FAYETTEVILLE CITY COUNCIL AGENDA REGULAR MEETING SEPTEMBER 28, 2009 7:00 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 AGENDA SEPTEMBER 28, 2009 7:00 P.M. CITY HALL COUNCIL CHAMBER

INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITIONS AND ANNOUNCEMENTS

ITEM 1. APPROVAL OF AGENDA

ITEM 2. CONSENT:

A. Approve Minutes:

- 1. City Council Meeting Held on August 3, 2009 PAGE: 1
- 2. City Council Dinner and Discussion Meeting Held on August 10, 2009
 PAGE: 9
- 3. City Council Meeting Held on August 10, 2009 PAGE: 11
- 4. Agenda Briefing Meeting Held on August 19, 2009 PAGE: 19
- 5. City Council Meeting Held on August 24, 2009 PAGE: 22
- 6. City Council Dinner and Discussion Meeting Held on August 24, 2009
 PAGE: 31
- 7. City Council Special Meeting Held on August 31, 2009 PAGE: 34

The page numbers on this outline refer to the agenda packet of complete information for each item. This complete packet is available to you at the City web page, www.cityoffayetteville.org

- B. Engineering & Infrastructure Municipal Agreement with NCDOT and Aberdeen & Rockfish Railroad PAGE: 36
- C. Engineering & Infrastructure Resolution Accepting State Revolving Loan for Skye Drive Drainage Improvement Project PAGE: 61
- D. Finance-Resolution to Accept the State Grant and Capital Project Ordinance 2010-11 (Rehabilitate Visual Navigational Aids Project)
 PAGE: 63
- E. Finance Capital Project Ordinance 2010-12 (Vegetation Management Project)
 PAGE: 69
- F. Finance Special Revenue Project Ordinance 2010-9 (FY2009 Justice Assistance Grant Program)

 PAGE: 75
- G. Planning Sign permit request by the Junior League for ten signs between October 6 and November 8 for the Holly Day Fair PAGE: 78
- H. Planning Community Street Banner Request by the Cape Fear Botanical Garden for banners along the service road, for 180 days PAGE: 79
- I. Planning Case P09-27F: The rezoning from R10 Residential District to R6 Residential District for the property located west of All American Expressway, northwest of the intersection with Santa Fe Dr. Containing 84.82 acres more or less and being the property of John and wife Margarete Koenig PAGE: 81
- J. PWC Bid Recommendation Annexation, Phase V, Project 2, Area 6 "North LaGrange" PAGE: 88
- K. PWC Bid Recommendation Water Main Rehabilitation Work PAGE: 92

ITEM 3. PUBLIC HEARINGS:

A. Planning – Amendment to the Code of Ordinances, Chapter, Article IV, Section 107 (10), to allow one employee not a resident of the home for an incidental home daycare occupation

PRESENTED BY: Karen Hilton, Interim Planning Director

RECOMMENDED ACTION: Option 1, Approve the amendment **PAGE:** 95

B. Planning – Economic Development Incentive – Property Tax Grantback for the Towers at Wood Valley Apartments PRESENTED BY: Rob Anderson, Chief Development Officer

RECOMMENDED ACTION: Staff recommends approval of the attached Property Tax Grantback Funding Agreement for the Towers at Wood Valley project.

PAGE: 98

C. Planning – Case P09-23F: The rezoning from AG Agricultural District to R6/CZ Residential Conditional Zoning District for property located on Rim Road between Identity Road and Olted Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and the property of Alex and Catherine Hall

PRESENTED BY: Craig Harmon, Planner II

RECOMMENDED ACTION:

PAGE: 109

D. Planning – Case P09-28F: The rezoning from C1 Commercial District and R6 Residential District to C1/CZ Commercial Conditional Zoning District for a Military Christian Center on property located at 590 N. Reilly Rd. Containing 1.37 acres more or less and being the property of Missions to Military Inc.

PRESENTED BY: Craig M. Harmon, Planner II

RECOMMENDED ACTION: Although Zoning Commission recommended denial, staff had recommended approval and continues to recommend to Council for approval with conditions limiting the depth of rezoning and other features depicted on the site plan as well as the singular use as a community center. Staff also recommends the organization clearly define the scope of the overnight facilities component and their operation prior to approval.

PAGE: 118

E. Planning — Case P09-29F: Special Use Permit (SUP). Consideration of an application for a SUP to allow a Daycare in a Residential District for property located at the corner of 5514 Ramshorn Dr and Santa Fe Dr. Containing .36 acres more or less and being the property of Harry Jefferson and Linda E. Jefferson

PRESENTED BY: Craig M. Harmon, Planner II

RECOMMENDED ACTION:

Zoning Commission Recommended Denial of the SUP based on the following reasons: It would be detrimental to the surrounding area because of the traffic, the ingress and egress and that it would cause additional hardship to other members of the neighborhood.

<u>Staff Recommendation</u>: Due to the quasi-judicial nature of the proceedings, the planning staff does not make recommendations for approval or denial for special use permits because decisions are based on testimony given during the public hearing.

PAGE: 129

ITEM 4. MURCHISON ROAD REDEVELOPMENT FUNDING STRATEGY PRESENTED BY: Victor Sharpe, Community Development Director

RECOMMENDED ACTION: Approve funding for the Murchison Road Redevelopment Plan in concept. The next step of the process is to move forward with the implementation of the plan for Catalyst Sites 1 and 3.

PAGE: 141

ITEM 5. CONSIDER CREATION OF AN ETHICS COMMISSION PRESENTED BY: Karen McDonald, City Attorney

RECOMMENDED ACTION: Review the proposal and provide further

direction to staff. PAGE: 144

ITEM 6. NC LEAGUE OF MUNICIPALITIES ANNUAL LEAGUE BUSINESS MEETING VOTING DELEGATES

PRESENTED BY: Dale Iman, City Manager

RECOMMENDED ACTION: City Council designate one voting delegate and/or one alternate voting delegate to represent the City of Fayetteville at the NCLM Annual Business meeting.

PAGE: 164

ITEM 7. INFORMATION ITEM

A. Report of Tax Refunds Less Than \$100 PAGE: 166

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 and 7:00 p.m.

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM

Individuals who have not made a written request to speak on a non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

COUNCIL MEETING WILL BE AIRED SEPTEMBER 28, 2009 - 7:00 PM COMMUNITY CHANNEL 7

COUNCIL MEETING WILL BE RE-AIRED SEPTEMBER 30, 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 moderath@ci.fay.nc.us, 910-433-1605 or 910-433-1696, or the City Clerk at 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

FROM:

Rita Perry, City Clerk September 28, 2009

DATE: RE:

Minutes-City Council Work Session Held on August 3, 2009

THE QUESTION:

Does City Council approve the draft minutes as the official record of proceedings and actions of their August 3, 2009 meeting?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

BACKGROUND:

The Fayetteville City Council conducted a meeting on Monday, August 3, 2009 during which they considered items of business as presented in the draft minutes.

ISSUES:

N/A

OPTIONS:

- Approve the draft minutes as presented.
- 2. Revise the draft minutes and approve the draft the draft minutes as revised.
- 3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the August 3, 2009 draft minutes as presented.

ATTACHMENTS:

Minutes-City Council Work Session Held on August 3, 2009

FAYETTEVILLE CITY COUNCIL WORK SESSION MINUTES CITY HALL COUNCIL CHAMBER AUGUST 3, 2009 5:00 P.M.

Mayor Anthony G. Chavonne Present:

> Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3) (arrived at 5:30 p.m.); Darrell J. Haire (District 4); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8);

Wesley A. Meredith (District 9)

Council Member Bobby Hurst (District 5)

Dale E. Iman, City Manager Others Present:

> Kristoff Bauer, Assistant City Manager Doug Hewett, Assistant City Manager Karen M. McDonald, City Attorney Stanley Victrum, Chief Information Officer Lisa Smith, Chief Financial Officer

Rob Anderson, Chief Development Officer Rusty Thompson, Traffic Engineer

Craig Hampton, Special Projects Manager

Sgt. Matthew Dow, Police Department Operations

Support Bureau

Jimmy Teal, Planning Director

Jackie Tuckey, Communications Manager/Public

Information Officer

Nathan Walls, Public Information Specialist Steven K. Blanchard, PWC CEO/General Manager Dwight Miller, PWC Chief Financial Officer James Rose, PWC Chief Administrative Officer Joe Callis, PWC Business Planning Manager Christina Smith, Wilmington Road Improvement Group

Jim Daughtery, Executive Director of RLUAC

Members of the Press

CALL TO ORDER

Mayor Chavonne called the meeting to order at 5:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Haire provided the invocation followed by the Pledge of Allegiance to the American Flag.

Mr. Dale Iman, City Manager, introduced Mr. Kristaff Bauer, the newly hired Assistant City Manager.

Mayor Chavonne announced they were recruiting applicants for vacancies on the boards and commissions.

APPROVAL OF AGENDA

Council Member Bates requested to move Item 10, Council member requests, to Item 2.

Ms. Karen McDonald, City Attorney, requested to add a closed session for (1) consultation with attorney and (2) discussion of litigation in the matter of Gates Four v. City of Fayetteville.

MOTION: Council Member Bates moved to move Item 10 to Item 2 and add a closed session for consultation with attorney and discussion of litigation in the matter of Gates Four v.

City of Fayetteville.

Council Member Crisp SECOND:

VOTE: UNANIMOUS (8-0)

2. Council member requests:

This item was moved from Item 10.

A. Explore options for red light cameras.

Council Member Bates requested to direct staff to look at the intersections that previously had red lights and advise if traffic accidents had increased since removal of the red lights and explore the possibility of reinstating the red light cameras.

Ms. Karen McDonald, City Attorney, informed Council that the red light cameras had been popular and generated revenue for the school systems. She explained that when the program had been discontinued, they had worked with the school system to find a way to legally reinstate the program without creating liability to either the City or school system. She stated Representative Dickson had also supported their efforts and would have assisted in introducing legislation if necessary. She stated they were unable at that time, and believed at this time there was no way, to craft a program that would not result in liability to the City.

Council Member Crisp inquired if the program had cost the City. Mr. Dale Iman, City Manager, responded in the affirmative and stated the State Constitution had been interpreted that the proceeds from the operation of the red light cameras go to the schools and there had not been enough net gain for the City to pay for the operation of the system. He stated they had exhausted every angle to relieve the burden on the City.

Council Member Mohn inquired if the possibility of an interlocal agreement with the School Board had been explored where the School Board would take on sole financial responsibility and then obtaining approval from the General Assembly. Mr. Iman responded this had been explored and advised the General Assembly would not do anything legislatively that would be in conflict with the Constitution.

The consensus of Council was not to proceed further with this item.

B. Amend City Code Section 6--226 (keeping hogs within corporate limits).

Council Member Bates requested to direct staff to explore amending the ordinance to exclude potbelly pigs.

Council Member Evans inquired how this ordinance would be enforced and who would enforce it. Mr. Iman responded provisions would be included for enforcement either by City staff or County Animal Control.

The consensus of Council was to direct staff to explore amendment of the ordinance and bring back to the September 3 work session.

C. Prohibit portable shelters.

Council Member Bates requested to direct staff to research the use of portable shelters as carports or garages and restricting those that use PVC pipes.

Mr. Iman explained the quality of the structures were not addressed under the Code but would be addressed under the Unified Development Ordinance.

The consensus of Council was not to proceed further with this item.

D. Review City Ordinance Section 16-311 (parking of vehicles in residential districts).

Council Member Bates requested to direct staff to research reclassifying the weight limits on commercial vehicles parked at residences, but not including all commercial vehicles such as PWC, CP&L, and Progress Energy.

The consensus of Council was to move forward with this item and direct staff to research this ordinance.

E. Mann Street Cemetery maintenance.

Council Member Evans requested to direct staff to research the possibility of the City maintaining the Mann Street Cemetery, which he felt could be part of the Hope VI beautification project.

Council Member Bates stated he would want confirmation from Parks and Recreation that they could maintain the cemetery under the current budget.

Council Member Crisp inquired who owned the cemetery. Ms. Christina Smith, Wilmington Road Improvement Group, was introduced and responded the cemetery was owned by several families.

Mr. Iman informed Council that three other cemeteries had made similar requests. He stated the current cutting schedule was such that they could not keep up with the properties they have now on a regular basis, especially during the heavy growing season. He stated if they were to take on this cemetery they would likely have to take on the other three.

Ms. McDonald further explained that when staff had looked at this previously the issue had not been maintenance of the cemetery. She stated the issue raised in discussions she had with Ms. Smith had been that no one had accepted responsibility. She stated the Wilmington Road Improvement Group was maintaining the cemetery with limited funds, which impacts on the funds available to do other projects in the area.

The consensus of Council was to move forward with this item and direct staff to research.

F. Domestic Violence Task Force.

Council Member Bates stated domestic violence was on the increase not only in the City of Fayetteville but in the state of North Carolina and the United States as well. He felt it would be to their benefit if they could look into the possibility of having a task force deal with domestic violence.

Council Member Applewhite inquired if staff would be available to deal exclusively with domestic violence. Mr. Iman responded they had a number of programs within the Police Department targeted towards domestic violence. He stated the request was to assign a special unit specifically for domestic violence but they felt given the other challenges within the Department, they would not have the staffing level to do that. Mr. Iman further stated Mr. Tom Bergamine, Chief of Police, was scheduled to be at the September 3, 2009, work session to provide an update to Council and describe the programs they had on domestic violence issues in the Police Department.

The consensus of Council was not to proceed further with this item.

G. City of Fayetteville Ethics Commission.

Mayor Chavonne provided an update and stated an expensive proposal had been presented several months ago. He stated they had looked at a modification that would significantly require less resources but wanted to bring back to Council to determine if there was an interest to pursue further.

A question and answer period ensued regarding modification of the proposal.

The consensus of Council was to move forward with this item and have staff research.

Fort Bragg/Pope AFB Regional Land Use Advisory Commission (RLUAC).

Mr. Jim Daughtery, Executive Director of RLUAC, presented this item and briefed Council on RLUAC. He stated Council Member Bates was a very active member representing the City and they appreciated the City's involvement. He stated the purpose of RLUAC was to protect the military training mission in Fort Bragg from incompatible urban development surrounding it, the health and safety of the civilian population living near Fort Bragg, and the longleaf pine ecosystem and the red-cockaded woodpeckers. He stated their power was limited to making recommendations. He then presented a power point presentation showing the progression of the rural areas around the military base and the effect on training missions. He stated they had been involved in preparing several studies regarding land use, light pollution, telecom tower, and had also made the recommendation for the creation of the All American Trail.

A question and answer period ensued regarding the All American Trail. Mr. Daughtery responded the All American Trail would connect from Hefner Elementary School to Weymouth Woods State Park and would be a significant undertaking. He stated they would like to extend it from Fayetteville to Southern Pines. He stated it was a continuous trail now and would continue to be continuous.

Update on water and sewer assessment process.

Mr. Joe Callis, PWC Business Planning Manager, presented this item and provided an overview and update of the Phase 5 annexation water and sewer projects. He then provided the annexation schedule, procedure that would be followed, and timeline.

Mr. Dwight Miller, PWC Chief Financial Officer, then provided an overview of the funding for water and sewer installations. He stated the assessments would be capped at \$5,000.00 per lot, with PWC and City equally funding a share to minimize the impact on PWC ratepayers and City revenues. He stated construction would begin in 2010 and complete in 2023. He stated the City would do the assessment but PWC would be responsible for collecting the assessment, which would result in no cost to the City. He stated PWC would bear the risk of not collecting 100 percent of the assessments, which would also include the interest and the legal cost on foreclosures. He stated that currently there were 42 parcels in various stages of foreclosure with a cost of \$233,000.00.

A question and answer period ensued regarding foreclosure of the properties. Mr. Miller explained the foreclosure process.

4. Update on the Fiber-To-The-Home (FTTH) concept exploration.

Mr. Stanley Victrum, Chief Information Officer, presented this item and provided information from an Executive Summary submitted by the Fort Bragg and Pope Air Force Base BRAC Regional Task Force. He explained that the Fiber To The Home (FTTH) concept involved connecting businesses and residences using fiber optic cable instead

of coaxial or copper cables. He stated the cities of Wilson and Salisbury had either implemented or planned to implement high-speed broadband service for their residents and businesses and both viewed the high-speed FTTH networks as community infrastructure projects and as a means of differentiating their communities as preferred places for people to live, work, raise a family, and start new businesses. He stated the Executive Summary noted that without high-speed access, the region's business, institutional, and commercial interests would find it considerably more difficult to compete and succeed in the 21st century marketplace. He stated earlier this year the Level Playing Field Act had been introduced in the 2009 Session of the General Assembly and that Council opposed this Act. He stated the Act was a way of excluding local governments from being able to participate in offering services to citizens in underserved areas of the community. He stated that Council had noted that deployment of a true high-speed broadband internet was a new public utility vital to the future economic development, educational outreach, and community growth in North Carolina.

Council Member Haire inquired on the next step. Mr. James Rose, PWC Chief Administrative Officer, explained this would be a multi-step process. He stated the first step was to find out if there was an interest in researching this issue. He stated if there was an interest, the next step would be to find out if the incumbents would have any plans to modernize their networks and whether constituents would want high-speed internet access and lower cable rates.

Consensus of Council was to move forward with this item.

5. Blanket ordinance for no parking signs.

Mr. Rusty Thompson, Traffic Engineer, presented this item and stated the blanket no parking ordinance would be a blanket sign ordinance. He stated a survey had discovered that six cities followed the same process they follow now and five had special legislation to authorize the manager or his designee to authorize installation of signs. He stated they currently have ordinances that deal with safety concerns where a sign could be immediately installed without going before Council. He stated they do not bring many no parking ordinances to Council and currently bring stop sign ordinances to Council quarterly. He stated he preferred the process they use now. He stated if a citizen were to request a no parking ordinance, staff would go out and investigate the need for a sign. He stated if there was a need, they would ask the citizen to petition the surrounding neighbors. He stated that once they receive the request, it would be presented to Council to decide on whether to move forward with the ordinance. He stated through special legislation this similar request would not go before Council.

A question and answer period ensued regarding the process for adoption of the ordinances and signs erected due to safety issues.

Consensus of Council was to take no further action on this item.

 Briefing on the status and process for approval of the first funding agreement under the Economic Development Property Tax Grantback Program.

Mr. Rob Anderson, Chief Development Officer, presented this item and announced the first participant in the program would be coming before Council for review and approval on August 24. He stated the project consisted of approximately 239 residential dwelling units on approximately 12 acres on Bragg Boulevard. He stated the benefits associated with this program, in addition to the economic activity, was that it put them at the table with the developer and they were able to negotiate on behalf of the City. He stated the negotiations resulted in the developer contributing a 100-foot wide right-of-way to the City necessary to connect Pamalee Drive to Bragg Boulevard. He stated the developer also agreed to remove old building foundations

from the property adjacent to the site along Bragg Boulevard and replace the lighting influence with new sidewalks and landscaping. He stated per statute, this item would come before Council as a public hearing on August 24 to consider approval as recommended by staff.

Consensus of Council was to move forward with the public hearing on August 24, 2009.

 Update on impending adoption of resolution authorizing placement of City-owned land into Clean Water Trust Fund conservation easement.

Mr. Craig Hampton, Special Projects Director, presented this item and stated Council would be requested to take action at the August 10 meeting to convey City-owned land adjacent to the Cape Fear River into a conservation easement for the Clean Water Trust Fund. He stated the City had received a \$1.3 million grant from the Clean Water Management Trust Fund in 2008 along with money from DOT for the second phase of the Cape Fear River Trail from Clark Park to Botanical Gardens. He stated part of that grant required that they convey up to 200 acres into the conservation easement. He presented a map showing the phases of the Cape Fear River Trail. He stated the current schedule showed completion of construction in November 2010.

Consensus of Council was to move this item forward to the August $10\ \text{meeting}$.

8. Presentation on wracker rotation software.

Sqt. Matthew Dow, Police Department Operations Support Bureau, presented this item and provided a presentation on the services of the Complied Logic Software. He stated the benefits of the Fayetteville towing initiative would help provide enforcement against predatory towing. He stated there had been instances of predatory towing in the City and they would like to take a pro-active approach. He stated the software would also help them combat auto theft and erroneous stolen vehicle reports, which would provide a cost-effective measure for citizens to locate vehicles. He stated they would be meeting with representatives from Fort Bragg to offer a service to deployed soldiers where they would voluntarily register their vehicles in the system and provide contact information in case their vehicles are stolen. He stated an additional fee of \$10.00 would be tacked to the rotation schedule of fees, \$7.00 to be remitted to the repository owner and \$3.00 back to the towing companies as an incentive to report the vehicle.

Council Member Evans requested explanation as to where they were now and where they would be going with this. Sgt. Dow explained everything they do now was primitive, handwritten and very archaic in the recordkeeping. He stated this software would provide them a way to query any and all agencies participating.

Council Member Evans inquired if they were looking at the possibility of making it mandatory that towing companies participate in order to be on the rotation list. Ms. Karen McDonald, City Attorney, responded there was the possibility that they would transition to that. She explained if this program were adopted, they would amend the ordinance allowing the towing companies on the rotation list a specified period of time to acquire the necessary computer software to participate.

Sgt. Dow stated half of the list was already voluntarily participating. He stated the training was free and there was no software cost. He stated they only require that the wrecker companies have a computer and an internet connection.

9. Election 2009 information.

Mr. Dale Iman, City Manager, presented this item and announced that candidates for Mayor or Council could obtain answers to questions or information from City staff. He requested that questions be directed to Assistant City Manager Doug Hewett. He stated requests would be responded to within 48 hours with either an answer or when the answer would be available. He stated all answers to questions from candidates would be posted on the City's website. He then presented statute and City Code information pertaining to employees participating in political activity and reviewed the Mayor and Council protocol operating guidelines.

A question and answer period ensued regarding the public records law.

10. Council member request.

This item was moved to Item 2.

 Closed session for (1) consultation with the attorney and (2) discussion of litigation in the matter of Gates Four v. City of Fayetteville.

MOTION: Council Member Crisp moved to go into closed session for

(1) consultation with the attorney and (2) discussion of litigation in the matter of Gates Four v. City of

Fayetteville.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS (9-0)

The regular session recessed at 6:05 p.m.

MOTION: Mayor Pro Tem Meredith moved to reconvene into open

session.

SECOND: Council Member Mohn VOTE: UNANIMOUS (9-0)

The regular session reconvened at 6:35 p.m.

There being no further business, the meeting adjourned at 6:35 p.m.

Respectfully submitted,

JENNIFER K. PENFIELD Deputy City Clerk ANTHONY G. CHAVONNE

Mayor

080309

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Rita Perry, City Clerk

DATE: September 28, 2009

RE: Minutes-City Council Dinner and Discussion Meeting Held on August 10, 2009

THE QUESTION:

Does City Council approve the draft minutes as the official record of proceedings and actions of their August 10, 2009 meeting?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

BACKGROUND:

The Fayetteville City Council conducted a meeting on Monday, August 10, 2009 during which they considered items of business as presented in the draft minutes.

ISSUES:

N/A

OPTIONS:

- 1. Approve the draft minutes as presented.
- 2. Revise the draft minutes and approve the draft the draft minutes as revised.
- 3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the August 10, 2009 draft minutes as presented.

ATTACHMENTS:

Minutes-City Council Dinner and Discussion Meeting Held on August 10, 2009

FAYETTEVILLE CITY COUNCIL DINNER AND DISCUSSION MEETING MINUTES LAFAYETTE ROOM AUGUST 10, 2009 6:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2) (arrived at 6:20 p.m.); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn

(District 8); Wesley A. Meredith (District 9)

Absent: Council Member Robert A. Massey, Jr. (District 3);

Darrell J. Haire (District 4)

Others Present: Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager Kristoff Bauer, Assistant City Manager

Karen M. McDonald, City Attorney

Anthony Fox, Parker Poe Adams & Bernstein

Mayor Chavonne called the meeting to order.

Closed session to discuss litigation in the matter of $Gates\ Four\ v.$ City of Fayetteville.

MOTION: Council Member Crisp moved to go into closed session to

discuss litigation in the matter of Gates Four v. City of

Fayetteville.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS (7-0)

The regular session recessed at $6:15~\mathrm{p.m.}$ The regular session reconvened at $6:35~\mathrm{p.m.}$

MOTION: Mayor Pro Tem Meredith moved to go into open session.

SECOND: Council Member Mohn VOTE: UNANIMOUS (8-0)

There being no further business, the meeting adjourned at 6:35 p.m. $\,$

Respectfully submitted,

KAREN M. MCDONALD

City Attorney

ANTHONY G. CHAVONNE

Mayor

081009

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Rita Perry, City Clerk

DATE: September 28, 2009

RE: Minutes-City Council Meeting Held on August 10, 2009

THE QUESTION:

Does City Council approve the draft minutes as the official record of proceedings and actions of their August 10, 2009 meeting?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

BACKGROUND:

The Fayetteville City Council conducted a meeting on Monday, August 10, 2009 during which they considered items of business as presented in the draft minutes.

ISSUES:

N/A

OPTIONS:

- 1. Approve the draft minutes as presented.
- 2. Revise the draft minutes and approve the draft the draft minutes as revised.
- 3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the August 10, 2009 draft minutes as presented.

ATTACHMENTS:

Minutes-City Council Meeting Held on August 10, 2009

FAYETTEVILLE CITY COUNCIL REGULAR MEETING MINUTES CITY HALL COUNCIL CHAMBER AUGUST 10, 2009 7:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8);

Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager Karen M. McDonald, City Attorney

Patricia C. Bradley, Assistant City Attorney

Lisa Smith, Chief Financial Officer

Jeffrey Brown, Interim Director for Engineering and

Infrastructure

Tom Bergamine, Chief of Police Benjamin Nichols, Fire Chief

Terrie Hutaff, Human Resource Development Director

Rob Anderson, Chief Development Officer

Jimmy Teal, Planning Director

Craig Harmon, Planner II

Craig Hampton, Special Project Director Jackie Tuckey, Communications Manager/Public

Information Officer

Nathan Walls, Public Information Specialist Steven K. Blanchard, PWC CEO/General Manager Dwight Miller, PWC Chief Finance Officer

Elisabeth Fetting, KFH Group

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Pastor Gary Norwood, New Life Bible Church, followed by the Pledge of Allegiance to the American Flag being led by Troop 746 from the Cumberland United Methodist Church.

Mayor Chavonne introduced Ms. Rita Perry, the newly hired City Clerk.

APPROVAL OF AGENDA

MOTION: Council Member Evans moved to add an item to the agenda,

consider allowing the potbellied pig to stay at the home of the young man with health issues until Council makes a

decision.

SECOND: Council Member Bates

VOTE: FAILED by a vote 6 in favor (Council Member Bates, Haire,

Evans, Hurst, Massey, and Mohn) to 4 in opposition (Council

Members Crisp, Applewhite, Chavonne, and Meredith)

Mr. Dale Iman, City Manager, informed Council there would be a report presented at the September work session and if the Council was in favor at that time they would bring it back the following week.

MOTION: Mayor Pro Tem Meredith moved to approve the agenda.

SECOND: Council Member Mohn

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council

Members Evans and Bates)

2. PUBLIC FORUM:

A. Announcements and Recognition

Mayor Chavonne introduced Ms. Candice Fulmore, Ms. Martha McDonald, Ms. Evelyn Miller, Mr. Jimmy Miller, Ms. Powers, Ms. Patricia Underwood, Ms. Helen Leigh, and Mr. Lonnie Williams and Council Member Evans presented them with Certificates of Excellence for being mentors for young men and women excelling academically.

Ms. Helen Leigh stated they take these young men and women on an educational trip at the end of the school year. She thanked Council Member Evans for his support in obtaining funding for this trip.

Students from Student Motivation and Honor Society presented shirts to Mayor Chavonne and Council Member Evans.

Council Member Haire announced the 18th Annual African American Family Festival, also known as UMOJA Festival, would be held on August 22, 2009, from 12 to $7~\rm p.m.$

Mayor Chavonne presented a Proclamation to Mr. Michael Russell, Ms. Wendy Dyer, Mr. George Williams, and Ms. Susan Mills proclaiming August 22, 2009, to be American Red Cross Highlands Chapter's Rock and Run Day.

 $\mbox{Mr.}$ Michael Russell, Chair of the Highlands Chapter, thanked Council for their support.

Council Member Evans thanked Ms. Joan Vavershak from Jordan, New York, and Ms. Marie Rollinson from Huntsdale, PA, for visiting tonight.

B. Comment Period

Ms. Stella Mullen, 141 May Street, Fayetteville, NC 28306, expressed concerns with problem rental properties in the Massey Hill neighborhood and advised the Massey Hill Community Watch was in favor of a rental inspection program.

Mr. James Popp, 101 Goodyear Avenue, Fayetteville, NC 28303, expressed concerns with problem rental properties in the Kornbow neighborhood and advised the Kornbow Community Watch was in favor of a rental inspection program.

Mr. Ned Garber, 1321 Woodland Drive, Fayetteville, NC 28305, provided history on a request from Eureka Chapel Baptist Church requesting the Cumberland County Planning Board to waive the sidewalk requirement for Jossie Street.

Ms. Gwen York, 5703 Cypress Road, Fayetteville, NC 28304, spoke regarding her request for a domestic violence unit.

Mr. Robert Mock, 307 Sherman Drive, Fayetteville, NC 28301, announced the National Alliance on Mental Illness (NAMI) would be holding a Family-to-Family Education Program on August 22, 2009, at the Seabrook Recreation Center, which was a 12-week course for family caregivers of individuals with severe mental illnesses.

Mr. Anthony Castillo, 1707 Powatan Street, Fayetteville, NC 28301, spoke regarding police visibility in neighborhoods and presented a petition in support of hiring more police officers.

Ms. Linda Brown, 3031 Enterprise Avenue, Fayetteville, NC 28306, spoke regarding bus number 8 and expressed concerns with the bus route being removed on Enterprise Avenue.

3. CONSENT:

Council Member Crisp requested to pull Item 3.D. for discussion.

MOTION: Mayor Pro Tem Meredith moved to approve the consent agenda

with the exception of Item 3.D.

SECOND: Council Member Crisp

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

Member Bates)

A. Approve Minutes:

1. City Council special meeting held on June 9, 2009.

- 2. City Council meeting held on June 22, 2009.
- B. Adopt resolution authorizing placement of City-owned land into Clean Water Trust Fund conservation easement.

Council was asked to adopt a resolution that would place approximately 167 acres of City-owned land adjacent to the Cape Fear River into a conservation easement in order to obtain funding of \$1.3 million for construction of the next phase of the Cape Fear River Trail.

A RESOLUTION AUTHORIZING CERTAIN CITY-OWNED LAND TO BE CONVEYED INTO THE NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND CONSERVATION EASEMENT PROGRAM. RESOLUTION NO. R2009-061.

C. Special Revenue Fund Project Ordinance 2010-4 (2009 Gangs Across the Carolinas Training Conference).

This ordinance appropriated \$93,172.00 for the 2009 Gangs Across the Carolinas Training Conference. The funding for this program was a \$69,879.00 grant from the NC Department of Crime Control and Public Safety (Governor's Crime Commission) and a \$23,293.00 local match. The NC Gang Investigator's Association provided the local match.

- D. Pulled for discussion by Council Member Crisp.
- E. Capital Project Ordinance Amendment 2010-10 (Police Department Server Upgrades).

This amendment appropriated an additional \$8,000.00 for the Police Department server upgrades. The source of funds for this amendment was a \$8,000.00 transfer from the General Fund. If approved, the revised project budget will be \$188,000.00.

F. Capital Project Ordinance Amendment 2010-11 (Fire Station #15 at Buhmann Drive).

The project was completed and \$58,340.00 remained in the project budget. This amendment reduced the appropriation for project expenditures by \$58,340.00 and authorized the transfer of the remaining balance to the General Government Fund to be used for the building maintenance project and the integrated cashiering system. The amendment would also allow this project to be closed out in fiscal year 2011 and was consistent with the approved Capital Improvement Plan.

G. Capital Project Ordinance Amendment 2010-12 (Cape Fear River Park Land Acquisition).

The land acquisition project was completed and \$69,037.00 remained in the project budget. This amendment reduced the appropriation for project expenditures by \$69,037.00 and authorized the transfer of the remaining balance to the General Government Fund to be used for the integrated cashiering system. The amendment would

also allow this project to be closed out in fiscal year 2011 and was consistent with the approved Capital Improvement Plan.

H. Capital Project Ordinance Amendment 2010-13 (E. E. Miller Recreation Center).

The project was completed and \$9,098.00 remained in the project budget. This amendment reduced the appropriation for project expenditures by \$9,098.00 and authorized the transfer of the remaining balance to the General Government Fund to be used for the integrated cashiering system. The amendment would also allow this project to be closed out in fiscal year 2011 and was consistent with the approved Capital Improvement Plan.

I. Capital Project Ordinance Amendment 2010-14 (Building Maintenance Project).

This amendment appropriated an additional \$49,775.00 for the building maintenance project consistent with the adopted Capital Improvement Plan. The source of funds for this amendment was a \$49,775.00 transfer from the Public Safety Fund. If approved, the revised project budget will be \$150,775.00. The funds would be used for the maintenance of the City's buildings at various locations.

J. Capital Project Ordinance Amendment 2010-15 (AIP 33 - Airfield Lighting Vault Improvement Project).

This amendment appropriated an additional \$7,833.00 to fund a change order that included the relocation of large electrical conduits. The current funding source for this amendment was a transfer from the Airport Operating Fund. However, once the project is complete, the City expects to be reimbursed 95 percent of this cost from the FAA.

K. Capital Project Ordinance Amendment 2009-16 (Public Safety Computer-Aided Dispatch, Records Management and Fire Reporting Systems).

This amendment appropriated an additional \$897,617.00 for certain components of this project as well as returned \$2,322,100.00 temporarily borrowed from the Risk Management Fund. This amendment also reflected the City's plan to finance \$3,219,717.00 for this project through capital lease proceeds (bank loan) during the current fiscal year. These actions were consistent with the FY 2010-2014 Capital Improvement Plan adopted by City Council as well as the staff briefing at the June 2009 work session.

L. Adopt resolution appointing a Deputy Tax Collector.

The City's collections supervisor is responsible for collecting certain taxes, such as business license taxes, for the City of Fayetteville. The governing body appoints the individual who collects such taxes as a Deputy Tax Collector. On July 20, 2009, Donna Love was promoted as the collections supervisor for the City. Approval of the resolution would appoint Donna Love, Collections Supervisor, as Deputy Tax Collector for the City of Fayetteville.

RESOLUTION. RESOLUTION NO. R2009-061A.

- M. Set public hearing for Parks and Recreation:
- Request to name the small conference room at Myers Recreation Center in honor of Lois B. Moses.

A request was made by Council Member Evans to name the small conference room in the Myers Recreation Center in honor of Lois B. Moses. Ms. Moses was a former Parks and Recreation Advisory Commission member and was very active in several community committees around the Myers Recreation Center as well as around the City of

Fayetteville. The Parks and Recreation Advisory Commission supports this renaming request.

2. Request to rename the Cross Creek Recreation Park to the Lafayette Park.

A request was made by the City's Historic Properties Manager on behalf of the Lafayette Society to rename Cross Creek Park the Lafayette Park. The Society believes this would be a more fitting name since the Lafayette statue was located in the park. The Parks and Recreation Advisory Commission supports this renaming request.

N. Approve sign permit for the Cumberland County Fair scheduled for September 9 through 12.

Twenty signs in various locations were to be placed beginning August 24 through September 13. The sign ordinance provided temporary signage for festivals and special events.

D. Capital Project Ordinance 2010~7 (Integrated Cashiering System).

This ordinance appropriated a \$106,180.00 budget for the integrated cashiering system consistent with the adopted Capital Improvement Plan. The funding sources for this ordinance consisted of a \$19,480.00 transfer from the General Fund, a \$8,565.00 transfer from the Public Safety Fund, and a \$78,135.00 transfer from the Recreation and Cultural Fund. These funds would be used for the integrated cashiering system that connects Finance, Inspections, Parks and Recreation, and Fire Departments for centralized payment collections and financial transactions.

Council Member Crisp pulled this item for discussion and requested an explanation on the integrated cashiering system. Ms. Lisa Smith, Chief Financial Officer, explained the system would allow them to replace an antiquated system purchased back in 1994 for cashiering. She stated the current system could not communicate with the Inspections, Fire, and Parks and Recreation Departments in terms of cashiering and the new system would allow finance to communicate with all departments for payment transactions.

MOTION: Council Member Crisp moved to adopt Capital Project

Ordinance 2010-7.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS

4. F.A.S.T. Transportation Development Plan (TDP).

Mr. Ron Macaluso, Transit Director, presented this item and introduced Elisabeth Fetting from the KFH Group.

Ms. Elisabeth Fetting, KFH Group, commended Council for their interest in improving transit. She presented a power point outlining the objectives for the TDP, the overall fixed route service statistics, the highest and lowest ridership routes, the routes with the highest and lowest productivity, a transit needs analysis, a recommended plan, a marketing plan, the TDP adoption and implementation, and other issues such as Fort Bragg expansion, regional transportation services, land use and transit planning, etc. She stated they were requesting that Council adopt the TDP as a vision and agreeing with the improvements to be implemented as funds become available. She stated it was a living document and recommended it be amended and updated every five years based on demographic and land use changes.

Council Member Haire stated he had received complaints of stops being removed from routes and inquired if they could go back to these stops. Ms. Fetting stated they understood that people were not happy with Enterprise Road not being served anymore on the number 8 bus and

that Transit staff would continue working on this issue to come up with a resolution. She expressed concern as to where the line should be drawn between serving everybody's house and everyone's neighborhood versus staying on the main and public arteries for convenience. She stated stops that were removed could be looked at again.

Council Member Mohn inquired how many more years they planned to contract the Transit Director position. Mr. Dale Iman, City Manager, responded there was a three-year contract with First Transit with two years remaining. He stated the ideal of contractual relationships with transit was widely used throughout North Carolina as it brought advantages for additional resources that otherwise would not have been available.

Council Member Crisp requested clarification on the marketing plan regarding fare programs with major employers, colleges, and universities. Ms. Fetting clarified the partnership ideal was to work with local employers, colleges, and universities on a fare exchange where they could help with finances for the City transit program in exchange for their riders riding free.

Discussion ensued regarding future annexations affecting ridership.

MOTION: Council Member Evans moved to adopt the TDP and plan for

the recommended alternatives for system improvement.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS

 Consider approval of resolution confirming assessment roll for Meeting Street.

Mr. Jeffrey Brown, Interim Engineering and Infrastructure Director, presented this item. He stated a public hearing was held on June 22, 2009, and Council delayed action on Meeting Street for 30 days to allow City staff to meet with representatives from Evans Metropolitan AME Zion Church regarding the assessment. He stated the Church had a total assessment of \$6,152.00 on two parcels. He stated City staff met with Church officials on two different occasions who advised back in 2006 they had signed over an easement for the Linear Park to be installed along their property. He stated the Real Estate Division had determined that the land value of that easement back in 2006 would have been approximately \$1,800.00. He stated this would bring the adjusted assessment to \$4,352.00.

Mayor Pro Tem Meredith inquired if the City paid \$1,800.00 back in 2006 for the easement. Mr. Brown responded in the negative and explained the easement was a transfer of \$1.00.

Council Member Applewhite inquired if this was a unique situation. Mr. Brown responded in the affirmative and explained that typically these type of issues are resolved upfront when they go in and pave a street. He stated the property owners would be aware at that point and time what the assessment would be.

Council Member Bates inquired if the property owners that received an assessment for their share were taxpayers. Mr. Brown replied in the affirmative.

Council Member Bates inquired if churches as nonprofits pay property taxes. Ms. Karen McDonald, City Attorney, responded they do not pay property taxes, however, they do pay special assessments.

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS. RESOLUTION NO. R2009-D62.

MOTION: Council Member Evans moved to adopt the resolution

confirming assessments on Meeting Street.

SECOND: Council Member Massey

Discussion ensued regarding the value of the easement back in 2006 and the value now as a result of Linear Park and whether the Church granted an easement or deed. Ms. Karen McDonald, City Attorney, explained the Church maintained ownership of the property and granted an easement to Linear Park to use the property.

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

6. Consider recommending denial to the Cumberland County Joint Planning Board regarding a sidewalk waiver requested by Eureka Chapel Baptist Church requiring installation of sidewalk property located at the corner of McArthur Road and Jossie Street. The applicant is requesting the sidewalk waiver for the required sidewalk on Jossie Street.

Mr. Jimmy Teal, Planning Director, presented this item and showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the Church agreed to the frontage on McArthur Road but were asking for a wavier on Jossie Street. He stated the developer indicated that an existing ditch abutting Jossie Street was the hardship for not constructing the sidewalk. He stated this property was outside the City limits of Fayetteville, but within the Fayetteville's Municipal Influence Area.

MOTION: Council Member Bates moved to accept the recommendation for

them to put the sidewalk on McArthur Road and not Jossie

Street.

SECOND: Council Member Crisp

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council

Members Applewhite, Chavonne, Meredith)

There being no further business, the meeting adjourned.

Respectfully submitted,

RITA PERRY City Clerk ANTHONY G. CHAVONNE

Mayor

081009

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Rita Perry, City Clerk
DATE: September 28, 2009

RE: Minutes-City Council Agenda Briefing Held on August 19, 2009

THE QUESTION:

Does City Council approve the draft minutes as the official record of proceedings and actions of their August 19, 2009 meeting?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

BACKGROUND:

The Fayetteville City Council conducted a meeting on Wednesday, August 19, 2009 during which they considered items of business as presented in the draft minutes.

ISSUES:

N/A

OPTIONS:

- 1. Approve the draft minutes as presented.
- 2. Revise the draft minutes and approve the draft the draft minutes as revised.
- 3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the August 19, 2009 draft minutes as presented.

ATTACHMENTS:

Minutes-City Council Agenda Briefing Held on August 19, 2009

FAYETTEVILLE CITY COUNCIL AGENDA BRIEFING MINUTES LAFAYETTE ROOM AUGUST 19, 2009 4:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Bobby Hurst (District 5) (arrived at 4:25 p.m.); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7);

Theodore W. Mohn (District 8)

Council Members Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Absent:

Wesley A. Meredith (District 9)

Others Present: Kristoff Bauer, Assistant City Manager

Doug Hewett, Assistant City Manager Karen M. McDonald, City Attorney Rob Anderson, Chief Development Officer

Jimmy Teal, Planning Director

Karen Hilton, Assistant Planning Director

Craig Harmon, Planner II

Members of Press

Mr. Craig Harmon, Planner II, provided overviews of the following items scheduled for the August 24, 2009, City Council meeting:

Approve the rezoning from P2 Professional District to C1 Commercial District or to a more restrictive zoning classification for property located at 6460 Yadkin Road. Containing 0.433 acres more or less and being the property of John Dowdy. Case No. P09-22F.

Mr. Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the property was part of an existing shopping center that was split zone with commercial and professional zoning. He stated the applicant was requesting Cl Commercial zoning in order for the entire shopping center to be zoned commercial. He stated the Zoning Commission and Planning staff concurred with the applicant's request.

Approve the rezoning from AR Agricultural\Residential District to R6\C2 Residential District\Conditional zoning for property located on Rim Road between Olted Road and Identity Road just south of Cliffdale Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and Alex and Catherine Hall. P09-23F.

Mr. Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the developer for this application wished to construct an apartment complex at this location. He stated in September 2008 Council approved a similar R6 Conditional zoning for the same developer for property adjoining this case. He stated the Zoning Commission and Planning staff concurred with the applicant's request.

Council members clarified the ingress and egress for the complex and the conditions for the request.

Council Member Applewhite reiterated her concerns regarding traffic, capacity of schools, and availability of bus service.

Council Member Crisp expressed the need for a stoplight at the intersection on Rim Road because of the traffic.

 $\,$ Mr. Harmon reminded Council that this was on the consent agenda, thus options would be to approve or set the matter for a public hearing.

Consider the rezoning from R6 Residential District to R5 Residential District or to a more restrictive zoning classification for property located at 108, 110, 202, and 204 Pinecrest Drive. Containing 0.89 acres more or less and being the properties of Pear Tree Properties, LLC, Thomas Bradford and Island Time Pizza, LLC. Case No. P09-24F.

Mr. Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the applicant wished to rezone the properties from R6 Residential District to R5 Residential District to redevelop the properties. He stated the Zoning Commission recommended denial of the rezoning and explained the reason for the denial.

Consider an application by MME Enterprises, LLC, for a Special Use Permit to allow mini-storage units in a C3 Commercial District for property located at 902 Cedar Creek Road. Containing 2.87 acres more or less and being the property of MME Enterprises, LLC. Case No. P09-26F.

Mr. Harmon showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the applicant had existing mini-storage nearby of this location and wished to add additional storage units. He stated if approved, the applicant would have to adhere to the ministorage design guidelines for the new construction. He reminded Council that staff does not make recommendations but explained that the Zoning Commission recommended approval with six conditions and outlined the same.

Mr. Rob Anderson, Chief Development Officer, asked about the number of letters sent out and the responses. He advised Council they would be doing an analysis to determine the return on the cost for extending the notification area from 500 to 750.

There being no further business, the meeting adjourned at $4:45\,\mathrm{p.m.}$

Respectfully submitted,

KAREN M. MCDONALD City Attorney ANTHONY G. CHAVONNE Mayor

081909

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Rita Perry, City Clerk
DATE: September 28, 2009

RE: Minutes-City Council Meeting Held on August 24, 2009

THE QUESTION:

Does City Council approve the draft minutes as the official record of proceedings and actions of their August 24, 2009 meeting?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

BACKGROUND:

The Fayetteville City Council conducted a meeting on Monday, August 24, 2009 during which they considered items of business as presented in the draft minutes.

ISSUES:

N/A

OPTIONS:

- 1. Approve the draft minutes as presented.
- 2. Revise the draft minutes and approve the draft the draft minutes as revised.
- 3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the August 24, 2009 draft minutes as presented.

ATTACHMENTS:

Minutes-City Council Meeting Held on August 24, 2009

FAYETTEVILLE CITY COUNCIL REGULAR MEETING MINUTES CITY HALL COUNCIL CHAMBER AUGUST 24, 2009 7:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3 - arrival time 7:35 p.m.); Darrell J. Haire (District 4 - arrival time 7:20 p.m.); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8);

Council Member Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager Kristoff Bauer, Assistant City Manager

Karen M. McDonald, City Attorney

Patricia C. Bradley, Assistant City Attorney

Lisa Smith, Chief Financial Officer

Benjamin Nichols, Fire Chief

Rob Anderson, Chief Development Officer Bruce Daws, Historical Properties Manager

Craig Harmon, Planner II

Rusty Thompson, City Traffic Engineer

Michael Gibson, Parks & Recreation Director Jackie Tuckey, Communications Manager/Public

Information Officer Rita Perry, City Clerk Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Imam Abdul Haneef, Masjid Omar Ibn Sayyid, followed by the Pledge of Allegiance to the American Flag.

RECOGNITIONS AND ANNOUNCEMENTS

Council Member Hurst announced an invitation to the citizens to attend the second Citizens' Academy which will begin Wednesday, September 16, 2009 through October 28, 2009 from 6:00 p.m. - 8:30 p.m., which is available at no charge to all City of Fayetteville residents and applications can obtain at the city's website: cityoffayetteville.org or call 433-1578. The deadline is September 4, 2009 with limited space.

Council Member Applewhite announced the first day of school for Cumberland County children and encouraged citizens to exercise safety over speed.

Council Member Meredith recognized visitor, Josh Roomer who is a Civic Leadership Principles intern with the City. He extended congratulations to him for his many accomplishments.

Council Member Evans Acknowledged the presence of Tony McKinnon with the United Postal Workers, and his efforts save the Haymount Hill Post Office.

1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.

SECOND: Council Member Evans

VOTE: UNANIMOUS (8-0)

2. CONSENT:

Mayor Chavonne requested the inclusion of a list of additional of sign locations for the Greek Festival to Item 2.0.

Council Member Applewhite requested to pull Item 2.C. for discussion.

MOTION: Council Member Applewhite moved to approve the consent

agenda with the exception of Items 2.C. and the additional

sign location list for the Greek Festival.

SECOND: Council Member Bates
VOTE: UNANIMOUS (8-0)

- A. Approve Minutes:
- 1. City Council meeting held on June 8, 2009.
- 2. City Council meeting held on June 13, 2009.
- 3. Agenda Briefing meeting held on July 22, 2009.
- 4. Dinner and Discussion meeting held on July 27, 2009.
- 5. City Council meeting held on July 27, 2009.
- B. Approve the rezoning from P2 professional district to C1 commercial district or to a more restrictive zoning classification for property located at 6460 Yadkin Road. Containing 0.433 acres more or less and being the property of John Dowdy. Case Number P09-22F

The property is part of an existing shopping center that is split zoned with commercial and professional zoning. The applicant is requesting C1 commercial zoning in order for the entire shopping center to be zoned commercial. The Zoning Commission and Planning staff concur with the applicant's request.

- C. Pulled for discussion by Council Member Applewhite.
- D. Renovation of Airport Fire Station 10
- 1. Approval for Renovation of Airport Fire Station 10

The Airport has plans to renovate and improve the airport fire station and has secured federal grant funding to participate in the costs. The project will add an additional large equipment bay and new training and living quarters for operations. The following approvals are requested to move the project forward and secure federal funding:

Approve FAA grant number AIP 36 (part B) for 2009 in support of renovations to Fire Station 10. The Federal grant represents 95% of the total cost in the amount of \$1,100,305.00. The airports 5% will come from passenger facilities charges (PFC) in the amount of \$57,911.05.

 Capital Project Ordinance 2010-8 (Aircraft Rescue and Fire Fighting (ARFF) Building Rehabilitation Project)

This ordinance will appropriate \$1,736,467 for the ARFF building rehabilitation project at the Airport. The funding sources for this action consist of two federal grants totaling \$1,649,643 as well as a required local match of \$86,824.

Contract Award - Aircraft Rescue and Firefighting Facility (ARFF)

Award contract in the amount of \$1,099,798.00 to Keystone Construction & Consulting, LLLC, Hope Mills, NC, for the Aircraft Rescue and Firefighting Facility (ARFF) at the Fayetteville Regional Airport.

E. Special Revenue Fund Project Ordinance Amendment 2010-3 (FY2009-2010 Community Development Block Grant)

This amendment will reduce the project budget appropriation by \$87 to be consistent with the grant award received from the U.S. Department of Housing and Urban Development (HUD).

F. Special Revenue Fund Project Ordinance 2010-5 (Homelessness Prevention and Rapid Re-Housing Program)

This ordinance will appropriate \$589,648 for the American Recovery and Reinvestment Act of 2009 (ARRA) Homelessness Prevention and Rapid Re-Housing Program awarded by the U.S. Department of Housing and Urban Development (HUD). The grant will be used to provide homeless prevention assistance to households who would otherwise become homeless and to provide assistance to rapidly re-house people who are experiencing homelessness.

G. Special Revenue Fund Project Ordinance 2010-6 (Community Development Block Grant Recovery Program)

This ordinance will appropriate \$385,584 for the American Recovery and Reinvestment Act of 2009 (ARRA) Community Development Block Grant Recovery Program awarded by the U.S. Department of Housing and Urban Development (HUD). The grant will be used for the Residential Façade Grant Program and a Demolition Program.

H. Special Revenue Fund Project Ordinance 2010-7 (FY2008 Assistance to Firefighters Grant)

This ordinance appropriates \$245,210 for the purchase of fitness equipment and to fund training certifications, physical exams and fitness evaluations. The funding sources for this action consist of a federal grant of \$196,168, awarded through the FY2008 Assistance to Firefighters Grant, and a required local match from the General Fund of \$49,042. The local match was included in the FY2009-2010 General Fund Budget.

I. Capital Project Ordinance 2010-10 (FY2010 American Recovery and Reinvestment Act (ARRA) Transit Capital Grant for Hybrid Electric Buses and Security Plan Development)

This ordinance will appropriate \$3,097,720 for five 35-foot hybrid electric buses, emergency response drills and security training.

J. Municipal Agreement & Resolution for Railroad Crossing Improvements at Southgate Road

Council is being asked to approve a Municipal Agreement and Resolution with NCDOT-Rail Division for Southgate Road. This agreement is necessary in order to improve the protective devices at the crossing location.

K. Capital Project Ordinance Amendment 2010-17 (EE Miller Recreation Center)

This amendment will increase the appropriation for the EE Miller Recreation Center project by \$8,008. The source of funds for this amendment is investment income earned on the capital lease proceeds borrowed to construct the recreation center. Other minor adjustments are made to align the revenue budget with the actual funding sources received to construct the recreation center.

L. Accept an offer to purchase vacant City owned lot on Old Wilmington Road

To take final action on an offer from Dan V. Kinlaw to purchase a City-owned, PWC managed lot. The offering price is 100% of tax appraised value. Council approved advertisement of the offer to purchase at the July 27 meeting; the offer was published in the Fayetteville Observer and no upset bids were received within the 10 day upset bid period. Parcel is not located within the Hope VI project area and is being conveyed subject to 40' drainage/utility easement.

Accept an offer to purchase vacant City owned lot on Boone Trail

To take final action on an offer from John M. Hall, Jr. to purchase a City owned, PWC managed lot. The offering price is 100% of the tax appraised value. Council approved the advertisement of the offer to purchase at the July 27 meeting; the offer was published in the Fayetteville Observer and no upset bids were received within the 10 day upset bid period. Parcel is being conveyed subject to a 100' C P & L easement.

Resolution for Series 2009 Revenue and Revenue Refunding Bonds

The Public Works Commission of the City of Fayetteville requests Council adopt a Resolution pertaining to the Series 2009 Revenue and Revenue Refunding Bonds

Approve sign permit for the 19th annual Greek Festival occurring on September 9th through September 13th.

The request is to place banner signs on the light poles at the AAMCO lot at 1047 Bragg Boulevard and fly the American and Greek flags at the Saints Constantine & Helen Greek Orthodox Church from August $26^{\rm th}$ through September $14^{\rm th}.$ The sign ordinance provides temporary signage for festivals and special events. The City Council approved this request last year.

Ρ. Request from Cape Fear Botanical Gardens

The Cape Fear Botanical Garden is completing the final phase of its master plan which includes building a visitor's center complex. Cape Fear Botanical Garden has requested that the City release all restrictions and reversionary interest in the 10.1 acre tract upon which the visitor's center is being constructed. This release would be effective during the time Cape Fear Botanical Garden is indebted to the bank and in the event of foreclosure. The City's restrictions and reversionary interest would reattach upon satisfaction of the deed of trust.

Approve the rezoning from AR agricultural\residential district to R6\CZ residential district\conditional zoning for property located on Rim Road between Olted Road and Identity Road just south of Cliffdale Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and Alex and Catherine Hall. Case Number P09-23F

Council Member Applewhite pulled this item for discussion.

MOTION: Council Member Applewhite moved to set a public hearing to

consideration other option.

SECOND: Council Member Evans

Council Member Mohn questioned the necessity of setting another public hearing. Council Member Applewhite explained the traffic concerns and requested additional traffic analysis.

Craig Harmon, Planner II, explained the process of evaluating the traffic impact for a conditional use zoning request.

Rusty Thompson, City Traffic Engineer, informed Council the previous driveway was already reviewed and granted by NCDOT and the existence of a secondary site that will connect into a non-DOT roadway; therefore, a traffic review is not performed. He further elaborated on the Traffic Impact Analysis (TIA) procedures regarding new developments and suggested the developments be viewed as one with a driveway alignment with April Drive and the potential of a signal light in the future.

A question and answer period ensued regarding the sizes of the complexes, future traffic in the area, the process and timeline of

aligning the driveway with April Drive and future widening of Rim Road.

Mr. Thompson explained two options for driveway alignment since there is one owner for both properties, either review through Technical Review Committee (TRC) or be set as part of conditional zoning. He updated Council regarding the widening of Rim Road which is currently unfunded.

combined-development Discussion ensued regarding the recalculations as it pertains to traffic, a revised staff recommended site plan and a Traffic Impact Analysis (TIA).

PASSED by a vote of 6 in favor (Mayor Chavonne, Council Members Applewhite, Bates, Crisp, Hurst, and Meredith) to 2 in opposition (Council Members Evans and Mohn)

PUBLIC HEARINGS: 3

Consider the rezoning from R6 residential district to R5 $\,$ residential district or to a more restrictive zoning classification for property located at 108, 110, 202 and 204 Pinecrest Drive. Containing 0.89 acres more or less and being the properties of Pear Tree Properties, LLC, Thomas Bradford and Island Time Pizza, LLC. Case Number P09-24F

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the applicant is requesting this case be remanded back to the Zoning Commission as conditional use zoning. He explained the history of this case as it being initially denied by the Zoning Commission; therefore, is before Council as an Appeal Item. He summarized Council's options as follows: (1) to remand the case back to the Zoning Commission; (2) hold the public hearing then remand it back to the Zoning Commission; or (3)hold the public hearing and vote on the case as presented. He clarified that if this case is remanded back to the Zoning Commission it would still require two public hearings being the Zoning Commission and City Council.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:28 p.m.

Mr. Thomas Bradford, 2919 Breezewood Avenue, Suite 200, Fayetteville, NC 28304, appeared in favor, stated he declined to speak if Council agreed to his request to remand this case back to the Zoning Commission and to allow the other speaker their opportunity to address Council.

Mrs. Karen McDonald clarified to Mr. Bradford and others present to speak in favor, that Council has not made a decision and they should utilize this opportunity to support their case.

Mr. Thomas Bradford then explained his request and his request to remand this case back to the Zoning Commission for conditional use zoning.

Mr. W.M. Ward, 2201 Morganton Road, Fayetteville, NC 28303, appeared in opposition and expressed concerns with traffic, the appearance of the proposed structures which was not in harmony with existing structures in the neighborhood and property devaluation.

Mr. Christopher Fletcher, 112 Pinecrest Drive, Fayetteville, NC 28305, appeared in opposition and expressed concerns with traffic and property value.

There being no one further to speak, the public hearing closed at 7:38 p.m.

MOTION: Council Member Hurst moved to allow the applicant to send

this matter back to the Zoning Commission for Conditional

Use.

SECOND: Council Member Massey

PASSED by a vote of 8 in favor (Mayor Chavonne, Council VOTE:

Members Applewhite, Crisp, Evans, Haire, Hurst, Massey and Meredith) to 2 in opposition (Council Members Bates and

Consider an application by MME Enterprises LLC, for a Special Use В. Permit to allow mini-storage units in a C3 commercial district for property located at 902 Cedar Creek Road. Containing 2.87 acres more or less and being the property of MME Enterprises LLC. Case Number P09-26F

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated the applicant is requesting a Special Use Permit for ministorage units.

Council Member Bates inquired whether ordinance regulations prohibiting the parking of vehicles and boats in the front of the properties automatically pertain to this case or should the conditions be listed. Mr. Harmon confirmed the latter.

A question and answer period ensued regarding imposing conditions and the applicant's requirement to adhere to the proposed site plan guidelines.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:45 p.m. All speakers were sworn in.

Mr. Michael Evans, 12 Elkton Drive, Pinehurst, NC 28374, appeared in favor to answer any questions.

There being no one further to speak, the public hearing closed at 7:46 p.m.

Council Member Evans moved to approve the Special Use MOTION:

Permit with Conditions

SECOND: Council Member Bates

PASSED by a vote of 8 in favor (Mayor Chavonne, Council VOTE:

Members Applewhite, Crisp, Evans, Haire, Hurst, Massey and Meredith) to 2 in opposition (Council Members Bates and

Economic Development Incentive - Property Tax Grantback Funding Agreement for the Bellagio Project

Rob Anderson, Chief Development Officer, presented this item and provided a program description, proposed project site plan, developer's cost estimate and the City's projected tax revenue estimate.

Council Member Mohn clarified the developer initially pays taxes and upon complying with all requirements a portion of the taxes are granted back.

This is the advertised public hearing set for this date and time. There being no one in favor or in opposition, the public hearing opened and closed at 7:50 p.m.

MOTION: Council Member Haire moved to approve the Property Tax

Grantback Funding Agreement

SECOND: Council Member Massey

Council Member Haire commended Belliago for the development of this project in the community.

VOTE: PASSED by a vote of 9 in favor (Mayor Chavonne, Council

Members Applewhite, Crisp, Evans, Haire, Hurst, Massey, Mohn and Meredith) to 1 in opposition (Council Member

Request to Rename Cross Creek Park the Lafayette Park in honor of the Marquis de Lafayette

Bruce Daws, Historical Properties Manager and President of the Lafayette Society, presented this item and provided a summary of Lafayette's history and the various dedications in his honor.

A question and answer period ensued.

This is the advertised public hearing set for this date and time. There being no one in favor or in opposition, the public hearing opened and closed at 8:01 p.m.

Council Member Evans moved to deny the request to rename

Cross Creek Park to Lafayette Park in honor of Marquis de

Lafayette

SECOND: Council Member Crisp

Council Member Mohn stated Cross Creek Park is part of the City's history and another park may be more suitable to rename after Marquis de Lafayette.

PASSED by a vote of 8 in favor (Council Members Bates, VOTE: Crisp, Evans, Haire, Hurst, Massey, Mohn and Meredith) to 2 in opposition (Mayor Chavonne and Council Member Applewhite)

Request to Name a Conference Room at Myers Recreation Center in honor of Lois B. Moses

Michael Gibson, Parks & Recreation Director, introduced J.D. Pone, Advisory Board Chair, who presented this item.

Council Member Applewhite questioned the existence of conference rooms named after other city dignitaries and the decision making criteria. J.D. Pone responded in the affirmative regarding naming of conference rooms and Michael Gibson explained the decision making process.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:06 p.m.

Mrs. Kady-Ann Davy, 208 Fountainhead Lane #107, Fayetteville, NC 28301, appeared in favor and expressed support for the request.

Mr. Michael Evans, 1211 Simpson Street, Fayetteville, NC 28305, appeared in favor and urged Council to approve the request.

There being no one further to speak, the public hearing closed at 8:11 p.m.

MOTION: Council Member Evans moved to approve the request to name

a Conference Room at Myers Recreation Center in honor of Lois B. Moses

SECOND: Council Member Haire

PASSED by a vote of 9 in favor (Mayor Chavonne, Council VOTE: Members Applewhite, Crisp, Evans, Haire, Hurst, Massey, Mohn and Meredith) to 1 in opposition (Council Member Bates)

CONSIDER THE FOLLOWING GENERAL OBLIGATION REFUNDING BOND MATTERS:

Lisa Smith, Chief Financial Officer, presented this item and provided a summary of an investment firm's analysis and recommendation.

RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AND AUTHORIZING THE FILING OF AN APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION IN CONNECTION WITH THE PROPOSED ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE CITY

MOTION: Council Member Mohn moved to adopt the resolution making

certain findings and determinations and authorizing the filing of an application with the Local Government Commission in connection with the proposed issuance of

general obligation refunding bonds of the city

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

ORDER AUTHORIZING \$14,000,000 GENERAL OBLIGATION REFUNDING BONDS

MOTION: Council Member Meredith moved to approve the order

authorizing \$14,000,000 general obligation refunding bonds

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

RECOMMENDED ACTIONS:

1. Designate the Chief Financial Officer to make and file with the City Clerk a sworn statement of debt for the City.

MOTION: Council Member Meredith moved designate the Chief Financial

Officer to make and file with the City Clerk a sworn

statement of debt for the City.

SECOND: Council Member Haire VOTE: UNANIMOUS (10-0)

Adopt the bond order and direct the City Clerk to publish the bond order once in the Fayetteville Observer.

MOTION: Council Member Meredith moved to adopt the bond order and

direct the City Clerk to publish the bond order once in the

Fayetteville Observer

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

INFORMATION ITEM:

Confirmation of City of Fayetteville Taxes for the 2008-2009 Fiscal Year and Tax Levy for 2008-2009 from Cumberland County Tax Administrator.

There being no further business, the meeting adjourned at 8:18

Respectfully submitted,

RITA PERRY	ANTHONY G. CHAVONNE
City Clerk	Mayor

082409

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Rita Perry, City Clerk
DATE: September 28, 2009

RE: Minutes-City Council Dinner and Discussion Meeting Held on August 24, 2009

THE QUESTION:

Does City Council approve the draft minutes as the official record of proceedings and actions of their August 24, 2009 meeting?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

BACKGROUND:

The Fayetteville City Council conducted a meeting on Monday, August 24, 2009 during which they considered items of business as presented in the draft minutes.

ISSUES:

N/A

OPTIONS:

- 1. Approve the draft minutes as presented.
- 2. Revise the draft minutes and approve the draft the draft minutes as revised.
- 3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the August 24, 2009 draft minutes as presented.

ATTACHMENTS:

Minutes-City Council Dinner and Discussion Meeting Held on August 24, 2009

DRAFT

FAYETTEVILLE CITY COUNCIL DINNER AND DISCUSSION MEETING MINUTES LAFAYETTE ROOM AUGUST 24, 2009 6:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A.

Meredith (District 9)

Council Member Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4)

Others Present: Dale E. Iman, City Manager

Karen M. McDonald, City Attorney Lisa Smith, Chief Financial Officer

Mayor Chavonne called the meeting to order.

Closed session to consult with attorney concerning litigation in the matter of Wendy Murphy v. Fayetteville Regional Airport, et al.

Mayor Chavonne moved to go into closed session to consult

with City Attorney concerning litigation in the matter of

Wendy Murphy v. Fayetteville Regional Airport, et al.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS (8-0)

The regular session recessed at 6:05 p.m. The regular session reconvened at 6:20 p.m.

Council Member Hurst moved to go into open session. MOTION:

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS (8-0)

MOTION: Council Member Hurst moved to ratify the mediated

> settlement agreement and authorize the City Attorney to execute the necessary documents to resolve the litigation.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS (8-0)

MOTION: Mayor Pro Tem Meredith moved to go into closed session for

consultation with the City Attorney regarding attorney-

client privileged matter.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (8-0)

The regular session recessed at 6:35 p.m. The regular session reconvened at 6:45 p.m.

MOTION: Council Member Hurst moved to go into open session.

SECOND: Mayor Pro Tem Meredith

VOTE: UNANIMOUS (8-0)

DRAFT

	There	being	no	further	business,	the	meeting	adjourned	at	6:45
p.m.										

Respectfully submitted,

KAREN M. MCDONALD City Attorney

ANTHONY G. CHAVONNE Mayor

082409

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Rita Perry, City Clerk

DATE: September 28, 2009

RE: Minutes-City Council Special Meeting Held on August 31, 2009

THE QUESTION:

Does City Council approve the draft minutes as the official record of proceedings and actions of their August 31, 2009 meeting?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Community Unity - Pride in Fayetteville; Objective 2: Goal 5: Better informed citizenry about the City and City government.

BACKGROUND:

The Fayetteville City Council conducted a meeting on Monday, August 31, 2009 during which they considered items of business as presented in the draft minutes.

ISSUES:

N/A

OPTIONS:

- 1. Approve the draft minutes as presented.
- 2. Revise the draft minutes and approve the draft the draft minutes as revised.
- 3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the August 31, 2009 draft minutes as presented.

ATTACHMENTS:

Minutes-City Council Special Meeting Held on August 31, 2009

DRAFT

FAYETTEVILLE CITY COUNCIL
SPECIAL MEETING
HUMAN RESOURCES DEVELOPMENT
TRAINING ROOM
AUGUST 31, 2009
5:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Robert A. Massey, Jr. (District 3); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A.

Meredith (District 9)

Absent: Council Members Charles E. Evans (District 2); Darrell J.

Haire (District 4)

Others Present: Dale E. Iman, City Manager

Mayor Chavonne called the meeting to order at 5:05 p.m.

Consider the evaluation process for the City Manager.

MOTION: Council Member Bates moved to go into closed session to

consider the evaluation process for the City Manager.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (7-0)

Council Member Massey arrived at the meeting.

The regular session recessed at $5:05~\mathrm{p.m.}$ The regular session reconvened at $7:10~\mathrm{p.m.}$

MOTION: Council Member Bates moved to go into open session.

SECOND: Council Member Massey

VOTE: UNANIMOUS (8-0)

MOTION: Mayor Pro Tem Meredith moved to increase the City Manager's

vacation by ten days per year and allow the accumulation of vacation not to exceed 280 hours, increase the tax deferred contribution to the Retirement Health Savings Plan by 1.5 percent per year and make this retroactive back to July 1, 2009, and authorize the Mayor to work with City staff to

implement these changes.

SECOND: Council Member Hurst

VOTE: PASSED by a vote of 7 in favor to 1 in opposition (Council

Member Bates)

There being no further business, the meeting adjourned at 7:15 p.m. $\,$

Respectfully submitted,

DALE E. IMAN City Manager ANTHONY G. CHAVONNE Mayor

083109

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Jeffery P. Brown, PE, Interim Engineering & Infrastructure Department

DATE: September 28, 2009

RE: Engineering & Infrastructure-Municipal Agreement with NCDOT and Aberdeen &

Rockfish Railroad

THE QUESTION:

Council is being asked to approve a Municipal Agreement with NCDOT-Rail Division and Aberdeen & Rockfish Railroad for the construction of a new connector track from the A&R track east of Winslow Street to the CSX track south of the CSX Old Yard.

RELATIONSHIP TO STRATEGIC PLAN:

- Revitalized Downtown
- Making Fayetteville a Great Place to Live

BACKGROUND:

- City Council approved this project as part of the Rail Relocation Project for downtown on November 24, 2008.
- Funding has already been appropriated for this project under a previous Municipal
 Agreement that was executed between the City of Fayetteville and NCDOT-Rail Division
 following Council's approval of the project back in November of 2008.
- This is the first of the three projects identified that will be constructed.

ISSUES:

- No additional railroad R/W is needed to construct the connector track.
- The City is responsible for paying 20% (\$16,961) of the total cost of the project which is estimated to be \$84,805.

OPTIONS:

- Approve the attached Municipal Agreement for the railroad improvements.
- Not approve the Municipal Agreement.

RECOMMENDED ACTION:

Approve the attached Municipal Agreement with NCDOT-Rail Division and Aberdeen and Rockfish for the construction of the connector track to eliminate train congestion downtown.

ATTACHMENTS:

Railroad Municipal Agreement

NORTH CAROLINA
CUMBERLAND COUNTY

8/28/09

NORTH CAROLINA DEPARTMENT OF

TRANSPORTATION

Federal Funds Reimbursement Agreement

TIP #: P-4901

AND WBS Elements:

PE <u>WBS 41068.1.1 – PE</u> ROW <u>WBS 41068.2.1 – ROW</u>

CITY OF FAYETTEVILLE

CON WBS 41068.3.1 – CON

AND

ABERDEEN AND ROCKFISH RAILROAD

OTHER FUNDING:

WBS Element –

OTHER FUNDING

20.205

CFDA #:

THIS AGREEMENT is made and entered into on the last date executed below, by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, an agency of the State of North Carolina, hereinafter referred to as the "Department", the CITY OF FAYETTEVILLE, a local government entity, hereinafter referred to as the "Municipality", and ABERDEEN AND ROCKFISH RAILROAD, a North Carolina corporation, herein after referred to as "A & R".

WITNESSETH:

WHEREAS, the Department in a collaborative effort with the Municipality and A & R have developed improvements designed to significantly reduce traffic congestion in Fayetteville and create a more efficient operation for all railroads as outlined in the attached Railroad Operating Plan dated April 23, 2009; and,

WHEREAS, the Department and Municipality, on the 12th day of December, 2008, entered into a Federal Funds Reimbursement Agreement for specific federally funded improvements based on the Fayetteville Train Operation Study dated August 2008; said Study shall serve as a master plan concerning rail track improvements for the Municipality; and,

WHEREAS, the Department shall administer the disbursement of Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA – LU) federal funds on behalf of the Municipality and FHWA to A & R for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning and construction of the Project approved by the Board of Transportation; and,

NOW, THEREFORE, the parties hereto shall execute this Agreement within ninety (90) days of receipt of this Agreement. In the event A & R fails to execute said Agreement within ninety (90) days of receipt, A & R shall be evaluated by the Department to determine whether forfeiture of funds is warranted; and,

WHEREAS, the Municipality has agreed to participate in certain costs and the Municipality and A & R have agreed to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

This Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

1. GENERAL PROVISIONS

AGREEMENT MODIFICATIONS

Any modification to this Agreement will be agreed upon in writing by all parties prior to being implemented. Any increases to the funding amount will be agreed upon by all parties by means of a Supplemental Agreement.

SPONSOR TO PERFORM ALL WORK

A & R shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by A & R and/or its contractors and agents. The Department will provide technical oversight to guide A & R as applicable. The Department must approve any assignment or transfer of the responsibilities of the A & R set forth in this Agreement to other parties or entities.

COMPLIANCE WITH STATE/FEDERAL POLICY

A & R, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures.

FAILURE TO COMPLY - CONSEQUENCES

Failure on the part of A & R to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

2. SCOPE OF PROJECT

This project consists of the following work:

Improvements to the A & R Connector – construction of a new connector track from the A & R east of Winslow Street to the CSX track to the Old Yard, including a turnout on the southwest end of the connector, to eliminate crossings of streets by trains and associated blockages and to relocate the Williams Street railroad switching operation. A new turnout will not be constructed to make the connection to the CSXT track on the northeast end as CSXT will realign their main track to connect to the A & R connection under a separate agreement.

3. FUNDING

Subject to compliance by A & R with the provisions set forth in this Agreement and the availability of federal funds, the Department shall participate up to a maximum amount of Eighty-Four Thousand Eight Hundred and Five Dollars (\$84,805.00), as detailed below. The Municipality shall provide a local match, as detailed in the table below, and all costs that exceed the total estimated cost.

FUNDING TABLE

Fund Source	Federal Funds	Reimbursement	Non-Federal	Non-Federal
	Amount	Rate	Match \$	Match Rate
SAFETEA-LU Section 1701 & 1934	\$67,844.00	80%	\$16,961.00	20%

4. USEFUL LIFE

The Useful Life of this Project is determined to be 15 years. The Project shall be maintained by A & R for the period of the Useful Life. If, in the event, there are any leases or encroachments entered into by A & R for this Project, said leases or encroachments shall be for the length of the Useful Life. If the Project ceases to be maintained as described in this Agreement, within the period of the Useful Life, the Department may require reimbursement for the amortized value of the Department's initial investment.

5. TIME FRAME

A & R, and/or its agent, shall complete the Project within 120 Days of receipt of the Authorization for Construction as described in Section 15 of this Agreement. A & R shall meet milestone dates as stated herein or the Department reserves the right to revoke the funds awarded if A & R is unable to meet any milestone dates. The Department may extend the deadline for milestone activities if, in the opinion of the Department, circumstances warrant. Extensions of time granted will be documented in writing. The Project must progress in a satisfactory manner as determined by the Department or the Department and/or FHWA reserves the right to de-obligate said funding.

6. PRELIMINARY ENGINEERING AUTHORIZATION

The Department's Rail Division requested Preliminary Engineering authorization from the FHWA after execution of the Agreement dated December 12, 2008 between the Department and Municipality. Preliminary Engineering costs incurred directly by the Department are beyond the project improvement costs described in Section 3 of this agreement.

7. PROFESSIONAL AND ENGINEERING SERVICES

As the essential preliminary engineering and environmental documents have been completed by the Department for this improvement, A & R shall not procure, use or be reimbursed for any private professional and engineering services under this agreement. Preliminary Engineering costs incurred

directly by the Department are beyond the project improvement costs described in Section 3 of this agreement.

8. PLANNING AND DESIGN

CONTENT OF PLAN PACKAGE

Considering the limited scope of A & R's work within their existing railroad right of way, the plans, specifications and engineering package (PS&E package) will consist of 1) a planimetric produced by the Department showing the alignment of track and approximate location in the right of way, 2) a description of the improvement provided by A & R, 3) documentation of A & R's right of way taken from value maps, land schedules and/or other routinely acceptable instruments and 4) a materials list and estimate, including labor, to be provided by A & R. Said PS&E Package shall be submitted for approval by the Department prior to authorization of work. Written review comments shall be received by A & R within sixty days - (60) of submittal. If comments are not received within sixty days, A & R will presume plan approval and concurrence by each entity. The final PS&E package is due within sixty - 60 days of execution of this Agreement. All work shall be accomplished in accordance with established Departmental, State and Federal standards, specifications, policies and procedures and local codes and ordinances, and the current railroad standard track construction specifications, the current AREMA Manual, Volume 1, the current NC DOT's Standard Specifications for Roads and Structures, and the grade crossing system manufacturers' specifications.

9. ENVIRONMENTAL DOCUMENTATION

The Department has prepared the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work has been performed in accordance with Departmental procedures and guidelines.

The Department shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications, required to apply for those permits necessary for the construction of the desired improvements in accordance with the Federal Funds Reimbursement Agreement executed between the Department and Municipality on the 12th day of December, 2008.

- The Department shall advertise and conduct any required public hearings in accordance with the Federal Funds Reimbursement Agreement executed between the Department and Municipality on the 12th day of December, 2008.
- The Department has determined that no permit requires that action be taken to mitigate impacts associated with the improvements. If conditions change to warrant a permit with mitigation plan, the Department shall design and implement a mitigation plan. All costs associated with said mitigation plan, including penalties for violations and claims due to delays under this project shall be addressed in accordance with the Federal Funds Reimbursement Agreement executed between the Department and Municipality on the 12th day of December, 2008.

10. RIGHT OF WAY / UTILITY AUTHORIZATION

As work is to be completed fully within existing A & R right of way, A & R shall not acquire any further right of way or relocate utilities under this agreement.

11. PROJECT LIMITS AND RIGHT OF WAY (ROW)

It is understood by the parties hereto that all work shall be contained within A & R's existing right of way.

15. CONSTRUCTION AUTHORIZATION

Upon approval of PS&E package noted in Section 8 of this agreement, the Department will request construction authorization from the Federal Highway Administration. At the appropriate time, the Department will notify A & R, in writing by letter or by electronic medium, that A & R is authorized to proceed with the construction and upon receipt of such notice and acceptance thereof by A & R all terms of this Agreement shall become operative in respect to the project so authorized. Notification by the Department to A & R shall be in the form of an Authorization for Construction, setting forth details as to the project with respect to location, project numbers, scope of work, approved cost estimate, and such other information as may be necessary to carry out the provisions of this Agreement which Authorization for Construction is made a part hereof by reference. A & R agrees that it will not begin construction prior to receipt of a fully executed copy, either by mail or electronic medium of the aforesaid Authorization for Construction and that any expense A & R incurs prior to

such authorization not connected with or necessary for construction may be declared ineligible for reimbursement.

16. CONTRACTOR PROCUREMENT

A & R will purchase or provide the necessary materials and will contract for performance of all work, or alternatively will perform all work with its own forces, in connection with the scope of the work as addressed in Provision 1 and in accordance with Federal-Aid Policy Guide 23 CFR 140I, and supplements thereto. It is understood, however, that if conditions make it impossible for A & R to do the work with its own forces, A & R will so notify the Department and will obtain bids for the work from qualified contractors in accordance with FAPG 23 CFR 646B. A & R may use existing contracts for logistics services, equipment rental or lease, material purchase, and construction without separately obtaining bids for individual projects, provided that A & R shall make available to the Department all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate contracted costs incurred under this Agreement.

CONSTRUCTION SUBCONTRACTOR REQUIREMENTS:

In compliance with federal policy, the A & R, and/or its agent, including all contractors, subcontractors, or sub-recipients shall have a Conflict of Interest Policy and adhere to the Disadvantaged Business Enterprises (DBEs) policy which requires goals to be set and participation to be reported.

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 Part 26 of the Code of Federal Regulations and the North Carolina Administrative Code. These provisions are incorporated into this Agreement by reference at:

http://www.ncdot.org/doh/preconstruct/ps/specifications/specifications provisions.ntml.

A & R shall not advertise nor enter into a contract for services performed as part of this
Agreement, unless the Department provides written approval of the advertisement or
the contents of the contract.

 If A & R fails to comply with these requirements, the Department will withhold funding until these requirements are met.

DELAY IN PROCUREMENT

In the event the Project has not been let to contract within 120 days after receiving construction authorization from the Department, A & R shall be responsible for documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.

FORCE ACCOUNT

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than contract awarded by a competitive bidding process. Written approval from the Department is required prior to the use of force account by A & R. Federal Highway Administration regulations governing Force Account are contained in Federal-Aid Policy Guide, Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference www.fhwa.dot.gov/legsregs/directives/cfr23toc.ntm. North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at www.ncleg.net/gascripts/Statutes/Statutes.asp.

17. CONSTRUCTION

A & R, and/or its contractor, will construct or cause to be constructed the project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. A & R shall perform, or cause to be performed, the necessary construction engineering, sampling and testing, and supervision required prior to and during the construction of the Project. During the construction of the Project, the procedures set out below shall be followed:

CONSTRUCTION CONTRACT ADMINISTRATION

A & R shall comply with the NCDOT Construction Manual as referenced at www.ncdot.org/doh/operations/dp-chief-eng/constructionunit/formsmanuals/cm.html, which outlines the procedures for records and reports that must be adhered to in order to obtain uniformity of contract administration and documentation. This includes, but is not limited to, inspection reports,

material test reports, materials certification, documentation of quantities, project diaries, and pay records.

Construction Engineering, Sampling, Testing

A & R, and/or its agent, shall perform the construction engineering, sampling and testing required during construction of the Project, in accordance with Departmental procedures, including the Department's Guide for Process Control and Acceptance Sampling and Testing. A & R shall document that said compliance was accomplished in accordance with State and Federal procedures, guidelines, standards and specifications.

Right to Inspect

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by A & R or A & R's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

The Department's Rail Division Project Engineer, at his discretion, may assign a consulting engineer to the project who shall have the right to inspect any portion of the work being performed by A & R or A & R's contractor to ensure compliance with the provisions of this Agreement. The engineer will be the Department's representative on the project. The engineer will furnish A & R with any forms that may be needed in order to follow standard Department practices and procedures in the administration of the contract.

CONTRACTOR COMPLIANCE

A & R will be responsible for ensuring that the existing contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives. Upon completion of the project, A & R agrees to furnish to the Department documentation that details the construction and completion of the project to their standards.

CHANGE ORDERS

If any changes in the Project plans are necessary, the Department must approve such changes prior to the work being performed.

18. CLOSE-OUT

Upon completion of the construction phase of the project, A & R shall be responsible for the following:

Final Inspection

A & R shall arrange for a final inspection by the Department. Any deficiencies determined during the final field inspection must be corrected prior to final payment being made by the Department to the A & R. Additional inspection by other entities may be necessary as determined by A & R and the Department. The Department shall provide A & R with written evidence of approval and acceptance of the completed project prior to A & R requesting final reimbursement.

Final Project Certification

A & R will provide a certification to the Department that all work performed for this project is in accordance with all applicable standards, guidelines, and regulations.

20. REIMBURSEMENT

SCOPE OF REIMBURSEMENT

Activities eligible for funding reimbursement for this Project shall include: See attached cost estimate of \$84,805. The Department shall participate in eighty percent - (80%) of the costs up to the maximum amount as detailed in the FUNDING TABLE.

21. REIMBURSEMENT GUIDANCE

A & R shall adhere to applicable administrative requirements of 49 CFR 18

(www.fhwa.dot.gov/legregs/directives/fapqtoc.htm) and Office of Management and Budget (OMB)

Circulars A-102 (www.whitehouse.gov/omb/circufars/index.html) "Uniform Administrative

Requirements for Grants and Cooperative Agreements to State and Local Governments."

Reimbursement to A & R shall be subject to the policies and procedures contained in Federal-Aid

Policy Guide, Title 23, Part 140 and Part 172, which is being incorporated into this Agreement by

reference at www.fhwa.dot.gov/legsregs/directives/fapqtoc.htm and by Office of Management and Budget (OMB) Circular A-87 (www.whitehouse.gov/omb/circulars/index.html) "Cost Principles for State, Local, and Indian Tribal Governments." Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by A & R with all applicable federal policy and procedures.

22. REIMBURSEMENT LIMITS

WORK PERFORMED BEFORE NOTIFICATION

Any costs incurred by A & R prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING

At no time shall the Department reimburse A & R costs that exceed the total federal funding.

UNSUBSTANTIATED COSTS

A & R agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

CONSTRUCTION ADMINISTRATION

Reimbursement for construction contract administration will be made as governed by Section 106(c) Title 23 of the U.S. Code that limits federal participation, and Departmental policy that limits reimbursement for construction contract administration to no more than fifteen (15%) percent of the actual construction contract of the Project.

CONSTRUCTION CONTRACT UNIT PRICES

Reimbursement for construction contract work will be made on the basis of contract unit prices in the construction contract and any approved change orders.

RIGHT OF WAY REIMBURSEMENT

If in the event costs of right of way acquisition are an eligible expense, reimbursement will be limited to the value as approved by the Department. Eligible costs for reimbursement of Right of Way Acquisition include: environmental assessment, realty appraisals, surveys, closing costs, and the

approved appraised fair market value of the property, at the reimbursement rate as shown in the FUNDING TABLE.

FORCE ACCOUNT REIMBURSEMENT

Invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in Office of Management and Budget (OMB) Circular A-87

(www.whitehouse.gov/omb/circulars/index.html) "Cost Principles for State, Local, and Indian Tribal Governments." Reimbursement shall be based on actual eligible costs incurred with the exception of equipment owned by A & R or its project partners. Reimbursement rates for equipment owned by A & R or its project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.

23. PAYMENT OF PROJECT COSTSPayment Schedule

A & R may bill the Department by submitting an invoice along with proper supporting documentation for progress payments and a final payment at intervals no more frequently than thirty (30) days with the reimbursement amounts based on the actual cost of the completed work. Reimbursement to A & R shall be made upon review and approval of the invoice by the Department's Rail Division and the Department's Financial Management Division. The Department shall remit payment to A & R within sixty – (60) days following delivery of each such invoice to the Department By submittal of each invoice, the A & R certifies that it has adhered to all applicable state laws and regulations as set forth in this Agreement. A & R shall invoice the Department for work accomplished at least once every six (6) months to keep the project funds active and available. If the A & R is unable to invoice the Department, then the A & R must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds. A & R shall adhere to applicable cost reimbursement policies found in 23 CFR 140 I and 23 CFR 646 B.

Reconciliation at Final Invoice

Upon completion of the project and acceptance by the Department and within six (6) months thereof, the A & R will render a final bill for actual costs in accordance with FAPG 23 CRF 140I and

the Department after review and approval will pay the amount of said bill to A & R. All invoices must be submitted within six (6) months of completion and acceptance of the work. Any invoices submitted after this time will not be eligible for reimbursement. At no time shall the Department reimburse A & R costs that exceed the total funding for this project. Where either the Department or the FHWA determines that the funds paid to the A & R for this Project are not used in accordance with the terms of this Agreement, the Department will bill the A & R. Representatives of the Department shall have such access to the books and accounts of the A & R as may be required to audit said bill. After the bill has been audited by the Department, the Department will pay to A & R any amount remaining due to A & R in addition to the amount previously paid, or will advise the A & R by letter of overpayment. Promptly after being advised of an overpayment, A & R will forward to the Department reimbursement for said overpayment. In the event A & R fails for any reason to repay said overpayment, A & R hereby authorizes the Department to withhold so much of A & R's share of funds allocated to A & R as defined under G.S. 136-20(h), until such time as the Department has received payment in full.

The A & R, and/or its agents, shall maintain all books, documents, papers, accounting records, project records and such other evidence either in hard copy or electronic form as may be appropriate to substantiate costs incurred under the project specific agreement. Further, the A & R shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher under the project specific agreement, for inspection and audit by the Department's Financial Management Section and/or any authorized representatives of the federal government. All cost records and accounts for each Project shall be subject to audit by the Department for a period of five (5) years following the A & R's receipt of final payment for the specific project, but the formulas and methodologies set forth herein, shall not be subject to change.

24. PROJECT EVALUATION REPORTS

The Department, Municipality and A & R shall each assign a representative that will serve as a project manager on behalf of each party. The process shall be governed and guided by the Department's Rail Division representative that will serve as the lead agency. The Department,

Municipality and A & R will hold project coordination and progress meetings at least every sixty – (60) days to discuss and review project progress. The Department, Municipality and A & R will develop and maintain project evaluation reports that detail the progress achieved and potential benefits realized to date for the project and addresses short-term and long-term concerns as required by federal regulations governing reimbursement of federal funding. The Municipality and A & R will be responsible for submitting Project evaluation reports, in accordance with the Department's guidelines and procedures that detail the progress achieved to date for the Project.

25. REIMBURSEMENT

The Municipality shall reimburse the Department its twenty percent (20%) share of the cost for work performed on the improvement as described in Provision 1 under this project in accordance with the Federal Funds Reimbursement Agreement executed between the Department and Municipality on the 12th day of December, 2008.

28. OTHER PROVISIONS

REFERENCES

It will be the responsibility of the A & R to follow the current and/or most recent references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes.

The Department shall not be held liable, by A & R, for any expenses or obligations incurred for the project except those specifically eligible for the federal funds and obligations as approved by the Department under the terms of this Agreement.

INDEMNIFICATION

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

The Municipality agrees to indemnify and hold harmless A & R, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against A & R in connection with this Project.

To the extent allowed under North Carolina law, A & R will indemnify and hold harmless the Department and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damages and/or liabilities of any nature in connection with this Project activities performed to this Agreement. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

To the extent allowed under North Carolina law, the Department and the State of North Carolina will indemnify and hold harmless A & R, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damages and/or liabilities of any nature in connection with this Project activities performed to this Agreement.

29. DEBARMENT POLICY

Per OMB Circular A-133, A & R is prohibited from contracting with or making subawards under transactions covered by this agreement to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and all nonprocurement transactions (e.g., subawards to subrecipients). Contractors receiving individual awards for \$25,000 or more and all subrecipients must certify that the organization and its principals are not suspended or debarred. A & R may rely upon the certification unless it knows that the certification is erroneous. A & R agrees that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by Federal department or agency.

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, A & R certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

31. COMPLIANCE

A & R shall be responsible for ensuring compliance with all applicable State, Federal and local environmental laws and regulations and ordinances and shall be responsible for any fines, assessments or other penalties resulting from non-compliance by any entity performing work under contract with A & R during the construction phase of the project.

A & R is solely responsible for all agreements, contracts, and work orders entered into or issued by the A & R for this Project. The Department is not responsible, for any expenses or obligations incurred for the Project except those specifically eligible in the terms of this Agreement. However, at no time shall the Department reimburse the A & R costs which exceed the total funding for this Project.

32. MAINTENANCE

On and after the Acceptance Date with respect to the given Project, the continuing maintenance, repair, operation, liabilities and other responsibilities with respect to the additions and betterments made a part of the Project shall be handled and determined in accordance with applicable regulations and any active agreements between the Parties addressing the foregoing. The Parties acknowledge and agree that certain Projects may entail ongoing operation, maintenance, repair and replacement expenses that require additional consideration, or other special provisions which shall be established by a Supplemental Agreement. The Supplemental Agreement may include provisions to compensate A & R for the incremental additional operating, maintenance expenses necessitated by the given Project and other terms and timeframes. A separate agreement will be developed between A & R and CSXT for facility maintenance at no expense to the Department or Municipality.

Upon completion of "Improvement B," A & R will strive to operate/interchange all traffic into and out of the CSXT Old Yard from the south end of the Old Yard. A & R will also endeavor to limit blocking of all crossings within Fayetteville.

33. ADDITIONAL PROVISIONS:

This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or any person or to the public at large.

No member, officer or employee of the Department or of the Municipality shall have any interest, direct or indirect, in this Agreement or the proceeds there from.

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of departmental funding and fiscal constraints and the Agreement shall automatically terminate if funds cease to be available.

Where either the Department or the FHWA determines that the funds paid to A & R for this Project are not used in accordance with the terms of this Agreement, the Department will bill A & R.

If A & R decides to terminate the Project without due cause or the concurrence of the Department, A & R shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

AUDITS-NON-GOVERNMENTAL

A & R shall comply with the rules and reporting requirements established by North Carolina

General Statute 143C-6.23: "Use of State Funds by Non-State Entities" and North Carolina

Administrative Code, Section 9, Subchapter 03M: "Uniform Administration of State Grants".

Reference www.ncauditor.net/NonProfitSite/forms.aspx for reporting forms and www.ncauditor.net/NonProfitSite/regulations.aspx for legislation and rules.

A & R shall file with the Department a copy of their policy addressing conflicts of interest. An example of a Conflict of Interest Policy may be found at www.ncauditor.net/NonProfitSite/regulations.aspx. This document shall be submitted to the Department along with the signed agreement. A & R shall file with the Department a "State Grant Certification – No Overdue Tax Debts" statement. An example of this statement may be found at www.ncauditor.net/NonProfitSite/forms.aspx by clicking on the word file contract template at the bottom of the page and scrolling to the final page. This document shall be submitted to the Department along with the signed agreement. The Department shall not reimburse any funds to A & R until the Conflict of Interest Policy and State Grant Certification – No Overdue Tax Debts form has been received.

This Agreement is made under, and shall be governed and construed in accordance with, the laws of the State of North Carolina.

IT IS UNDERSTOOD AND AGREED that the approval of this Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality and A & R.

IN WITNESS WHEREOF, this Agreement has been executed, the day and year heretofore set out, on the part of the Department, Municipality and A & R by authority duly given.

CITY OF FAYETTEVILLE	
BY:	
TITLE:	
DATE:	
_ y _'	BY: TITLE: DATE: yetteville as attested to by the signature of e City Council on (Date) This Agreement has been pre-audited in the many required by the Local Government Budget and Control Act. Finance Officer Federal Tax Identification Number City of Fayetteville Remittance Address:

ATTEST:	ABERDEEN & ROCKFISH RAILROAD
BY:	BY:
TITLE:	TITLE:
DATE:	DATE:
	This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.
(SEAL)	(FINANCE OFFICER)
	Federal Tax Identification Number
	Remittance Address:

WITNESS:	DEPARTMENT OF TRANSPORTATION
BY:Secretary to the Board of Transportation	BY:
	DATE:
	Remittance Address: North Carolina Department of Transportation Rail Division, Engineering & Safety Branch 1556 MSC Raleigh, NC 27699-1556 Attn: Matthew B Simmons, PE, Project Engineer
APPROVED BY BOARD OF TRANSPORT	ATION ITEM O:

ATTACHMENT

Railroad Operating Plan CSX Transportation, Norfolk Southern Railway, and Aberdeen & Rockfish Railroad April 23, 2009 Fayetteville, NC

Congress earmarked funds in Section 1701 and Section 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA – LU), which establishes High Priority and Transportation Improvement Project funds and requires that federal funds be available for certain specified transportation, railroad and pedestrian activities. These specific funds are to be used for the elimination of crossings and transfer of rail yard facilities in Fayetteville. Approximately \$9,460,000 is allocated for this special project. This figure includes the 20% local match as stipulated by the legislation, and the City of Fayetteville is providing this funding.

The North Carolina Department of Transportation (NCDOT), the City of Fayetteville, NC, CSX Transportation, Norfolk Southern, and Aberdeen & Rockfish Railroad (A&R) have collaborated to develop several improvements designed to significantly reduce traffic congestion in Fayetteville, while creating a more efficient operation for all railroads.

The Fayetteville Train Operations Study, dated November 2008, recommended three key improvements, which are specifically funded in an agreement fully executed between the City of Fayetteville and NCDOT on December 12, 2008, and related project specific agreements:

- 1. **Improvement A Fort Bragg Connector** connector track, including turnouts, communication and signals, and a new structure over Cross Creek, from the CSX "A" line to the CSX "AE" line, more commonly known as the "Fort Bragg Lead." to eliminate crossings of streets by trains and associated blockages.
- 2. Improvement B A&R Connector connector track, including turnouts, rehabilitation of the existing CSX bridge north of the diamond and track rehabilitation both in and outside of the Old (Williams Street) Yard, to eliminate crossings of streets by trains and associated blockages and to relocate the Williams Street railroad switching operation.
- 3. **Improvement C Old (Williams Street) Yard** yard improvements, including track construction and rehabilitation, communication and signals to eliminate crossings of streets by trains and associated blockages and to relocate the Williams Street railroad switching operation.

The following plans will be adhered to by the respective railroads immediately upon completion of the related improvement, unless operating conditions/emergencies dictate otherwise:

- 1) Upon completion of "Improvement A," the new connection of the CSX "A" line and the Ft. Bragg lead track CSX will operate all inbound and outbound military trains from the south over the new connection to Ft. Bragg.
- 2) Upon completion of "Improvement B," A&R will endeavor to operate/interchange all traffic into and out of the CSX Old Yard from the south end of the Old Yard. A&R will also endeavor to limit blocking of all crossings within Fayetteville.
- 3) No later than upon completion of "Improvement C:"
 - a) CSX will designate one track in the Old Yard as a run through track for all train movements.
 - b) CSX, NS and A&R will implement and adhere to rules and operating procedures that prevent trains being brought south of Hay Street without adequate room to switch in the area of the Old Yard.

- c) CSX, NS and A&R will increase train maximum train speeds over and in the area of Hay Street from 5 MPH to 10 MPH.
- 4) No later than upon completion of all improvements, CSX, NS and A&R will make a best effort to eliminate and reduce crossing blockages within Fayetteville and communicate any temporary operation changes with the City of Fayetteville, through its City Manager's Office.

ATTACHMENT

Aberdeen and Rockfish Railroad AR-CSX Connection Estimate Fayetteville, North Carolina 27-Mar-09

 Engineering Grading for A&R section Sub ballast Switch package, rail, and OTM #8 set of switch timber 7" IG ties NIC Tax on rail and ties Ballast for turnout and 150' of track Labor to remove existing connection track as needed, construct new turnout, and construct 150* of track A&R Supervision Signal Work 	4,000 6,000 1,287 26,746 4,500 3,420 2,340 6,003 10,000 2,800 10,000 \$77,096
10% Contingency	7,709
Project Total	\$84,805

Note: Project estimate is for construction of new # 8 turnout in A&R main track, and construction of a new connection track to the CSX right of way line. AH work on CSX right of way is by others.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Jeffery P. Brown, PE, Interim Director of Engineering & Infastructure

DATE: September 28, 2009

RE: Engineering & Infrastructure-Resolution Accepting State Revolving Loan for Skye

Drive Drainage Improvement Project

THE QUESTION:

Council is asked to adopt a resolution accepting a State Revolving Loan in the amount of \$557,000 from the North Carolina Department of Environment and Natural Resources for the Skye Drive drainage improvement project.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government; Cost-Effective Service Delivery

BACKGROUND:

- On February 17, 2009, the federal government adopted the American Recovery and Reinvestment Act of 2009, more commonly referred to as the Stimulus Package.
- On March 23, 2009 Council adopted Resolution No. R2009-22 authorizing the City to apply for a state revolving loan for the Skye Drive drainage project.
- Project will reduce flooding along a city street, private properties, and reduce stormwater runoff into Branson Creek.

ISSUES:

- The City will be required to pay 1% closing cost (\$5,570) of the total loan amount within six months of the date of the loan offer.
- The maximum term of this loan offer shall not exceed 20 years at an interest rate of 0%.
- The total loan to be repaid shall be ½ of the total project costs reimbursed.
- All principal payments will be made annually on or before May 1st.

OPTIONS:

- Adopt the resolution accepting the loan in the amount of \$557,000 from the NC Clean Water State Revolving Fund.
- Do not adopt the resolution accepting the loan.

RECOMMENDED ACTION:

Adopt the attached resolution accepting the loan from the NC Clean Water State Revolving Fund loan to be used for the stormwater drainage improvements for the Skye Drive area.

ATTACHMENTS:

Skye Drive Drainage Resolution

RESOLUTION OF THE FAYETTEVILLE CITY COUNCIL

- WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorize the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects, and
- WHERAS, the North Carolina Department of Environment and Natural Resources has offered a State Revolving Loan in the amount of \$557,000 for the construction of Skye Drive Drainage Improvements, and
- WHEREAS, the City of Fayetteville intends to construct said project in accordance with the approved plans and specifications,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE:

That the City of Fayetteville does hereby accept the State Revolving Loan, offer of \$557,000.

That the City of Fayetteville does hereby give assurance to the North Carolina Department of Environment and Natural Resources that all items specified in the loan offer, Section II – Assurance will be adhere to.

That Dale Iman, City Manager and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the City of Fayetteville has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 28th day of September, 2009.

	ANTHONY G. CHAVONNE, Mayor			
ATTEST:				
RITA PERRY, City Clerk				

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council FROM: Lisa Smith, Chief Financial Officer

DATE: September 28, 2009

RE: Finance-Resolution to Accept the State Grant and Capital Project Ordinance 2010-

11 (Rehabilitate Visual Navigational Aids Project)

THE QUESTION:

The attached resolution must be adopted to accept the grant and the attached project ordinance will appropriate \$11,600 for the Rehabilitation of Visual Navigational Aids Project at the Airport.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4 - More Efficient City Government - Investing in the City's future infrastructure, facilities and equipment.

BACKGROUND:

- This \$11,600 project is for the rehabilitation of visual navigational aids at the Airport.
- The current funding sources for this project consist of a grant from the NC Department of Transportation in the amount of \$10,440 and a required local match from the Airport Operating Fund in the amount of \$1,160.
- The funds will be used to purchase Runway End Identifier Lights (REIL) for Runway 10 and Runway 28. The lights will be installed by our Airport Maintenance Supervisor.
- The attached resolution will authorize the City to execute the grant agreement.
- The attached project ordinance will formally establish the budget for this project.

ISSUES:

None

OPTIONS:

- 1. Adopt the resolution to accept the grant and adopt Capital Project Ordinance 2010-11.
- 2. Do not adopt the resolution or ordinance and do not proceed with the project.

RECOMMENDED ACTION:

Adopt Capital Project Ordinance 2010-11.

ATTACHMENTS:

CPO 2010-11 Rehabilitate Visual Navigational Aids Project State Grant REIL

CAPITAL PROJECT ORDINANCE ORD 2010-11

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

- Section 1. The authorized project is for the funding of the rehabilitation of visual navigational aids at the Airport.
- Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.
- Section 3. The following revenues are anticipated to be available to the City to complete the project:

NC Department of Transportation Grant \$ 10,440

Local Match - Airport Operating Fund Transfer \$ 1,160

\$ 11,600

Section 4. The following amounts are appropriated for the project:

Project Expenditures \$ 11,600

Section 5. Copies of this capital project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 28th day of September, 2009.

GRANT AGREEMENT

STATE AID TO AIRPORTS
BETWEEN
THE N. C. DEPARTMENT OF TRANSPORTATION,
AN AGENCY OF THE STATE OF NORTH CAROLINA
AND

AIRPORT: FAYETTEVILLE REGIONAL/ GRANNIS FIELD

PROJECT # 36244.27.9.2

CITY OF FAYETTEVILLE

This A	Agreement made and entered into this the	day of	, 20	, by and between the
NORTH C	CAROLINA DEPARTMENT OF TRANSPO	RTATION (hereinafte	er referred to as "Depa	rtment") and the
CITY OF	FAYETTEVILLE, the public agency owning	ng the FAYETTEVIL	LE REGIONAL AII	RPORT/GRANNIS
FIELD	(hereinafter referred to as "Sponsor").			

WITNESSETH

WHEREAS, Chapter 63 of the North Carolina General Statutes authorizes the Department, subject to limitations and conditions stated therein, to provide State Aid in the forms of loans and grants to cities, counties, and public airport authorities of North Carolina for the purpose of planning, acquiring, and improving municipal, county, and other publicly-owned or publicly controlled airport facilities, and to authorize related programs of aviation safety, education, promotion and long-range planning; and

WHEREAS, the Sponsor has made a formal application dated <u>August 27, 2009</u> to the Department for State Financial Aid for the <u>FAYETTEVILLE REGIONAL AIRPORT/GRANNIS FIELD</u>; and

WHEREAS, a grant in the amount of \$10,440 not to exceed 90 percent of the non-federal share of the final, eligible project costs has been approved subject to the conditions and limitations herein; and

WHEREAS, the Grant of State Airport Aid funds will be used for the following approved Project (if a federal aid project, this scope shall also include any modifications thereto by the Federal Aviation Administration):

NOW THEREFORE, the Sponsor and Department do mutually hereby agree as follows:

PROJECT DESCRIPTION:

REHABILITATE VISUAL NAVIGATIONAL AIDS

DOA FORM (1/97)

- That the Sponsor shall promptly undertake the Project and complete all work on the Project prior to the <u>1st</u> day of <u>JULY 2012</u>, unless a written extension of time is granted by the Department.
- 2) Work performed under this Agreement shall conform to the approved project description. Any amendments to, or modification of, the scope and terms of this Agreement shall be in the form of a Modified Agreement mutually executed by the Sponsor and the Department, except that an extension of time may be granted by the Department by written notice to the Sponsor.
- 3) <u>Debarment and Suspension</u>: The Grantee agrees to comply, and assures the compliance by each of its third party contractors and subrecipients at any tier, with the provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 C.F.R. Part 29.
- 4) The Sponsor certifies that it has adhered to all applicable laws, regulations, and procedures in the application for and Sponsor's approval of the Grant.
- 5) For a material breach of this Agreement or the Sponsor's Assurances, the Sponsor shall be liable to the Department for the return of all grant monies received.
- 6) The Sponsor agrees to adhere to the standards and procedures contained in the <u>State Aid to Airports Program</u> <u>Guidance Handbook</u> (third edition, dated January 1997), unless the Department issues a written waiver.
 - 7) The Sponsor agrees to comply with the "Sponsor's Assurances" contained as a part of this Agreement.

DOA FORM (1/97)

IN WITNESS WHEREOF, THE PARTIES HERETO EXECUTED THIS GRANT AGREEMENT THE DAY AND YEAR FIRST WRITTEN ABOVE:

NCDOT SEAL	NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
	BY:
	Expuly Secretary for Transit
	ATTEST:
	<u>SPONSOR</u> :
SPONSOR SEAL	Signed:
	Title: Mayor
	Attest:
STATE OF NORTH CAROLINA, COUN	YOF Cumberland
	1d , a Notary Public in and for the County and State aforesaid, do
hereby certify thatAnthony G. C	avonne personally came before me this day and
acknowledged that he is Mayor	of the City of Fayetteville
(Title	(Sponsor) authority duly given and as an act of said Sponsor, the foregoing instrument was
Distriction of the property of the contract of the property of	ry, City Clerk of the Sponsor, and the
manufacture of	(Name and Title)
Seal of the Sponsor affixed hereto.	With the Market
WITNESS my hand and Notarial	eal, this theday of2009.
	Notary Public (Signature)
My Commission expires:	SEAL

DOA FORM (1/97)

Page 3 of 10

RESOLUTION

A motion was made by	and seconded by
(Name a	and Title)
	for the adoption of the following resolution, and upon being put to a
(Name and Title)	
vote was duly accepted:	
WHEREAS, a Grant in the amount of \$10,4	140 has been approved by the Department based on total estimated cost of
511,600; and	
WHEREAS, an amount equal to or greater the	than 10 percent of the total estimated project cost has been appropriated
by the Sponsor for this Project.	
NOW THEREFORE, BE AND IT IS RESO	DLVED THAT THE Mayor
	(Title)
binding the Sponsor to the fulfillment of its obligation	npowered to enter into a Grant Agreement with the Department, thereby in incurred under this Grant Agreement or any mutually agreed upon
oinding the Sponsor to the fulfillment of its obligation modification thereof. I. Rita Perry, City Cler	on incurred under this Grant Agreement or any mutually agreed upon
nodification thereof. I. Rita Perry, City Cler (Name and Title)	on incurred under this Grant Agreement or any mutually agreed upon k of the
oinding the Sponsor to the fulfillment of its obligation modification thereof. I. Rita Perry, City Cler	on incurred under this Grant Agreement or any mutually agreed upon
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I. Rita Perry, City Cler (Name and Title) City of Fayetteville (Sponsor) the above is a true and correct copy of an excerpt from	incurred under this Grant Agreement or any mutually agreed upon kof the do hereby certify that
I. Rita Perry, City Cler (Name and Title) City of Fayetteville (Sponsor) the above is a true and correct copy of an excerpt from City of Fayetteville (Sponsor)	of theof theof a meeting
I. Rita Perry, City Cler (Name and Title) City of Fayetteville (Sponsor) the above is a true and correct copy of an excerpt from	incurred under this Grant Agreement or any mutually agreed upon
I. Rita Perry, City Cler (Name and Title) City of Fayetteville (Sponsor) the above is a true and correct copy of an excerpt from City of Fayetteville (Sponsor) duly and regularly held on the day of This, the day of	incurred under this Grant Agreement or any mutually agreed upon
I. Rita Perry, City Cler (Name and Title) City of Fayetteville (Sponsor) the above is a true and correct copy of an excerpt from City of Fayetteville (Sponsor) duly and regularly held on theday of	incurred under this Grant Agreement or any mutually agreed upon

DOA FORM (1/97)

Page 4 of 10

TO: Mayor and Members of City Council

FROM: Lisa Smith, Chief Financial Officer

DATE: September 28, 2009

RE: Finance-Resolution to Accept the State Grant and Capital Project Ordinance 2010-

12 (Vegetation Management Project)

THE QUESTION:

The attached resolution must be adopted to accept the grant and the attached capital project ordinance will appropriate \$54,000 for the Vegetation Management Project.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4 - More Efficient City Government - Investing in the City's future infrastructure, facilities and equipment.

BACKGROUND:

- This \$54,000 project is for the Vegetation Management Project at the Airport.
- The current funding sources for this project consist of a grant from the NC Department of Transportation in the amount of \$48,600 and a required local match from the Airport Operating Fund in the amount of \$5,400.
- The project will include spraying vegetation/brush in runway approaches and along fence lines. The vegetation control allows the airport to maintain safety clearances for approaching and departing aircraft. Clearing the fence lines improves perimeter security.
- The attached resolution will authorize the City to execute the grant agreement.
- The attached project ordinance will formally establish the budget for this project.

ISSUES:

None

OPTIONS:

- 1. Adopt the resolution to accept the grant and adopt Capital Project Ordinance 2010-12.
- 2. Do not adopt the resolution or ordinance and do not proceed with the project.

RECOMMENDED ACTION:

Adopt the resolution to accept the grant and adopt Capital Project Ordinance 2010-12.

ATTACHMENTS:

Capital Project Ordinance 2010-12 Vegetation Management Project State Grant for Vegetation Management

CAPITAL PROJECT ORDINANCE ORD 2010-12

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

- Section 1. The authorized project is for the funding of the vegetation management project.
- Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.
- Section 3. The following revenues are anticipated to be available to the City to complete the project:

NC Department of Transportation Grant \$ 48,600 Local Match - Airport Operating Fund Transfer 5,400 \$ 54,000

Section 4. The following amounts are appropriated for the project:

Project Expenditures \$ 54,000

Section 5. Copies of this capital project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 28th day of September, 2009.

GRANT AGREEMENT

STATE AID TO AIRPORTS BETWEEN THE N. C. DEPARTMENT OF TRANSPORTATION, AN AGENCY OF THE STATE OF NORTH CAROLINA AND

AIRPORT: FAYETTEVILLE REGIONAL/ GRANNIS FIELD

PROJECT # 36244.27.9.1

CITY OF FAYETTEVILLE

This A	greement made and entered into this the	day of	, 20	, by and between the
NORTH C	AROLINA DEPARTMENT OF TRANSPO	ORTATION (hereinafte	r referred to as "Depa	artment") and the
CITY OF	FAYETTEVILLE, the public agency owning	ng the <u>FAYETTEVIL</u>	LE REGIONAL AI	RPORT/GRANNIS
FIELD	(hereinafter referred to as "Sponsor").			

WITNESSETH

WHEREAS, Chapter 63 of the North Carolina General Statutes authorizes the Department, subject to limitations and conditions stated therein, to provide State Aid in the forms of loans and grants to cities, counties, and public airport authorities of North Carolina for the purpose of planning, acquiring, and improving municipal, county, and other publicly-owned or publicly controlled airport facilities, and to authorize related programs of aviation safety, education, promotion and long-range planning; and

WHEREAS, the Sponsor has made a formal application dated <u>August 27, 2009</u> to the Department for State Financial Aid for the <u>FAYETTEVILLE REGIONAL AIRPORT/GRANNIS FIELD</u>; and

WHEREAS, a grant in the amount of <u>\$48,600</u> not to exceed <u>90 percent</u> of the non-federal share of the final, eligible project costs has been approved subject to the conditions and limitations herein; and

WHEREAS, the Grant of State Airport Aid funds will be used for the following approved Project (if a federal aid project, this scope shall also include any modifications thereto by the Federal Aviation Administration):

NOW THEREFORE, the Sponsor and Department do mutually hereby agree as follows:

PROJECT DESCRIPTION:

VEGETATION MANAGEMENT

DOA FORM (1/97)

- That the Sponsor shall promptly undertake the Project and complete all work on the Project prior to the <u>1st</u> day of <u>JULY 2012</u>, unless a written extension of time is granted by the Department.
- 2) Work performed under this Agreement shall conform to the approved project description. Any amendments to, or modification of, the scope and terms of this Agreement shall be in the form of a Modified Agreement mutually executed by the Sponsor and the Department, except that an extension of time may be granted by the Department by written notice to the Sponsor.
- 3) <u>Debarment and Suspension</u>: The Grantee agrees to comply, and assures the compliance by each of its third party contractors and subrecipients at any tier, with the provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension." 31 U.S.C. § 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 C.F.R. Part 29.
- 4) The Sponsor certifies that it has adhered to all applicable laws, regulations, and procedures in the application for and Sponsor's approval of the Grant.
- 5) For a material breach of this Agreement or the Sponsor's Assurances, the Sponsor shall be liable to the Department for the return of all grant monies received.
- 6) The Sponsor agrees to adhere to the standards and procedures contained in the <u>State Aid to Airports Program</u> <u>Guidance Handbook</u> (third edition, dated January 1997), unless the Department issues a written waiver.
 - 7) The Sponsor agrees to comply with the "Sponsor's Assurances" contained as a part of this Agreement.

DOA FORM (1/97)

NCDOT SEAL		NORTH CARO	<u>DLINA DEPA</u>	RTMENT OF TRANS	PORTATION
		BY:			
			Deputy Secre	etary for Transit	
		ATTEST: _			
		SPONSOR:			
SPONSOR SÉAL		Signed:			
		Title: Ma	yor		
		Attest:			
hereby certify thatAnt	hony G. Chavor	nne	pers		
acknowledged that he is	Mayor (Title)	of the_	City of	Fayetteville (Sponsor)	
(hereinafter referred to as "		ty duly given and as	an act of said		nstrument was
signed by him, attested by	ALEXAGE CONTRACTOR CONTRACTOR	HAVING DATA TEMPORAL HAVE AND		THE PERSON NAMED OF PERSONS ASSESSMENT	
		and Title)			
Seal of the Sponsor affixed	hereto.	New York Per All All Pro-			
WITNESS my ha	nd and Notarial Seal, this	theday o	of		2009.
			Notary Public	c (Signature)	
My Commission expires:			SEA		
DOA FORM (1/07)					

Page 3 of 10

RESOLUTION

A motion was made by		and seconded by
(Name and Ti	tle)	
fo	r the adoption o	f the following resolution, and upon being put to a
(Name and Title)		
vote was duly accepted:		
WHEREAS, a Grant in the amount of \$48,600 has	s been approved	by the Department based on total estimated cost
\$54,000; and		
WHEREAS, an amount equal to or greater than 10	percent of the	total estimated project cost has been appropriated
by the Sponsor for this Project.		
NOW THEREFORE, BE AND IT IS RESOLVED	THAT THE _	Mayor
		(Title)
of the Sponsor be and he hereby is authorized and empower	red to enter into	a Grant Agreement with the Department, thereby
and the second s		
binding the Sponsor to the fulfillment of its obligation incur	rred under this C	Grant Agreement or any mutually agreed upon
modification thereof.		
I, Rita Perry, City Clerk (Name and Title)		of the
City of Fayetteville		do hereby certify that
(Sponsor)		
the above is a true and correct copy of an excerpt from the t	minutes of the	
City of Fayetteville		of a meeting
(Sponsor)		
duly and regularly held on the day of	, 20	
This, the day of	,20)
SPONSOR SEAL	Signed	
or o		City Clerk
		City of Fayetteville
	Of the:	CITY OF PAYECTEVILLE
TYVA EZABAGZILISZA		
DOA FORM (1/97)	1 -6 10	

Page 4 of 10

TO: Mayor and Members of City Council FROM: Lisa Smith, Chief Financial Officer

DATE: September 28, 2009

RE: Finance-Special Revenue Fund Project Ordinance 2010-9 (FY2009 Justice

Assistance Grant)

THE QUESTION:

The FY2009 Justice Assistance Grant (JAG), totaling \$253,585 was awarded to the Fayetteville Police Department and Cumberland County Sheriff's Office. This Special Revenue Fund Project Ordinance will appropriate the City's share of \$172,301 for the JAG program.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1 - Growing City, Livable Neighborhoods - A Great Place to Live: Objective 1 - Low crime rate and reputation as a safe community

BACKGROUND:

- As the fiscal agent for the grant, Cumberland County filed the grant application on behalf of the City and County.
- A grant totaling \$253,585 was awarded to the City and County.
- The Police Department and the County Sheriff's Office will receive \$172,301 and \$81,284 respectively.
- A local match is not required.
- The Police Department will use their portion of the grant to purchase equipment and supplies as follows: \$16,000 for Forensic Unit equipment, \$27,500 for an automatic license plate recognition system, \$22,219 for a Rescue One Police Dive Boat and essential dive equipment, \$29,414 for eleven additional Golden Eagle II Radar Units, \$28,860 for four AN/PVS 24 Night Vision Scopes for the Emergency Response Team Sniper Operations, and \$48,308 for other Police Department equipment and supplies.

ISSUES:

None

OPTIONS:

- 1. Adopt the Special Revenue Fund Project Ordinance 2010-9.
- 2. Do not adopt the Special Revenue Fund Project Ordinance 2010-9.

RECOMMENDED ACTION:

Adopt the Special Revenue Fund Project Ordinance 2010-9.

ATTACHMENTS:

SRO 2010-9 FY2009 Justice Assistance Grant

SPECIAL REVENUE FUND PROJECT ORDINANCE ORD 2010-9

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby adopted:

- Section 1. The project authorized is for the funding of the FY2009 Justice Assistance Grant program, funded by the U.S. Department of Justice.
- Section 2. The project director is hereby directed to proceed with the project within the terms of the various contract agreements executed with the Federal and State governments and within the funds appropriated herein.
- Section 3. The following revenues are anticipated to be available to the City to complete the project:

U.S. Department of Justice

\$ 172,301

Section 4. The following amounts are appropriated for the project:

Project Expenditures

\$ 172,301

Section 5. Copies of this special revenue project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 28th day of September, 2009.

(This page intentionally left blank.)

TO: Mayor and Members of City Council

FROM: Karen S. Hilton, AICP, Acting Planning Director

DATE: September 28, 2009

RE: Planning-Sign permit request by the Junior League for ten signs between October

6 and November 8 for the Holly Day Fair

THE QUESTION:

Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN:

Partnership of Citizens

BACKGROUND:

The Sign Ordinance contains a provision, Section 30-359, allowing special signs for festivals and major events for the purpose of giving directions and information to include temporary on-premises and off-premises signs. These signs are subject to a special permit granted by City Council.

The Junior League of Fayetteville is conducting their annual Holly Day Fair November 6th and November 7th. They are requesting ten small signs in various locations from October 5th through November 8th announcing their event. Staff will approve sign locations prior to installation.

ISSUES:

The City Council has routinely approved similar requests for several years, including the Holly Day Fair signage request specifically.

OPTIONS:

- 1. Grant the sign permit as requested
- 2. Deny the request

RECOMMENDED ACTION:

Option 1 - Grant the permit.

TO: Mayor and Members of City Council

FROM: Karen S. Hilton, AICP, Acting Planning Director

DATE: September 28, 2009

RE: Planning-Community Street Banner request by the Cape Fear Botanical Garden for

banners along the service road, for 180 days

THE QUESTION:

Approval of banner signs for 180 days along the service road fronting the Cape Fear Botanical Gardens

RELATIONSHIP TO STRATEGIC PLAN:

Partnership of Citizens

BACKGROUND:

The Sign Ordinance contains a provision (Section 30-259) allowing community street banners for the purpose of enhancing the community and portraying aspects of the city. The maximum duration per approval by City Council of such banners is 180 days.

ISSUES:

The Cape Fear Botanical Garden is requesting to place the banners on the service road at the Garden. They would remain for 180 days. The community street banners portray the Cape Fear Botanical Garden and enhance the appearance within that area. The banners are two feet wide and six feet long as prescribed in the ordinance.

OPTIONS:

- 1. Grant the community street banner permit as requested.
- 2. Deny the request.

RECOMMENDED ACTION:

Staff recommends approval of the request.

ATTACHMENTS:

Banner Request by Botanical Gardens 9-28-09



August 10, 2009

Mr. Jimmy Teal Planning Department Director 433 Hay Street Fayetteville, NC 28301

Dear Mr. Teal,

As you are aware, Cape Fear Botanical Garden has embarked on the Campaign for Natural Growth to fund an expansion project involving the construction of the Visitors Pavilion Complex at the Garden. This expansion will make the Garden a truly world-class destination and will speak volumes about Fayetteville, as it greats visitors at the gateway of our community.

Previously, Fayetteville City Council granted Cape Fear Botanical Garden permission to hang light pole banners on the five street lights on Cape Fear Botanical Garden's property at 301 N. Eastern Boulevard. As we approach the end of our permitted term, we are writing to request an extension of another 180 days. The banners are all in good condition, and in the event that they should start to show wear, we have replacements available.

We appreciate your consideration of this request and look forward to hearing from you. If you have any further questions or concerns, please do not hesitate to contact me at 483-4638.

Sincerely,

Jennifer H. Sullivan Resource Director

TO: Mayor and Members of City Council

FROM: Craig Harmon, Planner II

DATE: September 28, 2009

RE: Planning-Case P09-27F: The rezoning from R10 Residential District to R6

Residential District for the property located west of All American Expressway, northwest of the intersection with Santa Fe Dr. Containing 84.82 acres more or

less and being the property of John and wife Margarete Koenig

THE QUESTION:

Rezone from R-10 Residential to R-6 Residential District.

RELATIONSHIP TO STRATEGIC PLAN:

Growth and Development

BACKGROUND:

This property's owner has indicated to staff that he is looking to rezone to build apartments and/or possibly an adult care/nursing home on the site. Both R10 and R6 Residential Districts allow apartment development but the adult care/nursing home is not allowed in R10. The other major difference is density: R10 allows up to 487 dwelling units; R6 allows a maximum of 913 units, or 914 if developed with Zero Lot Line and allowed uses.

ISSUES:

This property is near low density single family housing. The property is separated from the low density development by a creek and floodplain. There are possible wetlands on the property associated with the creek and a pond that was drained a few years ago.

OPTIONS:

- 1. Aprove the rezoning to R6 Residential District.
- 2. Pull from Consent items and set a Public Hearing for October 26, 2009.

RECOMMENDED ACTION:

Zoning Commission & Planning Staff recommend approval of the rezoning to R- 6 based on:

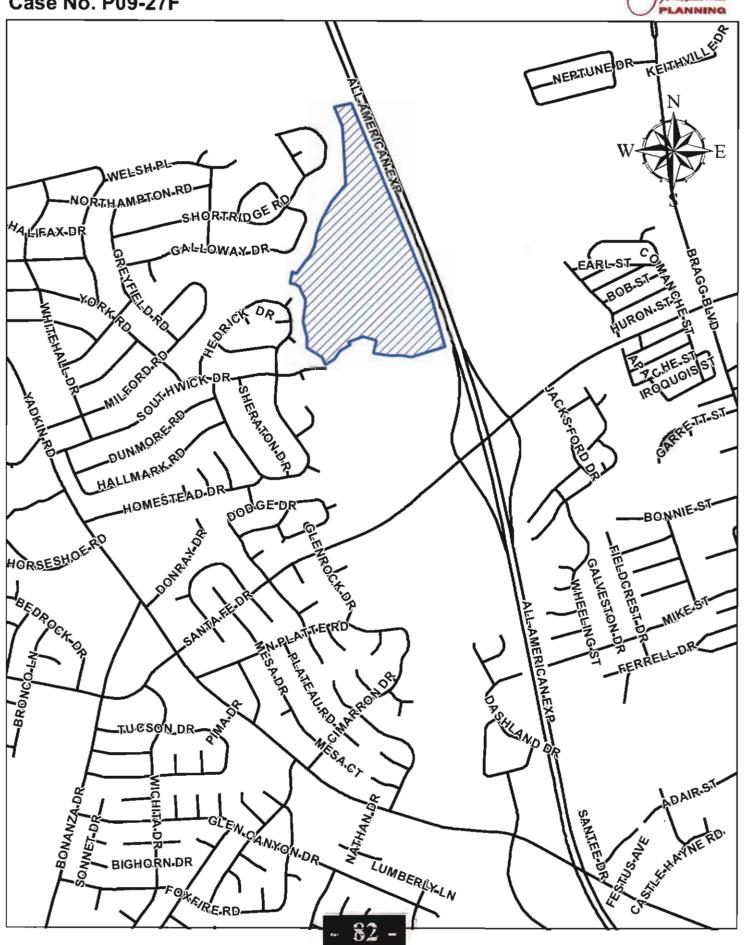
- 1. Although the 2010 Land Use Plan recommends Low Density Zoning for this property, it is staff's opinion that medium density is appropriate;
- 2. The property is adjacent to Low and Medium Density residential;
- 3. This property is separated from the existing residential development by a creek and flood plain;
- 4. This development would provide a buffer between All American Hwy and the existing Single Family Residential.

ATTACHMENTS:

Vicinity Map
Zoning Map
Current Landuse
2010 Plan
Minutes

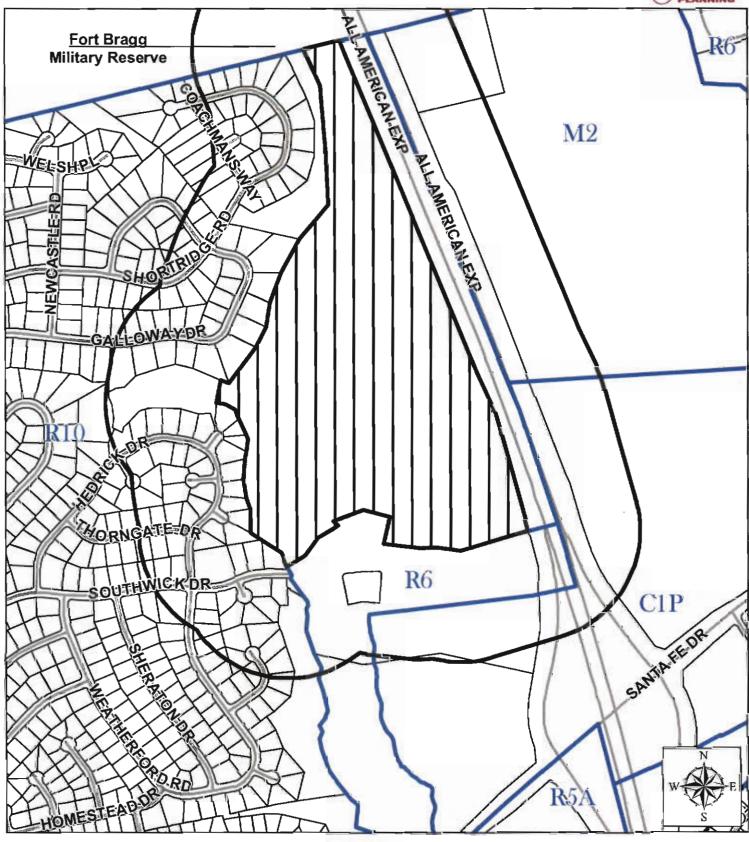
Zoning Commission - Vicinity Map Case No. P09-27F





ZONING COMMISSION CASE NO. P09-27F





Request: R10 to R6/CZ

Location: NW corner All American & Santa Fe

Acreage: +/- 84.82

Zoning Commission:8/11/2009

City Council: __

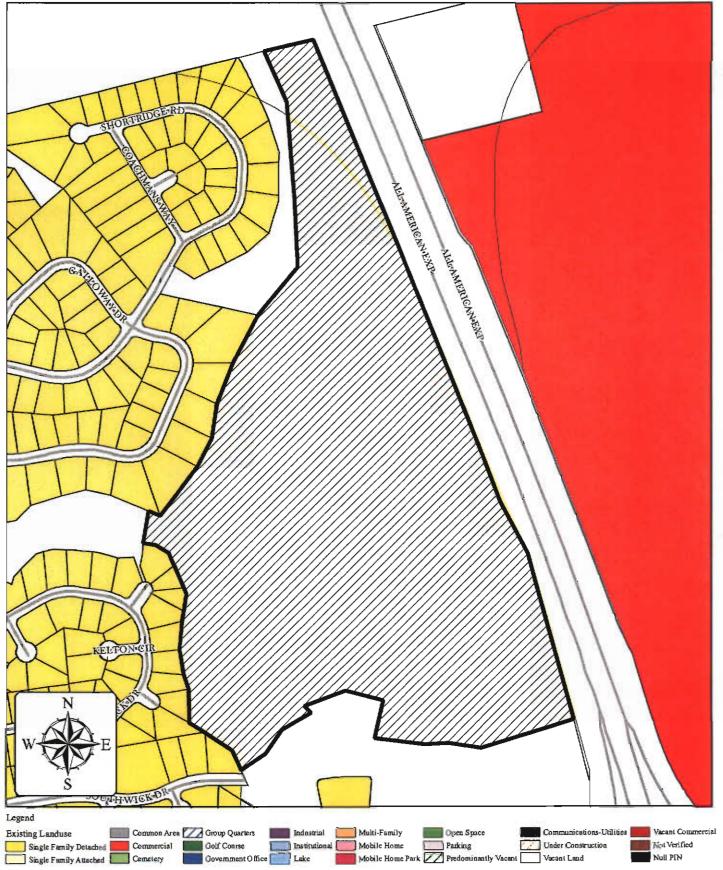
Recommendation: Final Action:

Pin: 0409-72-6899

Current Land Use

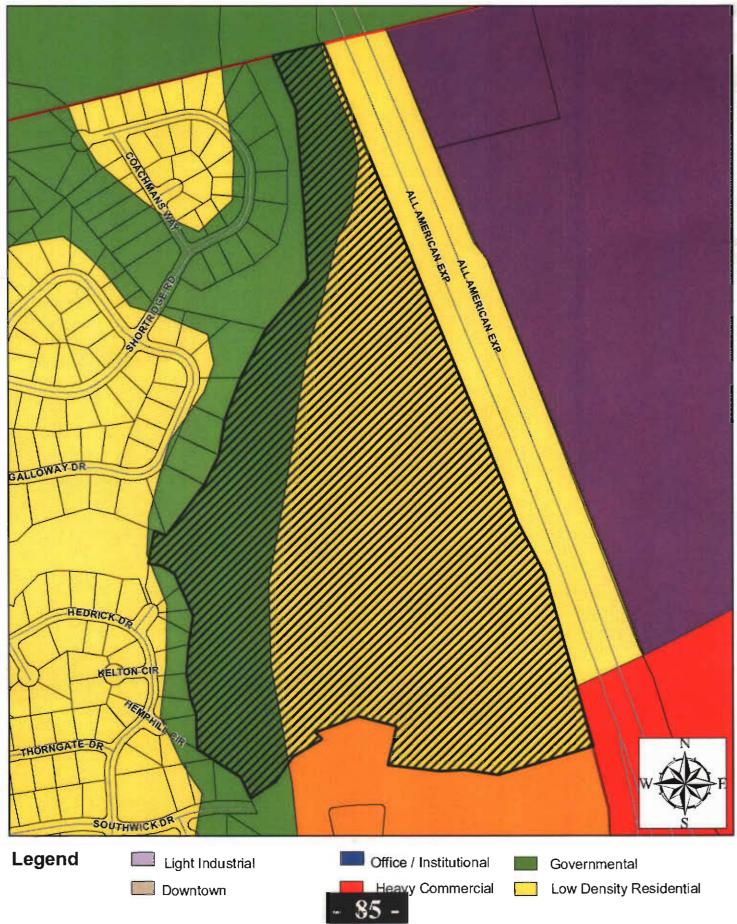
P09-27F





2010 Land Use Plan Case No. P09-27F





MINUTES CITY OF FAYETTEVILLE ZONING COMMISSION CITY COUNCIL CHAMBERS 1ST FLOOR, CITY HALL AUGUST 11, 2009- 7:00 P.M.

MEMBERS PRESENT

Pete Paoni Richard West John Crawley MEMBERS ABSENT

Lockett Tally

OTHERS PRESENT

Jimmy Teal, Planning Director Craig Harmon, Planner Janet Smith, Asst. City Atty David Steinmetz, Inspections Karen Hilton, Planning David Nash, Planner

The meeting was called to order at 7:00 pm.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda but to pull case P09-25F from the August meeting and place the case on the September 9, 2009 agenda. Mr. Crawley seconded the motion. A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE JULY 14, 2009 MEETING

Mr. Crawley made a motion to approve the minutes from the July 14, 2009 meeting. Mr. West seconded the motion. A vote was taken and the motion passed unanimously.

Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits are quasi-judicial and speakers must be sworn in before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.

III. PUBLIC HEARINGS

B. Case No. P09-27F. The rezoning from R10 Residential District to R6 Residential District or to a more restrictive zoning classification for property located west of All-American Expressway and north of the intersection with Santa Fe Drive. Containing 84.82 acres more or less and being the property of John and wife Margarete Koenig.

Mr. Harmon provided an overview of the case. Mr. Harmon stated the surrounding property uses. He stated that the 2010 land use plan for the property is low density residential and conservation for the property. He stated that 140 letters were mailed out to surrounding property owners in regard to the request. He stated that current land use in the area is single family residential, low density and the property itself is currently vacant. Mr. Harmon explained the boundaries of the floodplain and the

floodway. Mr. Harmon stated that sewer is available to the property and it would not be difficult to get water to the property as well.

Mr. John Koenig appeared in favor of the request. He stated that he has owned the property for more than twenty years. Mr. Koenig stated that the property is 81.32 acres with 3.5 acres being taken from DOT for an access ramp for the All-American Highway. He stated that 66 acres are usable with 18 acres being the old lake site. Mr. Koenig stated that he has no intention on using the old lake bed. He stated that it will remain as it is; a natural buffer. He stated that he will not be restoring the lake by building a dam.

Mr. Paoni asked if the plan was to place assisted living in that area. Mr. Koenig stated that it was still the plan. Mr. Paoni asked about the number of units. Mr. Koenig stated that 66 buildable acres are on the property and he stated that he has no intention on building the maximum amount of units on that property.

Mr. Crawley asked about access to the property. Mr. Koenig stated that there would be access from Santa Fe Drive and 295.

Mr. Woodall was called to speak but did not appear.

A gentleman from the audience asked to address the commission with a question. The chair did not allow the question.

The public hearing the closed.

Mr. Harmon stated that the planning staff recommended approval to R6 District for this property. He stated the recommendation was based on the fact that although the 2010 plan does call for low density, medium density is also appropriate for this zoning. Mr. Harmon stated that the property is adjacent to both low and medium density residential zonings currently. He stated that a R6 District would create a nice buffer between the existing low density residential and the All American Highway.

Mr. Crawley made a motion to approve the rezoning from R10 to R6 zoning district. The motion was seconded by Mr. West. A vote was taken and passed unanimously.

Mr. Teal stated that unless there is an appeal; this case will be heard as a consent item before City Council on September 28, 2009.

TO: Mayor and Members of Council

FROM: Steven K. Blanchard, CEO/General Manager

DATE: September 28, 2009

RE: PWC-Bid Recommendation - Annexation, Phase V, Project 2, Area 6 "North

LaGrange"

THE QUESTION:

The Public Works Commission of the City of Fayetteville requests Council approve to award contract for Annexation, Phase V, Project 2, Area 6 "North LaGrange" to Utilities Plus, Inc., Linden, NC., the lowest responsive, responsible bidder.

RELATIONSHIP TO STRATEGIC PLAN:

Quality Utility Services.

BACKGROUND:

The Public Works Commission, during their meeting of September 9, 2009 approved to award contract for Annexation, Phase V, Project 2, Area 6 "North LaGrange" to Utilities Plus, Inc., Linden, NC, the lowest responsive, responsible bidder in the total amount of \$950,884.50 and forward to City Council for approval. Bids were received July 1, 2009 as follows:

<u>Bidders</u>	Total Cost
Utilities Plus, Linden, NC State Utility Contractors, Monroe, NC Hendrix-Barnhill, Smithfield, NC Billy Bill Grading, Fayetteville, NC Step Construction, LaGrange, NC T.A. Loving, Goldsboro, NC ES&J Enterprises, Autryville, NC	\$ 950,884.50 \$ 984,926.00 \$ 995,619.90 \$1,015,435.00 \$1,051,458.00 \$1,201,500.00 \$1,245,135.00
Triangle Grading & Paving	\$ 924,862.00

ISSUES:

- Bids were solicited from twelve (12) contractors with eight (8) contractors responding.
- · Bids advertised in the Fayetteville Observer.
- Utilities Plus, Inc. intends to utilize DBE/MWBE subcontractors for approximately 10% of the work on this project.
- Utilities Plus, Inc., is a woman-owned business listed as HUD certified through NCDOT.
- Utilities Plus, Inc. will self-perform the majority of the work on this project.

OPTIONS:

N/A

RECOMMENDED ACTION:

Award contract to Utilities Plus, Inc., the lowest responsive, responsible bidder.

ATTACHMENTS:

Bid History

Bid recommendation

BID HISTORY

ANNEXATION PHASE V – PROJECT 2, AREA 6 "NORTH" - LAGRANGE BID DATE: JULY 1, 2009

Consulting Engineer

Moorman, Kizer & Reitzel, Inc.

Advertisement

1. The Fayetteville Observer, Fayetteville, NC 06/12/09

List of Organizations Notified of Bid

- 1. NAACP Fayetteville Branch, Fayetteville, NC
- 2. NAWIC, Fayetteville, NC
- 3. N.C. Institute of Minority Economic Development, Durham, NC
- 4. CRIC, Fayetteville, NC
- 5. Fayetteville Business & Professional League, Fayetteville, NC
- 6. SBTDC, Fayetteville, NC
- 7. FTCC Small Business Center, Fayetteville, NC
- 8. The Women's Center of Fayetteville, Fayetteville, NC
- 9. Fayetteville Area Chamber of Commerce, Fayetteville, NC
- 10. Carolinas AGC, Fayetteville, Raleigh & Charlotte, NC
- 11. F.W. Dodge, Morrisville, NC
- 12. Hispanic Contractors Association, Raleigh, NC

List of Contractors Requesting Plans and Specifications

- 1. ES&J Enterprises, Autryville, NC
- 2. R.H. Moore, Murrells Inlet, SC
- 3. Autry Grading, Hope Mills, NC
- 4. Utilities Plus, Linden, NC
- 5. State Utility Contractors, Monroe, NC
- 6. Triangle Grading & Paving, Burlington, NC
- 7. Billy Bill Grading, Fayetteville, NC
- 8. Step Construction, LaGrange, NC
- 9. Sanford Contractors, Sanford, NC
- 10. T.A. Loving, Goldsboro, NC
- 11. Hendrix-Barnhill, Smithfield, NC
- 12. Rock Grading & Paving, Florence, SC

DBE/MWBE Participation

Utilities Plus, Inc. intends to utilize DBE/MWBE subcontractors for approximately 10% of the work on this project. In addition, Utilities Plus is a woman-owned business listed as HUB certified through NCDOT. Utilities Plus, Inc. will self-perform the majority of the work on this project.

PUBLIC WORKS COMMISSION ACTION REQUEST FORM

TO: Steve Blanchard, CEO/General Manager	DATE: August 4, 2009
FROM: Gloria Wrench, Purchasing Manager	
ACTION REQUESTED: Award contract for Annexati	on Phase V - Project 2, Area 6 "North" - Lagrange
BID/PROJECT NAME: Annexation Phase V - Project	2, Area 6 "North" Lagrange
BID DATE: July 1, 2009	DEPARTMENT: Water Resources Engineering

BIDDERS	TOTAL COST
Utilities Plus, Inc., Linden, NC	\$ 950,884.50
State Utility Contractors, Monroe, NC	\$ 984,926.00
Hendrix-Barnhill, Smithfield, NC	\$ 995,619.90
Billy Bill Grading, Fayetteville, NC	\$1,015,435.00
Step Construction, LaGrange, NC	\$1,051,458.00
T.A. Loving, Goldsboro, NC ES&J Enterprises, Autryville, NC	\$1,201,500.00 \$1,245,135.00
*Triangle Grading & Paving, (see comments below)	\$ 924.862.00
AWARD RECOMMENDED BY: Joe Glass, Raymond COMMENTS: Plans and specifications were reque	Haves, and Gloria Wrench sted by twelve (12) contractors with eight (8) contractors
bidder based upon the Commission's past experience wi	g & Paving be rejected as the lowest responsive, responsible th Triangle, as well as other information obtained during the perience includes: late or delayed performance in completing
the Arran Lakes East and Arran Lakes West Phase V pro- the failure to promptly address citizen concerns and comp- sedimentation issues; reluctance and/or failure to compl- issues; concerns about safety issues; failure to effect subcontractors, to include issues of prompt payment of su- supplies for use by subcontractors; and the reluctance of recommendations for work performed for other entities.	ojects: customer complaints associated with performance and claints: NCDENR Notices of Violations issued to Triangle for y with terms and conditions of their contract; traffic control tively communicate with and coordinate with responsible beontractors and the coordination of materials, equipment and on the part of references given by Triangle to make positive Although this is not an exhaustive list, Staff believes it is a that underlie the recommendation stated above. Staff further the lowest responsive, responsible bidder.

	ACTION BY COMMISSION
	APPROVEDREJECTED DATE
	ACTION BY COUNCIL
	APPROVEDREJECTED DATE

TO: Mayor and Members of Council

FROM: Steven K. Blanchard, CEO/General Manager Public Works Commission

DATE: September 28, 2009

RE: PWC-Bid Recommendation - Water Main Rehabilitation Work

THE QUESTION:

The Public Works Commission of the City of Fayetteville requests Council approve to award a one-year contract for water main rehabilitation work to Heitkamp, Inc., Watertown, CT in the amount of \$686,726.42.

RELATIONSHIP TO STRATEGIC PLAN:

Quailty Utility Services

BACKGROUND:

The Public Works Commission, during their meeting of September 9, 2009 approved to award a one-year contract for water main rehabilitation work, with the option to extend contract for additional one-year period(s) upon the agreement of both parties to Heitkamp, Inc., Watertown, CT in the amount of \$686,726.42 and forward to City Council for approval. Bids were received August 26, 2009.

Bids were solicited from nine (9) bidders with one (1) bidder responding. Bids were originally due August 13, 2009; however, only one bid was received and therefore could not be opened. North Carolina General Statutes require that three (3) bids be received in order for bids to be opened on the first advertisement. The work was re-advertised and bids were opened on August 26, 2009, with only one (1) bidder responding. Heitkamp meets the qualification requirements outlined in the bid for the performance of this work and has been performing this type of work for the Commission since September 2005.

ISSUES:

- Bids advertised in the Fayetteville Observer, Fayetteville, NC and the Greater Diversity News, Wilmington, NC
- Heitkamkp, Inc. will utilize a DEB/HUB/MBE/SBE/WBE certified subcontractor for 10% of the work on this project.

OPTIONS:

N/A

RECOMMENDED ACTION:

Award contract to Heitkamp, Inc., Watertown, CT

ATTACHMENTS:

Bid recommendation

Bid history

PUBLIC WORKS COMMISSION ACTION REQUEST FORM

TO: Steve Blanchard, CEO/General Manage	per DATE: September 1, 2009
FROM: Gloria Wrench, Purchasing Manag	er
	•••••••
ACTION REQUESTED: Award one-vea	ar contract for water main rehabilitation work, with
	one-year period(s) upon the agreement of both parties.
BID/PROJECT NAME: Water Main Reha	abilitation
DID D. 1882	Dan Color Color
BID DATE: August 26, 2009	DEPARTMENT: Water Resources Engineering
BIDDERS	TOTAL COST
Heitkamp, Inc., Watertown, CT	\$686,726.42
AWARD RECOMMENDED TO: Heitka	mp, Inc., Watertown, CT
BASIS OF AWARD: Low bidder	
AWARD RECOMMENDED BY: John A	Allen and Gloria Wrench
COMMENTS: Bids were solicited from	nine (9) bidders with one (1) bidder responding. Bids
	ver, only one bid was received and therefore could not be
	equire that three (3) bids be received in order for bids to rk was re-advertised and bids were opened on August 26,
	Heitkamp meets the qualification requirements outlined in
the bid for the performance of this wor	k and has been performing this type of work for the
Commission since September 2005.	
	•••••
	ACTION BY COMMISSION
	APPROVEDREJECTED
	DATE
	ACTION BY COUNCIL
	APPROVEDREJECTED
	DATE

BID HISTORY

WATER MAIN REHABILITATION BID DATE: AUGUST 26, 2009

Consulting Engineer

None

Advertisement

1. The Fayetteville Observer, Fayetteville, NC 1^{st} - 07/22/09 2^{nd} - 08/18/09

2. Greater Diversity News, Wilmington, NC 07/23/09

List of Organizations Notified of Bid

- 1. NAACP Fayetteville Branch, Fayetteville, NC
- 2. NAWIC, Fayetteville, NC
- 3. N.C. Institute of Minority Economic Development, Durham, NC
- 4. SEBEDP, Fayetteville, NC
- 5. Fayetteville Business & Professional League
- 6. SBTDC, Fayetteville, NC
- 7. FTCC Small Business Center, Fayetteville, NC
- 8. The Women's Center of Fayetteville, Fayetteville, NC
- 9. Fayetteville Area Chamber of Commerce, Fayetteville, NC
- 10. Minority Chamber of Commerce, Raleigh, NC
- 11. Hispanic Contractors Association of the Carolinas, Charlotte, NC

List of Prospective Bidders

- 1. Triton, Orlando, FL
- 2. J. Fletcher Creamer, Hackensack, NJ
- 3. Atlantic Underground Services, Ltd., Riverview, New Brunswick, Canada
- 4. Heitkamp, Inc., Watertown, CT
- 5. Aqua Rehab USA, Laval, Quebec, Canada
- 6. Mainlining Services, Elma, NY
- 7. Spiniello Companies, Fairfield, NJ
- 8. Odell Smith and Sons, Spring Lake, NC
- 9. Triangle Grading & Paving, Burlington, NC

DBE/MBE/SBE Participation

Heitkamp, Inc. will utilize a DBE/HUB/MBE/SBE/WBE certified subcontractor for 10% of the work on this project.

TO: Mayor and Members of City Council

FROM: Karen S. Hilton, AICP, Acting Planning Director

DATE: September 28, 2009

RE: Planning-Amendment to the Code of Ordinances, Chapter, Article IV, Section 107

(10), to allow one employee not a resident of the home for an incidental home

daycare occupation

THE QUESTION:

Approve an amendment to Chapter 30 of the Code of Ordinances, to allow an off-site employee at an incidental (home) day care facility.

RELATIONSHIP TO STRATEGIC PLAN:

Strong local economy Livable neighborhoods

BACKGROUND:

In late 2008 the City Council asked staff to begin reviewing standards governing daycare facilities. The City Council asked for additional criteria to guide consideration of the daycare homes/centers subject to approval through the Special Use Permit process (Section 30-107(24). These centers may be considered in any residential district as a Special Use, do not require an onsite resident and currently are limited in size only by the specific facility and operational standards (play area, number of staff, number of bathrooms, and so forth), which are established by other local and state codes. The other question was whether to allow an 'off-site' employee (not a resident of the home) at home daycare facilities, which are considered incidental home occupations under Section 30-107(10) in the zoning regulations. These in-home facilities are allowed by right in any "R" Residential district if they meet the zoning standards for home occupations and other building, safety and daycare licensing standards. The maximum number of children allowed for an incidental home daycare is 12 children; the maximum area allowed for the use is 15 percent of the floor area of the home; and 100 square feet of outdoor play area per child is required.

In considering these concerns, the Planning Commission recommended a task force approach for work on the criteria for SUP cases. At a meeting September 14, the City Council asked staff to work with a new task force, to be formed by the Partnership for Children, to develop those recommendations. As a separate action, the Planning Commission held a public hearing on August 18, 2009 to consider allowing incidental home daycare facilities to have one employee not a resident of the home. This report conveys the recommendation for that amendment.

ISSUES:

Currently, for incidental home daycares, only those family members residing at the home are allowed to serve as employees of the daycare. As pointed out by many speakers at the Planning Commission's informational meeting on July 21 and the public hearing on August 18, such limitations cause problems affecting families of all the children at the facility when staff is ill or has to handle essential errands or professional training classes.

One other group of uses -- professional offices -- is allowed in all residential districts and is allowed to have one employee not a resident of the home (Section 30-107(13)).

Allowing one employee not a resident of the home may have other impacts, such as occasionally adding another parked vehicle or expanding the number of children or adults that can be accommodated. However, the incidental home occupation standards limit the usable floor area and require an minimum amount of outdoor play space per child, which could have a limiting effect on the number of children.

This amendment would not change any other standards regarding the incidental home daycare facilities. The State would continue to be responsible for a variety of operational standards and licensing.

OPTIONS:

- 1. Approve the amendment as recommended by the Planning Commission.
- 2. Approve a modified amendment.
- 3. Disapprove

RECOMMENDED ACTION:

Option 1, Approve the amendment.

ATTACHMENTS:

draft Amendment for Home Daycare employee

Ordinance No.	S2009-
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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ZONING ARTICLE IV, DISTRICT USE REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. NORTH CAROLINA

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that the Code of Ordinances of the City of Fayetteville be amended as follows:

Section 1. Article IV, District Use Regulations is amended with the following:

Section 30-107(10). R15 residential district, incidental home occupations

(10) Incidental home occupations. Any business use conducted entirely within a dwelling and carried on by occupants thereof and which complies with the following performance standards with the exception of allowing one employee not residing in the home for an incidental home daycare:

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

Adopted this the	_day of	. 2009.
	CITY OF	FAYETTEVILLE
ATTEST:	ANTHON	Y G. CHAVONNE, Mayor
JENNIFER PENFIELD, Deputy City Clerk	k	

- 97 -

TO: Mayor and Members of City Council

FROM: Rob Anderson, Chief Development Officer

DATE: September 28, 2009

Planning-Economic Development Incentive -Property Tax Grantback for the

Towers at Wood Valley Apartments

THE QUESTION:

RE:

To consider approval of the Towers at Wood Valley apartments as the second participant under the Property Tax Grantback Program.

RELATIONSHIP TO STRATEGIC PLAN:

Strong Local Economy

BACKGROUND:

Commonwealth Road Properties, LLC, a North Carolina corporations based in Greensboro proposes to construct a 242 unit apartment complex on Commonwealth Avenue near Pamalee Drive. The site plan for this project was approved on March 25, 2009 which included a requirement to extend Commonwealth Avenue as a public street and provide for a future connection with a development site to the east.

The timing of this project is well suited to increase housing availability for the anticipated surge in population working at Fort Bragg. This project is in relatively close proximity to the base which will help reduce vehicle miles traveled for residents that work there.

ISSUES:

This project will be constructed on private property and is fully served by existing utilities. The developer will provide public right of way improvements subject to the approval of the City Traffic Engineer. The Property Tax Grantback program was established to promote development in the core of the city where infrastructure is already in place. This project represents an important private investment to serve the housing needs of the influx of population anticipated by the BRAC program. It is also within the Murchison Corridor plan. This project is consistent with the plan, including land use and strategies to provide incentives. The outcome of this project will also provide greater connectivity of streets in this area of town.

OPTIONS:

- 1. Approve the Property Tax Grantback Agreement for the Towers at Wood Valley project and direct staff to have the document executed for program implementation.
- 2. Return to staff for modification of the agreement terms.

RECOMMENDED ACTION:

Staff recommends approval of the attached Property Tax Grantback Funding Agreement for the Towers at Wood Valley project.

ATTACHMENTS:

Agreement

Site Plan

PROPERTY TAX GRANTBACK FUNDING AGREEMENT

COUNTY OF CUMBERLAND

THIS AGREEMENT made and entered into this day of, 2009,
by and between the CITY OF FAYETTEVILLE, a North Carolina municipal corporation (hereinafter
the "CITY"), and Commonwealth Road Properties, L.L.C. a North Carolina corporation (hereinafter the
"DEVELOPER").

WITNESSETH:

WHEREAS, on March 17, 2008 the CITY adopted the Property Tax Grantback Program (hereinafter "PROGRAM") to induce private investment thereby improving the economic health and diversity of the City and increasing the City's property tax base; and

WHEREAS, on April 13, 2009 the CITY amended the Property Tax Grantback Program; and WHEREAS, the DEVELOPER intends to construct the Towers at Wood Valley, a 242 unit apartment complex (hereinafter "PROJECT") which will be located in the City of Fayetteville Property Tax Grantback Economic Development Incentive Zone; and

WHEREAS, the DEVELOPER desires to participate in the PROGRAM; and

WHEREAS, after proper notice The City Council held a public hearing on September 28, 2009 concerning the PROJECT and its application in the Program, and found that the Project will enhance and stimulate the economic development and revitalization of the Commonwealth Avenue area, located off Pamalee Drive, by increasing tax revenue and serving as an catalyst for further redevelopment in the vicinity; and has directed the City Manager to execute this agreement.

WHEREAS, the CITY has determined the PROJECT is eligible for the Property Tax Grantback Program;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the CITY and DEVELOPER agree as follows:

ARTICLE 1. PURPOSE – This agreement is being entered into pursuant to the City's Economic Development Incentive Property Tax Grantback Program. The purpose of this Agreement is to define the relationship and the responsibilities of the CITY and DEVELOPER associated with the PROJECT and to establish procedures required for participation in the PROGRAM.

ARTICLE 2. PROJECT and ATTACHMENTS-

- a) The PROJECT is anticipated to include a 242 unit, gated, "garden type" apartment complex on 23.89 acres of previously undeveloped land on Commonwealth Avenue. The site will consist of 20 buildings. The complex will offer several amenities to include a clubhouse, swimming pool, playground, volleyball court, chip and putt, horseshoes, and fenced-in dog park. Garages and storage for the residents will also be available on site.
- b) For the purposes of estimating PROGRAM benefits to the DEVELOPER it is estimated the cost of building construction for this PROJECT will be approximately twenty million dollars (\$20,000,000) which will increase the taxable value for the non-land portion of the subject real property by an amount to be determined by the Cumberland County Tax Administrator.
- c) Attachment "A" provides a graphic depiction of the subject properties with site plan and legal description for the 23.89 acre Towers at Wood Valley development.
- d) Attachment "B" provides the text of the City of Fayetteville Property Tax Grantback Program which is hereby adopted by reference and shall be the guiding language in the event this Funding Agreement is incomplete, unclear or inconsistent with the PROGRAM adopted by the City Council as may be amended from time to time.

ARTICLE 3. DEVELOPER RESPONSIBILITIES -

- a) Developer agrees that it will pay the taxes associated with this property in full when due and payable in order to participate in this program. Developer agrees that failure to do so will result in immediate default and termination of this agreement.
- b) The DEVELOPER will cooperate with the CITY and Cumberland County officials to expeditiously determine the actual real property increase in value to enable the PROGRAM benefits to be realized by the DEVELOPER as noted in the PROGRAM language adopted by the City Council.
- c) The DEVELOPER agrees to pay to the City of Fayetteville all required fees associated with the development of a PROJECT of this type.
- d) The DEVELOPER agrees to comply with applicable city, state and federal codes, regulations and requirements including but not limited to those associated with environmental, building, zoning, drainage and property maintenance.
- e) The Developer agrees to submit all plans and requested materials to the City for review, which will be done in a timely manner. Failure to submit requested plans or specifications when necessary will not be the fault of the City and cause burden on the City to review.

ARTICLE 4 - CITY RESPONSIBILITIES -

a. The CITY agrees the PROJECT is eligible for the PROGRAM (see Attachment "B") and will return to the DEVELOPER an estimated \$45,600 per year (based on 2009 – 2010 City of Fayetteville tax rate and an increase in real property value of \$20,000,000) for five years as provided by the guidelines of the PROGRAM (50% of non-land increase in value). Program participants must pay their taxes in full in order to receive the 50% Grantback benefit. The actual annual benefit amount is a function of the prevailing property tax rate in each

benefit year and the increase in value of the non-land portion of eligible real property as determined by the Cumberland County Tax Administrator.

b. The City agrees to review and respond with regard to submitted plans and specifications.

ARTICLE 5-TERM OF AGREEMENT -This Agreement shall terminate upon the final Property Tax Grantback payment made by the CITY to the DEVELOPER unless the DEVELOER fails to cure a substantial material default as noted above.

ARTICLE 6 – EVENT OF DEFAULT - In the event the DEVELOPER is determined to be in default by virtue of its failure to perform any of its responsibilities in this Funding Agreement, other than the payment of its property taxes, the CITY shall upon written notice to the DEVELOPER, allow a period of 30 days to cure any deficiency that does not pose an imminent threat to the health, safety and welfare of the public. If in the opinion of the City Manager the DEVELOPER has not cured said condition of default, then at the end of such 30-day cure period this Agreement shall automatically terminate. In such event, the DEVELOPER shall lose any and all economic incentive benefits under the PROGRAM provided for in this agreement. Nonetheless, in the event an unusual hardship arises causing a risk of default, the CITY may consider approval of a reasonable schedule for action to cure if proposed by the DEVELOPER within the 30-day period. Acceptance or denial of a schedule for action to cure that exceeds the 30-day period noted above shall be at the sole discretion of the City Manager.

ARTICLE 7 - GENERAL CONDITIONS -

a. Non Appropriation clause - Notwithstanding any other provisions of this Agreement, the parties agree that payments due hereunder from the CITY are from appropriations and monies from the City Council and any other governmental entities. In the event sufficient

appropriations or monies are not made available to the CITY to pay the terms of this agreement for any fiscal year, the Property Tax Grantback benefits will not be paid in that fiscal year. Furthermore, in the unlikely event this occurs, at the sole discretion of the CITY, this Agreement may terminate without further obligation of the CITY or payment of Property Tax Grantback benefits under the terms of this agreement may be deferred for consideration by the CITY in subsequent fiscal years.

- b. The DEVELOPER shall comply with all relevant local, state and federal codes, and regulations that apply to the Project, Project Site, or the DEVELOPER.
- c. No less than 30 days after receiving building permits for the PROJECT the DEVELOPER shall provide to the CITY any and all information it may have regarding any Environmental issues.
- d. Amendment This Agreement may be amended only by the written consent of both parties.
- e. Transfers or Assignments DEVELOPER shall not transfer or assign its rights under this Agreement nor grant any interest, privilege, or license whatsoever in connection with this Agreement during the benefit period of the Grantback PROGRAM without notification in writing from the CITY.
- f. Binding Effect and Complete Terms The terms, covenants, conditions, and agreements herein contained shall be binding upon, and inure to the benefit of, and shall be enforceable by the parties hereto and their respective successors and assigns, if assigned with the written consent of both parties. This Agreement contains all negotiations and agreements of the CITY and DEVELOPER, which are merged herein. No modification hereof or other purported agreement of the parties shall be enforceable unless the same is in writing and signed by the parties hereto.
- g. Independent Contractor The DEVELOPER is an independent contractor. This agreement does not form a partnership, employment relationship, or agency between the Developer and the City.

- h. Indemnification DEVELOPER agrees to indemnify and hold harmless the CITY and its elected officials, employees, agents, successors, and assigns, from any and all liability and claims for any injury or damage caused by any act, omission or negligence of the DEVELOPER, its agents, servants, employers, contractors, licensees, or invitees.
- i. Severability The parties agree that if any provision of this Agreement shall be held invalid for any reason, the remaining provisions shall not be affected if they may continue to conform with the purposes of this Agreement and the requirements of applicable law.
- j. Notices and Written Consents All notices and written consents required under this Agreement shall be in writing and shall only be deemed properly served when hand delivered or posted by certified United States mail, postage prepaid, return receipt requested, addressed to the party to whom directed at the following address or at such address as may be from time to time designated in writing:

To CITY: City of Fayetteville

City Manager's Office

433 Hay Street

Fayetteville NC 28301-5537

With a copy to:

City of Fayetteville

Chief Development Officer

433 Hay Street

Fayetteville NC 28301-5537

To DEVELOPER:

Commonwealth Road Properties, L.L.C.

P O Box 8050

Greensboro, NC 27419 Attn: Arthur L. Samet

Notices shall be deemed served upon receipt.

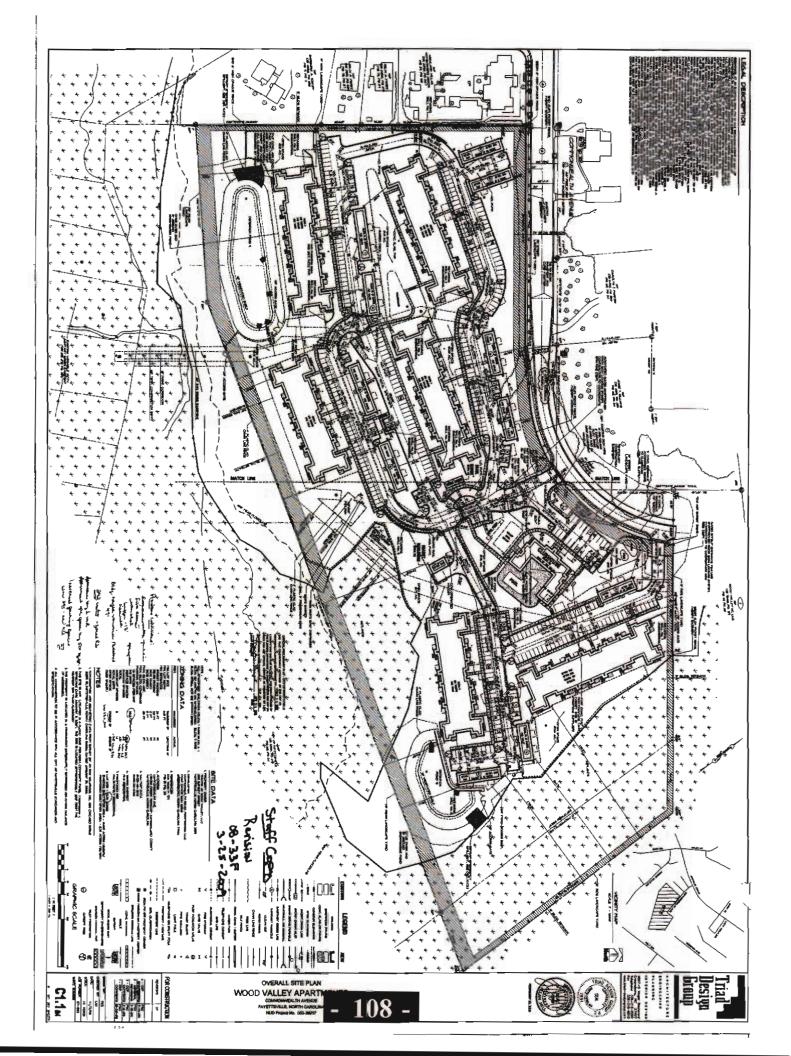
ARTICLE 8 APPROVALS - Where this Agreement requires the approval of either party, whether in writing or otherwise, and the Agreement does not specify the individual to make that approval, the same shall be approved by:

(a) For CITY: City Manager or his/her designee; and

For DEVELOPER: Managers, or his/her designee of the DEVELOPER. (b) ARTICLE 9 SOVEREIGN LAW - This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of North Carolina. ARTICLE 10 NO WAIVER - The waiver by one party (the non-defaulting party) of any requirement of this Agreement to be performed by the other party (the defaulting party), shall not be deemed, construed, or interpreted to be a waiver by the non-defaulting party of any subsequent default by the then defaulting party. ARTICLE 11 NO PLEDGE OF TAXING POWER, FULL FAITH AND CREDIT - It is expressly agreed and understood by the parties that neither the full faith and credit nor the taxing power of the CITY are pledged to secure, by either party hereto, (i) any obligation of this Agreement, or (ii) any payment of debt incurred or to be incurred herein. IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on their behalf. BY: DALE E. IMAN, City Manager CITY OF FAYETTEVILLE ATTEST: RITA PERRY, City Clerk BY: Arthur L. Samet, Manager Commonwealth Road Properties, LLC BY: J. Christopher Manning, Manager Commonwealth Road Properties, LLC Prop Tax Grantbk Commonwealth

THIS INSTRUMENT HAS BEEN PREAUDITIED IN THE MANNER REQUIRED BY THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT

ATTEST:	
STATE OF NORTH CAROLINA COUNTY OF CUMBERLAND	
I,	rties, L.L.C. a North Carolina Limited Liability he act of the corporation, the foregoing instrument
WITNESS my hand and official seal this the _	day of, 2009.
(Official Seal)	
My commission expires	OTARY PUBLIC
STATE OF NORTH CAROLINA COUNTY OF CUMBERLAND	
I,	oad Properties, L.L.C. a North Carolina Limited in and as the act of the corporation, the foregoing
WITNESS my hand and official seal this the _	day of, 2009.
(Official Seal)	
My commission expires	OTARY PUBLIC



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Craig Harmon, Planner II

DATE: September 28, 2009

RE: Planning-Case P09-23F: The rezoning from AG Agricultural District to R6/CZ

Residential Conditional Zoning District for property located on Rim Road between Identity Road and Olted Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and the property of Alex and Catherine Hall

THE QUESTION:

Rezone from AR Agriculture Residential District to R6 Residential Conditional Zoning District to allow for 161 apartments.

RELATIONSHIP TO STRATEGIC PLAN:

Growth and Development

BACKGROUND:

The current zoning does not allow multi-family development. This Rezoning would allow multi-family as well as single family development. As a Conditional Zoning request, any development is subject to the attached site plan, elevation and conditions as offered by the developer in the application. The maximum number of units that would be allowed for this site is 162 units. The applicant is requesting 161 units. The E.E. Miller Elementary School serves this area. Rim Road is a major thoroughfare. The average daily traffic count in 2006 was 9,700 vehicles at the proposed development.

- 1. Although the 2010 Land Use Plan recommends Low Density Residential uses for this property, it is staff's opinion that Medium Density Residential is appropriate for this property given the conditional limit of 161 units, submitted site plan and the city engineer and NCDOT requirement to align April Drive with the proposed site access at Rim Road;
- 2. Olted Road serves as a logical edge or buffer between this property and the nearby R10 Residential.
- 3. Rezoning to Conditional Zoning allows for additional requirements to be placed on this development;

ISSUES:

The The E.E. Miller Elementary School is listed at near capacity, but school officials state the school can adequately handle the anticipated number of students from this development.

Concern about cumulative traffic impacts led to additional research and discussion among the project engineer, NCDOT and City staff about capacity and driveway alignment. After conducting traffic counts during the morning peak and evaluating the intersection operation at Cliffdale and Rim, staff concluded that addition of the apartment traffic did not reduce the intersection's ability to function efficiently.

The driveway to Rim Rd. was part of a separate development proposal and limited by different ownership of this project site. Now that both parcels are in the same ownership and medium density development is proposed on the new parcel, staff recommends that the driveway to Rim Rd. be re-aligned with April Drive. This Phase II development would tie into the realigned drive.

OPTIONS:

- 1. Rezone the property to R6 Conditional Zoning in conformance with the site plan and any additions or changes to the conditions of development accepted by the applicant and subject to final revisions or development requirements established by the City and NCDOT;
- 2. Deny the rezoning of this property.

RECOMMENDED ACTION:

Zoning Commission & Planning Staff recommend approval of the R6/CZ rezoning with conditions:

Move to approve the R6 Residential Conditional Zoning District based on the conditions put forward by the developer of limiting the number of units to 161, the attached site plan and the realignment of the driveway entrance to ParcStone Phase I to align with the existing April Drive.

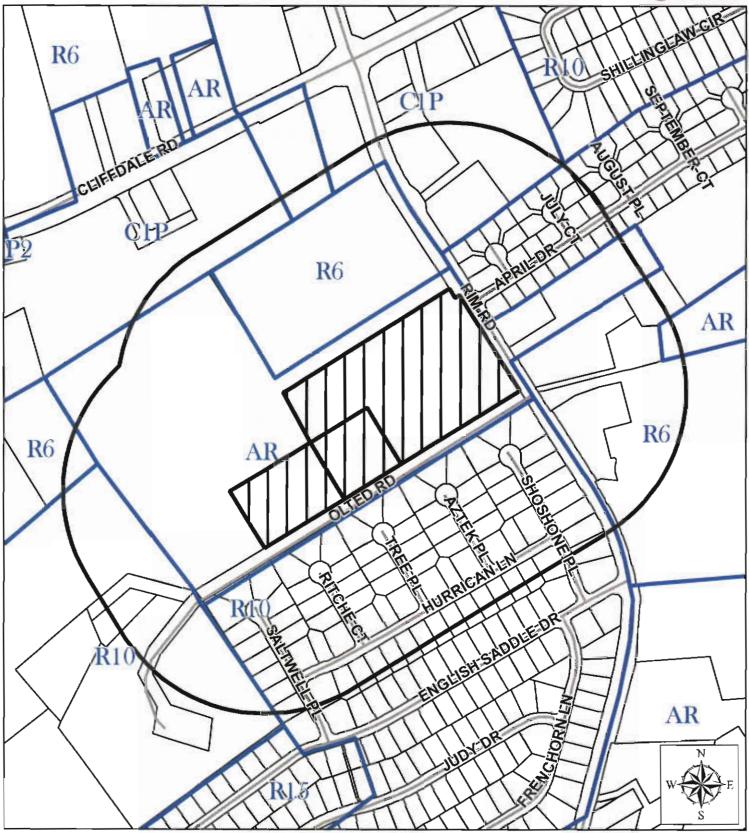
ATTACHMENTS:

Vicinity Map
Zoning Map
Current Landuse
2010 Plan
Minutes
Site Plan

Zoning Commission - Vicinity Map Case No. P09-23F BLACKBIRD-RD TRESCT CLIFFD ALERDA LARRIEDOR-BASS DE JURRICANLA ENGLISH SADDLE OR DEERTROTADRA SANCHEZ-DR GOODEN-DR

ZONING COMMISSION CASE NO. P09-23F





Request: AG to R6/CZ

Location: Rim Rd between Identity & Olted.

Acreage: +/- 14.9

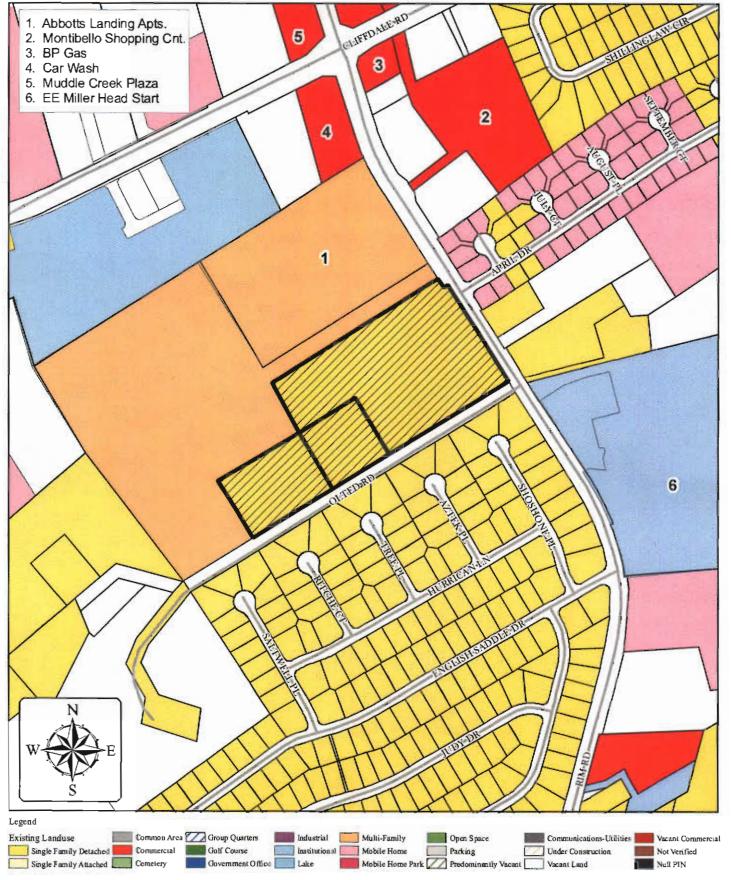
Zoning Commission:7/14/2009 Recommendation: ______
City Council: _____ Final Action: _____

Pin: 9487-55-5092 & 9487-54-3668

Current Land Use

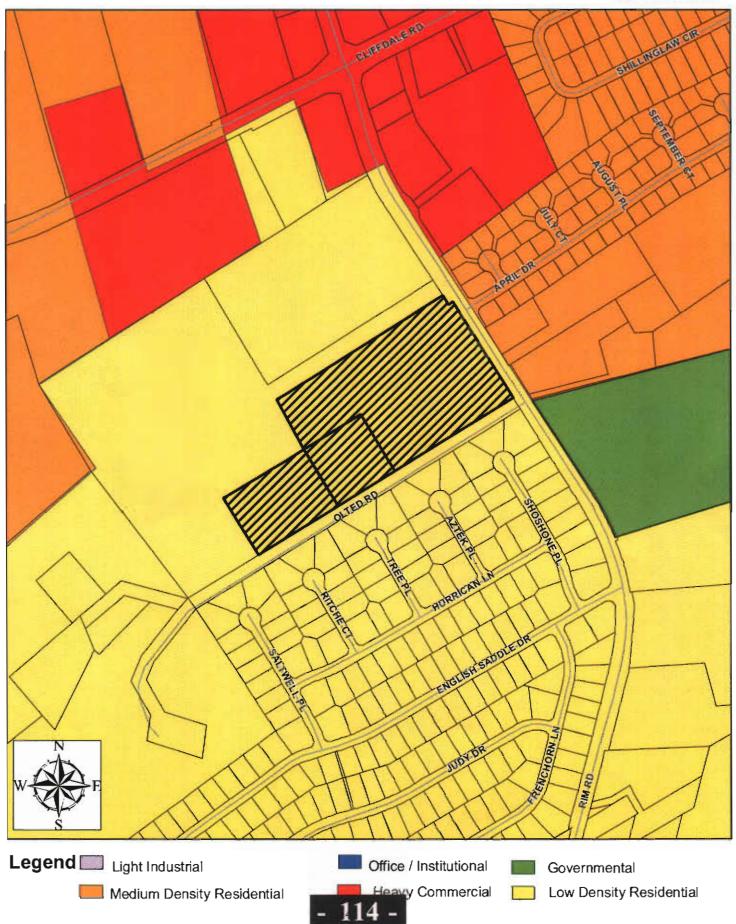
P09-23F





2010 Land Use Plan Case No. P09-23F





MINUTES CITY OF FAYETTEVILLE ZONING COMMISSION CITY COUNCIL CHAMBERS 1ST FLOOR, CITY HALL JULY 14, 2009- 7:00 P.M.

MEMBERS PRESENT

Pete Paoni Richard West John Crawley Jeannie Nelson Lockett Tally

MEMBERS ABSENT

OTHERS PRESENT Jimmy Teal, Planning Director Craig Harmon, Planner Janet Smith, Asst. City Atty David Steinmetz, Inspections

The meeting was called to order at 7:02 p.m.

I. APPROVAL OF AGENDA

Mr. Crawley made a motion to approve the agenda with the deletion of Item 3D, Case No. P09-25F. Mr. West seconded the motion. A vote was taken and passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE APRIL 14, 2009 MEETING

Mr. West made a motion to approve the minutes from the June 9, 2009 meeting. Mr. Crawley seconded the motion. A vote was taken and passed unanimously.

Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits is quasi-judicial and must be sworn it before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.

III. PUBLIC HEARINGS

B. Case No. P09-23F. The rezoning from AR Agricultural\Residential District to R6/CZ Residential Conditional Zoning District or to a more restrictive zoning classification for property located on Rim Road between Identity Road and Olted Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and the property of Alex and Catherine Hall.

Mr. Harmon gave an overview of the case. Mr. Harmon stated that current land use is a mixed use in the area. He stated that the 2010 land use plan calls for low density residential in the area. Mr. Harmon stated that 124 letters were mailed out to surrounding properties in regard to the case. Mr. Harmon stated the case is a conditional zoning and the applicant held a neighborhood meeting on

July 7, 2009 at the Fire Station on the corner of Cliffdale Road and Buhmann Road. No one appeared in opposition of the rezoning. Mr. Harmon described the surrounding properties. He stated that water and sewer are available to the project.

The public hearing was opened.

Mr. Dino Hackett spoke in favor of the request. Mr. Hackett stated that he is owner and president of Hackett Properties and Hackett Builders, LLC. He stated that he owns the 22 acres behind the property requesting the rezoning. He stated that he is in the process of beginning development of the 232 units on his property. He stated that he is in favor of development on the tract of land directly in front of his property and make sure that the product is up to his standards.

Mr. Scott Brown spoke in favor of the request. He stated that he was from 4-D Site Solutions. He explained the development for Mr. Hackett that was previously approved by planning staff.

Mr. Paoni asked how many units were planned. Mr. Brown replied 162. Mr. Paoni asked about entrances and exits to the property. Mr. Brown explained that there would be no entrance or exit off Rim Road. He stated that it would be the drive that will be provided for the new apartment complex in the back. He stated that access for the development on the site plan.

Mr. Paoni asked if there were any more questions for Mr. Brown. There were none.

The public hearing was closed.

Mr. Harmon asked the applicant for clarity about the property being gated. Mr. Brown replied yes. Mr. Harmon stated that the gate was not in the original application.

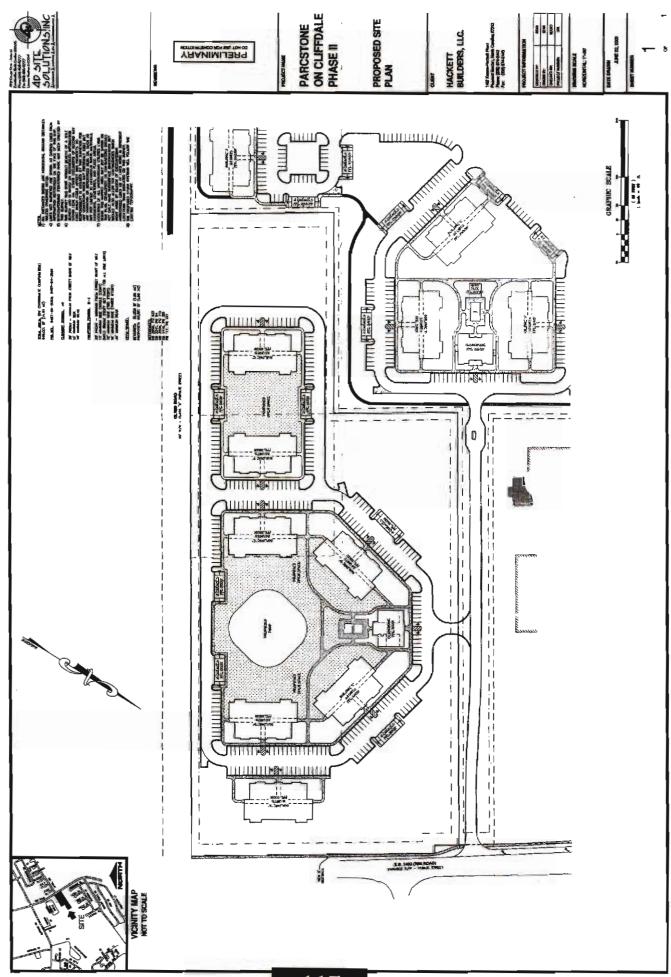
Mr. Teal stated that the gate could be included on any motion the Zoning Commission makes.

Mr. Harmon stated that staff recommends approval of the request of the R6 district. Mr. Harmon reminded the Commission that the request was for a conditional zoning. Mr. Harmon stated that the staff recommendations were based on the fact that medium density for the area is appropriate because of the surrounding properties and the fact that Olted Road serves as a natural buffer between this property and the R10 Residential single family properties to the south.

Mr. West made a motion to approve as requested to R6 Residential and amended the request to include the gated section.

The motion was seconded by Mr. Crawley. A vote was taken and passed unanimously.

Mr. Teal stated that the case will go forward to the City Council on August 24, 2009 as a consent item unless appealed.



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Craig M. Harmon, Planner II

DATE: September 28, 2009

RE: Planning-Case P09-28F: The rezoning from C1 Commercial District and R6

Residential District to C1/CZ Commercial Conditional Zoning District for a Military Christian Center on property located at 590 N. Reilly Rd. Containing 1.37 acres

more or less and being the property of Missions to Military Inc.

THE QUESTION:

Rezone from R6 Residential and C1 Commercial to C1 Commercial Conditional Zoning District to allow for a Community Center (Missions to Military).

RELATIONSHIP TO STRATEGIC PLAN:

Growth and Development

BACKGROUND:

This case is coming to the City Council on appeal from the applicant because the Zoning Commission recommended denial.

As a Conditional Zoning District the development will be limited to being just a community center for the military (similar to a USO). One of the applicant's conditions is that no liquor or alcohol will be served.

The property in question is a 3 acre tract. The applicant is looking to extend the C1 Zoning and change all of their C1 to a Conditional Zoning District. Currently the first 150 feet of the property is Zoned C1. The applicant would like to almost double that and extend the C1 Conditional Zoning to half of the property.

As a commercial property any new development would be subject to the city's buffering requirements between it and any residential properties.

ISSUES:

There were objections from a small group of neighbors citing the of zoning, the adding of a paved drive to the back of the proposed building and the concerns of hours of operation as well as who would be in and out of the establishment since it is so close to residential properties.

OPTIONS:

- Rezone the property to C-1 Commercial Conditional Zoning;
- 2. Deny the rezoning of this property.

RECOMMENDED ACTION:

Although Zoning Commission recommended denial, staff had recommended approval and continues to recommend to Council for approval with conditions limiting the depth of rezoning and other features depicted on the site plan as well as the singular use as a community center. Staff also recommends the organization clearly define the scope of the overnight facilities component and their operation prior to approval.

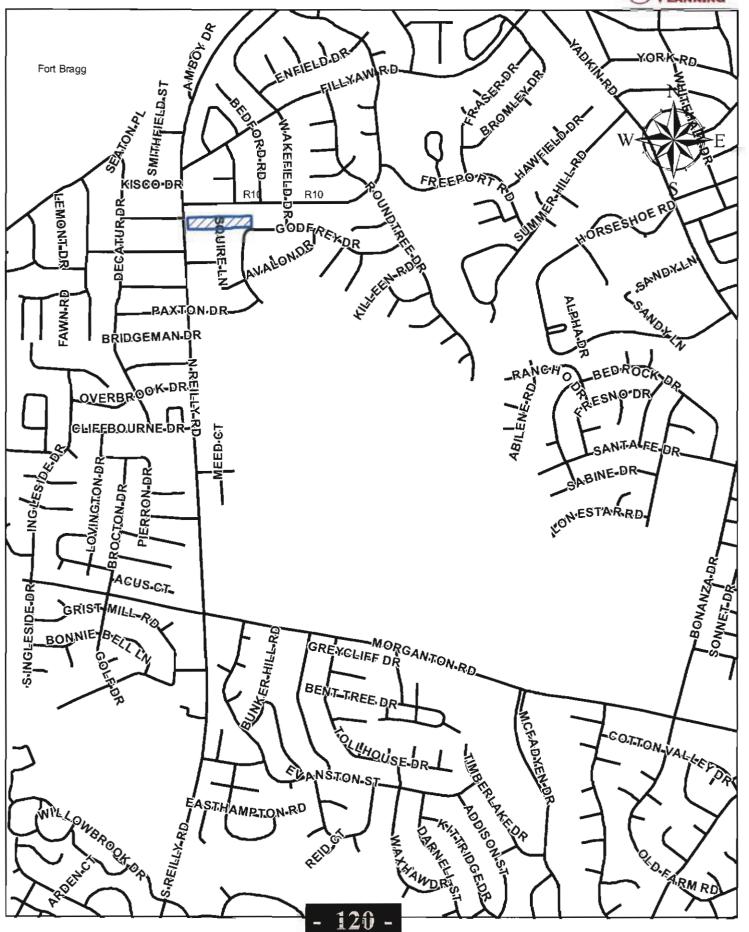
ATTACHMENTS:

Vicinity Map

Zoning Map 2010 Plan Current Landuse Minutes Conditions Letter from Applicant Site Plan

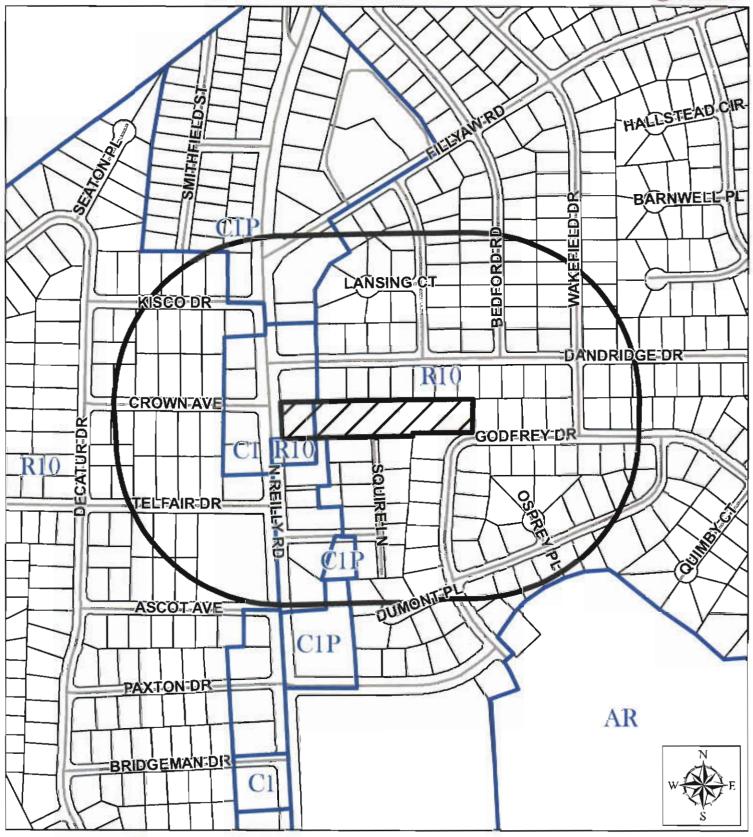
Zoning Commission - Vicinity Map Case No. P09-28F





ZONING COMMISSION CASE NO. P09-28F





Request: C1 & R6 to C1/CZ Location: 590 N. Reilly Rd.

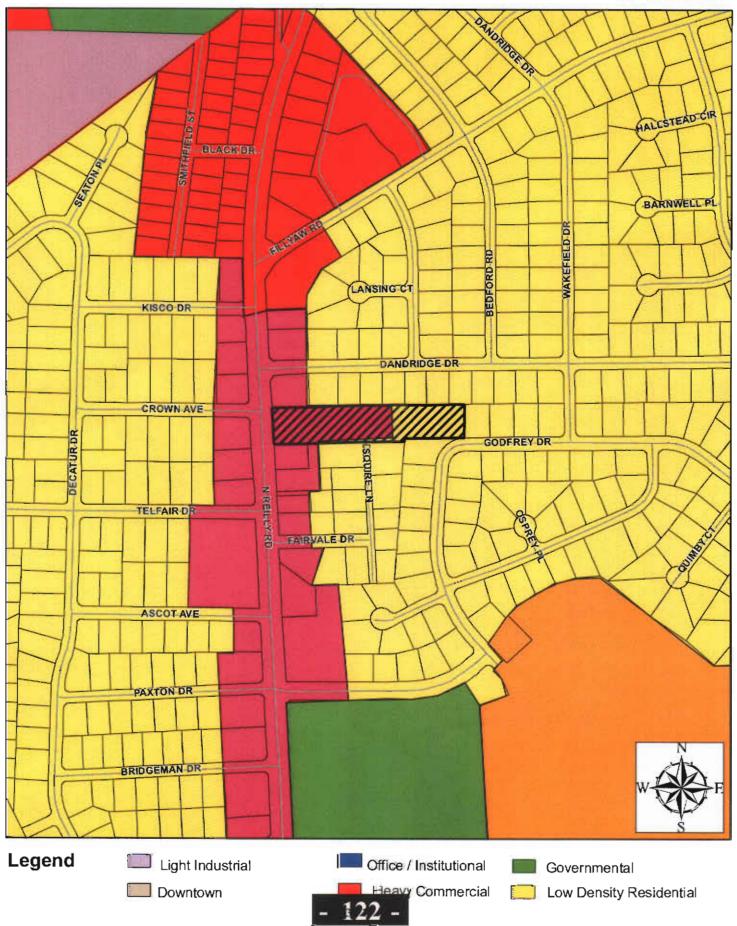
Acreage: +/- 1.37

Zoning Commission:8/11/2009

 Recommendation: Final Action:

2010 Land Use Plan Case No. P09-28F

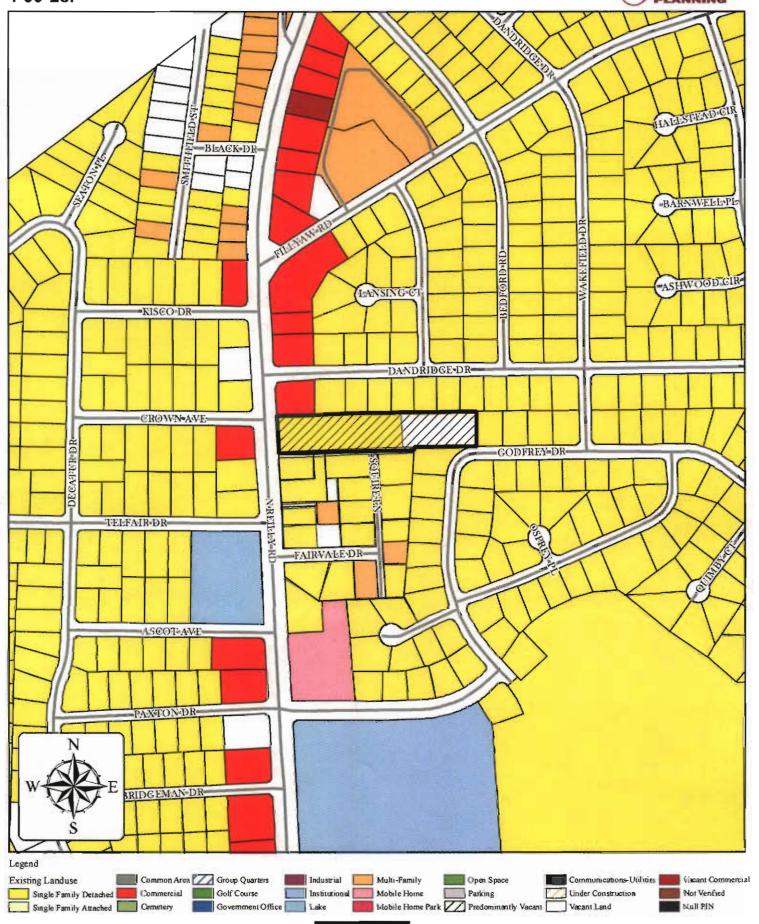




Current Land Use

P09-28F





MINUTES CITY OF FAYETTEVILLE ZONING COMMISSION CITY COUNCIL CHAMBERS 1ST FLOOR, CITY HALL AUGUST 11, 2009- 7:00 P.M.

MEMBERS PRESENT

Pete Paoni Richard West John Crawley MEMBERS ABSENT

Lockett Tally

OTHERS PRESENT

Jimmy Teal, Planning Director Craig Harmon, Planner Janet Smith, Asst. City Atty David Steinmetz, Inspections Karen Hilton, Planning David Nash, Planner

The meeting was called to order at 7:00 pm.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda but to pull case P09-25F from the August meeting and place the case on the September 9, 2009 agenda. Mr. Crawley seconded the motion. A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE JULY 14, 2009 MEETING

Mr. Crawley made a motion to approve the minutes from the July 14, 2009 meeting. Mr. West seconded the motion. A vote was taken and the motion passed unanimously.

Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits are quasi-judicial and speakers must be sworn in before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.

III. PUBLIC HEARINGS

C. Case No. P09-28F. The rezoning from R6 Residential District and C1 Commercial District to C1/CZ Commercial District/Conditional Zoning for the purpose of building and operating a Christian Center for military personnel located at 590 North Reilly Road. Containing 1.37 acres more or less and being the property of Missions to Military Inc.

Mr. Harmon presented an overview of the case. Mr. Harmon stated that the applicant is requesting only a portion of the property be rezoned. Mr. Harmon stated the property is currently vacant and he listed surrounding property uses. He stated that the 2010 land use plan for the property is low density commercial. He stated that 151 letters were mailed out to surrounding property owners in regard to the request. Harmon explained the request to the Commission. Mr. Harmon stated that water and sewer is available to the property.

The public hearing was opened.

Mr. Keith Davey spoke in favor of the request. He stated that he operates Military Christian Centers meaning that they are ministering to active military. He stated that they are a Christian organization and that their support for operation comes from churches and individuals across the country.

Mr. Crawley asked if they were non profit tax exempt. Mr. Davey replied yes. He stated that they have a board of directors and the headquarters is located Virginia Beach, VA.

Mr. Crawley asked about the staff. Mr. Davey stated that they would like to have three couples, who would be paid staff, at the location and volunteers.

Mr. M.B. Gentry reserved his time for rebuttal.

Ms. Sharon Valentine appeared in opposition of the request. She stated she is the spokesperson for the Summer Hill area. She asked that the request be denied in order to preserve the integrity of the neighborhood. She stated that Mission to Military wants to build a 7000 square foot building practically in their back yards. She stated that the Missions to Military will have the facility to house up to ten men on the property. She stated that this is a great concern for her and her neighbors because of the type of facility and the mental state of the men who would be visiting it. She stated that safety is one of their greatest concerns.

Ms. Valentine stated that the community has been trying to purchase the property for the last ten years to use the property as a park or as a green space. She asked that the Zoning Commission keep the agreement that was made with Cumberland County.

Mr. West asked about the agreement Ms. Valentine had mentioned that the neighborhood had with the county. Ms. Valentine stated that it was at the December 15, 2003 County Commissioner's Meeting and it dealt with the Land Use Plan for Reilly Road.

Mr. Paoni asked Mr. Davey to step forward. Mr. Paoni asked Mr. Davey to clarify the request for the rezoning. Mr. Paoni asked about rezoning the property commercial in the middle of the residential. Mr. Davey responded that the portion of the property toward the back could be used for a volleyball court or other things like cook outs.

Mr. Crawley asked if any one would be staying over night. Mr. Davey stated that it was not a particular fore front with his ministry. Mr. West asked for clarification. Mr. Davey stated that there would be guest rooms (for guest to stay over night, visiting out of town pastors, parents visiting the center) but there would not be a bunk room with 50 service men in it. He stated that maybe 6 would be staying at any given time but that there is no way of knowing. Mr. Davey stated that it's not the nature of the ministry today, to provide a bunk for military members.

The public hearing was closed.

Mr. Harmon stated that Mr. Steinmetz would speak briefly in regard to the over night guest issue.

Mr. Steinmetz stated that CI zoning allows for a hotel or motel. He stated that it does not allow for residences and that the applicant would have to keep that in mind when constructing the building. Mr. Steinmetz stated that it would have to meet a different type of occupancy. Mr. Steinmetz stated that residences are not permitted but a hotel or motel would be and that the building would have to build to that type of building code.

Mr. Harmon stated that the applicant is only requesting rezoning on 1.3 acres of 3 acres. Mr. Harmon reminded the Commission that the request was a conditional zoning and that they could place any conditions on the request they believe important including the number of beds or over night guests to the facility.

Mr. Harmon stated that staff recommended approval of the conditional use rezoning for the property because while it is rezoning a little more of the property it is conditioning it down to just one use. He stated that while it is a commercial rezoning anywhere the property abuts residential property, the applicant is required to put up a six foot high privacy fence and landscaping. Mr. Harmon stated that currently 150 feet back from the front property line is currently C1 Unconditional; he stated that

currently there are four pages in the zoning ordinance of different things that can be done with that zoning.

Mr. Harmon stated that only two members of the neighborhood showed up for the neighborhood meeting that was held in regard to the rezoning request.

Mr. Paoni made a motion to deny the request. Mr. West seconded the motion. A vote was taken and the motion carried with a vote of 2 to 1 in favor with Mr. Crawley voting in opposition.

Mr. Teal stated that the Zoning Commission recommended denial of the request. He stated that the applicant had 10 days until the close of business on Friday, August 21, 2009 to appeal the case to the City Clerk. Mr. Teal stated that if an appeal is made it will be heard as a public hearing at the September 14, 2009 City Council meeting. He stated that if no appeal is made then the rezoning request is denied.



MISSIONS TO MILITARY, Inc.

Winning & Training the Military for Jesus Christ

P.O. Box 6, Norfolk, VA 23501 ~ E-mail: hqs@missionstomilitary.org Phone: (757) 479-2288 or 800 - MTM-1232 ~ Web: www.missionstomilitary.org

Keith H. Davey, D.D. Founder and President

John T. Sargent, LtCol, USMCR (Ret) Field Representative

July 1, 2009

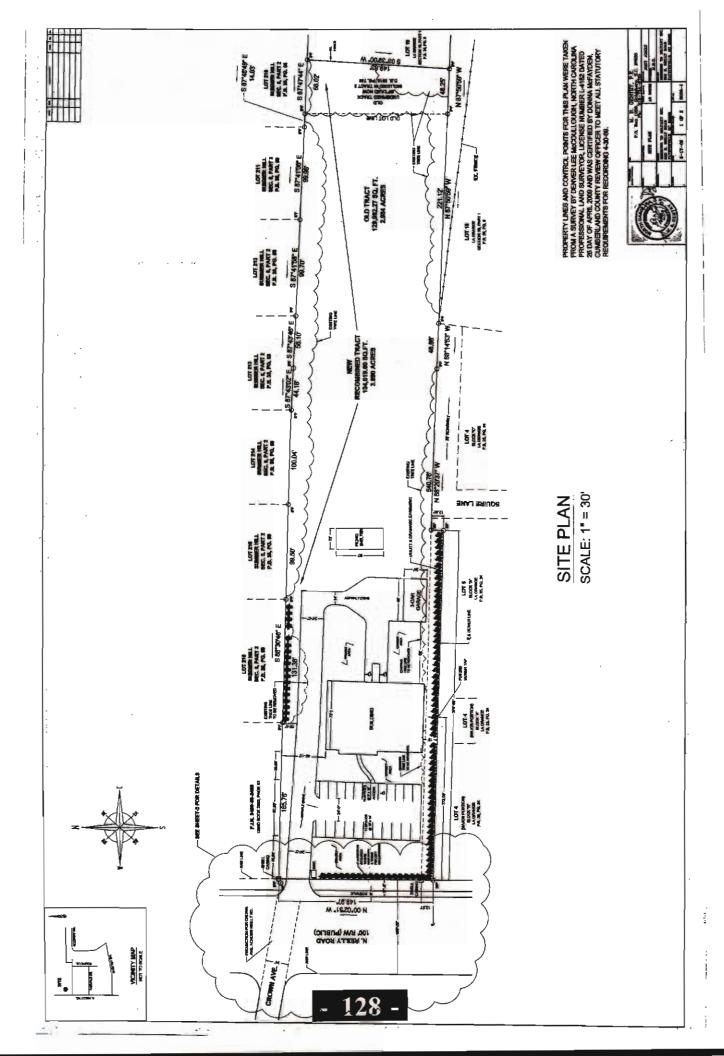
To Whom It May Concern:

The facility and grounds at 590 North Reilly Road will be used as a Military Christian Center for active military personnel. We hope to create a home-like atmosphere in the Center and the free refreshments (no liquor) will be served by our staff as expressions of kindness and friendship. The ministry, by and large, is supported by churches and interested individuals, who are concerned about our military. Our hours of operation in our other Military Christian Centers are generally six days a week, from about 10:00 AM to 10:00 PM. We do utilize qualified, competent volunteers to serve along with our staff in the Centers.

It has been our great joy to serve the military in this manner sense our inception in 1958.

Keith H. Davey, D.D. President

Missions To Military, Inc.



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Craig M. Harmon, Planner II

DATE: September 28, 2009

RE: Planning-Case P09-29F: Special Use Permit (SUP). Consideration of an application

for a SUP to allow a Daycare in a Residential District for property located at the corner of 5514 Ramshorn Dr and Santa Fe Dr. Containing .36 acres more or less

and being the property of Harry Jefferson and Linda E. Jefferson

THE QUESTION:

Whether to issue a Special Use Permit (SUP) for a Child Daycare Center.

RELATIONSHIP TO STRATEGIC PLAN:

Growth and Development

BACKGROUND:

This is an existing single family home and is completely surrounded by low density single family neighborhoods.

ISSUES:

Due to the quasi-judicial nature of the proceedings, the planning staff does not make recommendations for approval or denial for special use permits because decisions are based on testimony given during the public hearing. Section 30-107(24) allows homes for the care of children and adults upon and after obtaining a special use permit to be issued by the City Council upon recommendation of the zoning agency after a public hearing. Such special use permits shall be approved only after findings of fact are made that such use shall:

- a. fit in with the character of the area in which such use is to be located;
- b. Such use is not detrimental to the surrounding area;
- c. All applications for a special use permit shall be accompanied by an accurate and detailed plan of the proposed use, showing location of all buildings, yard dimensions, driveways, parking areas, and all other pertinent data necessary for the zoning agency and the city council to determine that all of the above requirements have been met.

Consistent with such findings of fact, the zoning agency and/or the City Council may require additional plans and/or other data concerning such use and may stipulate such conditions pertaining to the proposed use as it may deem advisable. In addition, the planning staff recommends the following items to be required in addition to those specifically listed in Section 30-107(24) prior to approval of the special use permit:

- a. The construction and operation of such facilities shall comply with the provisions of the General Statutes of the State of North Carolina and any other applicable federal, state or local codes including the City of Fayetteville Fire Code;
- b. Although signage allows a freestanding sign up to 20 square feet of copy area, staff recommends signage limited to a wall sign with a maximum copy area of four square feet;
- c. Applicant is requesting 30 children with 8 employees. Due to the size of the site, staff is recommending a maximum of 15 children and 4 employees;
- d. Hours of operation of 6:00 AM to 6:00 PM Monday through Friday;
- e. All required driveways permits shall be obtained; driveways and drop off areas shall be provided so that the traffic associated with the daycare does not impede the flow of traffic on the adjacent streets and that ingress and egress not require backing onto the street right-of-way;
- f. Fencing around the proposed play area;
- g. The Special Use Permit is null and void if the daycare does not receive a permit to operate within two years from the date of approval of the special use permit;

h. Failure to comply with any and all conditions of approval for this Special Use Permit may result in revocation of the permit.

OPTIONS:

- 1. Approve Special Use Permit for Daycare with conditions;
- 2. Approve Special Use Permit for Daycare without conditions;
- 3. Deny the Special Use Permit of this property.

RECOMMENDED ACTION:

Zoning Commission Recommended Denial of the SUP based on the following reasons: It would be detrimental to the surrounding area because of the traffic, the ingress and egress and that it would cause additional hardship to other members of the neighborhood.

<u>Staff Recommendation</u>: Due to the quasi-judicial nature of the proceedings, the planning staff does not make recommendations for approval or denial for special use permits because decisions are based on testimony given during the public hearing.

ATTACHMENTS:

Vicinity Map
Zoning Map
2010 Plan
Current Landuse
Minutes
Application
Site Plan
Site Plan p2

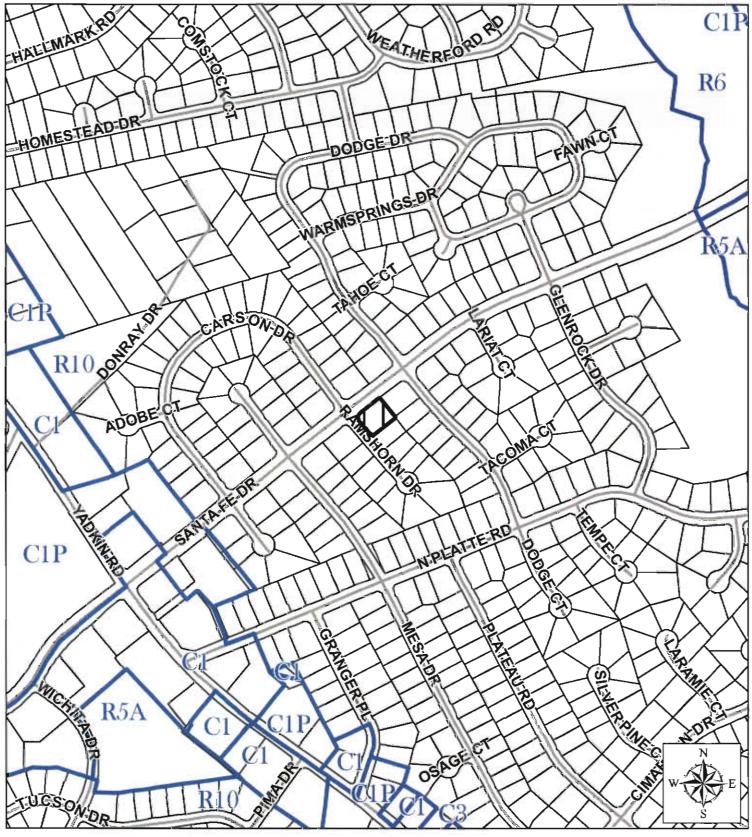
Zoning Commission - Vicinity Map Case No. P09-29F





ZONING COMMISSION CASE NO. P09-29F





Request: SUP - Daycare

Location: 5514 Ramshorn Dr. Acreage: +/- 0.36

Zoning Commission:8/11/2009

City Council: ______ Pin: 0408-68-2482

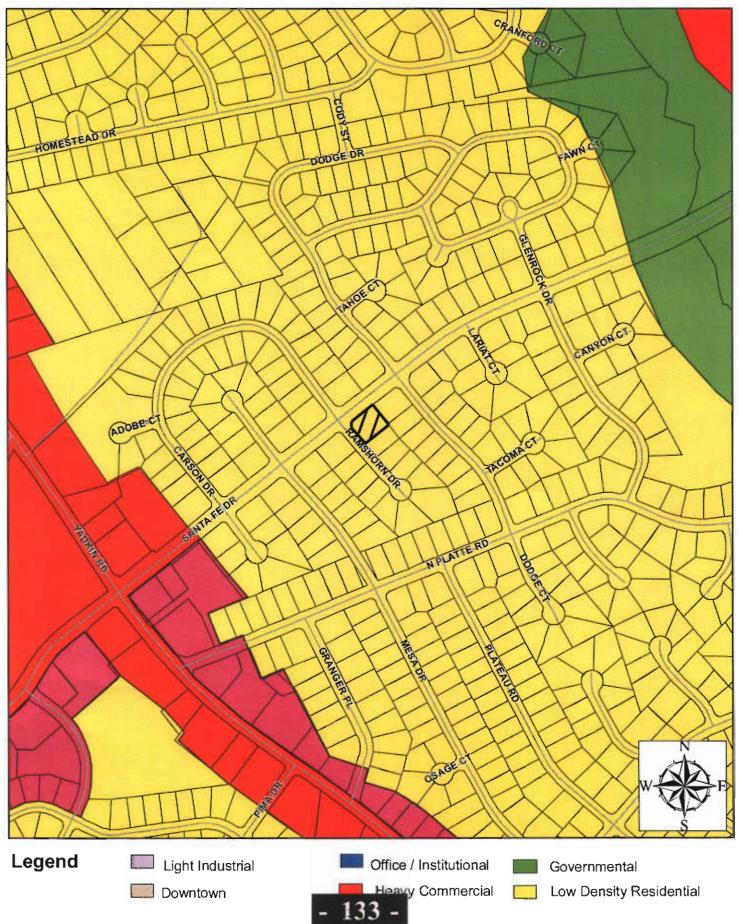
Recommendation:

Final Action:

2010 Land Use Plan

Case No. P09-29F

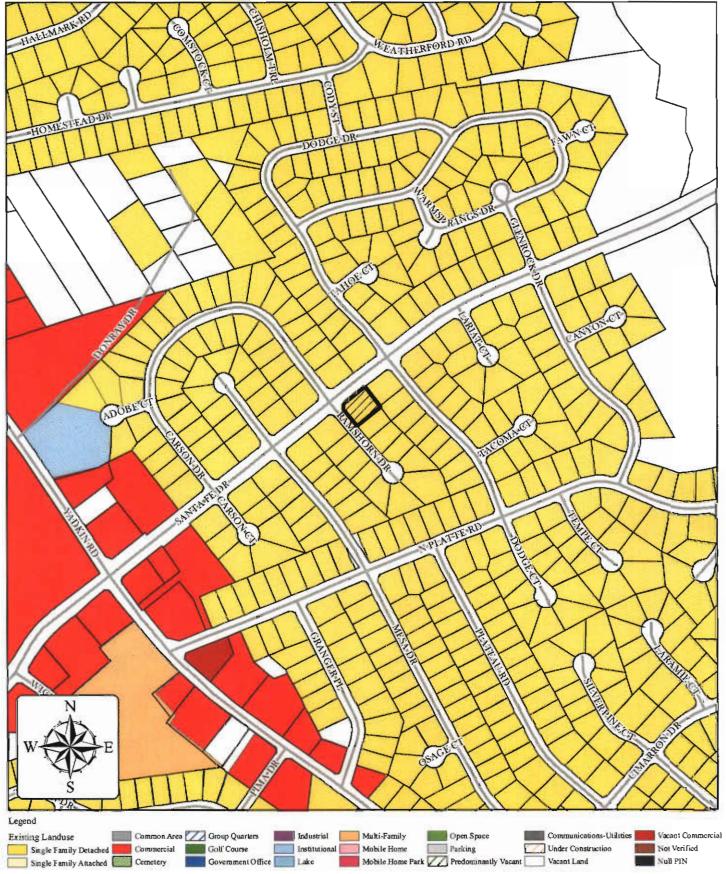




Current Land Use

P09-29F





MINUTES CITY OF FAYETTEVILLE ZONING COMMISSION CITY COUNCIL CHAMBERS 1ST FLOOR, CITY HALL AUGUST 11, 2009- 7:00 P.M.

MEMBERS PRESENT

Pete Paoni Richard West John Crawley MEMBERS ABSENT

Lockett Tally

OTHERS PRESENT

Jimmy Teal, Planning Director Craig Harmon, Planner Janet Smith, Asst. City Atty David Steinmetz, Inspections Karen Hilton, Planning David Nash, Planner

The meeting was called to order at 7:00 pm.

I. APPROVAL OF AGENDA

Mr. West made a motion to approve the agenda but to pull case P09-25F from the August meeting and place the case on the September 9, 2009 agenda. Mr. Crawley seconded the motion. A vote was taken and the motion passed unanimously.

II. APPROVAL OF THE MINUTES FROM THE JULY 14, 2009 MEETING

Mr. Crawley made a motion to approve the minutes from the July 14, 2009 meeting. Mr. West seconded the motion. A vote was taken and the motion passed unanimously.

Mr. Paoni explained the Commission members job was to conduct public hearings, listening carefully to the testimony from both sides to make recommendations that would be forwarded to City Council for final action. Each side will be given fifteen (15) minutes, collectively, to speak and must be signed up prior to the meeting. Request for Special Use Permits are quasi-judicial and speakers must be sworn in before speaking. Any aggrieved party has ten (10) days from today's meeting to file an appeal with the City Clerks Office, located on the second floor of City Hall.

III. PUBLIC HEARINGS

D. Case No. P09-29F. Consideration of an application for a Special Use Permit daycare in a residential district for property located at 5514 Ramshorn Drive. Containing 0.36 acres more or less and being the property of Harry and Linda Jefferson.

Mr. Harmon presented the case. Mr. Harmon gave the current land use of the property, and the 2010 land use of the property. Mr. Harmon stated that 165 letters were mailed to the surrounding properties. Mr. Harmon stated that there was plenty water and sewer service to the property.

Mr. Paoni swore in all the people who were going to speak.

The public hearing was opened.

Mr. Dukes spoke in favor of the request. He stated that he is planning on opening a development center on the property. He stated that they chose this location because it was close to post. He stated that the maximum amount of children allowed in the home will be 25 from the ages of 6 weeks to 5 years old. He stated that enough parking would be provided and that he has plans to put up a privacy fence. He stated that the hours of operation would be from 6 am until 6 pm and it would be closed on weekends and holidays.

Ms. Dukes spoke in favor of the request. She stated that this is her passion. She stated that being a military wife and a mother of three her interest is providing quality child care for members of the military because she understands how hard it would be. She stated that there would be a staff of 8 and approximately 25 children.

Mr. West asked how many staff members would be present during the day. Ms. Dukes stated that she was required to have a cook on staff, a secretary on staff, that she would be there and the teachers in the classrooms would depend on the ratio.

Mr. West asked about the qualifications of the employees. Ms. Dukes stated that all of her employees would meet all of the state qualification.

Mr. Paoni asked about playground space. Ms. Dukes stated that she would follow all the regulations. Mr. Paoni asked about the busy street of Santa Fe. Ms. Dukes stated that she has considered that and is planning on extending the fence and she plans on placing privacy fence all the way around the property.

Mr. West asked about parking. Ms. Dukes stated that there would be parking for parents and she would have an entrance and an exit for them.

Mr. Perry Evans spoke in opposition of the request. He stated that he is concern about the traffic. He stated that it is very dangerous. He also stated that he is concerned at the fact that no one will be there over the weekends or holidays.

Ms. Vivian Evans spoke in opposition of the request. Ms. Evans stated that she feels there should not be another daycare in the neighborhood. She stated that there are three daycares in the community now. She also expressed her concern for the lack of space.

Mr. Paoni asked if her street was a one way street. Ms. Evans said yes. Ms. Evans addressed her concerned about the noise level for the daycare. She stated that she does not want her neighborhood changed and that they do not want a daycare.

Mr. Augusta Smallwood spoke in opposition of the request. He stated that the neighborhood doesn't want another daycare. He stated that the neighborhood has a lot of elderly and handicap living in the area. He stated that building a privacy fence isn't going to solve the problem.

Mr. Stanley Carter spoke in opposition of the request. He addressed his concern for the traffic, noise and the lack of space for the request.

Mr. William Schubman spoke in opposition of the request. He stated that he has lived in the neighborhood for 43 years. He expressed his concerns about the traffic and his concerned for the lack of space for parking. Mr. Schubman mentioned the neighbors who are sick and elderly that live in the neighborhood and his concern for them. Mr. Schubman mentioned his concerns about the fact that no one will live on the property. He stated that the house is small and there isn't a lot of room.

Ms. Dukes took the option for rebuttal. She stated that she teaches head start and that the home is large enough to accommodate 25 to 30 children. She stated that all of the changes needed to be made will be made before the daycare opens. She also stated that there would be a turnaround in the yard. She stated that the children will only be outside twice a day and that they would never be in the front yard.

Mr. Paoni asked if Ms. Dukes was currently licensed. Ms. Dukes stated that she has to find a location to be licensed. Mr. Paoni asked if the sale of the house is pending on the outcome of the hearing. Ms. Dukes replied yes.

Mr. Paoni addressed his concern about the drop off area. Ms. Dukes stated that on the right hand side of the house would be staff parking. She stated that on the left hand side there would be parent parking. She stated that the parents would not need to enter any one else's property or make a u turn.

Mr. Paoni addressed his concern about the traffic from Santa Fe Drive and asked if Ms. Dukes was familiar with the area. She stated she was.

Mr. Smallwood asked how long the daycare would be there. He questioned how long it would be in operation.

Mr. Harmon stated that with a Special Use Permit it is good for the duration that particular property. He stated that the home could still be used for residential purposes but while the Special Use Permit is in effect it could also be used as Daycare Center if the request is approved.

Mr. Dukes stated that the main goal is he and his wife's intent. Mr. Dukes addressed the community's willingness to come together. He stated that there are other guidelines and processes that they are going to have to go after the Special Use Permit is approved. He stated that while he understands the community's concern everything will be taken care of and approved of by the State.

Ms. Evans spoke about her concern about the house. She stated that it was not a good place to have a daycare.

The public hearing was closed.

Mr. Harmon provided the Commission with pictures of the property. Mr. Harmon stated that the Planning Staff does not make recommendation on Special Use Permit Request. He asked if there were any questions. There were none.

Mr. Paoni made a motion to deny the request for a Special Use Permit as it would be detrimental to the to the surrounding area because of the traffic, the ingress and egress and that it would cause additional hardship to other members of the neighborhood.

Mr. West seconded the motion. He stated that in addition as a friendly amendment to the motion he stated that it would be detracting from the quality of life because of the noise.

Mr. Paoni accepted the friendly amendment. A vote was taken and the motion passed unanimously.

Mr. Teal stated that the case would go before City Council on September 28, 2009 as a public hearing.

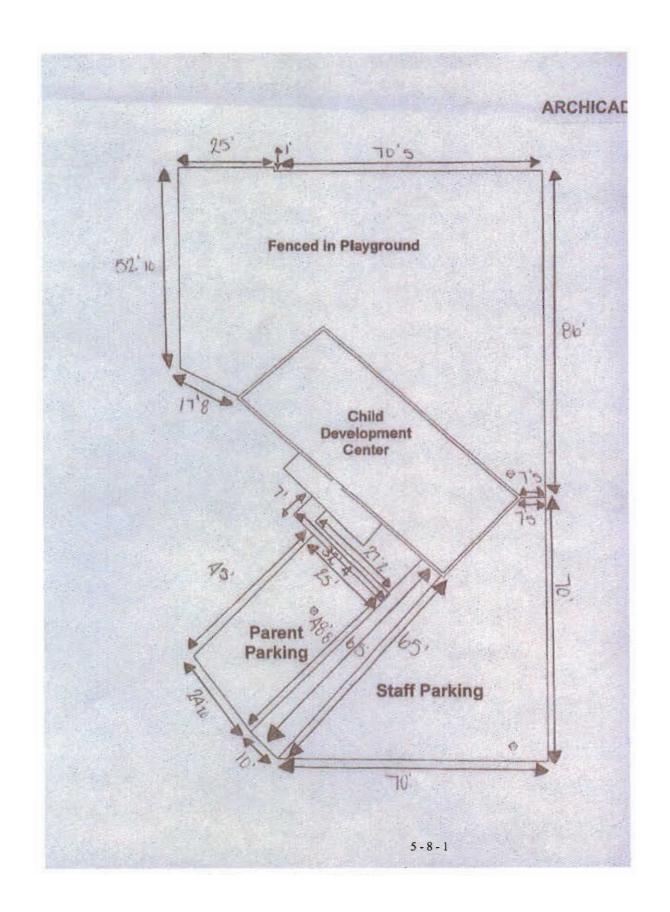
APPLICATION FOR SPECIAL USE PERMIT CITY OF FAYETTEVILLE

To the Zoning Commission and the City Council of the City of Fayetteville, North Carolina

I (We), the undersigned, do hereby respectfully make application and petition to the City Council to grant a Special Use Permit as required in the Zoning Ordinance. In support of this application, the following facts are shown:

Location	on/Address of the Property: 5514 hamshorn Or, Favetheville, NC 28503
Owner	of the Property: Harry Jefferson & Linda F. Jefferson
	is of the Owner: 1714 North West 24th Avenue, Orala F7 Zip: 34175
	's Home Phone: (352) 732-3907 (CCII) Owner's Work Phone: (910) 587-02.04
A.	Section and provision of the Zoning Ordinance from which a Special Use Permit is requested:
B.	The property sought for a Special Use Permit is owned by Arry Through as evidenced by deed, recorded in Deed Book 4503, Page 03104, Cumberland County Registry. (Attach a copy of (all) deed(s) as it appears in the Registry.)
C.	Tax Property Identification Number (PIN#) of the property: 0408-48-2482
D.	Acreage requested for a Special Use Permit: 0.34
E.	It is proposed that the property will be put to the following use: (Describe proposed use/activity
	in detail to include hours and days of operation, number of employees, number of clients, etc.) The Site Will become a Chilal development center, the center will operate from the hours of will operate from the hours of will have 8 employees and 30 clients.
F.	To the best of your knowledge, has an application for a special use permit or rezoning been filed for this property within the previous 5 years? (If yes, please indicate month and year.)
	Signature of Applicant
	191 Blue Oak Or
	Address of Applicant
	Lillington N.C 39544
	City State Zip Code
	Home Phone: (910) 893-2069
	Work Phone: (910) 814 - 2451

Z6" GRAPHISOFT. ARCHICAD EDUCATIONAL VERSION 19'3 Implement | Coordinated's Office 20 134-S Hallway Laundo 10'7 5.75° 6 7/12 8'4 17 Toddler Clambon 画 3,0 59. Infant Room LL 21.11 8.11 7.21 4 70. Porch Hallman S.1 Receptional Office 50 一名。中 71,17 11.843 82 144 4 Year Old Cleshroom 3 (3 1 139



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Victor D. Sharpe, Community Development Director

DATE: September 28, 2009

RE: COMMUNITY DEVELOPMENT-MURCHISON ROAD REDEVELOPMENT FUNDING

STRATEGY

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:

- This item is a follow-up from the City Council September 8, 2009 meeting. Since that time, we have revised the plan to remove the use of the projected \$1 million dollars that would be received from the proceeds of the sale of the City's Bragg Boulevard property.
- The \$1 million dollars would have been used to acquire land for the two housing projects.
 We are recommending that the city not acquire the land for the two proposed housing projects.
- As an alternative the City can encourage private acquisition, assemblage, and development
 of the sites.
- Once the city commits to the Rowan shopping center and the park, action is seen on Veteran's Park and the bridge work, the site should attract private developers.
- · The revised funding strategy is attached.

ISSUES

The implementation of the identified projects will require action items to come back to City Council for approval.

OPTIONS:

Approve funding strategy. Modify funding strategy.

RECOMMENDED ACTION:

Approve funding for the Murchison Road Redevelopment Plan in concept. The next step of the process is to move forward with the implementation of the plan for Catalyst Sites 1 and 3.

ATTACHMENTS:

Updated Funding Strategy for the Murchison Road Redevelopment Plan

				2	Y INVESTMEN	T RES	CITY INVESTMENT RESOURCES FOR MURCHISON RD	URCHISON RD	
		LINEAR	LINEAR PK WEST	2.85	PLAZA	귱_	PARKSIDE TOWNHOMES	JASPER PLAZA	TOWNHOMES
TOTAL INVESTMENT	\$ 28,71	28,719,192 \$ 1,6	1,601,067	~	5,949,446	•	12,870,287	\$ 4,732,007	\$ 3,566,385
LAND ACQUISITION (1.3 X TAX VALUE) DEMOLITION & RELOCATION 2ND MORTGAGES	\$ 2,12 \$ 10 \$ 40	2,123,669 100,000 400,000		44	289,649	₩	644,364	\$ 1,189,688 \$ 100,000 \$ 400,000	
CITY SO CDBG 108	\$ 2,62	2,623,699		44	289,649	40	644,364	\$ 1,689,686	
DEMOLITION & RELOCATION 2ND MORTGAGES	\$ \$ 92 8	80,000 920,000		* *	80,000 700,000			\$ 220,000	
CITY SO BRAGG PROP SALE	\$ 1,00	1,000,000		40	780,000			\$ 220,000	
(ALTERNATIVE)	\$540,000/\$1,450,000	1,450,000							
LAND ACQUISITION (1.3 X TAX VALUE) DEMOLITION & RELOCATION LINEAR PARK WEST IMPROVEMENTS	s s 1,15	1,151,067 \$ 1,1 150,000 \$ 1 300,000 \$ 3	1,151,057 150,000 300,000						
CITY SO CAPITAL FUND	\$ 1,60	1,601,067 \$ 1,6	1,601,067						
RELOCATEE ASSISTANCE RENT SUBSIDY	\$ 1,36	1,350,000		44	750,000			\$ 600,000	
CITY SO DEV LOAN PAYMTS LAND SALE PROCEEDS GENERAL FUND	\$ \$ 66 5 4 4	663,504 40,351 646,145 <mark>1,350,000</mark>							
AFFORDABLE HOUSING ASSISTANCE 2ND MORTGAGES	\$ 2,25	2,256,000				40	1,296,000		\$ 960,000
CITY SO HOME FUNDS	\$ 2,25	2,256,000							
TOTAL CITY INVESTMENT	\$ 8,83	8,830,766							

				ALI	CIT	CITY INVESTMENT RESO	RESOURCES FOR MUR fm Bragg Property sale)	CITY INVESTMENT RESOURCES FOR MURCHISON RD	
			Ę	WEST		PLAZA	PARKSIDE	JASPER PLAZA	TOWNHOMES
TOTAL INVESTMENT	\$ N	28,719,192	٠.	1,601,067	en en	5,949,446	\$ 12,870,287	\$ 4,732,007	\$ 3,566,385
LAND ACQUISITION (1.3 X TAX VALUE) DEMOLITION & RELOCATION 2ND MORTGAGES	* * *	1,250,000 180,000 1,320,000			•• ••	289,649 80000 700,000	67	\$ 960,351 \$ 100,000 \$ 620,000	
CITY SOURCE CDBG 108	65	2,750,000			••	1,069,649		\$ 1,680,351	
DEMOLITION & RELOCATION 2ND MORTGAGES	60 60 60							40	
CITY SOURCE BRAGG PROP SALE	40	•			50			5	
LAND ACQUISITION (1.3 X TAX VALUE) DEMOLITION & RELOCATION LINEAR PARK WEST IMPROVEMENTS	о о о	1,151,067 150,000 300,000	***	1,151,067 150,000 300,000					
CITY SOURCE CAPITAL FUND	65	1,601,067	60	1,601,067					
RELOCATEE ASSISTANCE RENT SUBSIDY	69	1,350,000			44	750,000		\$ 600,000	
CITY SOURCE DEV LOAN PAYMTS GENERAL FUND	⇔ ⇔ ↔	450,000 900,000 <mark>1,350,000</mark>							
AFFORDABLE HOUSING ASSISTANCE 2ND MORTGAGES	40	2,256,000					\$ 1,296,000		\$ 960,000
CITY SOURCE HOME FUNDS	69	2,256,000							
TOTAL CITY INVESTMENT	60	7,957,067							

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council FROM: Karen M. McDonald, City Attorney

DATE: September 28, 2009

RE: CITY ATTORNEY - CONSIDER CREATION OF AN ETHICS COMMISSION

THE QUESTION:

Whether to create an Ethics Commission to investigate and render advisory opinions regarding conduct of City officials and employees.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government and consistent with the City's Core Values designed to safeguard and enhance the public trust in City Government.

BACKGROUND:

At the August 3, 2009, work session, Council directed staff to review additional options for the creation of an Ethics Commission. Previous concerns related to the creation of an Ethics Commission included the duties and responsibilities of an Ethics Officer who would be responsible for conducting ethics training, initial intake and screening of ethics complaints, and administrating a financial disclosure form.

Currently, all City employees are required to undergo ethics training which is provided by the Human Resources and Development training staff. Last year, the General Assembly enacted a law which requires all local governing boards to undergo ethics education. It is expected that the League of Municipalities or the School of Government will be offering training which will meet this requirement.

The attached proposal for an Ethics Commission is based on Boise Idaho's Ethics Commission. Under this model, the Commission would be similar to any other board or commission of the City of Fayetteville in that the commission members are appointed by City Council. City staff would be responsible for initial intake and screening of ethics complaints. However, similar to the City's Personnel Review Board, the Commission would be advised by an outside attorney.

Finally, I have included a copy of the Code of Ethics Questionnaire used by the City's Internal Auditor. Each year, the City of Fayetteville Senior Management Team, their administrative assistants as well as a random sample of 25 employees must complete this questionnaire. The responses to this questionnaire are sent to the City's Internal Auditor as a part of the annual audit process. Given that this questionnaire is already developed and required to be completed by the Senior Management Team, Council may want to consider implementing this form as well.

ISSUES:

Whether this meets Council's interest of creating an Ethics Commission.

OPTIONS:

- 1. Approve the proposal.
- 2. Deny the proposal.
- 3. Provide direction to staff regarding the proposal.

RECOMMENDED ACTION:

Review the proposal and provide further direction to staff.

ATTACHMENTS:

Ordinance Amendment to Create An Ethics Commission Code of Ethics Questionnaire 2008-2009 Please note the following is not the entire Code of Ethics. The only sections below are those being amended for the possible creation of an Ethics Commission.

Chapter 2

ADMINISTRATION

ARTICLE IV. CODE OF ETHICS

Sec. 2-92. Definitions.

The terms used in this code of ethics are hereby defined as follows:

Advisory opinion means an opinion issued by the ethics commission regarding whether the past, present, or proposed conduct by an official or employee of the city violates or would violate the provisions of Section 2-94.

Ethics commission means the members of the ethics commission appointed by the mayor and city council.

Ethics commission's purview means those provisions of the Fayetteville City Code contained in Section 2-94.

Business and transaction mean any purchase of supplies or services, or the construction of any public facility or project by a public body.

Confidential information means any drawings, specifications, cost estimates, oral communications or other documents or information relative to a business or transaction not available to the general public.

Financial interest means an interest which shall yield, directly or indirectly, a monetary or other material benefit (other than the duly authorized salary or compensation for his services to the city) to the official or employee, or to any person employing or retaining the services of the official or employee.

Inquiry means any communication seeking an investigation by the ethics commission into the past or present conduct of an official or employee on either a signed, approved form submitted to the city clerk or by any other manner which contains the same degree of reliability and detail. At a minimum, such communications shall contain the name(s) and home address(es) of the person(s) seeking such an investigation; the name(s) of the person(s) who is(are) the subject of the investigation; a detailed statement of the facts and reasons why the subject(s) should be investigated; a description of the city code provision which may have been violated;

and a statement that the person(s) requesting such an investigation knows and/or believes such information is true.

Official and employee mean any person appointed to, or employed or retained by, any public office or public body of the city whether paid or unpaid and whether part-time or full-time.

Personal interest means any interest arising from blood or marriage relationship or any financial interest.

Public body means any agency, board, body, commission, committee, department or office of the city.

Referral or referred matter means any communication in any form and from any source intended for the ethics commission to review for any reason.

Sec. 2-95. Ethics commission.

- (a) Creation and organization. There is hereby created an ethics commission to consist of five members, all of whom shall be known for their personal integrity and all of whom shall be residents of the City of Fayetteville.
 - (b) *Membership*. The members of the ethics commission shall be comprised of:
 - (1) One member selected by the Cumberland County Bar Association, chosen from the attorney members of the association;
 - (2) One member selected by the Sandhill Chapter of Certified Public Accountants, chosen from the members of the organization;
 - (3) One member selected from among the universities/colleges of Fayetteville State University, Methodist University, and Fayetteville Technical Community College; and
 - (4) Two members selected by the city council from the general citizenry.
- (c) Terms of members. Each member shall serve for a term of three years; however the initial terms of the Cumberland County Bar Association and Sandhill Chapter of Certified Public Accountants shall be for three years and the initial terms of the first appointee from the universities/colleges and the two members appointed by the city council from the general citizenry shall be for two years. The members shall serve without compensation.
 - (d) Election of chair and vice-chair. The ethics commission shall elect:
 - (1) A chair by majority vote of the serving members. Each chair will serve a oneyear term and shall be eligible to serve as chair in successive years.

- (2) A vice-chair to preside in the absence of the chair. The vice-chair will serve a one-year term and shall be eligible to serve as vice-chair in successive years. The chair shall preside at the meetings and decide all points of order, procedure, and evidence.
- (e) Meetings and minutes. All meetings of the ethics commission shall be conducted as required by the Open Meetings Law. Except as otherwise provided in this article, the meetings of the ethics commission will be governed by the Suggested Rules of Procedure for City Council. All meetings shall be scheduled by the city clerk and shall meet as necessary. Written minutes of all ethics commission meetings shall be taken by the city clerk.
- (f) Quorum and decisions; vacancies. The ethics commission shall conduct its business only with a quorum. A quorum shall be the majority of the actual members of the ethics commission, excluding vacant seats. A majority opinion of the members sitting at any hearing shall govern as to decisions of the ethics commission. Vacancies shall be filled as soon as is practicable, in accordance with the procedure for appointment of members under subsection (b) of this section.
- (g) Political activities. The members of the ethics commission shall be prohibited from engaging in any city election political activities and from making campaign contributions to candidates in city elections during their terms as commission members. Violations of this subsection shall result in removal from board membership.
- (h) Intake & Screening. Any person who witnesses or becomes aware of a violation of this article may file a complaint of that violation as follows:
 - (1) Referrals to the ethics commission must be submitted to the city clerk, the city's human resources department, or the ethics commission directly.
 - (2) All referrals to the ethics commission shall initially be reviewed by one or more designees from the city's human resources department.
 - (3) A record shall be made and kept of all such referrals.
 - (4) Referrals that fall within the ethics commission's purview to any degree shall be forwarded to the ethics commission and placed upon the agenda for consideration at the next regularly scheduled meeting.
 - (5) Referrals deemed not to fall within the ethics commission's purview shall be forwarded to such other departments within the city or other authorities as is appropriate. Summaries outlining the substance of these referrals shall be prepared by designees from the city's human resources department. These summaries shall be presented to the ethics commission and placed upon the agenda for review at the next regularly scheduled meeting. The ethics commission may, however, review any referral in its entirety. At the ethics

commission's request, any matter presented in summary fashion shall be presented in its entirety and placed upon the agenda for the next regularly scheduled meeting.

- (i) Advisory opinions.
- (1) Any official or employee may submit a request that the ethics commission issue an advisory opinion.
- (2) The request for an advisory opinion may be submitted on the approved form to the city clerk's office, or in any other manner that contains the same information. A request for an advisory opinion will be deemed "received" by the ethics commission when it is first reviewed by the ethics commission pursuant to Section 2-95(h).
- (3) The ethics commission or its designee may request any additional information deemed necessary to render an advisory opinion.
- (4) The ethics commission shall render an advisory opinion in writing no later than six (6) weeks from the time it receives the request, unless the person who requests the opinion has withdrawn the request in writing, or unless the requested additional information has not been received by the ethics commission, or unless the ethics commission has given written notice to the requestor explaining the reason for the delay and stating an expected issuance date. The advisory opinion will be issued to the person who requests the opinion.
- (5) The ethics commission may publish advisory opinions with such deletions as may be lawful and necessary to prevent disclosure of records which are exempt pursuant to the North Carolina Public Records Act. The ethics commission may also publish guidelines based on an advisory opinion if the subject of the opinion may be of general interest and guidance.
- (6) All ethics commission advisory opinions involving city employees shall be forwarded to the person's supervisor or department head and the city manager in writing along with a request that the supervisor or department head take appropriate disciplinary action.
- (j) Inquiries.
- (1) Any person may file an inquiry with the ethics commission.
- (2) Inquiries will be deemed "filed" when they are received by the city clerk in writing or when received by the city's human resources department. Inquiries will be deemed "received" by the ethics commission when they are first reviewed by the ethics commission.

- (3) The ethics commission or its designee may request any additional information deemed necessary to screen the inquiry or to render a decision.
- (4) No inquiries shall be accepted or considered which relate to actions that took place more than one (1) year prior to the date of filing unless recurring benefits or consequences attributable to such actions are apparent.
- (5) The commission's designee must notify the person who is the subject of the inquiry no more than three (3) business days from the day the inquiry was filed. The notification shall include a copy of the full inquiry; a copy of any portion of the code of ethics that is alleged to have been or that may be violated.
- (6) The ethics commission shall provide the subject of the inquiry with a copy of the inquiry before it provides copies to any other parties. The ethics commission may recognize that distribution to the public of an inquiry prior to screening by the ethics commission as required below could harm the reputation of an innocent person and is contrary to the public interest; therefore, the public release of the inquiry is prohibited until the screening process has been completed.
- (7) Screening pursuant to Section 2-95(h)(2) shall occur no more than three (3) business days from the date an inquiry is filed. If the inquiry is deemed to fall within the purview of the ethics commission pursuant to Section 2-95(h), the ethics commission shall consult to review the inquiry at a properly noticed meeting under the Open Meetings Law.
- (8) The ethics commission may immediately dismiss an inquiry at any time if:
 - a. The ethics commission has no jurisdiction over the subject matter or the alleged violator;
 - b. The alleged violation, if true, would not constitute a violation of the code of ethics;
 - c. The alleged violation is *de minimis*;
 - d. The inquiry is, on its face, frivolous, groundless, or brought for purposes of harassment;
 - e. The matter has become moot because the person who is the subject of the inquiry is no longer an official or employee. If the ethics commission determines that the public interest would be served by publishing an advisory opinion, it shall subsequently issue an opinion;
 - f. The person who is the subject of the inquiry had obtained an advisory opinion under Section 2-95 permitting the conduct; or

g. The supervisor or department head has already taken action as a result of finding a violation, which is the subject of the inquiry.

All dismissals shall be in writing, contain the reason for the dismissal, and be made available to the public.

- (9) If, after initial review by the ethics commission, the inquiry has not been dismissed pursuant to Section 2-95(j), the commission shall prepare and issue a notice of hearing, which shall set forth in reasonable detail the alleged violations of the code of ethics and the facts supporting the allegations. The notice of hearing shall be mailed to the person filing the inquiry (complainant) and to the subject of the inquiry (inquiry subject) within five (5) days of its approval by the chair of the ethics commission. The notice shall provide the inquiry subject an opportunity to prepare and file an answer to the notice of hearing within ten (10) days, unless an extension is granted for good cause. When received by the ethics commission, the answer shall be promptly mailed to the complainant.
- (10) Within ten (10) days of the receipt of the answer, the city clerk shall issue a notice setting forth a date and place for the hearing, which may be open to the public. The ethics commission will attempt to accommodate the parties in selecting a date that is mutually agreeable.
- (11) The ethics commission shall stay the inquiry and refer the entire matter to the appropriate law enforcement agency when credible evidence of a crime is discovered.
- (12) At least ten (10) days before the hearing, the parties or their representatives shall submit to the ethics commission a proposed list of witnesses and a list of possible documentary evidence to be introduced at the hearing, as well as an estimate of the length of time needed to present the testimony and evidence.
- (13) The ethics commission may request its attorney to subpoena witnesses and documents after having made a written request to appear or provide the records. Subpoenas shall be issued pursuant to North Carolina state law. Persons who are subpoenaed or whose records are subpoenaed may object to testimony or the production of documents on the grounds that such information is privileged under North Carolina state law.
- (14) Any official or employee of the City of Fayetteville who is called before the ethics commission for a hearing shall be required to participate in providing information unless such information is protected by a privilege under North Carolina state law.
- (15) After the notice of hearing has been issued, none of the parties or their representatives may communicate with the ethics commission or any ethics

- commission member on any matter pertaining to the inquiry. All communications pertaining to the inquiry shall be sent to the commission's attorney.
- (16) At any time after the issuance of the notice of hearing, the ethics commission, at its discretion, may make a finding solely on the basis of written arguments without holding a public hearing if it determines that there is no significant discrepancy in the facts. However, the inquiry subject shall have the right to demand a hearing which may be open to the public.
- (17) At any time after the issuance of the notice of hearing, the ethics commission may dismiss an inquiry without a finding for or against the inquiry subject if it finds that the person committed the violation due to oversight and comes into voluntary compliance.
- (18) The ethics commission may dismiss an inquiry if the complainant does not appear at the hearing and if, in the opinion of the ethics commission, it would be unfair to the inquiry subject not to have the opportunity to examine the complainant. Nothing herein shall prevent the ethics commission from conducting the hearing where there is reason to believe that the code of ethics has been violated.
- (19) At the hearing, the complainant or the complainant's representative will be provided the opportunity to make an opening statement and presentation of the evidence in support of the allegations set forth in the notice of hearing. The inquiry subject or their representative shall be entitled to cross-examine witnesses called by the complainant or the commission's attorney.
- (20) At the conclusion of the evidence offered by the complainant or the complainant's representative, the inquiry subject or their representative shall have the opportunity to make an opening statement and present evidence. The complainant or their representative shall have the opportunity to cross-examine witnesses called by the inquiry subject. Either party shall be allowed sufficient time to examine and respond to any evidence not presented to them in advance of the hearing. At the conclusion of the evidence, the parties may make closing statements or, with the consent of the ethics commission, submit written summaries of their respective positions.
- (21) The chair of the ethics commission and, in the absence of the chair, the vice-chair shall preside at the hearing, administer oaths or accept affirmations from witnesses, and decide all points of order, procedure, and evidence. The hearing need not be conducted according to technical rules of evidence, and any relevant evidence, including hearsay, of probative value shall be admitted at the discretion of the chair. Incompetent, immaterial, or unduly repetitious evidence may be excluded.
- (22) An electronic or stenographic record of the hearing shall be made and kept by the city clerk.

- (23) At the conclusion of the hearing, the ethics commission shall deliberate towards a decision. Upon a majority vote of the members present for the hearing, the matter shall be decided. The ethics commission shall then direct its attorney to draft findings, conclusions, and recommendations for approval at the following regularly scheduled meeting.
- (24) The ethics commission shall conduct a hearing of all inquiries within sixty (60) days of receipt of the inquiry by the ethics commission. Procedural delays caused by the subject of the inquiry shall toll the sixty (60) day time limit.
- (25) Within thirty (30) days of the conclusion of deliberations, the ethics commission shall issue and publish its decision to include findings, conclusions, and recommendations. In the alternative, the ethics commission where it deems appropriate may issue an advisory opinion in lieu of making findings and recommendations.
- (26) The commission's attorney shall send a written copy of the ethics commission' findings and recommendations to the inquiry subject and the complainant and, unless provided otherwise in these rules, in the code of ethics, or in state law, shall make the findings and recommendations public.
- (27) The inquiry subject shall have the right to be represented by legal counsel in the hearing or any other proceeding, before the ethics commission.
- (k) Conflict of interest questionnaire. All elected officials, members of the city senior management team, and a random sample of city employees shall be required to complete the conflict of interest questionnaire sent by the city's internal auditor and certify that they have read the City of Fayetteville Code of Ethics.
- (I) Conflict of laws. Nothing in this section is intended to circumvent, repeal, or otherwise supersede other provisions of the Fayetteville City Code. To the extent that there is a conflict between the provisions of this section and other sections of the Fayetteville City Code, the North Carolina General Statutes, the North Carolina Constitution, or the Constitution of the United States, those provisions will control.

Sec. 2-96. Violations; appeals.

(a	1)	Any	violation	n of this	article	or the	failure	to	follow	an	opinion	rendered	by	the
ethics co	mmiss	sion s	hall subj	ect the	violator	to any	one or i	moı	re of the	e fo	llowing:			

(1)	Penalty of not more than \$	assessed by the ethics commission;
	and/or	

(2) Public reprimand by the ethics commission;

- (b) With regard to violations by employees, in addition to the remedies in paragraph (a) above, the ethics commission may recommend disciplinary action to the employee's supervisor, department head, and city manager.
- (c) The decision of the ethics commission after a hearing shall be final. Any appeal shall be made within ten (10) days and shall be taken to superior court and subject to review by writ of certiorari.

CONFIDENTIAL CITY OF FAYETTEVILLE

Code of Ethics Questionnaire For the Fiscal Year 2008-2009

To assure awareness of the City of Fayetteville's Code of Ethics and support for our goal of maintaining a high standard of ethics in our business dealings, please answer the following questions, and sign and return the Questionnaire in the envelope marked "CONFIDENTIAL" to the Internal Auditor.

Although this Questionnaire will be completed annually, if circumstances should arise during the year that could warrant a different response, notify the Internal Auditor of the change promptly.

This Questionnaire is based on the City of Fayetteville's Code of Ethics. It is not practical to cover every aspect of the Code in this Questionnaire, any more than it is possible to cover all elements of ethics in the Code. By signing this form, you are attesting not only to the questions below but also to compliance with the entire Code and its intent.

Please return completed questionnaire to the Internal Auditor by July 5, 2009.

INSTRUCTIONS

Respond "yes" or "no" to all questions below. Answer all questions. Incomplete forms will be returned. Explain any "yes" answers in the space provided. Add additional sheet as necessary. Retain a copy of the Questionnaire for your files.

_	-	
loan, service, enterta 1-94(e), or other payme	inment, travel, gift (o ent from any organiz	ther than of a token na ation or a representation
		, ,
	loan, service, enterta 2-94(e), or other paymousiness with or in cor	er of your immediate family received or sor loan, service, entertainment, travel, gift (o 2-94(e), or other payment from any organiz business with or in cornpetition with the Cit

Printed: 6/8/2009

3.	Are you presently s employer, or have y	erving or have you performed s	you served during services for any org	the period as a ganization crea	an officer, directed ted for profit?	or, or
	Yes		No			
	<u> </u>					
	Are you aware of ar	ny other interest	ts or arrangements		ou may have a	question as
	Yes		No	_		
	Are you aware of an		of the Code with wh			
	Yes		No			
st st th	read the City of Fayet ionnaire. I fully unders ionnaire are true, accu e City of Fayetteville's or could potentially alto diately.	stand all of the a trate, and comp s Code of Ethics	aforementioned do lete to the best of r and in the event t	cuments, and r my knowledge hat a change o	my responses in and belief. I ful occurs subseque	this ly comply ently which
plo	yee Signature				Date	
plo	yee Name (please prir	nt)				

ARTICLE IV. CODE OF ETHICS*

*State law references: Conflicts of interest involving public funds, G.S. 14-234.

Sec. 2-91. Policy.

- (a) The public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed.
- (b) The people have a right to expect that every public official and employee will conduct himself in a manner that will tend to preserve public confidence in and respect for the government he represents.
- (c) Such confidence and respect can best be promoted if every public official and employee, whether paid or unpaid, and whether elected or appointed, will uniformly:
 - (1) Treat all citizens with courtesy, impartiality, fairness and equality under the law; and
 - (2) Avoid both actual and potential conflicts between their private self-interest and the public interest.

(Code 1961, § 2-50)

Sec. 2-92. Definitions.

The terms used in this code of ethics are hereby defined as follows:

Business and transaction mean any purchase of supplies or services, or the construction of any public facility or project by a public body.

Confidential information means any drawings, specifications, cost estimates, oral communications or other documents or information relative to a business or transaction not available to the general public.

Financial interest means an interest which shall yield, directly or indirectly, a monetary or other material benefit (other than the duly authorized salary or compensation for his services to the city) to the official or employee, or to any person employing or retaining the services of the official or employee.

Official and employee mean any person appointed to, or employed or retained by, any public office or public body of the city whether paid or unpaid and whether part-time or full-time.

Personal interest means any interest arising from blood or marriage relationship or any financial interest.

Public body means any agency, board, body, commission, committee, department or office of the city.

(Code 1961, § 2-51)

Cross references: Definitions generally, § 1-2.

Sec. 2-93. Fair and equal treatment.

No official or employee shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or to make available to the public at large.

(Code 1961, § 2-52)

Sec. 2-94. Conflict of interest.

- (a) Participation in business transaction involving public funds. No official or employee shall become an undertaker, or make any contract for his own benefit, under such authority, or be in any manner concerned or interested in making such contract, or in the profits thereof, either privately or openly, singly or jointly with another, unless the contract is authorized pursuant to G.S. 14-234, and the following conditions are met:
 - (1) The official or employee has not been privileged to any confidential information relating to the business or transaction;
 - (2) The official or employee shall make a public disclosure of their financial interest and not participate in any deliberations or voting on such business or transaction;
 - (3) The public body on which the official or employee works or serves is not the initiator, recipient, user of the supply or service, or public body involved with the purchase, implementation, construction or management of the public project or facility. If the official or employee no longer serves or works for the public body, the business or transaction cannot be one for which such official or employee had voted upon or been privilege to confidential information while in office or employed by the public body.
- (b) Voting. No official or employees shall be excused from voting except upon matters involving the consideration of his own financial interest or official conduct. On all other cases, failure to vote by a member who was physically present at a meeting, or who has withdrawn without being excused by a majority of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowance of members of the board or commission is not a matter involving a member's own financial interest or official conduct.
- (c) Incompatible employment. No official or employee shall engage in private employment with, or render services for, any private person, firm or corporation who has business transactions with any public body unless he shall first make full public disclosure of the nature and extent of such employment or services.
- (d) Representation of private persons. No official or employee shall appear as an advocate or agent of any person, other than himself, before any public body in the city. This shall not preclude a member of the governing body from participating in deliberations or voting on a matter where that member has first brought the matter to the attention of the public body and but for this limited involvement has no other interest in the matter for which other provisions of this code would require disclosure.
- (e) Gifts and favors. No official or employee shall knowingly accept from any person, firm or corporation, a gift whether in the form of money, things, favor, loan or promise that would not be offered or given to such official or employee if they were not an official or employee. This section is not intended to prevent the gift and receipt of the following:
 - (1) Honorariums in an amount not to exceed \$25.00 or expenses to include meals, travel and lodging for participating at meetings, seminars, conferences, grand openings, or anniversary celebrations of businesses, or other similar activities where the official or

employee is either a speaker, participant or invited in his official capacity;

- (2) Nominal advertising items or souvenirs of \$10.00 or less in value, or meals furnished at banquets;
- (3) Customary gifts or favors received by an official or employee from their friends, relatives or employer where it is clear that it is the relationship of the donor which is the motivating factor for the gift or favor;
- (4) Discounts offered by retail merchants, places of entertainment or similar commercial enterprises where the discount is offered to all officials or employees or similar categories of officials or employees of other units of government;
- (5) Gift certificates, merchandise or services not to exceed an amount of \$200.00 per donor to be offered as prizes at the annual city employee picnic;
- (6) Gifts to nonsupervisory employees no more than once a year not to exceed a value of \$25.00.

All such gifts knowingly made or received as permitted in this section and made by a contractor, subcontractor or supplier currently doing business directly or indirectly with the city shall be reported to the city manager within ten days of receipt.

- (f) Confidential information. No official or employee shall, without prior formal authorization of the public body having jurisdiction, disclose any confidential information concerning any other official or employee, or any other person, or any property or governmental affairs of the city. Whether or not it shall involve disclosure, no official or employee shall use or permit the use of any such confidential information to advance the financial or personal interest of himself or any other person.
- (g) Nepotism. No official or employee shall appoint or vote for appointment of any person related to him by blood or marriage to any clerkship, office, position, employment or duty when the salary, wages, pay or compensation is to be paid out of public funds.

(Code 1961, § 2-53)

Sec. 2-95. Advisory opinions.

Upon the written request of the official or employee concerned, the city attorney shall render written advisory opinions based upon the provisions of this code of ethics. Such opinion shall be filed with the city clerk, but may delete the name of the official or employee involved. If the request for opinion shall come from the city attorney or any employee working under him, then the request shall be submitted to the city manager for an opinion. The city manager upon receipt may seek the advice of a private attorney in rendering such opinion. Any opinion rendered by the city attorney or the city manager shall be binding and final upon the requester.

(Code 1961, § 2-54)

Sec. 2-96. Violations.

Any violation of this article may be cause for removal of an official, discipline of an employee, and/or voidance of any contract made or bid submitted in violation of this article.

(Code 1961, § 2-55)

Secs. 2-97-2-120. Reserved.

§ 14-234. Public officers or employees benefiting from public contracts; exceptions.

- (a) (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.
 - (2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.
 - (3) No public officer or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.

(a1) For purposes of this section:

- (1) As used in this section, the term "public officer" means an individual who is elected or appointed to serve or represent a public agency, other than an employee or independent contractor of a public agency.
- (2) A public officer or employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract.
- (3) A public officer or employee is involved in making a contract if he or she participates in the development of specifications or terms or in the preparation or award of the contract. A public officer is also involved in making a contract if the board, commission, or other body of which he or she is a member takes action on the contract, whether or not the public officer actually participates in that action, unless the contract is approved under an exception to this section under which the public officer is allowed to benefit and is prohibited from voting.
- (4) A public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or other interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract.
- (5) A public officer or employee is not involved in making or administering a contract solely because of the performance of ministerial duties related to the contract.
- (b) Subdivision (a)(1) of this section does not apply to any of the following:
 - (1) Any contract between a public agency and a bank, banking institution, savings and loan association, or with a public utility regulated under the provisions of Chapter 62 of the General Statutes.
 - (2) An interest in property conveyed by an officer or employee of a public agency under a judgment, including a consent judgment, entered by a superior court judge in a condemnation proceeding initiated by the public agency.
 - (3) Any employment relationship between a public agency and the spouse of a public officer of the agency.
 - (4) Remuneration from a public agency for services, facilities, or supplies furnished directly to needy individuals by a public officer or employee of the agency under any program of direct public assistance being rendered under the laws of this State or the United States to needy persons administered in whole

- or in part by the agency if: (i) the programs of public assistance to needy persons are open to general participation on a nondiscriminatory basis to the practitioners of any given profession, professions or occupation; (ii) neither the agency nor any of its employees or agents, have control over who, among licensed or qualified providers, shall be selected by the beneficiaries of the assistance; (iii) the remuneration for the services, facilities or supplies are in the same amount as would be paid to any other provider; and (iv) although the public officer or employee may participate in making determinations of eligibility of needy persons to receive the assistance, he or she takes no part in approving his or her own bill or claim for remuneration.
- (b1) No public officer who will derive a direct benefit from a contract entered into under subsection (b) of this section may deliberate or vote on the contract or attempt to influence any other person who is involved in making or administering the contract.
 - (c) through (d) Repealed by Session Laws 2001-409, s. 1, effective July 1, 2002.
- (d1)Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:
 - (1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed twelve thousand five hundred dollars (\$12,500) for medically related services and twenty-five thousand dollars (\$25,000) for other goods or services within a 12-month period.
 - (2) The official entering into the contract with the unit or agency does not participate in any way or vote.
 - (3) The total annual amount of contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county.
 - (4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health, developmental disabilities, and substance abuse board, or public hospital which

contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

(d2) Subsection (d1) of this section does not apply to contracts that are subject to Article 8

of Chapter 143 of the General Statutes, Public Building Contracts.

(d3) Subsection (a) of this section does not apply to an application for or the receipt of a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to Part 9 of Article 21 of Chapter 143 of the General Statutes or the Community Conservation Assistance Program created pursuant to Part 11 of Article 21 of Chapter 143 of the General Statutes by a member of the Soil and Water Conservation Commission if the requirements of G.S. 139-4(e) are met, and does not apply to a district supervisor of a soil and water conservation district if the requirements of G.S. 139-8(b) are met.

(d4) Subsection (a) of this section does not apply to an application for, or the receipt of a grant or other financial assistance from, the Tobacco Trust Fund created under Article 75 of Chapter 143 of the General Statutes by a member of the Tobacco Trust Fund Commission or an entity in which a member of the Commission has an interest provided that the requirements of G.S. 143-717(h) are met.

(d5) This section does not apply to a public hospital subject to G.S. 131E-14.2 or a public hospital authority subject to G.S. 131E-21.

(e) Anyone violating this section shall be guilty of a Class 1 misdemeanor.

(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A public agency that is a party to the contract may request approval to continue contracts under this subsection as follows:

(1) Local governments, as defined in G.S. 159-7(15), public authorities, as defined in G.S. 159-7(10), local school administrative units, and community colleges may request approval from the chair of the Local Government Commission.

(2) All other public agencies may request approval from the State Director of the Budget.

Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare. (1825, c. 1269, P.R.; 1826, c. 29; R.C., c. 34, s. 38; Code, s. 1011; Rev., s. 3572; C.S., s. 4388; 1929, c. 19, s. 1; 1969, c. 1027; 1975, c. 409; 1977, cc. 240, 761; 1979, c. 720; 1981, c. 103, ss. 1, 2, 5; 1983, c. 544, ss. 1, 2; 1985, c. 190; 1987, c. 570; 1989, c. 231; 1991 (Reg. Sess., 1992), c. 1030, s. 5; 1993, c. 539, s. 145; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 519, s. 4; 2000-147, s. 6; 2001-409, s. 1; 2001-487, ss. 44(a), 44(b), 45; 2002-159, s. 28; 2006-78, s. 2.)

§ 14-234.1. Misuse of confidential information.

- It is unlawful for any officer or employee of the State or an officer or an employee of any of its political subdivisions, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information which was made known to him in his official capacity and which has not been made public, to commit any of the following acts:
 - (1)Acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or official action; or

Intentionally aid another to do any of the above acts.

Violation of this section is a Class 1 misdemeanor. (1987, c. 616; 1993, c. 539, s. 146; 1994, Ex. Sess., c. 24, s. 14(c).)

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council

FROM: Dale Iman, City Manager

DATE: September 28, 2009

RE: CITY MANAGER - NC LEAGUE OF MUNICIPALITIES ANNUAL LEAGUE BUSINESS

MEETING VOTING DELEGATES

THE QUESTION:

Who will be the voting delegates to represent the City of Fayetteville at the NCLM's Annual Business Meeting Tuesday, October 27, 2009?

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4 - More Efficient City Government - Cost-Effective Service Delivery

BACKGROUND:

Each year one voting delegate and one alternate voting delegate may be selected to represent the City at the NCLM Annual Business Meeting. (Please see attached memo).

ISSUES:

N/A

OPTIONS:

Designate one voting delegate and/or one alternate voting delegate.

RECOMMENDED ACTION:

City Council designate one voting delegate and/or one alternate voting delegate to represent the City of Fayetteville at the NCLM Annual Business meeting.

ATTACHMENTS:

NCLM Voting Delegates



215 NORTH DAWSON STREET
RALEIGH, NC 27603
POST OFFICE BOX 3069 | 27602-3069
919-715-4000 | FAX: 919-733-9519
WWW.NCLM.ORG

IMPORTANT VOTING INFORMATION PLEASE READ

TO:

Managers/Clerks Pre-registered for Conference

FROM:

S. Ellis Hankins, Executive Director

DATE:

September 2009

SUBJECT:

Designation of Voting Delegate for 2009 Annual League Business

Meeting

Under the League Constitution and the voting procedure established by the League Board of Directors, each member municipality sending delegates to the Annual Conference is required to designate one voting delegate and one alternate voting delegate. The vote of your municipality at the League's Annual Business Meeting on Tuesday, October 27, 2009, at 9:00 a.m. may be cast only by a designated voting delegate or alternate voting delegate.

Please use the enclosed reply postcard to indicate the delegates designated by your governing board, and return it in time to reach the League office no later than Friday, October 9, 2009.

Voting delegates may pick up their voting cards from the League's Voting Credentials Desk in the Greenville Convention Center, during registration hours on Sunday, October 25, Monday, October 26, or Tuesday, October 27 prior to the Business Meeting. We encourage you to designate a voting delegate in advance as it saves waiting in line and will avoid confusion prior to the start of the Business Session. Thanks.

Enclosure



September 28, 2009

TO: Lisa Smith, Chief Financial Officer

FROM: Nancy Peters, Accounts Payable

RE: Tax Refunds of Less Than \$100

The tax refunds listed below for less than \$100 were approved by the Cumberland County Special Board of Equalization for the month of August, 2009.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Strickland, Michael Alan	8571473	2008	Adjusted Value	15.75
TOTAL				\$15.75

