds to provide home purchase or rehabilitation financing assistance to eligible homeowners and new homebuyers; build or rehabilitate housing for rent or ownership; or for "other reasonable and necessary expenses related to the development of non-luxury housing," including site acquisition or improvement, demolition of dilapidated housing to make way for HOME-assisted development, and payment of relocation expenses. The City's Consolidated Plan provides the details on its planned use of its allocation which includes any proposed use for Murchison Road redevelopment. With respect to the Murchison Road corridor plan, these funds could be used to provide the subsidies required to satisfy the affordability goals of the proposed residential projects.

**THE NORTH CAROLINA HOUSING FINANCE AGENCY (NCHFA) SECOND**

**MORTGAGE PROGRAM:** The home buyer may be able to qualify for assistance through selected nonprofit or government agencies that offer deferred second mortgage loans of up to \$25,000 for the purchase of their newly constructed homes. The funds are available to eligible home buyers who work through local agencies under the North Carolina Housing Finance Agency's New Homes Loan Program. The second mortgage is targeted to home buyers with income below 80% Area Median Income. The maximum second mortgage amount is \$25,000 per unit, or 20% of sales price, whichever is less. The minimum loan amount is \$5,000 per unit. With respect to the Murchison Road corridor plan, these funds could be used to provide the subsidies required to satisfy the affordability goals of the proposed residential projects.

**THE NORTH CAROLINA HOUSING FINANCE AGENCY (NCHFA) DOWN**

**PAYMENT ASSISTANCE PROGRAM:** Home buyers who need help with the down payment and closing costs may qualify for interest-free, deferred second mortgages up to \$8,000. The home buyer pays \$1,000 from their own funds, and the loan pays up to \$8,000 of the balance. Payment on the principal isn't due until 30 years from the date of the loan. Payment is due earlier if the home is sold, transferred, or refinanced; if the loan goes into default; or if the home ceases to be the principal residence of the home buyer. To qualify for down payment assistance, the home buyer income can not be greater than 80% of the area median income, and the home's sales price must fall within HUD HOME limits. With respect to the Murchison Road corridor plan, these funds could be used to provide the subsidies required to satisfy the affordability goals of the proposed residential projects.

# CITY COUNCIL ACTION MEMO

**To:** Dale Iman, City Manager  
**From:** Victor D. Sharpe, Community Development Director  
**Date:** September 8, 2009  
**Re:** Downtown Development Update

**THE QUESTION:** What is the latest information regarding Downtown Development?

**RELATIONSHIP TO STRATEGIC PLAN:** Revitalized Downtown – A Community Focal Point, Greater Tax Base Diversity – Strong Local Economy and More Attractive City Clean and Beautiful.

**BACKGROUND:**

- Jami Sheppard, Downtown Development Manager will present an update on activities related to downtown development.
- Ms. Sheppard is involved in various downtown development activities such as:
- Compiling new properties for sale/rent and coordinating with Fayetteville Cumberland County Chamber of Commerce to help market to potential business owners.
- Creation of a database of downtown properties including building permit and license reports in order to better track the progress and activity in the district.
- Creation of a tracking report for occupancy in the district.
- Coordination of the improvement of downtown problem spots with City departments including Police, Inspections, Parks and Recreation and Maintenance.
- Building an inventory of downtown projects to coordinate quarterly updates.
- Creating an information piece to give to residents/merchants on downtown city services.
- Working with downtown merchants and project leads to help keep open communication for numerous construction projects in the district.
- Working with Parks and Recreation to schedule a more thorough cleaning of the brick sidewalks downtown – working on an information piece for residents/merchants for when this is scheduled.
- The City continues its investment in the revitalization of downtown through the various projects that it currently has underway.

**ISSUES:**

None

**OPTIONS:**

Receive as information.

**RECOMMENDATIONS:**

None – provided as an update.

**ATTACHMENTS:**

None

# CITY COUNCIL ACTION MEMO

**To:** Mayor & Members of Council

**From:** Karen Hilton, Assistant Planning Director



**Date:** September 8, 2009

**Re:** Consider establishing a taskforce regarding early childhood development as part of the process for developing daycare regulations

**THE QUESTION:** Whether to approve the recommendation from the Planning Commission to establish a taskforce regarding early childhood education and care as part of the process for developing daycare regulations.

**RELATIONSHIP TO STRATEGIC PLAN:** Partnership of Citizens

**BACKGROUND:**

The City Council on June 1<sup>st</sup> referred the proposed daycare regulations to the Planning Commission. The Planning Commission at their meeting on July 21<sup>st</sup> held a public comment session. Representatives from children agencies, state agencies, and daycare providers suggested the City establish an early childhood development taskforce in order to thoroughly examine the needs and requirements associated with daycares. The Planning Commission agreed with the representatives present at the July 21<sup>st</sup> meeting. The Planning Commission is coming forward with this recommendation to City Council.

**ISSUES:**

Currently, the rules and guidelines for daycare special use permits are vague. The Planning Commission feels that a taskforce involving individuals from agencies who specialize in child care services as well as daycare providers will offer solutions that will assist the City in developing rules and guidelines for daycares. To help the City establish such a taskforce, the Partnership for Children has identified 15 agencies or stakeholder groups (see attachment) and three broad objectives for the Task Force:

- align terminology and regulations among local, county and state agencies;
- recommend zoning standards that contribute to safe and quality care;
- recommend policies and strategies that improve and support the continued development of a system of high-quality early care and education.

The work described by the Partnership would help City Council determine whether a daycare special use permit application is appropriate for a particular site. The work would have a much broader scope, however, and as an ad hoc Council-appointed body, it would need staff and public meeting support. The broad scope and complexity of coordinating standards across different governmental levels suggests at least a 9-month timetable.

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**OPTIONS:**

1. Establish an Ad Hoc early childhood taskforce to assist in the development of daycare regulations (requires staff and meeting support), using the guidelines and three major objectives as suggested by the Partnership for Children of Cumberland County, with a reporting deadline of 270 days;
2. Establish a limited scope Ad Hoc taskforce to recommend zoning standards and approval criteria for day care facilities within neighborhoods, with a reporting deadline of 120 days;
3. Reject the idea of a City Council-established taskforce and request the Planning Commission to recommend revised zoning regulations for daycares as previously outlined.

No option precludes a task force initiative by the Partnership or other body, with participation by relevant City staff and subsequent Code amendments to incorporate final recommendations.

**RECOMMENDATIONS:**

Planning Commission recommends the establishment of a taskforce; Option 2 outlined above meets this recommendation and focused scope.

**ATTACHMENT:** Taskforce proposal from the Partnership for Children of Cumberland County



## **Recommendation for a City of Fayetteville Early Education Task Force**

On June 1, 2009, Fayetteville City Council met to discuss proposed changes to childcare regulations for the city, presented by Mr. Jimmy Teal, Director of the Planning Department. The first proposed change was to consider allowing an employee for in-home childcares who do not reside in the home. The second proposed change was to revise the existing childcare standards and place specific restrictions for daycares approved through the special use permit process.

At the June 1st work session, members of Council also directed Mr. Teal to explore several issues pertaining to childcare facilities ranging from safety to zoning concerns. Mr. Teal advised council that both proposed changes would be heard by the City Planning Commission on July 21, 2009.

On July 21, 2009 the Planning Commission met and heard from representatives of the North Carolina Division of Child Development, the Partnership for Children of Cumberland County and early care and education professionals in the community on the proposed changes to the city's daycare ordinance. On the first issue of allowing a non-related employee for in home daycare providers, the Fayetteville Planning Commission made a motion to proceed to public hearing. After reviewing recommendations from the Planning Department on revising the special use permit and hearing from members of the early care and education industry, the Fayetteville Planning Commission made a recommendation through formal motion that the Fayetteville City Council assign an Early Care and Education Task Force to take up this issue.

The ECE Task Force would make comprehensive early care and education policy recommendations to council which address issues of quality, safety, compliance and availability of this vital service to Fayetteville residents. The intention of the task force would be to develop strategies which could be easily incorporated into existing city services.

### **The Early Care and Education Task Force shall**

Develop, for recommendation to city council a comprehensive plan for aligning relevant city terminology and regulations with those currently enforced through existing local, county and state regulatory agencies.

Develop, for recommendation to city council, strategies for the early care and education industry to continually improve the quality of their services for young children and fully comply with existing state, county and city standards and zoning for safety and quality care.

Develop, for recommendation to city council policies that contribute to the continued development of a system of high-quality early care and education for Fayetteville's children to support the future economic growth of Cumberland County.

### **Recommended Appointments for the Early Education Task Force:**

The Partnership for Children will work with the Mayor and City Council to facilitate coordination of the ECE Task Force which would be made up of subject matter experts, city staff and early care and education professionals.

**Task Force Membership Recommendations**

NC Division of Child Development

Relevant Staff from the Partnership for Children

Childcare Home Provider

Childcare Center Owner/Director (Large)

Childcare Center Owner/Director (Small)

Representative from the City Planning Commission

Fayetteville Planning Department Staff

Parent Representative

Cumberland County Department of Social Services

Fort Bragg/Pope AFB Representative

Fayetteville City Health Department

Fayetteville Fire Code Inspections

City Attorney's Office

Cumberland County Government Representative

Other Interested towns and municipalities surrounding Fayetteville

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Michael Gibson, Parks, Recreation & Maintenance Director  
**DATE:** September 8, 2009  
**RE:** **PARKS & RECREATION-UPDATE ON COST TO MAINTAIN MANN STREET CEMETERY**

**THE QUESTION:**

Should the City maintain the Mann Street Cemetery also known as Second Baptist Church Cemetery?

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal 2 - More Attractive City - Clean and Beautiful; Objective 3 - Cleaner community with less trash and less visual blight.

**BACKGROUND:**

- A request was submitted by Council Member Charles Evans at the August 3, 2009 Council Work Session to maintain the Mann Street Cemetery by the City Parks & Recreation Department.
- The Parks & Recreation Department was asked to submit cost analysis and ownership information (see attachment).
- The City Real Estate Department researched ownership and total acreage of the cemetery. The cemetery bounded by Mann and Wright Streets consists of 3.95 acres with five owners. The City owns two parcels; 0.24 acres acquired on August 26, 2005 from Fayetteville Redevelopment Commission. The lot has no tax-appraised value due to its exempt cemetery status. Property managed by Community Development. An additional 0.69 acres was acquired on October 10, 1975 from Fayetteville Redevelopment Commission. The 2009 tax-appraised value is \$16,500 with the property being managed by Community Development. The recorded plat shows the City acquired the property based on the need of obtaining storm water easement. Other owners are the Pettifoot Graveyard - 0.38 acres; Lillie Brewington Heirs – 2.30 acres; Second Street Baptist Church – 0.25 acres; Mae M. Reamer (landlocked parcel) - 0.09 acres.
- Based on attached documentation, on July 23, 1997 a letter was sent to Rev. E. H. Bain, Chairperson of the Wilmington Road Improvement Group from the former Recreation/Community Facilities Department explaining the process on how a privately-owned cemetery could be maintained by the City.
- On October 29, 1997, a request was submitted to the City of Fayetteville Community Development from the Wilmington Road Improvement Group c/o Second Baptist Church requesting \$1,000 in the aid of cleaning the cemetery.

- On November 5, 1998 the City received a request from the Wilmington Road Improvement Group to turn the Second Baptist Cemetery over to the City to be maintained by the City Parks & Recreation Department. The Wilmington Road Improvement Group indicated the cemetery was not affiliated with the Second Baptist Church.
- On February 9, 1999, a letter was submitted to the former City Manager Roger Stancil from the former Recreation/Community Facilities' Director Robert Barefoot recommending that the City not accept maintenance of a privately-owned cemetery due to limited resources, budget constraints and setting a precedent to accept other privately-owned cemeteries throughout the City.
- The Parks & Recreation Department currently maintains nine cemeteries for a total of 99 acres with two full-time staff and 3 temporary seasonal workers at 28 weeks per year.
- The Parks & Recreation Department proposes the cost to maintain the entire Mann Street Cemetery would incur an additional amount of \$53,347 for one full-time maintenance worker and two temporary seasonal workers. Equipment costs would be \$52,000 for a zero turn mower, a pickup truck, a landscape trailer, weed eaters, blowers and edgers. The Parks & Recreation Department currently maintains only the City-owned parcels within the Mann Street cemetery.

**ISSUES:**

- The Parks & Recreation Department would incur an FY2010 unbudgeted amount of \$105,347 to maintain the Mann Street Cemetery.
- The City would set a precedent to accept, maintain or manage other privately-owned cemeteries throughout the City.
- Potential to spend approximately \$212,436 to manage at least five (5) abandoned cemeteries within the City.
- The City has not had an opportunity to survey potentially abandoned cemeteries in the annexation area.

**OPTIONS:**

- Accept Council Member Evans' request for the City Parks & Recreation Department to maintain and/or manage the entire Mann Street Cemetery.
- Amend the budget to include funding for maintenance.
- If the Mayor and City Council desires, decline the request to maintain the Mann Street Cemetery.

**RECOMMENDED ACTION:**

The Parks and Recreation Department recommends only maintaining the City's parcels in the Mann Street Cemetery in order to not set a precedent for maintaining other privately-owned cemeteries throughout the City. The Parks & Recreation Department bases this recommendation on the fact that the Second Baptist Church is a viable organization that has some ownership in the Mann Street cemetery.

**ATTACHMENTS:**

Mann Cemetery Backup for CAM

City of Fayetteville

Parks and Recreation  
Cemetery Division

City Maintained Cemeteries

<u>Cemetery</u>	<u>Acreage</u>
Cross Creek 1	8.58
Cross Creek 2	9.90
Cross Creek 3, Cross Creek New 3, Cross Creek 4, Cross Creek 5	39.31
Elmwood	5.50
King Street	0.31
Mims	2.50
Northside	<u>32.90</u>
<b>Total Acreage</b>	<b>99.00</b>

Current Staffing

1 – Crew Supervisor	\$51,677
1 – Equipment Operator 1	43,345
1 – Maintenance Worker	32,832
3 – Seasonals at 28 Weeks	<u>32,894</u>
<b>Total Salaries</b>	<b>\$160,748</b>

Cost to Maintain Mann Cemetery

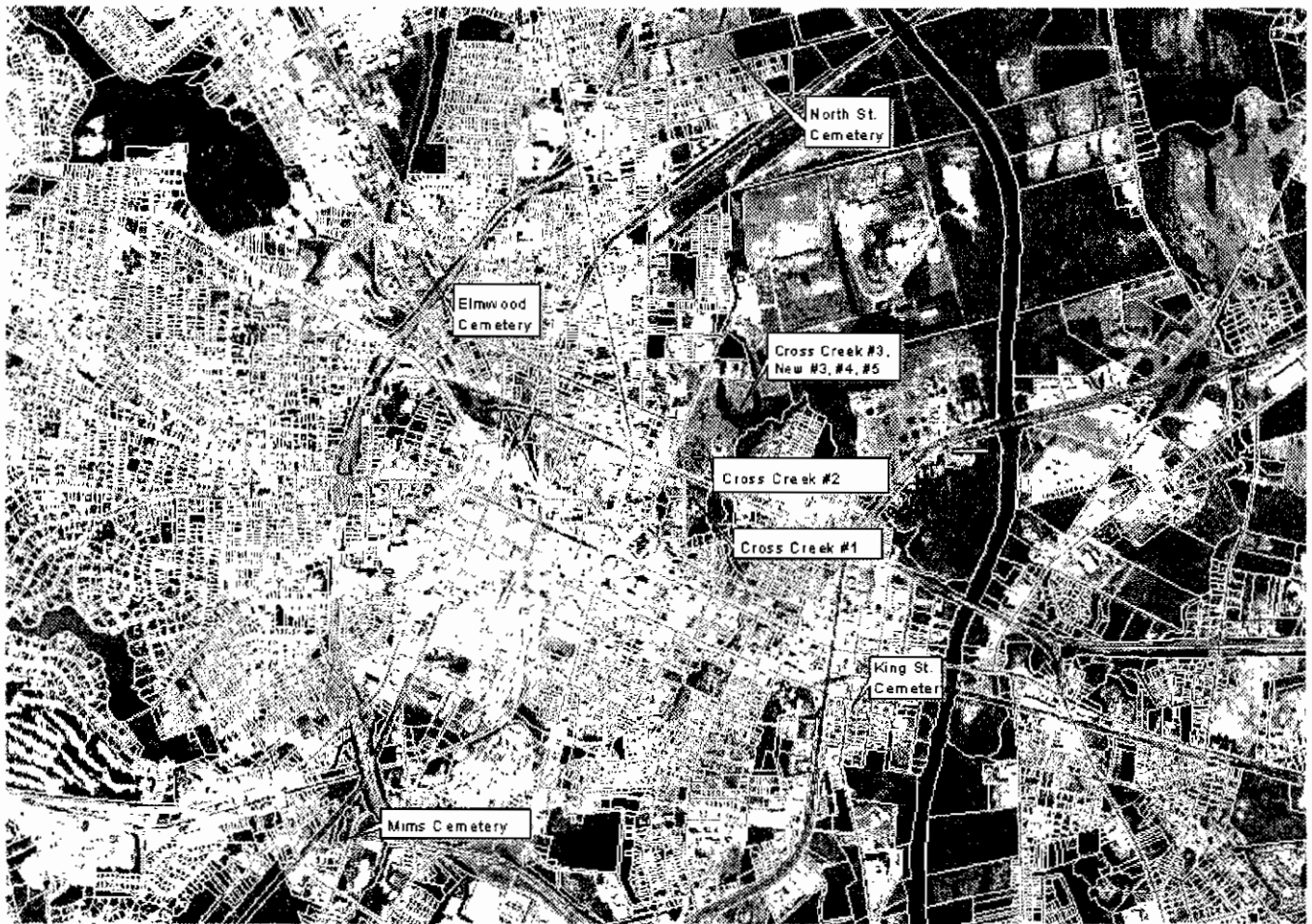
Additional Staffing

1 – Equipment Operator 1	\$33,159
2 – Seasonal Staff at 28 Weeks	<u>21,930</u>
<b>Total Salaries</b>	<b>\$55,089</b>

Equipment

1 – Zero Turn Mower (1X cost)	\$12,000
1 – Pickup Truck F350	29,000
1 - Landscape Trailer – 16ft	5,000
Small engines (i.e. weed eaters, blowers, edgers)	<u>6,000</u>
<b>Total Equipment</b>	<b>\$52,000</b>

**Total Maintenance Cost** **\$107,089**



**Parks & Grounds  
Maintenance Levels**

**Level 1**

High-level maintenance. Associated with-developed public areas, malls, government grounds or college/university campuses. Recommended level for most organizations.

**Turf Care** – Grass cut once every five working days and ball fields 3 times a week. Aeration as required but not less than two times per year. Reseeding or sodding when bare spots are present. Weed control practiced when weeds present visible problem or when weeds represent 5 percent of the turf surface. Pre-emergent or post-emergent products shall be used at this level.

**Fertilizer** – Adequate fertilizer level to ensure that all plant materials are healthy and growing vigorously. Amounts depend on species, length or growing season, soils, and rainfall. Rates shall correspond to at least the lowest recommended rates. Distribution will ensure an even supply of nutrients for the entire year. Nitrogen, phosphorus and potassium percentages should follow local recommendations. Trees, shrubs and flowers shall receive fertilizer levels to ensure optimum growth.

**Irrigation** – Sprinkler irrigated-electric automatic commonly used. Frequency of use follows rainfall, temperature, season length and demands of plant material. Systems shall be up and pruning by end of April.

**Litter Control** – Minimum of once per day, five days per week. Off-site movement of trash depends on size of containers and use by the public. **Heavy use will dictate daily or more frequent cleaning.**

**Pruning** – Usually done at least once per season unless species planted dictate more frequent attention. Sculpted hedges or high growth species will require a more frequent requirement than most trees and shrubs in natural-growth plantings.

**Disease and Insect Control** – At this maintenance level, the controlling objective is to maintain healthy plant material and turf and avoid public awareness of any problems. It is anticipated at Level 1 that problems will either be prevented or observed at a very early stage and corrected immediately. Usually done when disease or insects are inflicting noticeable damage, is reducing vigor to plant material, or could be considered a bother to the public. Some preventive measures may be used, such as systemic chemical treatments. Cultural prevention of disease problems or Integrated Pest Management practices can reduce time spent in this category. Some minor problems may be tolerated at this level.

**Surfaces** – Sweeping, cleaning and washing of surfaces should be done so that at no time does an accumulation of sand, dirt or leaves distract from the looks or safety of the area. Surfaces should be cleaned, repaired, repainted or replaced when their appearance have noticeably deteriorated.

**Repairs** – Repairs to all elements of the design should be done immediately when problems are discovered, provided replacement parts and technicians are available to accomplish the job. When disruption to the public might be major and the repair is not critical, repairs may be post-poned to a time period that is least disruptive. Repairs should be done whenever safety, function, or appearance is in question.

**Soil Testing** – Soil Tests required once per year in November-January verticut/dethatch – (need standards here). Fire ant treatment - ?

**Inspection** – Inspections shall be conducted by supervision at least once a week when regular staff is not scheduled. Qualitative results shall be recorded and reviewed over a three-year period for indication of improvement.

**Floral Plantings** – Normally, no more complex than two installations per site per year. Care cycle is once per week, but watering shall be more frequent during periods of excessive heat or drought conditions. Health and vigor dictate cycle of fertilization and disease control. Beds are essentially kept weed free.

## **Level 2**

Moderate-level maintenance. Associated with locations that have moderated to low levels of development or visitation; or with operations that, because of budget restrictions, cannot afford a higher level of maintenance.

**Turf Care** – Grass cut once every ten working days. Normally not aerated unless turf quality indicates a need or an anticipation of an application of fertilizer. Reseeding or resodding done only when major bare spots appear. Weed control measures shall be taken when 50 percent of small areas are weed infested or when 15 percent of the general turf is infested with weeds.

**Fertilizer** – Fertilizer is applied only when turf vigor seems to be low. Low-level application done once per year. Rate suggested is one-half the level recommended.

**Irrigation** – Irrigation is dependent on climate soils and plant material. Locations that receive more than 25 inches of rainfall a year usually rely on natural rainfall with the possible addition of portable irrigation during periods of drought. Dry climates that receive less than 25 inches of rainfall shall have some form of supplemental irrigation. When irrigation is automatic, a demand schedule is programmed. Where manual servicing is required, the norm will be two to three times per week. Systems shall be running by April.

**Litter Control** – Minimum service of two to three times per week. High use will dictate higher levels during the warm season.

**Pruning** – Pruning will be done at least once per season unless species planted dictate more frequent attention. Sculpted hedges or high growth species may dictate more frequent requirement than most trees and shrubs in natural-growth plantings.

**Disease and Insect Control** – Pesticides will be applied when disease or insects are inflicting noticeable damages, are reducing vigor to plant material or considered a



bother to the public. Preventive measures will be used, such as systemic chemical treatments. Cultural prevention of disease problems can reduce time spent in this category. Some minor problems may be tolerated at this level.

**Surfaces** – Sweeping, cleaning and washing of surfaces shall be done so that at no time does an accumulation of sand, dirt or leaves distract from the looks or safety of the area. Surfaces should be cleaned, repaired, repainted or replaced when their appearance have noticeably deteriorated.

**Repairs** – Will be done whenever safety, function or appearance is in question.

**Inspections** – Inspections will be conducted by supervision at least once a week when regular staff is not scheduled. Qualitative results shall be recorded and reviewed over a three-year period for indication of improvement.

**Floral Plantings** – Normally, no more complex than two installations per site per year. Care cycle is once per week, but watering may be more frequent depending upon soil and drought conditions. Health and vigor dictate cycle of fertilization and disease control. Beds are essentially kept weed free.

Copy



July 23, 1997

Rev. E. H. Bain  
937 Lark Drive  
Fayetteville, NC

Dear Rev. Bain,

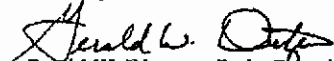
In response to your request to obtain information on how a privately owned cemetery could be maintained by the city, I am forwarding the following:

According to the City Attorney's office, North Carolina General Statute number 160A-346 would allow the City to acquire an easement for perpetual care of a cemetery. Based on the statute, the owner(s) of the cemetery would execute the easement for perpetual care if the city was agreeable.

To proceed with the request, the owner's representative will need to contact the city manager's office to be placed on a regular city council agenda. The owner's representative would then appear before the city council on the scheduled date and state the request for the city to assume the maintenance of the cemetery. The council may request staff to estimate the impact on existing resources and/or determine if additional resources would be needed to maintain the cemetery.

If you have any further questions please call me at 433-1556.

Sincerely,

  
Gerald W. Dietzen, Parks Superintendent

433 HAY STREET  
FAYETTEVILLE, NC 28301-3537  
(910) 433-1547  
FAX (910) 433-1762  
An Equal Opportunity, Affirmative Action Employer 0068

## Wilmington Road Improvement Group

c/o Second Baptist Church  
522 Wilmington Road  
Fayetteville, N.C. 28301

October 29, 1997

Mr. Ben Brown  
Assistant City Manager/Interim NSO Director  
Fayetteville Community Development  
433 Hay Street  
Fayetteville, North Carolina 28301

Dear Mr. Brown:

Our organization has selected a committee made up of some of our members and relatives of people buried in Second Baptist Cemetery.

Through the years this cemetery has fallen into decay and has become a very neglected place. Trees and dense under-growth has covered three fourth of the cemetery. It has become a neighborhood eye-sore. So much so, if any of the decedents wish to bury a relative there, a path must first be cut in order to get to the burial plot.

This was once a beautiful cemetery. Some of Fayetteville's most prominent Black Citizens are buried there. Among them are:

1. Robert Simmons, one of the founders of Fayetteville State University
2. Edna Fuller, Founder of Fuller School for Exceptional Children
3. Mr. William McKay and wife, one of the eight families that began St. Ann Catholic Church. The first church for Black Catholics in Fayetteville
4. Rowena Westbrook, a member of the famous Hampton Choir, that traveled all over the world.
5. Rev. Charles E. Perry, an educator and entrepreneur who served on the old site church from 1933 until 1966. He moved the church to its present location. He was the previous owner of Principum Rest Home and the founder of the Principum Church. A school in Roseboro is named in his honor.
6. Rev. Henry Adams, founded Second Baptist Church in 1886.

7. George Billops, Bishop of the Wilmington Baptist District.
8. Robbis Ann Wright, early member of Evans AMEZ Church (Already on Registry).
9. The sight where the first church stood in the early 1900's.
10. The Mother and Father (Charlie and Emmaline Williams) one of Southside Elementary School early 1900's school teacher, Joanna Williams, also one of Fayetteville's first black Pharmacist, Dr. James Williams.

*13. Buffalo Soldier*

We have contracted with a tree and stump removal service to clean the cemetery of all debris, stumps, trees etc. for \$2000.00 We have contacted and met with members of about forty families with relatives buried there. We are asking each family to give \$50.00 toward this clean-up effort. We will of course need additional help. We are asking the Fayetteville Community Development for \$1,000.00 to aid in the process.

We would like for you to advise us of the necessary steps that must be taken to declare this cemetery as part of the Registry of Historic Sites for Fayetteville.

Thank you for any consideration given this matter.

Sincerely,

Rev. E.H. Bain, Chairperson

Eugenia Evans Johnson, Secretary

Christina Smith, President  
Wilmington Road Improvement Group

## Wilmington Road Improvement Group

c/o Second Baptist Church  
522 Wilmington Road  
Fayetteville, N.C. 28301

Second Baptist Cemetery Committee  
c/o Eugenia Evans Johnson  
1214 Coley Drive  
Fayetteville, NC 28301

October 29, 1997

Greetings Friend:

Your help is needed for the beautification of the Second Baptist Cemetery. The trees, shrubby and all manner of debris has overgrown to the point where major clean-up is needed.

This property does not belong to the Second Baptist Church although one would think so considering it's name. This was and is a privately owned cemetery. Each family with a loved one buried in the cemetery is asked to contribute \$50.00 to assist in payment for the contractor to clean the cemetery. The total cost of this work will be \$2,000.00. If you cannot make the entire amount of \$50.00, please make a sacrifice of as much as you possibly can. However, if you will contact all family members I'm sure \$50.00 could be easily given. The lack of money will hinder the clean-up process. Please respond on or before December 1, 1997.

Thank you in advance for your consideration concerning the clean-up. We will keep you informed on all events and future projects concerning the clean-up.

God Bless You!

Sincerely yours,

Rev. E.H. Bain, Chairperson

Sis. Eugenia E. Johnson, Secretary  
(910) 677-0161



**KEEP NORTH CAROLINA  
CLEAN & BEAUTIFUL, INC.**

September 17, 1998

Ms. Christina Smith  
Second Baptist Church, Wilmington Rd Imp Grp  
412 Wilmington Rd  
Fayetteville, NC 28301

CHAIRMAN  
MRS. DAN K. MOORE

IMMEDIATE CHAIRMAN  
HON. JAMES B. HUNT JR.

MANAGING DIRECTOR  
JANE C. ROGERS

TERMINOLOGY CHIEF  
RUSSELL L. RUBE

BOARD OF DIRECTORS  
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PRESIDENT  
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RALEIGH

SECRETARY  
PATRICIA G. BRINKLEY  
ASHEVILLE

TREASURER  
SARA R. BROOKS  
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EX-OFFICIO DIRECTORS  
HON. BOB ENTERBROOK  
LEXINGTON & WASHINGTON, DC

BOB TIMBERLAKE  
LEXINGTON

HON. MICHAEL E. WARD  
RALEIGH

HONORARY LIFE MEMBERS  
JAMES B. COVANN  
RALEIGH

MRS. THOMAS RUSSELL  
CHARLOTTE

SAM WINTERBURN  
CARY

Dear Ms. Smith:

Congratulations! Your non-profit is one of the 1998 recipients of plants from the Azalea Celebration sponsored by Keep North Carolina Clean & Beautiful, Inc. and WRAL. Please pick up your azaleas on Saturday, October 10 at the WRAL Transmitter Site Park on TV Tower Road off Highway 70 East between Raleigh and Clayton. A map is enclosed for your convenience.

Remember these details:

Your Pickup Number:	101
Your Pickup Time:	11:45 am
Your Quantity:	100 Azaleas

Approximately 170 groups will be picking up plants at assigned times so please arrive at the special time that has been reserved just for you. This is the only date and time for your specific pick-up. Stop at the Transmitter Tower Building to register before picking up your plants. For those of you who reserved Azalea Celebration t-shirts, these will be available at registration.

To pick up your plants, you must

1. complete and return the enclosed Confirmation Form by October 10, 1998.
2. present this Notification Letter on October 10 for the release of the azaleas. If you send someone else to pick up your plants, give them a copy of this letter to bring with them.

Some nonprofit groups will not receive the total number and/or varieties which they have requested due to availability, but we try to fill your request. It is very important for you to let us know of your intention to pick up or not to pick up the azaleas for your group so that we can plan for an orderly Awards Day for everyone.

Our staff will load the plants into your vehicle. Please bring a protective cover for the plants. We estimate that 100 plants in 1-gallon containers will fit into a standard pick-up truck or large van. If you have any questions, call KNCCB at 919-787-1693 before pickup day. The office will be closed on October 10.

Enclosed is a copy of a press release to use with your local media to tell your story about your award. Simply fill in the blanks, and give the release to your local newspaper or television station. We will make a Polaroid of your pick-up as a memento. You may bring your camera to take photos as well. Also enclosed is a flyer that describes other KNCCB programs in which your non-profit could participate.

Best wishes on your award! We look forward to seeing you October 10 in Raleigh.

Sincerely,

  
Jane C. Rogers, Project Manager  
Azalea Celebration

  
Ben Waters, Vice President  
Capitol Broadcasting Company

Enclosures

POST OFFICE BOX 12943 • RALEIGH, NC 27605-2943 • 919-787-1693 • FAX 919-783-7197

C. Sm. Wh

## Wilmington Road Improvement Group

c/o Second Baptist Church  
522 Wilmington Road  
Fayetteville, N.C. 28301

Second Baptist Cemetery Committee  
c/o Eugenia Evans-Johnson  
1214 Coley Drive  
Fayetteville, North Carolina 28301

November 5, 1998

Mr. Roger Stancil, City Manager  
The City of Fayetteville, North Carolina  
433 Hay Street  
Fayetteville, North Carolina 28301

Dear Mr. Stancil:

The members of the Wilmington Road Improvement Group propose to turn the Second Baptist Cemetery (not affiliated with Second Baptist Church) over to the City of Fayetteville to be kept up by the City Parks and Recreational Department. All burial spaces in the cemetery were sold years ago. However, there are families who have not used their burial spaces and will still need access to the cemetery.

The cemetery measures 300 feet by 350 feet and is bounded on the south by Wright Street; on the west by Mann Street; on the east by private homes; and on the north by Bridging The Gap Adult Day/Health Care.

Through the years this cemetery had fallen into decay and had become a neighborhood eye-sore. It has now become a beautiful place again! Moses Best recruited volunteers from the Fort Bragg Corps of Engineers who worked three weeks during the initial clean-up. The Second Baptist Cemetery Committee collected money to defray the cost of the second clean-up.

An Application was submitted to the City of Fayetteville Neighborhood Services Department by the Wilmington Road Improvement Group to obtain money to complete the project. Three bids were presented to the city and Moore's Landscaping received the bid. A second application was submitted to Keep North Carolina Beautiful in Raleigh by the Wilmington Road Improvement Group. We were given (100) one hundred azaleas to beautify the cemetery. The azaleas have been placed according to a plan done by Bonnie Bruce of the Engineering Department of the City of Fayetteville.

We are very proud of the work that has been done. The restoration of this area is evidenced by its surroundings: Habitat Village; Walker-Spivey School and Recreational Center; Second Missionary Baptist Church; Robins Meadow Apartments (under construction); Existing brick homes on Vanstory Street; Public Works Commission Office Complex (Eastern Blvd. and Wilmington Road); Bridging the Gap Adult Day/Health Care; and Old Wilmington Road Head Start.

In addition to the above mentioned neighborhood assets, the city maintains a very active Family Resource Center located in Campbell Terrace housing area.

It is note worthy that some of Fayetteville's most prominent Black Citizens are buried there. Among them are:

1. Robert Simmons, one of the founders of Fayetteville State University.
2. Edna Fuller, Founder of Fuller School for Exceptional Children.
3. Mr. William McKay and wife, one of the eight families that began St. Ann Catholic Church. The first church for Black Catholics in Fayetteville.
4. Rowena Westbrook, a member of the famous Hampton Choir that traveled all over the world.
5. Rev. Charles E. Perry, an educator and entrepreneur who served on the old site church from 1933 until 1966. He moved the church to its present location. He was the previous owner of Principum Rest Home and the founder of the Principum Church. A school in Roseboro is named in his honor.
6. Rev. Henry Adams, founded Second Baptist Church in 1886.
7. George Billops, Bishop of the Wilmington Baptist District.
8. Robbie Ann Wright, early member of Evans AMEZ Church (on Historic Registry).
9. The site where the first church stood in the early 1900s.
10. The Mother and Father (Charlie and Emmaline Williams) one of Southside Elementary School's early 1900s teachers.

It is our hope that you will give a favorable response to our proposal.

Sincerely,

Rev. E. H. Bain, Chairperson

Eugenia Evans-Johnson, Secretary

Christina Smith, President  
Wilmington Road Improvement Group





February 08, 1999

Memorandum

To: Roger Stancil, City Manager
From: Robert Barefoot, Chief Operating Officer RB
Subject: 2nd Baptist Cemetery Request

Per the request from Rev. E.H. Bain of Second Baptist Church regarding City maintenance of church cemetery we would offer the following information. Several individuals representing Second Baptist have contacted our office requesting that the City assume maintenance of this cemetery. I and Jerry Dietzen have had discussions with Rev. Bain, Christina Smith, Ike Walker and Moses Best concerning the status of this cemetery.

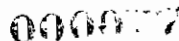
In each of our conversations we stated that this was privately owned property and that this City could not do any work on privately owned property. Rev. Bain asked how could the City assume maintenance which Mr. Dietzen explained and sent him a letter on July 23, 1997 detailing the acceptance process. In each conversation we had, we explained we could not recommend the City accept this cemetery due to the already limited resources and budget constraints. We also explained that our recommendation is not to accept it for maintenance but it was City Council's decision as to the final determination. This is when we sent Rev. Bain the process for requesting Council reviews. (Please see the attached letter.)

The staff recommendation would continue to be not to accept this cemetery for maintenance as it would be additional responsibility on limited resources. We would also be greatly concerned if this was accepted as it would set a precedent to accept other privately owned cemeteries throughout the City.

If you need additional information or have questions please call.

nb\MSWORKS\CEMETERY.WPS

433 HAY STREET
FAYETTEVILLE, NC 28301-3537
(910) 433-1347
FAX (910) 433-1762
An Equal Opportunity, Affirmative Action Employer 0067





## Real Estate Division

August 13, 2009

### MEMORANDUM

**TO:** Dale Iman, City Manager  
**FROM:** Cindy Preas, Real Estate Manager  
**CC:** Michael Gibson, Parks & Recreation Director  
**SUBJECT:** Mann Street Cemetery

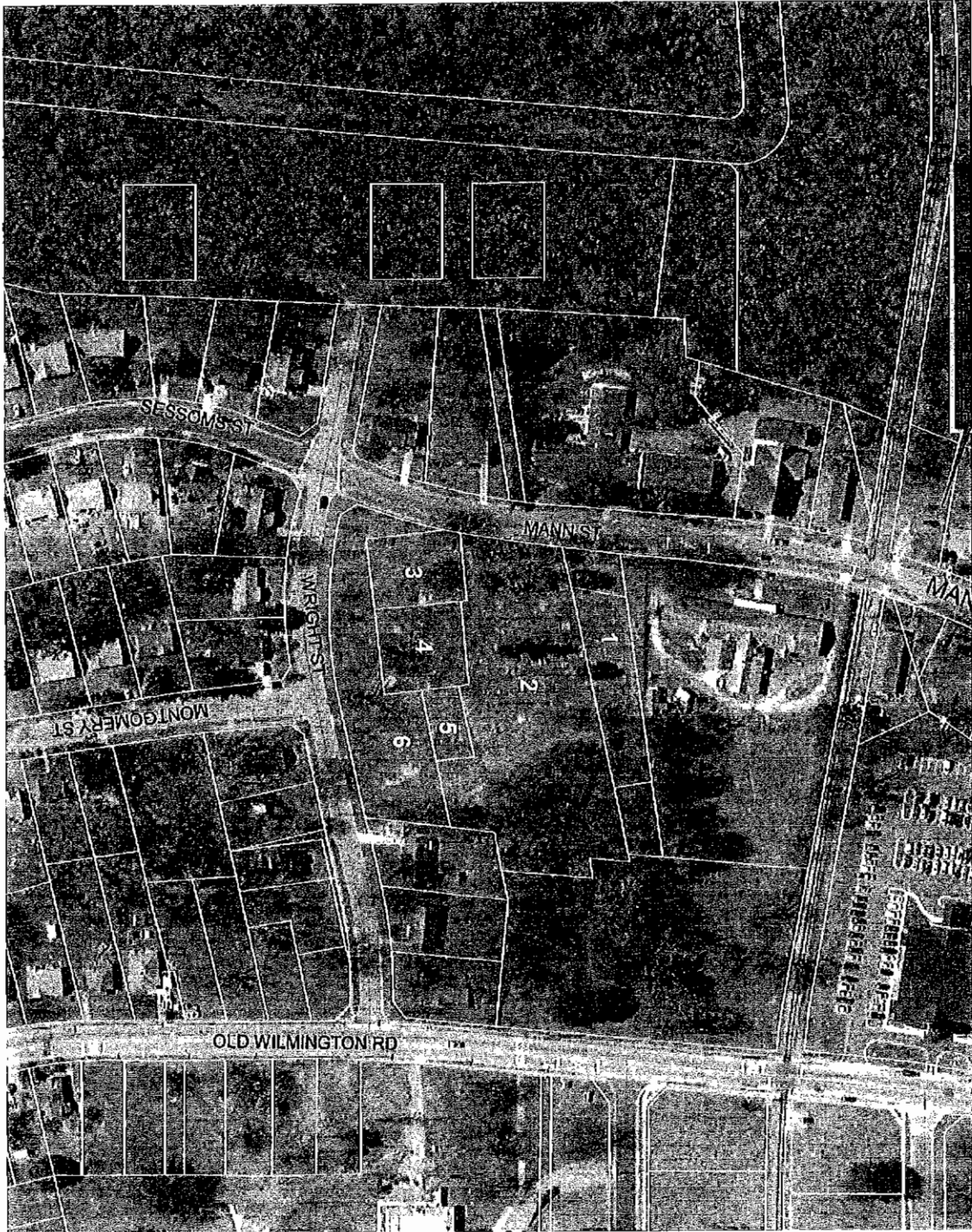
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Attached please find a map, which identifies the properties that make up the Mann Street Cemetery. Below is the information you requested concerning ownership of this property:

1. 0436-79-3481 (0.38 AC) *Pettifoot Cemetery*  
*Pettifoot Graveyard* – last deed for property dated April 14, 1890.  
Lot has no tax-appraised value due to its exempt status (cemetery).
2. 0436-79-2147 (2.30 AC) *Cemetery*  
Lillie Brewington Heirs (deceased Feb 24, 1968)  
Estate 69 E 193  
William Brewington, Lillie Mae McLean, Wilhemcnia Smith, Elizabeth Williams and Bruce Brewington
3. 0436-79-2147 (0.24 AC) *Cemetery*  
*City of Fayetteville* acquired the property from Fayetteville Redevelopment Commission (8-26-05) Deed acknowledges this is a *cemetery* lot. Lot has no tax-appraised value due to its exempt status (cemetery). Property managed by Community Development
4. 0436-79-3137 (0.25 AC) *Cemetery*  
Second Street Baptist Church. Lot has no tax-appraised value due to its exempt status (cemetery).
5. 0436-79-4231 (0.09 AC) *Cemetery*  
Landlocked parcel. Record owner of property is Mae M. Reamer. Tax office identifies the property as a *cemetery*; therefore, has no tax-appraised value.

6. 0436-79-3182 (0.69 AC)  
*City of Fayetteville* acquired property from Fayetteville Redevelopment Commission (10-10-75). 2009 Tax-appraised value is \$16,500. Property managed by Community Development. Tax records indicate property is *adjacent* to cemetery.

As always, please advise if you need copies of documentation or additional research.



## Cost to Maintain Potential Abandoned Citywide Cemeteries

Abandoned cemeteries that have been requested to be maintained by Parks & Recreation:

- Mayveiw Streets & Camden Road (Massey Hill Community)
- North Racepath Street & Grove Street (Downtown Area)
- Morganton Road & McFayden Drive (Devonwood Community)
- Ramsey Street & Treetop Drive (North Lake Community)

### Potential Staffing

• Equipment op 1	\$33,159
• 2 seasonal staff at 28 weeks	<u>21,930</u>
<b>Total Staffing Cost</b>	<b>\$55,089</b>

### Equipment

• 1- Zero Turn Mower (1X cost)	\$12,000
• 1- Pick-up Truck F350	29,000
• 1- Landscape Trailer – 16ft	5,000
• Small engines (i.e. weed eaters, blowers, edgers)	<u>6,000</u>
<b>Total Equipment Cost</b>	<b>\$52,000</b>

**Total Cost to Maintain Abandoned Citywide Cemeteries** **\$107,089**

**CITY COUNCIL ACTION MEMO**

**To:** Mayor and Members of City Council  
**From:** Tom Bergamine, Chief of Police  
**Date:** September 8, 2009  
**Re:** **Update on Community Wellness Plan Presented to City Council By Chief of Police on April 6, 2009**

**THE QUESTION:**

The Council has requested an update on the Police Department's Community Wellness Plan introduced on April 6, 2009.

**RELATIONSHIP TO STRATEGIC PLAN:**

- County Jail Capacity
- Crime Reduction Strategy and Report
- Community Watch Expansion
- Police Staffing
- Reclaiming Neighborhood Strategy

**BACKGROUND:**

Increase in crime in 2008.

**ISSUES:**

Update on Community Wellness Plan presented in April 2009.

**OPTIONS:**

None

**RECOMMENDATIONS:**

Team effort to combat crime in the City of Fayetteville.

## CITY COUNCIL ACTION MEMO

**TO:** Mayor and Members of City Council  
**FROM:** Doug Hewett, Assistant City Manager  
**DATE:** September 8, 2009  
**RE:** **RESIDENTIAL RENTAL PROPERTY PROGRAMS**

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**THE QUESTION:**

Does the City Council wish to pursue residential rental property programs to address 1.) identification of such properties throughout the community, 2.) inspections to ensure minimum housing standards, for all residential rental properties and or 3.) a program to target such properties with repeated violations of City Codes.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goals 2014: Growing City, Livable Neighborhoods - A Great Place to Live  
2010 Management Agenda - Crime Reduction Strategy and Report, and Reclaiming Neighborhood Strategy.

**BACKGROUND:**

On August 6, 2007, the City Council directed staff to research the feasibility of creating a program to inspect rental housing units to ensure that these units met the standards of the city's minimum housing code.

On December 3, 2007, the City Council adopted the Fayetteville Forward Pledge that included the following reference to consider a proposed rental inspection ordinance that focuses on compliance with the Minimum Housing Code to ensure dwelling units meet certain standards related to the basic life safety needs of residents of the city of Fayetteville (light, ventilation, occupancy limitation, plumbing mechanical, electrical and fire safety requirements.)

Additionally, on March 3, 2008 the City Council directed staff to further define the program for potential funding in the FY 2008-09 budget.

Staff presented the attached action plan for the rental inspection program to the City Council on April 7, 2008. At which time, the Council voted to not pursue the program further.

Council Member Evans submitted a Council Member Request on this issue for the City Council's October 3, 2008 Work Session. Following discussion, the City Council directed staff to provide the attached for their consideration on October 20, 2008.

On November 3, 2008, staff presented the Rental Inspections program to City Council. The consensus of City Council was for staff to report back to Council on various models for a rental inspections program.

City staff have completed their research and are seeking direction for City Council as to whether any of the following meet their interests:

1. Rental Registration Program whereby all residential rental property would be required to register with the City on an annual basis.

2. Residential Rental Inspections Program by which all residential rental properties would be required to be inspected to ensure the properties meet minimum housing standards. Inspections would be done every 4 years or sooner if by complaint or request. Such a program would also include a residential rental registration component, too.

3. Probationary Rental Occupancy Permit (PROP) that would be modeled after the Raleigh program of the same name. PROP would allow the City to prohibit the leasing of residential rental properties with repeated violations of City Codes. PROP could be a stand alone program or could be combined with rental registration or inspections.

**ISSUES:**

Since 2007, the City Council has indicated that any such programs would need to be fully funded from the imposition of fees. As reported to City Council last year, a loan from fund balance would likely be needed for any of the models to allow for any programs start-up costs.

Any program model would require several months of development before a final recommendation on program design could be presented to City Council. Further, staff would look for opportunities to involve local property management professionals and residents in the program's design.

**OPTIONS:**

1. Direct staff through consensus of City Council which, if any, of the programs above to pursue further.
2. Take no action at this time.

**RECOMMENDED ACTION:**

With almost 44% of all occupied residential property in Fayetteville believed to be rental, staff believes there is value in having a rental inspections program to ensure all such housing meets minimum housing standards, and in implementing a PROP program to deal with rental properties that have repeated violations of City Codes. As such, staff is asking for City Council's consensus to proceed with the refinement of the earlier Residential Rental Inspection program staff developed in 2008, and for support in developing PROP program tailored to meet Fayetteville's residential rental market.

**ATTACHMENTS:**

- Residential Rental Property Programs Matrix
- Rental Certificate of Compliance
- Raleigh PROP Program Brochure



# Residential Rental Property Programs

September 8, 2009

	Rental Registration	Rental Inspection	Probationary Rental Occupancy Permit (PROP)
<b>Program Purpose</b>	Designed to identify all rental properties throughout the city. Enables staff and the public to see where rentals are located and provides avenues for quick distribution of information to owners. Could also be designed to require that all absentee landlords provide a 'local' agent to address livability or use issues.	Designed to ensure that all rental properties throughout the city meet minimum housing standards – adequacy. Those standards include basic life safety needs of residents with regards to light, ventilation, occupancy limitation, plumbing, mechanical, electrical and fire safety requirements.	Designed to address residential rental properties that repeatedly break city codes. If designed similar to Raleigh's model, it would allow the City to prevent property owners from renting problem properties if the owners continue to rent to problem tenants.
<b>Whose Responsible</b>	All residential property owners required to register residential rental property annually.	All residential rental property owners required obtain an inspection every 4+ years, or on complaint from City/resident.	Only residential property owners who have rental units that repeatedly violate city codes would be included.
<b>Opportunities</b>	<ul style="list-style-type: none"> <li>Identify which properties are rental</li> <li>Provide quick contact to owners/agents on variety of issues</li> <li>Facilitates rental inspections, PROP, or other programs</li> <li>Staff involvement limited to ensuring all properties are registered</li> <li>There are existing models in North Carolina</li> <li>Provides demographic data that could also be useful for land use and other planning purposes</li> <li>Costs could be covered by a modest fee</li> </ul>	<ul style="list-style-type: none"> <li>Ensures that at least within the last 4+ years from adoption that all rental properties meet minimum housing standards</li> <li>Also would include rental registration to identify rental properties</li> <li>Assists in removing substandard housing from the market</li> <li>Should reduce code enforcement violations and assist in improving the quality of housing in the City of Fayetteville</li> <li>Supports adequate rental income as all rental property owners by enforcing a minimum maintenance standard</li> <li>There are existing models in North Carolina</li> </ul>	<ul style="list-style-type: none"> <li>Targets only problem rental properties – not City wide.</li> <li>Can be a stand alone program, OR could also be combined with Rental Inspection/Registrations.</li> <li>Staff involvement limited to selected properties.</li> <li>Maybe able to use our Environmental Court as a clearinghouse for such properties</li> <li>There is an existing model in North Carolina</li> </ul>
<b>Challenges</b>	<ul style="list-style-type: none"> <li>Enforcement, i.e. identification of rental properties</li> <li>City wide application to good and bad residential rental property owners</li> <li>Development of a robust computer application to manage process</li> <li>Could be perceived as a tax</li> </ul>	<ul style="list-style-type: none"> <li>Identification of rental properties</li> <li>City wide application to good and bad residential rental property owners</li> <li>Development of a robust computer application to manage process</li> <li>Significant staff involvement to inspect/re-inspect properties</li> <li>Cost</li> <li>Could reduce the availability of affordable housing</li> </ul>	<ul style="list-style-type: none"> <li>Developing reasonable criteria for what triggers entry into program – if using Raleigh, our program would be quite large</li> <li>Increased legal action required for some properties, as this is a targeted program</li> </ul>
<b>Program Complexity</b>	Low	Medium	High
<b>Relative Cost</b>	Medium to start program, low to maintain	High to start, medium to maintain	Low to start, low to maintain

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## ARTICLE V. RENTAL CERTIFICATE OF COMPLIANCE

### Sec. 14-86. Findings, designation of rental inspection districts.

- (a) The city council finds that certain residential rental dwelling units, when not the subject of an initial inspection or periodic inspections to ensure compliance with applicable building maintenance regulations, may become unsafe, a public nuisance, and unfit for human habitation.
- (b) The city council further finds that there is a need to protect the public health, safety and welfare of the occupants of residential rental dwelling units; that without periodic inspections, such residential rental dwelling units are likely to become either (i) blighted or in the process of deteriorating, or (ii) in need of inspection by the city to prevent deterioration, taking into account the number, age and condition of the residential dwelling rental units; and that the inspection of residential rental dwelling units is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection districts.
- (c) The City Council further finds that due to the increasing number of rental properties, the need exists for periodic inspections of rental properties throughout the entire City.
- (d) There is hereby created the requirement that rental dwelling units are subject to periodic inspections, upon the completion of which the building code official certifies the compliance with the Minimum Housing Code a Rental Certificate of Compliance shall be issued. Said Rental Certificate of Compliance must be issued prior to occupancy or, for occupied rental dwelling units, as a requirement for continued occupancy subject to the exemptions as set forth further herein.

### Sec. 14-87. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building code* means the North Carolina State Building Code and Chapter 14 of the City of Fayetteville Code of Ordinances.

*Building/Code Official* means the person charged with enforcing the building code as that term is defined in this article.

*Dwelling unit* means a building or structure or part thereof that is used for a home or residence by one (1) or more persons who maintain a household. The term "dwelling unit" includes, but is not limited to condominiums, efficiencies, town homes, manufactured or mobile homes, single-family homes, two-family homes, multifamily homes or multifamily apartments. The term "dwelling unit" shall not include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirm or disabled, or hotels, motels, inns and other

establishments held out for transients, unless such establishments rent primarily to occupants for more than thirty (30) continuous days.

*Inspection* or *inspected* means an inspection conducted by the Inspections Director or his designee.

*Managing agent* means any person having the authority, singly or in combination with another, to enter into an agreement for the occupancy of property subject to this article.

*Multifamily development* means any building or any series of buildings, consisting of more than ten (10) dwelling units, occupied for valuable consideration, on a single lot or adjacent lots under common ownership. The term "multifamily development" shall not include mobile homes under common ownership in a mobile home park or subdivision, and such term shall not include single-family homes, two-family homes, or townhouses under common

*Owner* means a person shown on the current real estate assessment books or current real estate assessment records as a person holding title to real property in the city. The word "owner" shall not include any person who merely holds a deed of trust on real property.

*Redevelopment area* means a district established by city council, which is subject to this article.

*Residential rental dwelling unit* means a dwelling unit that is leased or rented to one (1) or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit, unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom.

*Tenant* means any person who is not an owner of the dwelling unit or residential rental dwelling unit, which he occupies.

**Sec. 14-88. Applicability.**

- (a) The provisions of this article shall apply to all residential rental dwelling units that are not otherwise exempt from this article.

**Sec. 14-89. Notification by owners of residential rental dwelling units; Effect of Failure to Notify.**

- (a) Any owner of a residential rental dwelling unit shall notify the building code official, on a form prepared by the Inspections Director, if a dwelling unit is a residential rental dwelling unit.
- (b) The notification requirements of this section shall be met by the owner or owners of any residential rental dwelling unit not more than seventy-five (75) days after the effective date of this ordinance. The notification requirement of this section for any residential rental dwelling unit created over sixty (60) days after the effective date of this ordinance shall be met within thirty (30) days after the creation of the residential rental dwelling

unit or the issuance of a certificate of occupancy under the building code pertaining to the residential rental dwelling unit, whichever is the first to occur.

- (c) Owners are responsible for obtaining the consent of tenants prior to inspection of occupied rental dwelling units. Owners must sign a certification specifying the date, time and method by which they obtained the consent of the tenant. The tenant must sign this certification providing his/her consent to the inspection. The owner is responsible for ascertaining that the individual consenting to the inspection is authorized to give such consent. No inspections shall occur prior to the building code official obtaining consent forms for occupied rental dwelling units.
  
- (c) The penalty for the willful failure of an owner of a residential rental dwelling unit to comply with the provisions of this section shall be a civil penalty of one hundred dollars (\$100.00).

**Sec. 14-90. Initial inspection of a residential rental dwelling unit.**

- (a) Upon complying with the notification requirements set forth in section 14-89, the code official may proceed to inspect any residential rental dwelling unit to determine if the dwelling unit complies with the provisions of the building code that affect the safe, decent and sanitary conditions for the tenants of such dwelling unit.
  
- (b) Subsection (a) of this section notwithstanding, if a multifamily development has more than ten (10) dwelling units, the code official may inspect not less than two (2) and not more than ten (10) percent of such dwelling units in the multifamily development. If the code official determines upon conducting such inspections that there are violations of the building code which affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the code official may inspect as many dwelling units as necessary within the multifamily development to enforce the building code.

**Sec. 14-91. Exemptions.**

- (a) Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article, and provided that there are no violations of the building code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the code official shall issue to the owner of such residential rental dwelling unit a certificate of exemption from the inspection requirements of this article. The issuance of a certificate of exemption shall exempt the owner or managing agent from the requirements of inspections within this article. The certificate shall be valid for four (4) years from the date on which the certificate is issued.
  
- (b) If a residential rental dwelling unit has been issued a certificate of occupancy for compliance within the last four (4) years, the code official shall issue a certificate of exemption for four (4) year from the date of the issuance of the certificate of occupancy by the building official.

- (c) If a residential rental dwelling unit which is exempt from this article pursuant to this section becomes in violation of the building code during the exemption period, the inspections Director may revoke the exemption previously granted under this section. Prior to any such revocation, the Inspections Director shall send by first class mail written notice to the owner or managing agent of such residential rental dwelling unit, specifying the nature of the violations found and the date upon which the revocation of the certification of exemption will take effect. Proof of mailing of the last known address of the owner or managing agent of the property, by affidavit or otherwise, shall be sufficient evidence that the notice was received.
- (d) A certificate of exemption shall be issued upon the Inspection Director's written determination that a residential rental dwelling unit has been the subject of a building permit for substantial rehabilitation or repair, if such rehabilitation or repair meets the requirements of the building code with respect to the general public health, safety and welfare.
- (e) The exemptions contained in this section notwithstanding, upon the sale of a residential rental dwelling unit, the code official may perform an initial inspection as provided in section 14-90 of the Code of the City of Fayetteville, as amended, subsequent to such sale.
- (f) In no event does the issuance of a certificate of exemption serve to exempt the owner, managing agent or tenant from compliance with all applicable statutes, laws, and ordinances, including the building code.

**Sec. 14-92. Follow-up inspections.**

Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article, the Inspections Director may require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the Inspections Director deems necessary, until such time as the dwelling unit is brought into compliance with provisions of the building code that affect the safe, decent and sanitary living conditions for the tenants.

**Sec. 14-93. Periodic inspections.**

Except as provided in sections 14-92 and 14-91(e) of the City Code, following the initial inspection of a residential rental dwelling unit subject to this article, the code official may inspect a residential rental dwelling unit subject to this article, which is not otherwise exempt from this article, no more than once each calendar year.

**Sec. 14-94. Display of certificate of exemption.**

- (a) Any certificate of exemption may be adhered to the residential rental dwelling unit to which it applies. No such certificate may be adhered to any residential rental dwelling unit for which the certificate was not intended, or issued, and such display of such a certificate shall not be mandatory.

- (b) No certificate referenced in subsection (a) of this section may be displayed upon the receipt of the Inspections Director's notice of revocation of a certificate of exemption, and no certificate of exemption which has expired shall be displayed.

**Sec. 14-95. Alteration of certificate of exemption.**

No person may deface or alter a certificate of exemption or sticker issued in connection therewith, in whole or in part, without the written permission of the Inspections Director.

**Sec. 14-96. Fees.**

The fees for initial, follow-up and periodic inspections shall be as set forth in the fee compendium as amended from time to time by the city council.

**Sec. 14-97. Enforcement.**

(a) **Initial Inspections.** When the building code official determines that a rental dwelling unit is being occupied without a Rental Certificate of Compliance, the building code official may issue the owner a warning whereby the owner has ten (10) days to schedule and inspection. Said inspection must then occur no later than ten (10) days from the date it is scheduled. Therefore, if a total of twenty (20) days pass after the owner is issued a warning and no inspection occurs, the building code official may issue a citation that carries a civil penalty in the amount of one hundred dollars (\$100) a day for each day the violation occurs.

(b) **Expired Certificates of Compliance.** Rental Certificates of Compliance must be renewed every four (4) years. When a building code official determines that a Rental Certificate of Compliance has expired, the procedures and penalties of subsection (a) of this section shall apply.

**Sec. 14-98. Appeals.**

- (a) Any person aggrieved by any determination or decision of the building code official made pursuant to this article shall have the right to appeal such determination or decision to the Housing Appeals Board in writing within 10 days of the determination or decision.
- (b) Nothing in this article shall be constructed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.
- (c) Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.
- (d) Nothing in this article shall be construed to limit the authority of the code official to perform housing inspections in accordance with applicable law.

**Sec. 14-99. Alternative remedies.**

In addition to any penalty imposed for a violation of this chapter, any such violation may be corrected, removed or abated through court order or an appropriate suit in equity.

**Sec. 14-100. Severability.** If any provision of this section is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and shall continue in full force and effect.

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- A landlord must notify tenants, condominium and townhome associations, and other effected entities that a dwelling is a probationary rental residential dwelling.
- A landlord or designated licensed rental agency located within 25 miles of the City's extraterritorial jurisdiction has 2 business days to respond to telephone inquires about the probationary rental residential dwelling from representatives of the City of Raleigh Police, Fire or Inspections departments.
- A landlord cited for a second code violation during the two year permit period could lose their rental permit for the property for two years. A third violation may lead to a two year revocation of PROPs issued for other property rented by the landlord.

**ESTABLISHMENTS  
EXEMPT FROM THE  
PROP ORDINANCE**

The following rental dwellings and businesses are exempt from the PROP ordinance.

- Bed & Breakfast inns
- Hotels

- Motels
- Guest houses
- Rest homes
- Rooming houses
- Lodging houses
- Tourist homes
- Apartment houses or apartment complexes as defined by City code section 10-2002 with more than 20 dwelling units, unless added to the PROP permit program pursuant to an ordinance adopted by the City Council.

A copy of the Probationary Rental Occupancy Permit Ordinance may be obtained by contacting the City Clerk's office at 890-3040 or by visiting the City of Raleigh's website at [www.raleighnc.gov](http://www.raleighnc.gov). For additional information about the ordinance, call the Housing/Environmental Inspections Department at 807-5110.



*City of Raleigh  
North Carolina*

Inspections Department  
Housing/ Environmental Division  
One Exchange Plaza  
Raleigh, North Carolina 27602  
Phone (919) 807-5110  
Fax (919)807-5293

Rev. 10/2/06

# Probationary Rental Occupancy Permit





# Probationary Rental Occupancy Permit (PROP)

To assure better quality housing for tenants of rental property, the City of Raleigh established a permit program for landlords who violate City Codes. Beginning February 7, 2005, a landlord must obtain a Probationary Rental Occupancy Permit (PROP) from the City's Inspections Department if he or she has violated unsafe building, minimum housing, zoning or nuisance ordinances at a rental site and has failed to bring the property into compliance by a City-established deadline. Landlords who have a pattern of repeat citations at a rental property also must obtain a PROP. The Inspections Department will notify landlords who must get a permit. The program allows sufficient opportunities to bring rental properties into compliance.

## PROP-RELATED CODE VIOLATIONS

The following are code violations that require a landlord to obtain a PROP from the City of Raleigh.

- Re-occupancy of a dwelling that the Inspections Department has found to be unsafe;

- Re-occupancy of an unfit dwelling prior to the Inspections Department issuing a certificate of compliance;
- Activities resulting in a third conviction for violating the City's nuisance party ordinance within 24 months of the first conviction;
- Activities resulting in a third conviction for violating the City's noise ordinance within 24 months of the first conviction;
- Failure to repair, vacate or demolish a dwelling within the time frame stipulated in an order issued by the Inspections Department;
- Housing more inhabitants in a dwelling than is permitted by the section of the City's Zoning Code that applies to the residence;
- Failure to comply in a timely manner to an Inspections Department order regarding the unlawful storage of two or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles on the premises;
- Two nuisance abatement violations within 24 months;

- A fourth notice of City Code violation within a 24 month period when the prior notices of violation were resolved by corrective action.

## PROP REQUIREMENTS

A landlord placed in the PROP program must pay \$500 per year for the two-year permit to cover the cost of administering the program. The landlord also must attend a City approved residential property management course during the first year of the permit. Furthermore, the property for which the permit was issued must remain in compliance with City codes throughout the two year permit period. Prior to releasing the landlord from requirements of a PROP, the Inspections Department will inspect the property to ensure that it complies with codes. An inspection of the property also will be done before a PROP is issued to a landlord.

Other requirements of the permit are :

- A landlord has 10 days to file a complete application for a PROP following receipt of notification from the Inspections Department. If the landlord does not submit application for the permit during this 10 day grace period, he/she is prohibited from renting or offering to rent the property or receiving rental income from the dwelling until he/she submits a completed permit application to the City.



## City Council Agenda Item Request

**Date of Request:** July 29, 2009  
**Name of Requester:** Mayor Tony Chavonne  
**Agenda Item Title:** Soil Street Paving Policy

**What do you want to accomplish with this item?**

Have staff develop a policy for council to consider as it relates to paving the remaining soil streets in the city. Include a method to prioritize the remaining soils streets; any proposed assessment policy; and the funding mechanism.

**How does this item connect to the City's Strategic Plan?**

More attractive city.

**Comments:**

**City Council Agenda  
Item Request**

**Date of Request:** 20 Aug 09

**Name of Requester:** Councilwomen Val Applewhite - District 7

**Agenda Item Title:** Limitation of Council Member Requests at Worksessions

**What do you want to accomplish with this item?**

There is currently no limit to the number of requests that a Council Member can bring to a worksession. I am respectfully asking Council to consider limiting each member to 1 "Council Member Request" per worksession. This would still give each member the opportunity to submit 12 items per year for consideration. The total of 12 would not be cumulative, with the exception of a month when a worksession is not held. A member would be able to submit one request from the previous and current month. This equal distribution of "potential" workload would allow staff the ability to efficiently utilize city resources as well as predict and manage their workload.

**How does this item connect to the City's Strategic Plan?**

It supports the City's Goal of a more Efficient City Government - Cost Effective Service Delivery. It specifically addresses Goal 4 - Long Term Challenge of Workload and Organization Capacity.

**Comments:**

In addition to the limitation, I would like staff to educate the Council and our citizens on the entire process and resources utilized to work through a member's request and bring it back to Council. I also believe a monthly "current status check" of each Council Member Request would be beneficial.

Thank you for your consideration.

**City Council Agenda  
Item Request**

**Date of Request:** 26 August 2009

**Name of Requester:** Council Member Ted Mohn - District 8

**Agenda Item Title:** Rezone All Flood Ways Within Fayetteville to Conservation District (CD)

**What do you want to accomplish with this item?**

- Help improve existing and future storm water runoff problems.
- Better protect our perennial waterways and natural resources.
- Better protect plant and animal life along and within our existing waterways.
- Better protect man-made structures and properties along our existing waterways.

**How does this item connect to the City's Strategic Plan?**

- Great Place to Live
- Desirable Neighborhoods
- Leisure Opportunities for All
- Partnership of Citizens

**Comments:**

I first brought this up during our 23 February 2009 City Council Meeting when rezoning cases P09-03F (P3 to CD) & P09-04F (PND to CD) came before council concerning the McFayden Lake Area. I stated something to the effect that all of our existing water ways should be converted to Conservation District (CD) as part of our Unified Development Ordinance (UDO) process.

I'm asking council to consider this request as we move forward with the UDO.