

**FAYETTEVILLE CITY COUNCIL
AGENDA
REGULAR MEETING
MARCH 8, 2010
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

MARCH 8, 2010

7:00 P.M.

City Hall Council Chamber

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 PLEDGE OF ALLEGIANCE

4.0 APPROVAL OF AGENDA

5.0 PUBLIC FORUM

The public forum is designed to invite citizen input and discussion. The public forum is held on the second Monday of every month and shall be the first item of business after the Approval of the Agenda. The public forum shall last no longer than 15 minutes. The Mayor shall have the discretion to extend the public forum up to 30 minutes. Each speaker shall have up to two (2) minutes to speak. Anyone desiring to speak may sign up in advance with the City Clerk located on the Second Floor, City Hall, 433 Hay Street, Fayetteville, N.C., by FAX at (910) 433-1980, or by e-mail at cityclerk@ci.fay.nc.us. If speakers provide the subject matter ahead of the meeting, the City staff can ensure that appropriate information is available at the meeting. This information, however, is not required.

6.0 CONSENT

6.1 Approve Minutes:

- November 23, 2009 – Regular Meeting
- December 14, 2009 - Regular Meeting
- January 4, 2010 - Work Session Meeting
- January 11, 2010 - Dinner & Discussion Meeting
- January 11, 2010 - Regular Meeting
- January 19, 2010 - Appointment Committee Meeting
- January 19, 2010 - Special Meeting
- January 20, 2010 - Agenda Briefing Meeting
- January 25, 2010 – Regular Meeting
- February 1, 2010 - Work Session Meeting
- February 6, 2010 – Budget Work Session Meeting
- February 8, 2010 - Regular Meeting
- February 17, 2010 – Special Meeting
- February 17, 2010 - Agenda Briefing Meeting
- February 22, 2010 – Dinner & Discussion Meeting

6.2 Environmental Services - Solid Waste Ordinances Revisions

- 6.3 Finance - Approve Tax Refunds Greater Than \$100
- 6.4 Human Resources Development - Revisions to the Personnel Ordinance
- 6.5 Police - Bid Award for the Purchase of 2010 Police Cars
- 6.6 PWC - Bid Recommendation - Electric Meters

7.0 OTHER ITEMS OF BUSINESS

- 7.1 Police – Presentation of proposed ordinance revisions to Article VII, Wrecker & Tow Ordinance

Presenter: Matthew Dow, Sergeant

8.0 ADMINISTRATIVE REPORTS

- 8.1 Finance - General Fund Revenue and Expenditure Reports for the Three-Month Period Ended September 30, 2009 and the Six-Month Period Ended December 31, 2009

9.0 ADJOURNMENT

CLOSING REMARKS

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 p.m. 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 nonpublic 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
MARCH 8, 2010 - 7:00 PM
COMMUNITY CHANNEL 7**

**COUNCIL MEETING WILL BE RE-AIRED
MARCH 10, 2010 - 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. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Ron McElrath, ADA Coordinator, at rmcelrath@ci.fay.nc.us, 910-433-1696, or the office of Rita Perry, City Clerk at cityclerk@ci.fay.nc.us, 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.*

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Rita Perry, City Clerk
DATE: March 8, 2010
RE: **Approve Minutes :**
November 23, 2009 - Regular Meeting
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THE QUESTION:

Does City Council approve the draft minutes as the official record of the proceedings and actions of the associated meetings?

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 meeting(s) on the referenced date(s) 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 minutes as revised.
3. Do not approve the draft minutes and provide direction to staff.

RECOMMENDED ACTION:

Approve the referenced draft minutes as presented.

ATTACHMENTS:

City Council Minutes

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**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
NOVEMBER 23, 2009
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members 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)

Absent: Council Members Keith Bates, Sr. (District 1)

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Craig Harmon, Planner II
Jackie Tuckey, Communications Manager/Public Information Officer
Michele Thompson, Cherry, Bekaert and Holland
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order at 7:00 p.m.

2.0 INVOCATION

The invocation was offered by Superintendent Larry Bellamy, Sr., Pastor and Founder of Rhema Ministries.

3.0 PLEDGE OF ALLEGIANCE

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag.

4.0 APPROVAL OF AGENDA

MOTION: Mayor Chavonne moved to approve the agenda with the addition of the minutes for the November 9, 2009, dinner and discussion meeting and regular meeting to Item 6.1 and revised information to be substituted with the information under Consent Item 6.17.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (9-0)

5.0 ANNOUNCEMENTS AND RECOGNITIONS

Outgoing Council Member Charles Evans was recognized for his accomplishments and years of dedicated service. A City of Fayetteville Ceremonial Coin and a Key to the City were presented to Council Member Evans. Comments followed.

Mayor Chavonne announced that beginning today, November 23, 2009, the PWC Customer Service Center moved from Hay Street to the PWC Operations Complex at the intersection of Eastern Boulevard and Old Wilmington Road (955 Old Wilmington Road). He stated the hours of operation would remain the same from 8:30 a.m. to 5:30 p.m.

Mayor Chavonne and Council Members Evans and Massey, on behalf of the City Council and City of Fayetteville, presented a proclamation congratulating the Fayetteville State University Football Team for

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winning the 2009 CIAA Champion and Mr. Kenny Phillips for being named 2009 CIAA Coach of the Year. Comments followed.

6.0 CONSENT

Council Member Mohn requested to pull Item 6.17 for discussion. Council Member Applewhite requested to pull Item 6.21 for discussion.

MOTION: Mayor Pro Tem Meredith moved to approve the consent agenda with the exception of Items 6.17 and 6.21.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0)

6.1 Approve Minutes:

- City Council work session meeting held on October 5, 2009.
- City Council regular meeting held on October 12, 2009.
- City Council work session meeting held on November 2, 2009.
- Appointment Committee meeting held on November 4, 2009.
- Dinner and Discussion meeting held on November 9, 2009.
- City Council regular meeting held on November 9, 2009.

6.2 City Manager - Statement of support for the National Guard and Reserves.

This statement expressed the City's full support of the employees who are called to active duty as part of the National Guard and Reserves and the City's compliance with the Uniformed Services Employment and Reemployment Right Act (USERRA), Title 38 of USC 43.

6.3 City Attorney/Real Estate Division - Adopt a resolution declaring real property owned jointly with Cumberland County surplus and authorizing a quitclaim of the City's title to the County in order to expedite sale of the land by Cumberland County.

This resolution declared the property surplus and authorized the City Manager to sign a quitclaim deed conveying the City's interest to the County in exchange for the City's share of overdue property taxes and assessments.

RESOLUTION DECLARING PROPERTY EXCESS TO CITY'S NEEDS AND QUITCLAIMING CITY TITLE IN THE PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2009-078.

6.4 City Clerk - Accept the certification of results from the Cumberland County Board of Elections for the November 3, 2009, municipal election.

**CUMBERLAND COUNTY, NORTH CAROLINA
MUNICIPAL ELECTION
NOVEMBER 3, 2009**

FAYETTEVILLE MAYOR	VOTES
Tony Chavonne	7,030
Bob White	3,466
Write-In	71

FAYETTEVILLE CITY COUNCIL DISTRICT 1	VOTES
Keith A. Bates	552
Write-In	17

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FAYETTEVILLE CITY COUNCIL DISTRICT 2	VOTES
Kady Ann Davy	1,161
Charles E. Evans	941
Write-In	8

FAYETTEVILLE CITY COUNCIL DISTRICT 3	VOTES
George Boggs	574
Robert A. Massey, Jr.	745
Write-In	5

FAYETTEVILLE CITY COUNCIL DISTRICT 4	VOTES
D. J. Haire	824
Ron Harrison	431
Write-In	4

FAYETTEVILLE CITY COUNCIL DISTRICT 5	VOTES
Bobby Hurst	1,654
Write-In	8

FAYETTEVILLE CITY COUNCIL DISTRICT 6	VOTES
Bill Crisp	770
Wade Fowler	474
Write-In	2

FAYETTEVILLE CITY COUNCIL DISTRICT 7	VOTES
Valencia Applewhite	466
Write-In	36

FAYETTEVILLE CITY COUNCIL DISTRICT 8	VOTES
Theodore Mohn	345
Write-In	10

FAYETTEVILLE CITY COUNCIL DISTRICT 9	VOTES
Wesley A. Meredith	861
Write-In	64

The Cumberland County Board of Elections having opened, canvassed and judicially determined the original returns of the election in the precincts in this county, held on November 3, 2009, certify that the attached Official Municipal Results contains the number of legal ballots cast in each precinct for each office named, the name of each person voted for and the number of votes cast for each person for the office named.

- 6.5 Finance - Capital Project Ordinance Closeout 2010-1 (FY 2007 Annual Street Resurfacing Contract).
- 6.6 Finance - Capital Project Ordinance Closeout 2010-2 (Gillespie Streetscape Project).
- 6.7 Finance - Capital Project Ordinance Partial Closeout 2010-3 (Sidewalks and Related Improvements).
- 6.8 Finance - Capital Project Ordinance Closeout 2010-4 (Festival Park/Complementary Projects).
- 6.9 Finance - Budget Ordinance Amendment 2010-4 (General Fund and Risk Management Fund).

This budget ordinance amendment reclassified \$42,426,282.00 of budgeted sales tax and utility franchise tax distributions from Other Taxes to Intergovernmental Revenues to be consistent with presentation revisions in the Comprehensive Annual Financial Report. The amendment reduced projected beer and wine tax distributions from the State by \$661,403.00, consistent with budget actions taken by the State legislature after adoption of the City budget. The loss in revenue

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was offset by a General Fund balance appropriation of \$638,988.00 and a \$22,415.00 reduction in projected reimbursements to Spring Lake related to the Fort Bragg annexation. The amendment also appropriated a \$10,000.00 grant from the Arts Council to fund expanded cultural arts programs in the recreation centers. In addition, the amendment appropriated \$300,000.00 from the Risk Management Fund balance to fund claim settlement payments during fiscal year 2009-2010.

6.10 Finance - Capital Project Ordinance Closeout 2010-5 (Westover Recreation Center and Festival Park Projects).

6.11 Finance - Special Revenue Fund Project Ordinance 2010-12 (FY 2010 Operation Ceasefire Program).

This ordinance established the budget for the Operation Ceasefire Program for fiscal year 2010. This program would be funded by an \$18,580.00 grant awarded by the NC Department of Crime Control and Public Safety, Division of the Governor's Crime Commission. The grant would fund supplies and other operating costs of the program.

6.12 Finance - Special Revenue Fund Project Ordinance 2010-13 (Energy Efficiency and Conservation Block Grant - Phase I).

This ordinance appropriated \$100,000.00 to cover Phase I of the Energy Efficiency and Conservation Strategy Program.

6.13 Finance - Capital Project Ordinance 2010-14 (Skye Drive Drainage Improvement Project).

This ordinance established a \$679,640.00 budget for the Skye Drive Drainage Improvement Project.

6.14 Finance - Capital Project Ordinance Amendment 2010-19 (Ramsey Street Transportation Improvement Project).

This amendment appropriated an additional \$200,000.00 for the Ramsey Street Transportation Improvement Project.

6.15 Finance - Capital Project Ordinance Amendment 2010-20 (CPO 2010-2 Computer Replacement Project).

This ordinance amendment appropriated an additional \$31,500.00 for the Computer Replacement Project.

6.16 Finance - Integrated Cashiering and Payment Management System - Phase 2.

6.17 Pulled for discussion by Council Member Mohn.

6.18 Finance - Tax refunds of greater than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Lassiter, Regina T/A			
New Beginning Academy	2008	Exempt Per Sec. 501.C	\$259.89
Smith Agri Supply, c/o			
Nancy Smith	2004-2008	Corrected Assessment	607.59
TOTAL			<u>\$867.48</u>

6.19 Planning - Sign Permit: "Feed My Sheep Thanksgiving Dinner".

This was a sign permit requested by Pastor Walker for up to 20 signs along Skibo Road announcing a free Thanksgiving Dinner at Alger B. Wilkins School, 1429 Skibo Road.

6.20 Planning - Case No. P09-33F: Consider the rezoning from R10 Residential District to the zoning classification of C1 instead of the original request for C3 Commercial District for property located at 1512 Hope Mills Road. Containing 1.07 acres more or less and being the property of Charles and Ida Donaldson. [The

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C1 zoning was acceptable to the applicant and recommended by the Zoning Commission.]

6.21 Pulled for discussion by Council Member Applewhite.

6.22 PWC - Bid Recommendation - Underground primary power cable.

The Public Works Commission, during their meeting on November 11, 2009, approved to award bid for purchase of 200,000 feet of 1/0,ALCN, EPR, 25kV, 1/C underground primary power cable, PWC Stock No. 1-065-510 (with the option to purchase additional quantities within a one-year period) to HD Supply Utilities, Wake Forest, NC, lowest evaluated bidder, for the total purchase price of \$340,974.00 and forward to City Council for approval.

Bids were received October 27, 2009, as follows:

	Total Purchase Price	Evaluated Cost Per 1,000 Feet
HD Supply Utilities (Wake Forest, NC)	\$340,974.00	\$2,978.00
Stuart C. Irby (Rocky Mount, NC)	\$352,200.00	\$3,051.00
Shealy Electrical (Greenville, SC)	\$355,800.00	\$3,080.00
WESCO (Raleigh, NC)	\$378,800.00	\$3,242.00

6.17 Finance - Resolution designating a recovery zone for the purpose of the American Recovery and Reinvestment Act.

Council Member Mohn pulled this item for discussion.

Mr. Dale Iman, City Manager, summarized this item. He stated the resolution designated a recovery zone to preserve the City's flexibility to issue certain types of economic development bonds authorized by the American Recovery and Reinvestment Act. He briefed Council on the qualifying factors and benefits of the recovery zone expansion.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, DESIGNATING A RECOVERY ZONE. RESOLUTION NO. R2009-079.

MOTION: Council Member Massey moved to approve the resolution designating a recovery zone.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

6.21 Planning - Case No. P09-35F: The rezoning from C1P Commercial District to R5/CZ Residential Conditional Zoning District for an apartment complex on property located at 5951 Cliffdale Road. Containing 11.21 acres more or less and being the property of Tart and Tart, Inc.

Council Member Applewhite pulled this item for discussion.

Mr. Craig Harmon, Planner II, approached the podium to address Council concerns.

MOTION: Council Member Applewhite moved to set a public hearing on January 25, 2010.

SECOND: Council Member Evans

Questions were raised regarding the impact the proposed turning lane on Skibo Road would have on Dunn Nursery and the benefits as it pertains to the alleviation of traffic problems. Mr. Harmon stated the NC Department of Transportation would advise staff regarding these issues.

Council Member Haire conveyed Council Member Bates' inquiry regarding a transit stop. Mr. Harmon stated from his observation the

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subject property's frontage on Cliffdale Road would not accommodate a bus stop.

Mayor Chavonne requested a date for the public hearing. Mr. Iman stated January 25, 2010, would be the most probable date in compliance with General Statute notification requirements, which Mr. Harmon explained.

Council Member Crisp requested a definitive response regarding the possibility of a transit stop be presented at the public hearing.

VOTE: UNANIMOUS (9-0)

ADDITIONAL RECOGNITION:

Mayor Chavonne recognized NC Representative Rick Glazier who presented an Order of the Long Leaf Pine Award, North Carolina's highest civilian honor, to Fire Chief Benjamin Nichols.

7.0 PUBLIC HEARINGS

7.1 Planning - Case No. P09-34F: The rezoning from R5 Residential District to P2 Professional District or to a more restrictive zoning classification for property located at 107 Woodside Avenue. Containing 0.25 acres more or less and being the property of Christopher Ketchman/Mason Ketchman Investments. This case is an appeal of a Zoning Commission denial.

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 case was an appeal of a Zoning Commission decision denying rezoning to P2 based on the incompatibility with the existing neighborhood. He stated the applicant was advised that a Special Use Permit in the R5 District was an alternative; however, the applicant's preference was to be rezoned P2 in order to have the option to expand in the future.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:39 p.m.

Mrs. Alida Thomas, 606 East Prospect Avenue, Raeford, NC 28376, appeared in favor and provided history of the property and the reason for the rezoning request.

Mrs. Christopher Ketchman, 3000 Muirfield Avenue, Fayetteville, NC 28306, appeared in favor.

Mr. John Duvall, 740 Victorian Place, Fayetteville, NC 28301, appeared in opposition and presented a petition to Council. He expressed concerns of an influx of P2 rezoning if this rezoning was approved.

Mrs. Carol McFayden, 740 Victorian Place, Fayetteville, NC 28301, appeared in opposition and presented a powerpoint illustrating the neighborhood's appearance. She requested preservation of the neighborhood's residential status.

Mrs. Carrie Carrol, 205 Woodside Avenue, Fayetteville, NC 28301, appeared in opposition and requested Council to vote against the rezoning.

There being no one further to speak, the public hearing closed at 7:52 p.m.

Council Member Mohn summarized the content of the October 13, 2009, Zoning Commission minutes regarding the possibility of future structures and the applicant's acceptance to preserve the parking lot.

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Mr. Harmon stated the P2 zoning would allow for additional structures without size limitation and a vegetation buffer would be required. He stated the preservation of the parking lot could be obtained in either a Conditional Use or by a Special Use Permit.

Council Member Applewhite inquired how many parking spaces would be allowed. Mr. Harmon responded there were no defined spaces; however, there was property available for future increase in parking.

Council Member Applewhite inquired of Mr. Christopher Ketchman, applicant, as to where the clients were presently parking. Mr. Ketchman responded in the available lot. He stated the volume of parking necessity increased during scheduled psychiatrist sessions. Council Member Applewhite requested the number of parking spaces needed. Mr. Ketchman stated the lot accommodates six.

Council Member Evans questioned Mr. Ketchman regarding the possibility of building in the future. Mr. Ketchman stated there were no definitive plans to build.

Council Member Crisp questioned Mr. Ketchman regarding his opposition of a Conditional Use or Special Use Permit and the need for additional and the necessity of additional lots. Mr. Ketchman stated he had not recalled being in opposition and was under the impression it was either P2 or nothing and addressed the need for overflow parking.

MOTION: Council Member Evans moved to deny rezoning to P2.
SECOND: Council Member Crisp

Council Member Mohn affirmed the need to address overflow parking and inquired of Ms. Karen McDonald, City Attorney, if an option could be to send the case back for the applicant to apply for a Conditional Use for the purpose of a parking lot. Mrs. McDonald responded in the affirmative and stated a substitute motion would be required or Council Members Evans and Crisp could amend the original motion accordingly.

SUBSTITUTE MOTION:
Council Member Mohn moved to refer back to Zoning Commission to allow the applicant to apply for Conditional Use or a Special Use Permit.
SECOND: Council Member Haire

Discussion ensued.

SUBSTITUTE MOTION VOTE:
PASSED by a vote of 7 in favor to 2 in opposition (Council Members Evans and Crisp)

7.2 Planning - Case No. P09-27F: The rezoning from R10 Residential District to R6 Residential District 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 Koenig and wife, Margarete.

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 explained this case had initially been a consent item which had been pulled and set for a public hearing.

Mayor Chavonne requested clarification on the Floodway and One Hundred Year Flood Plain which Mr. Harmon provided.

Council Member Haire questioned whether a bridge could be built over Southwick Drive. Mr. Harmon responded in the affirmative.

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Council Member Hurst inquired as to the buffer width across the Floodway and Flood Plain on Southwick Drive. Mr. Harmon guesstimated at least 100 feet.

Mayor Pro Tem Meredith asked whether Southwick Drive was accessible from the subject property. Mr. Harmon responded in the negative.

Council Member Mohn inquired whether the Corp of Engineer's National Wetland requirements would apply. Mr. Harmon responded in the affirmative.

Mr. Harmon reviewed the valid protest petition regulations and requirements, which would require eight votes in favor for rezoning. He summarized staff recommendation to Council.

Council Member Haire inquired how many single-family dwelling structures were currently permitted to be constructed on the property. Mr. Harmon responded the City does not distinguish between single-family or multi-family. He stated the property currently zoned R10 had the possibility of approximately 380 single- or multi-family units.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:18 p.m.

Mr. Phil Flynn, 619 Northampton Road, Fayetteville, NC 28303, appeared in favor and summarized the history of the present wetland.

Mr. John Koenig, 1763 Wilmington Highway, Fayetteville, NC 28306, appeared in favor and addressed the wetlands and dams and briefed Council on the proposed plans.

Mr. Raynard Esquilin, 517 Southwick Drive, Fayetteville, NC 28303, appeared in opposition and expressed concerns with traffic and the possible adverse affects on the wildlife and wetlands.

Mr. Richard Black, 505 Heathcliff Court, Fayetteville, NC 28303, appeared in opposition and expressed concerns with traffic.

Mr. Randol Wilkie, 428 Hallmark Road, NC 28303, appeared in opposition and expressed concerns regarding the proposed road on Santa Fe Drive.

Mr. Floyd Johnson, Sr., 448 Hallmark Road, NC 28303, appeared in opposition and expressed concerns regarding drainage and the wetlands.

There being no one further to speak, the public hearing closed at 8:35 p.m.

Council Member Mohn compared the proposed Santa Fe Drive intersection of the subject project to the existing intersection on the East side of Santa Fe Drive and inquired whether a stoplight or turning lane would be a possibility. Mr. Harmon responded that even though the distances were similar, the traffic patterns were an issue as to limited access.

MOTION: Council Member Haire moved to deny the rezoning to R6 Residential District.

SECOND: Council Member Mohn

VOTE: PASSED by a vote of 5 in favor (Council Members Evans, Crisp, Haire, Massey, and Mohn) to 4 in opposition (Council Members Chavonne, Applewhite, Hurst, and Meredith)

7.3 Planning - Case No. P09-36F: The rezoning from R6 Residential District to R5/CZ Residential Conditional Zoning District for town homes on properties located at 108, 110, 202, and 204 Pinecrest Drive. Containing 0.7 acres more or less and being the

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property of Thomas L. Bradford, dba Pear Tree Properties, LLC, and Island Time Pizza, LLC.

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 clarified that under the 2030 Growth Vision Plan, Policy 8.8 states existing neighborhood should be protected by encroachment by incompatible land uses and Policy 8.9 states new infill should be architectural compatible with existing structures, landscape features, and streetscape within the vicinity. Mr. Harmon reviewed the proposed site plan and explained Planning staff recommended denial of the request based on the 2010 Land Use Plan and surrounding zoning and the Zoning Commission recommended approval of the R5/Conditional zoning as requested by the applicant. He briefed Council on the new conditions of limiting the number of units to eight and the applicant being conditioned to the proposed site plan.

Mayor Pro Tem Meredith inquired whether this was a zero lot line. Mr. Harmon responded in the affirmative.

Council Member Hurst inquired on the architectural compatibility with existing structures. Mr. Harmon responded no architectural requirements were conditioned.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:45 p.m.

Mrs. Lori Epler, Larry King & Associates, deferred to Mr. Thomas Bradford.

Mr. Thomas Bradford, 460 Willow Bend Lane, Fayetteville, NC 28303, appeared in favor and requested to continue the public hearing in January to address the opposition's concerns.

Mayor Chavonne requested the protocol in regards to Mr. Bradford's request.

Ms. Karen McDonald, City Attorney, advised to continue the public hearing allowing all speakers the opportunity to address Council, close the public hearing, and thereafter make a determination on how to proceed.

Mr. W. M. Ward, 2201 Morganton Road, Fayetteville, NC 28303, appeared in opposition and expressed concerns regarding the proposed structure and its compatibility with the existing structures and presented photographs to Council.

There being no one further to speak, the public hearing closed at 8:50 p.m.

Council Member Mohn inquired whether it was required to close or continue the public hearing. Ms. McDonald conceivably agreed that this public hearing was considered closed. She advised to continue the public hearing should it be Mr. Bradford's intent to go back to staff to make revisions to the request.

Mayor Chavonne rescinded the statement closing the public hearing.

MOTION: Council Member Mohn moved to continue the public hearing to January 25, 2010.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

7.4 Planning - Case No. P09-37F: Consideration of an application by Lance King for a Special Use Permit to allow for business parking (parking lot) in an R6 Residential District for property located at 2609 Pecan Drive and 409 and 411 McPherson Avenue. Containing

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0.65 acres more or less and being the property of Allison Properties, Inc.

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, 2010 Land Use Plan, 2030 Growth Vision Plan and site plan. He explained the applicant's intent to redevelop the property. He stated the Zoning Commission recommended approval of the Special Use Permit with the conditions that the buffering be increased between the parking areas and existing residential areas, the lighting in the parking areas be designed to minimum light trespass into the adjacent properties, and all driveway cuts and entrance ways be approved by the City's Traffic Engineer.

Council Member Hurst inquired what type of lighting was being proposed in the parking lot. Mr. Harmon responded the lighting was conditioned to be designed to focus the light on the parking lot and not be intrusive to the residential properties.

Council Member Applewhite inquired as to the amount of increase in the buffering. Mr. Harmon responded a six foot high fence was required and any additional conditions could be determined.

Mayor Chavonne requested staff recommendations regarding "an increase in buffering". Mr. Harmon provided the following options: (1) increase the distance, (2) increase the height, and (3) vegetation requirement.

Mr. Iman, City Manager, requested clarification of the Zoning Commission's goals in relations to the buffering condition. Mr. Harmon clarified to screen the surrounding properties to minimize the light and noise trespass.

Mr. Iman suggested Council consider a condition which would provide for buffers sufficient to meet the goals of screening the property from view as intended by the Zoning Commission. He stated the Inspection Department could make that determination.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:06 p.m. The speakers were sworn in.

Mr. Lance King, 255 Blueridge Road, Fayetteville, NC 28303, appeared in favor and requested clarification of the buffering conditions.

Mrs. Jacquelyn Allison, 501 Rush Road, Fayetteville, NC 28305, appeared in favor and stated the purpose of the development was to expand office space.

There being no one further to speak, the public hearing closed at 9:10 p.m.

Council Member Applewhite asked Mr. King what the proposed use of the lone lot would be. Mr. King responded an access drive and possibly parking in the future and if so, the required buffers and/or screening would be erupted. He stated parking was not present due to the impervious area and it being in the watershed.

Council Member Crisp inquired as to the run off from the two lots. Mr. King responded it would be into the streets. He stated once developed the run off would go through a storm water system which would be treated for quantity and quality measures as outlined by the City of Fayetteville's Storm Water Department.

Ms. Karen McDonald, City Attorney, addressed the buffering guidance and stated Council should be specific in regards to the buffering requirements. She stated options would be to table this item and send it back to the Zoning Commission or Council could make the buffering determinations.

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Mr. Rob Anderson, Development Services Director, stated when asked to increase the standard it entails increasing the vegetative requirements. He stated staff could look at the site line and view quarters, then come back with other components.

Mayor Chavonne inquired why this process had not already been completed and stated it was unfair to the developer.

MOTION: Council Member Hurst moved to approve the Special Use Permit for parking with conditions as outlined and the additional condition to increase the buffer requirements (fencing and vegetation) to six feet in height and six feet apart.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (9-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 Finance - Presentation of the Audited FY 2008-2009 Comprehensive Annual Financial Report.

Mrs. Michele Thompson, Cherry, Bekaert and Holland, presented an overview of the Audited FY 2008-2009 Comprehensive Annual Financial Report detailing the expenditures, transfers out, and fund balance.

MOTION: Mayor Pro Tem Meredith moved to accept the report.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0)

9.0 ADMINISTRATIVE REPORTS

9.1 City Clerk - Monthly statement of taxes collected for October 2009 from the Cumberland County Tax Administrator.

2009 Taxes	\$1,719,017.02
2009 Vehicle Taxes	378,420.10
2009 Revit	3,179.64
2009 Vehicle Revit	410.76
2009 FVT	39,462.54
2009 Transit Tax	39,442.56
2009 Storm Water	56,955.67
2009 Fay Storm Water	113,815.50
2009 Recycle Fee	89,187.84
2009 Annex	33.69
2008 Taxes	14,135.75
2008 Vehicle Taxes	96,421.29
2008 Revit	0.00
2008 Vehicle Revit	0.00
2008 FVT	12,787.75
2008 Transit Tax	12,022.23
2008 Storm Water	1,205.76
2008 Recycle	880.38
2008 Fay Storm Water	1,059.92
2008 Annex	4.61
2007 Taxes	2,067.27
2007 Vehicle Taxes	3,180.99
2007 Revit	0.00
2007 Vehicle Revit	0.00
2007 FVT	734.54
2007 Storm Water	152.61
2007 Fay Storm Water	132.72
2007 Annex	0.00
2006 Taxes	897.82
2006 Vehicle Taxes	1,247.64

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2006 Revit	0.00
2006 Vehicle Revit	0.00
2006 FVT	269.54
2006 Storm Water	44.24
2006 Annex	4,600.14
2005 and Prior Taxes	970.15
2005 and Prior Vehicle Taxes	2,957.87
2005 and Prior Revit	0.00
2005 and Prior Vehicle Revit	0.00
2005 and Prior FVT	467.24
2005 and Prior Storm Water	72.00
Interest	14,817.61
Interest (Revit)	1.90
Interest (Storm Water)	187.17
Interest (Fay Storm Water)	119.48
Interest (Annex)	405.55
Interest (Fay Recycling)	81.84
Total Collections	\$2,611,869.33

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:28 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
DECEMBER 14, 2009
7:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Janet C. Smith, Assistant City Attorney
Lisa Smith, Chief Financial Officer
Michele Thompson, Cherry, Bekaert and Holland
Craig Harmon, Planner II
Jackie Tuckey, Communications Manager/Public Information Officer
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order at 7:00 p.m.

2.0 INVOCATION

The invocation was offered by Apostle Wiley Hughes, Pastor, Mount Carmel Church.

3.0 PLEDGE OF ALLEGIANCE

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag by Troop 709 from Westminster Presbyterian Church.

4.0 CITY MANAGER'S OFFICE - RECONSIDERATION OF ZONING CASE NO. P09-27F

MOTION: Mayor Pro Tem Haire moved to reconsider Council's November 23, 2009, decision to deny the rezoning regarding Case No. P09-27F.

SECOND: Council Member Crisp

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

5.0 APPROVAL OF AGENDA

MOTION: Council Member Bates moved to approve the agenda.

SECOND: Council Member Applewhite

SUBSTITUTE MOTION:

Mayor Pro Tem Haire moved to approve with the addition of Item 4.0 as Item 9.1.

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

6.0 PUBLIC FORUM

NAME	ADDRESS	SUBJECT/CONCERN
Neil Yarborough	115 E Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center

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NAME	ADDRESS	SUBJECT/CONCERN
Jackie Pfendler	6936 Timbercroft Lane Fayetteville, NC 28314	In opposition of the Multi-Modal Center
Nell Lindsay	531 W Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center
Joel Smith	611 W Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center
David Nimocks	201 Stedman Street Fayetteville, NC 28305	In opposition of the Multi-Modal Center)
Raynard Esquilin	517 Southwick Drive Fayetteville, NC 28303	In opposition of P09-27F - (Cottonade)
Russell Pierre	5708 Trotter Court Hope Mills, NC 28348	Transit Department
Gwen York	5703 Cypress Road Fayetteville, NC 28304	Need for a Domestic Violence Unit on City Police Force

Mr. Dale Iman, City Manager, addressed Council with respect to the Multi-Modal Transportation Center. He stated the proposed center would be a centralized location for buses, but not limited to buses. He stated the proposal was to locate the buses in close proximity so that citizens would have the ability to utilize them for transportation to the train depot, which would be the most use utilized throughout the Amtrak system. He clarified the center would not be a bus stop or transfer station and would be a safe, fully staffed, accessible facility that would also serve as a hub for transportation oriented business. He stated City Council held a public hearing on December 8, 2008, which was advertised appropriately regarding the location of the Multi-Modal Center at which time several locations were considered. He explained that Council would not be condemning a small business and provided a synopsis of the events as follows:

- The announcement of the proposed purchase of the subject property by the City was widely publicized in the local newspaper, television, and other media sources.
- City began the process to acquire the properties needed to assemble the lot.
- May 2009: During the process required under federal acquisition, Mrs. Jackie Pfendler made a purchase agreement for the property located at 135 Robeson Street. Prior to Mrs. Pfendler purchasing the property, staff contacted her and explained that the City had identified the subject parcel as one of the parcels for the Multi-Modal Transportation hub and offered to assist in locating an alternative building which would be suitable for her business, if necessary, in the downtown area. Mrs. Pfendler indicated there was no interest in the option offered by the City.
- July 2009: Mrs. Pfendler purchased the property for \$218,000.00.
- August 2009: The subject parcel appraised at \$210,000.00.
- August 2009: Mr. Neil Yarborough, Mrs. Pfendler's attorney, suggested to Mrs. Patricia Bradley, Assistant City Attorney, that his client would sell the property for \$650,000.00.
- The City rejected the offer and proceeded with the condemnation resolution.

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- October 2009: A building permit was issued totaling \$150,000.00.
- November 2009: Council authorized the condemnation process.

7.0 CONSENT

MOTION: Council Member Mohn moved to approve the consent agenda with the exception of Item 7.16.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

7.1 Airport - Acceptance of 2009 and 2010 State Aviation capital funding allocation and authorization of local match.

The award of 2009 funding for the annual NCDOT Aviation funding allocations to the Fayetteville Regional Airport were delayed due to freezes applied to the State budget. The allocations would be used to implement the State Capital Improvement Program. The approval would accept the state funding and authorize the local airport match which had already been budgeted. Specific grants requested from NCDOT Aviation would come back individually to City Council for approval.

7.2 PWC for all City and PWC Departments - Award Annual Contract for the Purchase of Miscellaneous Office Supplies to Forms & Supply, the lowest responsible bidder, in the amount of \$49,008.61.

The City and Public Works Commission entered into a joint contract for the purchase of office supplies in 2004. The original contract was renewable for a period of four years, therefore, the current contract expired in 2009. Formal bids for the City's and PWC's annual office supply requirements were received October 8, 2009, as follows:

Bids were received October 8, 2009, as follows:

Forms & Supply (Lumberton, NC)	\$49,008.61
Williams Office Environments (Fayetteville, NC)	\$53,605.39

Bids were solicited from seven vendors with five vendors responding. Bidders were asked to submit pricing on the most frequently used office supplies, copy paper and print cartridges, as well as a percentage discount off the catalog prices for all other items. Quantities used were estimated based on previous usage. Bids received from Office Depot; Pens, Paper, Etc.; and Staples were all determined to be non-responsive. Office Depot had not submitted unit pricing as requested, but instead referenced their GSA contract. In addition, a substantial number of unit prices submitted by Pens, Paper, Etc. and Staples were not listed in the unit of measure requested, or items were not bid at all, therefore not possible to calculate a true total bid or compare their bids equally with the other bidders. The Public Works Commission approved award of the contract during their regular meeting on December 9, 2009. Forms and Supply was HUB certified as a woman-owned business.

7.3 City Manager's Office - Consider resolution to adopt 2010 City Council meeting dates calendar.

RESOLUTION OF THE FAYETTEVILLE, NORTH CAROLINA CITY COUNCIL TO ADOPT THE 2010 CITY COUNCIL MEETING DATES CALENDAR TO CLARIFY THE TIME AND LOCATION OF CITY COUNCIL REGULAR MEETINGS FOR 2010. RESOLUTION NO. R2009-080.

7.4 City Manager's Office - Resolution assigning ARRA recovery zone facility bond capacity and seeking additional bond allocation.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, RELATING TO RECOVERY ZONE FACILITY BONDS. RESOLUTION NO. R2009-081.

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- 7.5 Engineering & Infrastructure - Changes to parking time limits on Maiden Lane.**

AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES, AND TRAFFIC OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES. ORDINANCE NO. NS2009-019.

- 7.6 Engineering & Infrastructure - Resolution to set public hearing to consider closing a portion of Crystal Drive.**

RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF CRYSTAL DRIVE FROM THE END OF CURRENT CITY MAINTENANCE TO THE SOUTH END OF THE STREET. RESOLUTION NO. R2009-082.

- 7.7 Engineering & Infrastructure - Award contract for the purchase of one (1) 39,000 GVW cab and chassis with dump body to Tri-Point Truck Center, lowest responsible bidder, in the amount of \$89,802.00.**

The City needed to purchase one 39,000 GVW cab and chassis with a dump body to replace Unit #323. The budgeted amount for replacement of this unit was \$100,000.00. Staff recommended awarding the contract in the amount of \$89,802.00 for the purchase of one 39,000 GVW cab and chassis with dump body to the lowest responsible bidder, Tri-Point Truck Center, Raleigh, NC.

Bids were received November 11, 2009, as follows:

Tri-Point Truck Center (Raleigh, NC)	\$89,802.00
Cooper Kenworth (Raleigh, NC)	\$97,915.00

Smith International, Fayetteville, NC, also submitted a bid, however, subsequently sent written notification that they would not be able to honor their price due to their inability to obtain a pre-emission engine as quoted.

- 7.8 Finance - Adopt Capital Project Ordinance Amendment 2010-21 (Taxiway A Rehabilitation Development and Design).**

This capital project ordinance amendment appropriated \$9,750.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$9,750.00, resulting in no change in the overall budget for the project.

- 7.9 Finance - Special Revenue Fund Project Ordinance 2010-14 (FY 2010 Juvenile Restitution Program).**

This ordinance appropriated \$133,259.00 for the Juvenile Restitution Program for Fiscal Year 2010.

- 7.10 Finance - Adopt Capital Project Ordinance Amendment 2010-22 (Airport Parking Project).**

This capital project ordinance amendment appropriated \$60,000.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$60,000.00, resulting in no change in the overall budget for this project.

- 7.11 Finance - Adopt Capital Project Ordinance Amendment 2010-23 (West General Aviation Lower Ramp Rehabilitation Project).**

This capital project ordinance amendment appropriated \$61,500.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$61,500.00, resulting in no change in the overall budget for this project.

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7.12 Finance - Adopt Capital Project Ordinance Amendment 2010-24 (Runway 4/22 Rehabilitation Project).

This capital project ordinance amendment appropriated \$332,827.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$332,827.00, resulting in no change in the overall budget for this project.

7.13 Finance - Adopt Capital Project Ordinance Amendment 2010-25 (Airport Fire Training Facility Upgrade).

This capital project ordinance amendment appropriated \$59,337.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$59,337.00, resulting in no change in the overall budget for this project.

7.14 Finance - Capital Project Ordinance 2010-15 and reimbursement resolution for purchase and upgrade of 800 MHz radios.

This resolution allowed the City to reimburse itself from the financing proceeds for any project expenditures paid prior to the acquisition of the financing. The total amount expected to be financed for the radio expenditures within the next 12 months would be \$3,600,000.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, DECLARING THE INTENTION OF SAID CITY TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND TO BE MADE IN CONNECTION WITH THE PURCHASE AND UPGRADE OF 800 MHZ RADIOS. RESOLUTION NO. R2009-083.

7.15 Finance - Authorize the Mayor to execute a contract with Cherry, Bekaert and Holland to audit accounts for Fiscal Year 2009-2010.

This contract allowed Cherry, Bekaert and Holland staff to work with City staff to ensure a smooth transition as City staff assumed the responsibility to prepare the comprehensive annual financial report.

7.16 Pulled at the request of Council Member Mohn.

7.17 Inspections - Adoption of ordinance authorizing demolition of condemned property at 157 Cooper Street.

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2009-020.

7.18 Planning - Rezoning Case No. P09-44F, Frances M. Geddie, property owner, proposing the rezone of 3.96 acres at 1656 Skibo Road from R10 to C1P.

7.19 Police - Purchase of 800 MHZ (Digital) radios for "Public Safety" and other City departments.

The Police Department exceeded the end of support date for existing Motorola analog radios for which parts to repair these radios were nearly impossible to locate. It was imperative to replace the analog radios with digital capable radios to be used on Motorola existing and future platforms. They provided a migration path for either digital upgrade on a Fayetteville System or to the State Viper System.

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7.20 PWC - Bid Recommendation - One cab and chassis with service body and air compressor.

The Public Works Commission, during their meeting of December 9, 2009, approved award of bid for purchase of one 33,000 GVWR cab and chassis with service body and air compressor (with the option to purchase additional units within a one-year period) to Cooper Kenworth, Raleigh, NC, the lowest responsible bidder, in the total amount of \$98,703.00 and forward to City Council for approval. This was a budgeted item (budgeted amount of \$105,000.00 to replace Unit #371).

Bids were received November 11, 2009, as follows:

Cooper Kenworth (Raleigh, NC)	\$98,703.00
*Smith International (Fayetteville, NC)	\$90,867.86

* Smith International submitted a letter stating they would not be able to honor their price due to their inability to obtain a pre-emission engine.

7.21 PWC - Bid Recommendation - Purchase of structures and equipment for Arran Park and Crystal Springs 69 to 15 x 25kV substations.

The Public Works Commission, during their meeting of December 9, 2009, approved bid recommendation to award bid for purchase of structures and equipment for Arran Park and Crystal Springs 69 to 15 x 25Kv substations to Stuart C. Irby, Denver, CO, the lowest responsible bidder, in the total amount of \$424,290.54 and forwarded to City Council for approval. This was a budgeted item (Arran Park - FY 2010 CIP Budget in the amount of \$270,000.00; Crystal Springs FY 2011 CIP budget in the amount of \$270,000.00).

Bids were received December 1, 2009, as follows:

	<u>Price Per</u> <u>Substation</u>	<u>Total Cost</u>
Stuart C. Irby (Denver, CO).....	\$212,145.27	\$424,290.54
Substation Enterprises (Alabaster, AL).....	\$224,950.00	\$449,900.00
Associated Substation Engineering..... (Bremen, GA)	\$227,000.00	\$454,000.00
Peak Substation Services (Birmingham, AL)...	\$238,560.00	\$477,120.00
Tatman Associates (Solon, OH).....	\$273,970.00	\$547,940.00

7.22 PWC - Fiber Use Agreement with DukeNet Communications, LLC.

The Public Works Commission, during their meeting of December 9, 2009, approved the Fiber Use Agreement between DukeNet Communications, LLC, and Public Works Commission to provide dark fibers (a total of 45.7 miles identified as the "North Ring") to DukeNet Communications, LLC, for a monthly fee of \$7,966.00 (\$95,592.00 annually) and forwarded to City Council for approval. The Fiber Use Agreement was for a ten-year period, with options for renewal with DukeNet Communications, LLC.

7.23 PWC - Amendment #1 to the Phase V Annexation Funding Agreement.

The Public Works Commission, during their meeting of December 9, 2009, approved Amendment #1 to the Agreement between the City and Public Works Commission establishing a formal agreement to fund the construction of water and sanitary sewer systems in the annexed area referred to as Phase V and forwarded to City Council for approval. Amendment #1 amended the original agreement adopted by the Public Works Commission on May 7, 2008, and the Fayetteville City Council on May 12, 2008, to allow the GO refund savings (\$14,800.00 City's share) to go to the City's General Fund instead of the Annexation Phase V Reserve Fund as requested by the City.

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7.16 Finance - Resolution assigning ARRA recovery zone economic development bond capacity and seeking additional bond allocation for a parking facility.

Council Member Mohn pulled this item for discussion. Mr. Dale Iman, City Manager, provided a summary of the necessity of this resolution.

Council Member Mohn requested clarification that the resolution would be a request for funds, not an allocation of tax dollars at this time. Mr. Iman responded in the affirmation.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA RELATING TO RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS. RESOLUTION NO. R2009-085.

MOTION: Council Member Crisp moved to approve.
SECOND: Council Member Bates
VOTE: UNANIMOUS (10-0)

8.0 PUBLIC HEARINGS

8.1 Rezoning Case No. P09-32F: Steve Paris, applicant, requesting the rezoning of six parcels on Link and School Streets containing 31,864 square feet from R5 to C3 for Kentucky Fried Chicken.

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 existing restaurant would be demolished to build a new facility. He stated the Zoning Commission and Planning staff recommended approval. He informed Council a valid protest petition had been filed on Wednesday, December 10, 2009; therefore, a minimum vote of 8 to 2 would be required to pass the rezoning instead of the normal 6-4 vote.

Council Member Crisp questioned the applicant's intent regarding the replacement of an existing storage facility and if it remained on the site would there be adequate buffering. Mr. Harmon stated the applicant intended to keep the existing storage unit. He stated currently no buffering or fencing existed; however, if the parcels were rezoned fencing would be required.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:42 p.m.

Mr. Nick Potter, Paris and Potter Group, 430 Ramsey Street, Fayetteville, NC 28302, appeared in favor and stated the subject property was the final store which was being remodeled to bring up to the new KFC imagining, which was required per the franchise agreement.

Mr. Steve Paris, Paris and Potter Group, 430 Ramsey Street, Fayetteville, NC 28302, appeared in favor.

Council Member Haire inquired whether the employees would be relocated to other facilities during the rebuilding process. Mr. Paris replied in the affirmative.

Council Member Crisp inquired whether there were future plans to renovate or replace the existing storage facility. Mr. Paris stated there were no immediate plans.

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

MOTION: Council Member Davy moved to approve the requested rezoning.
SECOND: Council Member Bates
VOTE: UNANIMOUS (10-0)

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8.2 Planning - Appeal of Zoning Commission denial of rezone Case No. P09-38F: Kazi-Jasiba Burns, applicant, requesting the rezoning from R10 Residential District to C1 Commercial District or to a more restrictive zoning classification for property located at 7376 Stoney Point Road containing 8.77 acres.

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 Zoning Commission and Planning staff recommended denial based on: (1) the property being surrounded mostly by low-density residential, with the exception of a nonconforming commercial property across the road and (2) the 2010 Land Use Plan calling for low-density residential. He stated rezoning almost 9 acres to a general commercial district in this more rural part of the City would completely change the character of the neighborhood and should only occur if found consistent with an amendment to the 2010 Land Use Plan.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:53 p.m.

Mrs. Debbie Liebers, 3439 Dundle Road, Fayetteville, NC 28306, appeared in opposition. She stated the approval of this rezoning would affect the family character of her neighborhood and presented a neighborhood petition.

Mr. David Saffle inadvertently signed up to speak at the public forum and requested to address Council regarding this matter, which Council consented to. Mr. David Saffle, 7376 Stoney Point Road, Fayetteville, NC 28306, appeared in favor. He stated the intent of the request was not meant to have an adverse affect on the community but to compliment the area.

There being no one further to speak, the public hearing closed at 8:03 p.m.

MOTION: Council Member Crisp moved to deny the requested rezoning.
SECOND: Council Member Bates

Council Member Mohn inquired whether prospective developers could be encouraged to come to the Zoning Commission and Council with a proposed site plan, similar to Conditional Use Zoning as part of the City's Unified District Ordinance (UDO).

Mr. Rob Anderson, Development Services Director, responded that under the UDO there would be several options regarding a project of this type. He summarized the Planned Unit Development option.

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

8.3 Planning - Special Use Permit Case No. P09-39F: L.J. Bruton Living Trust, owner, to allow the location of a Wireless Telecommunications Tower on the property located at 2610 Dundle Road containing 0.584 acres.

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, 2010 Land Use Plan and proposed site plan. He stated the Zoning Commission, Appearance Commission, and Planning staff recommended approval with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:10 p.m. All speakers were sworn in.

Mr. Tom Johnson, 201 Shannon Oaks Circle, Suite 100, Cary, NC 27511, appeared in favor and provided statistics regarding cell usage to illustrate the necessity of the tower.

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Mr. Joe Riddle, 125 Great Oaks, Fayetteville, NC 28303, appeared in opposition. He stated he represented the new developed section of Gates IV, which was annexed into Fayetteville. He stated the proposed 200 foot tower was directly adjacent to the residents.

Mr. Alan Tucker, 2637 Old Colony Place, Fayetteville, NC 28303, appeared in opposition. He stated the eruption of this tower would conflict with the residential enjoyment of the existing neighborhood.

There being no one further to speak, the public hearing closed at 8:20 p.m.

Council Member Crisp inquired as to the extent of the proposed development of Gates IV and questioned the distance from the subject property to Camberly Drive. Mr. Riddle responded the proposed development would encompass the subject property and Mr. Harmon estimated the distance would be approximately 300 feet.

Council Member Meredith questioned the cost of the lots which Mr. Riddle provided.

Council Member Applewhite inquired whether alternative locations had been researched. Mr. Johnson responded in the affirmative.

Mayor Chavonne requested confirmation of a current agreement with a provider. Mr. Johnson responded in the affirmative with AT&T.

Council Member Haire presented the possibility of partnering with an existing tower. Mr. Johnson stated that option was reviewed; however, the existing towers had not met AT&T needs.

Council Member Meredith inquired whether the applicant/associates directly contacted Mr. Riddle and/or any property owners. Mr. Johnson replied in the negative.

MOTION: Council Member Crisp moved to approve the Special Use Permit with conditions.

SECOND: Council Member Bates

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

8.4 Planning - Special Use Permit Case No. P09-40F: Janice M. Smith, applicant, to allow a child daycare center on a 2.2 acre parcel located on Rosehill Road.

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, 2010 Land Use Plan and proposed site plan. He stated the Zoning Commission and Planning staff recommended approval with conditions. He stated the applicant had an active Special Use Permit for a childcare center on this property and this permit would allow the applicant to increase the number of children and employees at the proposed facility.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:32 p.m.

After being sworn in, Janice M. and Jocelyn D. Smith, 1019 Landau Road, Fayetteville, NC 28311, and Tabitha Patterson, 2131 Quailridge Road, Fayetteville, NC 28304, appeared in favor of the Special Use Permit.

There being no one further to speak, the public hearing closed at 8:40 p.m.

Council Member Applewhite requested clarification on how the facility would accommodate the request to increase the number of

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student enrollment from 80 to 100 and the various additional uses listed (school within a school for third graders, youth, young adults and seniors programs, battered women, etc.). Mrs. Janice Smith, applicant, explained the 80 to 100 children would be distributed between two shifts and stated during the Zoning Commission meeting, it was agreed that this facility would only house ages zero to Kindergarten; therefore, no community services would be provided.

MOTION: Council Member Massey moved to approve the Special Use Permit with conditions.

SECOND: Mayor Pro Tem Haire

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Applewhite and Meredith)

8.5 Planning - Appeal of Zoning Commission denial of rezone Case No. P09-42F: Karen J. Ehle-Johnson, applicant, rezoning from R6 Residential District to R6/MH(O) (manufactured housing) Residential District for property located at 1480 Bingham Drive containing 1.24 acres.

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, 2010 Land Use Plan. He stated the Zoning Commission and Planning staff recommended denial based on the proposed rezoning being inconsistent with the 2010 Land Use Plan which called for medium-density residential for the property, but not manufactured housing, and that manufactured housing would not be in keeping with the revitalization efforts on Bingham Drive.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:48 p.m.

Mrs. Lori Epler, Larry King & Associates, 1333 Morganton Road; Fayetteville, NC 28305, appeared in favor. She provided a timeline of events regarding this property.

Mr. Richard Johnson, 1480 Bingham Drive; Fayetteville, NC 28304, appeared in favor. He provided a summary of his ownership of the subject property.

Mr. Bobby Bell, 1412 Delmar Drive, Fayetteville, NC 28304, appeared in opposition.

There being no one further to speak, the public hearing closed at 9:03 p.m.

Council Member Meredith inquired whether there was one common septic system and requested confirmation that the applicant had the opportunity to tap into the sewer system for the past six (6) months. Mr. Johnson replied in the affirmative to both questions.

Council Member Applewhite referred to a slide depicting a large amount of items surrounding a trailer and questioned its relation to the applicant's beautification efforts. Mr. Johnson stated it was a storage trailer and had been at the location for approximately 15 years. He stated he planned to eliminate the trailer.

MOTION: Council Member Meredith moved to deny the rezoning.

SECOND: Council Member Bates

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Crisp and Massey)

8.6 Planning - Special Use Permit Case No. P09-43F: James Smith, applicant, to allow a Mini-Warehouse Facility in a C1P Commercial Shopping Center District for property located at 1653 Cedar Creek Road containing 2.23 acres.

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map and gave an overview of the current land use, current

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zoning, surrounding land use and zoning, 2010 Land Use Plan. He stated the Zoning Commission and Planning staff recommended approval with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:05 p.m.

Mr. Branch Smith, 1104 W. Broad Street, Elizabethtown, NC 28337, appeared in favor and reviewed the proposed site plan.

There being no one further to speak, the public hearing closed at 9:09 p.m.

Council Member Bates questioned whether the applicant must adhere to the new guidelines. Mr. Harmon replied in the affirmative.

Council Member Crisp inquired whether the abandoned commercial establishment would be going. Mr. Harmon replied in the affirmative.

MOTION: Council Member Davy moved to approve the Special Use Permit with conditions.
SECOND: Council Member Hurst
VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Meredith)

9.0 OTHER ITEMS OF BUSINESS

9.1 City Manager's Office - Reconsideration of Zoning Case No. P09-27F.

Mr. Kristoff T. Bauer, Assistant City Manager, presented this item.

MOTION: Council Member Haire moved to allow the applicant to apply for a Conditional Use Permit.
SECOND: Council Member Crisp

Council Member Mohn clarified that the motion would permit the applicant to reapply within a one-year period.

Mayor Pro Tem Haire requested input on how the citizens' concerns regarding access to the community would be addressed with a Conditional Use Permit. Mr. Harmon explained the applicant could agree to restrict themselves in matters pertaining to use, access, not to use access in Cottonade or certain roads in Cottonade.

Council Member Haire questioned whether Council would have the option to deny the Conditional Use Permit should conditions not meet with the satisfaction of Council. Mr. Harmon responded in the affirmative.

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

9.2 PWC - Annexation Policy 150.2 Update.

Mr. Kristoff Bauer, Assistant City Manager, presented this item. He stated the current draft policy not only referred to an outdated map, it also contained requirements that were inconsistent with the Municipal Influence Area (MIA) Agreement and referred to annexation agreements which had been ineffective. He stated the MIA agreement specifically prohibited the City from directing PWC to require annexation in exchange for sewer service in the "Sewer Service Area". He stated it was silent regarding water service. He stated it also contemplated that every application for service would be reviewed by Council to "determine whether an annexation petition or annexation agreement is warranted". He stated this had not been done and would represent a significant increase in agenda items for the Council. He stated the proposed revision would require a petition for voluntary

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annexation prior to any new water or sewer connection for all property within the MIA. He stated existing single-family homes not close to current City boundaries would be exempt and would result in more voluntary petitions, which would require Council action. He stated this effort, however, would diminish the properties that may be impacted by future proposed involuntary annexation.

A question and answer period ensued.

MOTION: Council Member Bates moved to adopt the policy update.
SECOND: Council Member Massey
VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Meredith and Crisp)

10.0 ADMINISTRATIVE REPORTS

10.1 City Clerk - Monthly statement of taxes collected for November 2009 from the Cumberland County Tax Administrator.

2009 Taxes	\$21,519,815.94
2009 Vehicle Taxes	397,069.56
2009 Revit	8,319.29
2009 Vehicle Revit	404.33
2009 FVT	46,272.78
2009 Transit Tax	46,262.73
2009 Storm Water	446,956.68
2009 Fay Storm Water	893,913.54
2009 Recycle Fee	1,223,144.46
2008 Annex	99.53
2008 Taxes	11,407.09
2008 Vehicle Taxes	64,313.55
2008 Revit	0.00
2008 Vehicle Revit	40.28
2008 FVT	8,799.77
2008 Transit Tax	8,199.55
2008 Storm Water	1,189.25
2008 Recycle	504.44
2008 Fay Storm Water	1,018.12
2008 Annex	7.14
2007 Taxes	1,002.01
2007 Vehicle Taxes	3,207.86
2007 Revit	0.00
2007 Vehicle Revit	17.42
2007 FVT	655.42
2007 Storm Water	180.00
2007 Fay Storm Water	0.00
2007 Annex	0.00
2006 Taxes	504.38
2006 Vehicle Taxes	959.04
2006 Revit	0.00
2006 Vehicle Revit	0.00
2006 FVT	210.46
2006 Storm Water	62.08
2006 Annex	1,782.03
2005 and Prior Taxes	789.87
2005 and Prior Vehicle Taxes	1,851.23
2005 and Prior Revit	0.00
2005 and Prior Vehicle Revit	0.00
2005 and Prior FVT	439.39
2005 and Prior Storm Water	84.00
Interest	13,275.77
Interest (Revit)	6.92
Interest (Storm Water)	179.03
Interest (Fay Storm Water)	88.83

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Interest (Annex)257.97
Interest (Fay Recycling) 34.04

Total Collections \$24,704,325.18

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:30 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
LAFAYETTE ROOM
JANUARY 4, 2010
5:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); 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
Rob Anderson, Chief Development Officer
Karen Hilton, Planning Division Manager
Jeffery P. Brown, Engineering & Infrastructure Director
Jerry Dietzen, Environmental Services Director
Ron McElrath, Director of Human Relations
Mac Furr, Building Maintenance Superintendent
Kara Hollingsworth, Partnership for Children Task Force
John Bosio, MERJE (Consultant)
John Meroski, Convention and Visitors Bureau

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Haire.

3.0 OTHER ITEMS OF BUSINESS

3.1 Planning - Preliminary recommendations by the Fayetteville Early Child Education (ECE) Task Force regarding zoning regulations and other City standards affecting early education and care facilities (child care) in Fayetteville.

Mrs. Karen Hilton, Planning Division Manager, provided a brief background and summary of this item. She introduced Mrs. Kara Hollingsworth from the Partnership for Children Task Force who provided a presentation.

A question and answer period ensued regarding locations and distance between facilities. Mrs. Hilton addressed the questions as stipulated in the City's ordinance.

Consensus was to bring recommendations before Council for a vote.

3.2 Planning - Wayfinding progress report, design, and implementation strategies.

Mr. John Bosio, MERJE (Consultant), and Mr. John Meroski, Convention and Visitors Bureau, presented an update of this item. They illustrated how the system would address the needs of visitors and residents which would result in the system being a marketing tool with a positive economic return on the City's investment.

Following a discussion period, the consensus was to accept the report; continue to the next phase of financing, location, and necessity; and come back before Council for further update.

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3.3 Engineering & Infrastructure - Soil Street Paving Procedure.

Mr. Jeffery Brown, Engineering & Infrastructure Director, provided an overview of the evaluation process and method of financing for this procedure.

Following a discussion period, the consensus was to keep the procedure as it is.

3.4 Environmental Services - Update of Solid Waste Ordinance.

Mr. Jerry Dietzen, Environmental Services Director, presented a summary of the proposed ordinance revisions.

Following a discussion period, consensus was to bring the ordinance amendments before Council for a vote.

3.5 Human Relations - Update on Americans with Disabilities Act (ADA).

Mr. Ron McElrath, Director of Human Relations and ADA, updated Council regarding the City's requirements to ensure continued compliance with Title II of the Americans with Disabilities Act. Mr. Mac Furr, Building Maintenance Superintendent, provided a presentation which illustrated the progress of Project Civic Access of a program of the Department of Justice.

3.6 City Manager's Office - FY 2011 Federal Legislative Agenda.

Mr. Doug Hewett, Assistant City Manager, briefed Council on projects and issues which the partners identified as priorities for our community in addition to the City's lobbyist feeling we could successfully acquire federal assistance.

Following a discussion period consisting of Council suggestions, consensus was to finalize the agenda and to forward to a future meeting for further consideration and action.

3.7 Council Member Request - Keith Bates: Council terms and elections methods.

Council Member Bates requested the formation of a task force to research Council primary options and term extension to four years.

Following a brief discussion, consensus was to formulate a task force consisting of citizens as well as stakeholders such as to research primary options and term extension.

3.8 Council Member Request - Theodore Mohn: Fayetteville Downtown Historic District boundary.

Council Member Mohn requested a presentation by the Historic Resource Commission regarding the boundary of the Fayetteville Downtown Historic District.

Following a brief discussion, consensus was for staff to provide a presentation at the February 1, 2010, work session meeting.

4.0 Closed session for consultation with the attorney.

MOTION: Mayor Chavonne moved to go into closed session for consultation with the attorney.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

The regular session recessed at 8:25 p.m. The regular session reconvened at 8:45 p.m.

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

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

There being no further business, the meeting adjourned at 8:45 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
DINNER AND DISCUSSION MEETING MINUTES
LAFAYETTE ROOM
JANUARY 11, 2010
6:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Kristoff Bauer, Assistant City Manager
Doug Hewett, Assistant City Manager
Karen M. McDonald, City Attorney
Patricia C. Bradley, Assistant City Attorney
Sherrod Banks, The Banks Law Firm
Jabrina Robinson, The Banks Law Firm

Mayor Chavonne called the meeting to order.

Closed session for consultation with the attorney.

MOTION: Council Member Meredith moved to go into closed session for consultation with the attorney.
SECOND: Mayor Pro Tem Haire
VOTE: UNANIMOUS (10-0)

The regular session recessed at 6:15 p.m. The regular session reconvened at 6:45 p.m.

MOTION: Council Member Mohn moved to go into open session.
SECOND: Council Member Meredith
VOTE: UNANIMOUS (10-0)

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

Respectfully submitted,

KAREN M. MCDONALD
City Attorney

ANTHONY G. CHAVONNE
Mayor

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**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JANUARY 11, 2010
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); 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
Lisa Smith, Chief Financial Officer
Jeffery Brown, Engineering & Infrastructure Director
Rusty Thompson, City Traffic Engineer
Craig Hampton, Special Projects Director
Craig Harmon, Planner II
Jackie Tuckey, Public Information Officer
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order at 7:00 p.m.

2.0 INVOCATION

The invocation was offered by Dr. Allan McLaughlin, President of the Fayetteville Cumberland County Ministerial Council, Inc.

3.0 PLEDGE OF ALLEGIANCE

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

5.0 PUBLIC FORUM

NAME	ADDRESS	SUBJECT/CONCERN
Joel Smith	611 W. Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center
Jason Childers	2707 Huntington Road Fayetteville, NC 28303	In opposition of the Multi-Modal Center
Kelly Smith	611 W. Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center
Kay Gambill	1504 Swainey Ave Fayetteville, NC 28303	Concern regarding the Kornbow Neighborhood Storm Water Project (Storm Water Management System)
Louise C. McQueen	1518 Swainey Avenue Fayetteville, NC 28303	Concern regarding the Kornbow Neighborhood Storm Water Project (Storm Water Management System)

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NAME	ADDRESS	SUBJECT/CONCERN
James Popp	101 Goodyear Avenue Fayetteville, NC 28303	Concern regarding the Kornbow Neighborhood Storm Water Project (Storm Water Management System)
Kenneth Pinto	5616 Thackeray Drive Fayetteville, NC 28306	Well wishes on governing in 2010
Dale Godwin	3829 Legion Road Hope Mills, NC 28348	Rental Housing Opposition
Michael Evans	1201 Simpson Street Fayetteville, NC 28305	Weatherization

Mr. Dale Iman, City Manager, addressed Council regarding the Kornbow Neighborhood Storm Water Project (Storm Water Management System). He stated the City was committed to making the project as attractive and feasible as possible. He informed Council that the concrete piping was a great improvement over steel piping and the ditches were sod rather than seeded. He stated there would be four feet concrete pipe throughout the project which would widen the driveways; however, the entire ditch could not be enclosed.

A question and answer period ensued.

6.0 CONSENT

Council Member Mohn requested to pull Item 6.6 for discussion. Council Member Crisp requested to pull Item 6.9 for discussion.

MOTION: Council Member Massey moved to approve the consent agenda with the exception of Items 6.6 and 6.9.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

6.1 Community Development - Acceptance of a lot being donated to the City located at 601 Frink Street.

The City approved and accepted the donation of the subject property from the current owner of 601 Frink Street. The house currently located on the subject property would be demolished through the City's Acquisition and Demolition Program. The lot would be used for future redevelopment purposes such as the construction of affordable housing.

6.2 Community Development - Acquisition of lot located at 538 Frink Street.

The City accepted an offer received by the Community Development Department to purchase lot located at 538 Frink Street through the City's Acquisition and Demolition Program. The structure on the property would be demolished through Acquisition and Demolition Program which was a grant program designed to acquire, demolish, and remove property abandoned, unsafe, or deteriorated beyond reasonable financial costs to effectively rehabilitate. The resulting lot(s) would be used for the construction of future affordable housing. In addition, the subject parcel would be added to the City's inventory of buildable residential lots that may be used for future redevelopment purposes such as the construction of affordable housing. Also, when feasible, the vacant lots could be made available to one of the City's Community Housing Development Organizations (CHDO) such as Habitat for Humanity, Kingdom Community Development Corporation, Cumberland Community Action Program, or the Women's Center of Fayetteville.

6.3 Finance - Adopt Capital Project Ordinance Amendment 2010-26 (Design Work for Various Airport Improvement Projects).

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6.4 Finance - Approve Tax Refunds Greater Than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Riddle, Joseph P., III Women's Center of Fayetteville	2008	Clerical Error	\$2,656.06
	2008	Clerical Error	1,426.23
TOTAL			<u>\$4,082.29</u>

6.5 Finance - Capital Project Ordinance Closeout 2010-6 (Renovations and Improvements to the Atlantic Coast Line Depot - Amtrak Station).

Annually the City closes out several projects that have been completed and that are no longer active. The Amtrak Station Project was completed as of June 2009, and the revenues and expenditures related to this project have been audited. The closeout letter from the North Carolina Department of Transportation was issued December 1, 2009. This Capital Project Ordinance Closeout details the budget and actual revenues and expenditures for the project.

6.6 Pulled at the request of Council Member Mohn.

6.7 Planning - Voluntary Annexation Petition - River Landing Center, LLC, property on Andrews Road across from Rosebank Drive; setting public hearing.

The River Landing Center, LLC, property on Andrews Road across from Rosebank Drive was contiguous to the City limits and the owners had requested water and sewer services from PWC; therefore, a petition for annexation was required. City Council must hold a public hearing prior to voting on the annexation petition. A public hearing had been set for January 25, 2010.

A RESOLUTION FIXING A DATE FOR A PUBLIC HEARING FOR A PETITION-INITIATED CONTIGUOUS ANNEXATION AREA PURSUANT TO N.C.G.S. 160-31. RESOLUTION NO. R2010-002.

6.8 PWC - Resolution for Phase 5 Annexation assessment process.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL. RESOLUTION NO. R2010-003.

6.9 Pulled at the request of Council Member Crisp.

6.6 City Attorney/Real Estate - Adopt a resolution declaring real property owned jointly with Cumberland County surplus and authorizing a quitclaim of the City's title to the County in order to expedite sale of the land by Cumberland County.

Council Member Mohn pulled this item for discussion. Mr. Dale Iman, City Manager, provided a summary of the resolution.

RESOLUTION DECLARING PROPERTY EXCESS TO CITY'S NEEDS AND QUITCLAIMING CITY TITLE IN THE PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2010-001.

MOTION: Council Member Mohn moved to adopt the resolution.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

6.9 Special Projects - Set public hearing for Multi-Modal Center.

Council Member Crisp pulled this item for discussion. Consensus of Council was to take no action.

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7.0 OTHER ITEMS OF BUSINESS

7.1 Engineering & Infrastructure - Revisions to the Residential Traffic Management Program.

Mr. Rusty Thompson, City Traffic Engineer, provided a brief summary of the policy revisions, which had been as a result of a previous Council member request.

MOTION: Council Member Meredith moved to approve the revised policy reducing the petition requirements to 60 percent.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

7.2 Special Projects - Award of construction contract for Veterans Park - Phase 1.

Mr. Craig Hampton, Special Projects Director, provided an overview of this item.

MOTION: Council Member Meredith moved to approve the contract award as recommended and for Vanderwall & Associates to cease all work until properly licensed in North Carolina.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

There being no further business, the meeting adjourned at 7:59 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
APPOINTMENT COMMITTEE MINUTES
LAFAYETTE ROOM
JANUARY 19, 2010
4:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Bobby Hurst, Chair (District 5);
William J. L. Crisp (District 6); Valencia A. Applewhite
(District 7)

Others Present: Karen M. McDonald, City Attorney
Rita Perry, City Clerk

Council Member Hurst called the meeting to order at 4:05 p.m.

1. Approval of Agenda

MOTION: Council Member Applewhite moved to approve the agenda.
SECOND: Mayor Chavonne
VOTE: UNANIMOUS (3-0)

2. Recommendations for appointment to City of Fayetteville Ethics Commission.

Council Member Hurst reviewed the composition of the Ethics Commission as one member from the Cumberland County Bar Association (three-year term), one member from the Sandhills Chapter of Certified Public Accountants (three-year term), one University/College Selection (three-year term), and two General Citizenry (two-year terms).

Following review and discussion of the applications, consensus was to recommend the appointees below:

CATEGORY	RECOMMENDATION
Cumberland County Bar Association	Renny W. Deese
Sandhills Chapter of Certified Public Accountants	Kelly D. Puryear
University/College Selection	Pending
General Citizenry	1. Stephon A. Ferguson 2. Gwen J. Holloman

3. Ethics Commission counsel discussion.

Mrs. Karen M. McDonald, City Attorney, updated the Committee regarding legal representation in regards to the Ethics Commission. She stated having the counsel serve in a dual capacity (Personnel Review Board and Ethics Commission) could result in a conflict and was not in the best interest of the City. Mrs. McDonald informed the Committee further options were being researched.

4. Adjournment

There being no further business, the meeting adjourned at 4:26 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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**FAYETTEVILLE CITY COUNCIL
SPECIAL MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JANUARY 19, 2010
5:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); 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
Tom Bergamine, Chief of Police
Jackie Tuckey, Communications Manager/Public Information Officer
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

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

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Haire.

3.0 PLEDGE OF ALLEGIANCE

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag.

4.0 PUBLIC SAFETY TRENDS IN FAYETTEVILLE

Mr. Dale Iman, City Manager, presented this item during which he addressed community concerns regarding recent criminal assaults, provided an overview of the Fayetteville Police Department's procedures for investigating criminal assaults, and reviewed Fayetteville Police Department's actions regarding the criminal assaults referenced in the January 11, 2010, media release. He stated the following had been or were in the process of implementation:

- A multi-jurisdiction task force has been formed to review the criminal assaults in the Fayetteville metropolitan area. The City will encourage the continuation of the task force and recommend expanding its scope to include violate crimes.
- OSSI Reporting Software which will allow for the implementation of an online blotter crime system for mapping all Part I/Index crimes.
- Until OSSI is online in February 2010, Sgt. Brewington will review all criminal assaults and manually redact confidential information. Reports will continue to be available upon request at the Police Department.

Following a question and answer period, the consensus of Council was that the Fayetteville Police Department's policy regarding methods and determinations by which citizens are notified be revised.

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5.0 ADJOURNMENT

There being no further business, the meeting adjourned at 6:25 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
AGENDA BRIEFING MINUTES
LAFAYETTE ROOM
JANUARY 20, 2010
4:00 P.M.

Present: Mayor Anthony G. Chavonne (arrived at 4:45 p.m.)

Council Members Keith A. Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Karen M. McDonald, City Attorney
Douglas J. Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Craig Harmon, Planner II
Marsha Bryant, Planner
Karen Hilton, Planner Division Manager

INVOCATION

The invocation was offered by Council Member Hurst.

Mr. Craig Harmon, Planner II, presented the following items scheduled for the Fayetteville City Council's January 25, 2010, agenda:

- A. Case No. P09-47F. The rezoning from P2 Professional to C1P Commercial District or to a more restrictive zoning classification for property located at 8363 Cliffdale Road. Containing 0.44 acres more or less and being the property of Ethel and Worth A. Pate.**

Mr. Craig Harmon, Planner II, presented this item. 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 Zoning Commission and Planning staff would be recommending approval of the rezoning from P2 Professional District to C1P Commercial Shopping District based on the information provided in the staff report and the recommendations of both the Commission and staff.

- B. Case No. P09-48F. The rezoning from AR Agricultural Residential District to R5A Residential District or to a more restrictive zoning classification for property located to the west of 8047 Raeford Road. Containing 28.66 acres (of 33.71 total) more or less and being the property of John A Williams, Jr., et al. heirs.**

Mr. Craig Harmon, Planner II, presented this item. 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 Zoning Commission and Planning staff would be recommending approval of the rezoning from AR Agricultural Residential District to R10 Residential District based on the information provided in the staff report.

Council expressed concerns regarding the potential for multi-family housing if the density was increased.

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- C. Case No. P09-49F. The rezoning from P2 Professional District to C3 Commercial District or to a more restrictive zoning classification for property located at 230 Robeson Street. Containing 0.47 acres more or less and being the property of Charleston Seven Group, LLC.**

Mr. Craig Harmon, Planner II, presented this item. 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 Zoning Commission and Planning staff would be recommending approval of the rezoning from P2 Professional District to C3 Commercial District based on the information provided in the staff report.

- D. Cases P09-35F, P09-41F, P09-46F, and P09-50F.**

Council was advised the notification requirements were not met in the above referenced cases and, therefore, would be heard at a future meeting. Mr. Dale Iman, City Manager, advised some of the cases would be heard at the February 8, 2010, meeting to balance the agendas.

Council Member Bates expressed concerns about development occurring in accordance with County standards and then being annexed. Council also inquired about bus shelters.

- E. Development Services - Case No. P09-45F. The initial zoning of 128 acres of newly annexed property on the south side of Andrews Road across from Rosebank Drive to MU Mixed Use Conditional Zoning District. River Landing Center, LLC, owner.**

Mr. Craig Harmon, Planner II, presented this item. 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 explained the initial zoning to MU Mixed Use Conditional Zoning District. He stated the Zoning Commission and Planning staff would be recommending approval of the initial zoning to MU/CZ Mixed Use Conditional District based on the City's policy and the record of Cumberland County's action related to this property including all conditions established thereby.

Council Member Bates inquired regarding the ability to add additional conditions.

- F. Closed session for consultation with attorney.**

MOTION: Mayor Pro Tem Haire moved to go into closed session for discussion of AIT litigation.
SECOND: Council Member Meredith
VOTE: UNANIMOUS (10-0)

The regular session recessed at 5:00 p.m. The regular session reconvened at 5:30 p.m.

MOTION: Council Member Crisp moved to go into open session.
SECOND: Council Member Massey
VOTE: UNANIMOUS (10-0)

There being no further business, the meeting adjourned at 5:30 p.m.

Respectfully submitted,

KAREN M. MCDONALD
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JANUARY 25, 2010
7:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); 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
Jeffery Brown, Engineering & Infrastructure Director
Sgt. Matthew Dow, Police Department
Craig Harmon, Planner II
Marsha Bryant, Planner
Joe Callis, PWC Business Planning Manager
Jackie Tuckey, Communications Manager/Public Information Officer
Doug Peters, Executive Director FCCCC
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order at 7:00 p.m.

2.0 INVOCATION

The invocation was offered by Pastor John Adderley, Covenant Love Family Church.

3.0 PLEDGE OF ALLEGIANCE

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Crisp moved to approve the agenda with the addition of the proposed settlement with AIT and Lease Agreement to the Consent Agenda (Item 6.13).

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

5.0 ANNOUNCEMENTS AND RECOGNITIONS

Council Member Applewhite announced that citizens could call 433-1FAY (1329) for discarded furniture disposal.

Council Member Crisp announced that District 3 citizens would be holding a community meeting on January 28, 2010, from 6:30 to 8:00 p.m. He stated City staff would be available to answer questions and the meeting would be open to all City citizens.

6.0 CONSENT

MOTION: Council Member Applewhite moved to approve the consent agenda with the exception of Item 6.8.

SECOND: Council Member Meredith

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

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- 6.1 **City Attorney - A decision of the Fayetteville City Council denying American Tower Corporation's application for a Special Use Permit submitted on October 5, 2009.**

The City Council held a quasi-judicial hearing on December 14, 2009, regarding American Tower Corporation's application for a Special Use Permit to allow the construction of a Wireless Telecommunications Tower. By statute, the City Council must render a decision in writing as enunciated by the City Council during the hearing. The City Council adopted the findings of fact, conclusions of law, and decision to deny the American Tower Corporation Special Use Permit.

- 6.2 **City Manager's Office - Adoption of the FY 2011 Federal Legislative Agenda.**
- 6.3 **Engineering & Infrastructure (via PWC) - Bid Recommendation for Skye Drive Stormwater Improvements-System #2.**
- 6.4 **Engineering & Infrastructure (via PWC) - Consider resolution of award for Reilly Road/Ramsey Street Sidewalk Project.**

RESOLUTION OF AWARD OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA - REILLY ROAD/RAMSEY STREET SIDEWALK PROJECT - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION SAFE ROUTES TO SCHOOL DIVISION FUND PROJECT. RESOLUTION NO. R2010-004.

- 6.5 **Finance - Budget Ordinance Amendment 2010-5 (General Fund - City Attorney's Office and Fire Department).**
- 6.6 **Finance - Resolution to accept the state grant and Capital Project Ordinance 2010-16 (Airport Fingerprint Machine Replacement).**

RESOLUTION. RESOLUTION NO. R2010-005.

- 6.7 **PWC - Bid award for Little Cross Creek Best Management Practices (BMP) Project.**

The Public Works Commission, during their meeting on January 13, 2010, approved to award bid for the Little Cross Creek BMP Project to Wells Brothers Construction Company, Turkey, NC, in the total amount of \$1,222,516.00 and to forward to City Council for approval. Bids were received December 31, 2009, as follows:

<u>Bidders</u>	<u>Total Cost</u>
Wells Brothers Construction Co. (Turkey, NC)	\$1,222,516.00
Lanier Construction Co. (Snow Hill, NC)	\$1,376,965.00
S.T. Wooten Company (Wilson, NC)	\$1,517,049.75
Hine Sitework, Inc. (Goldsboro, NC)	\$1,624,259.00
T.A. Loving, Co. (Goldsboro, NC)	\$1,713,000.00
ES&J Enterprises (Autryville, NC)	\$1,927,980.50

- 6.8 **Pulled at the request of Council Member Applewhite.**
- 6.9 **PWC - Release of Easement to abandon that portion of the utility easement that is no longer needed on the parcel of land located on Skibo Road referenced by Pin No. 0418-34-8882.**

The Public Works Commission, during their meeting on January 13, 2010, approved a request by Darrell L. Rogers, Trustee, Trustee of the Darrell L. Rogers 2008 Trust, a Texas Irrevocable Trust for the Release of Easement to abandon that portion of the utility easement that was no longer needed on the parcel of land located on Skibo Road referenced by Pin No. 0418-34-8882 and to forward to City Council for approval and execution. The City Council approved and executed the Release of Easement.

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- 6.10 **Development Services - Case No. P09-47F:** The rezoning from P2 Professional to C1P Commercial District or to a more restrictive zoning classification for property located at 8363 Cliffdale Road. Containing 0.44 acres more or less and being the property of Ethel and Worth A. Pate.
- 6.11 **Development Services - Case No. P09-48F:** The rezoning from AR Agricultural Residential District to R5A Residential District or to a more restrictive zoning classification for property located to the west of 8047 Raeford Road. Containing 28.66 acres (of 33.71 total) more or less and being the property of John A Williams, Jr., et al., heirs. Zoning Commission recommendation was for R10.
- 6.12 **Development Services - Case No. P09-49F:** The rezoning from P2 Professional District to C3 Commercial District or to a more restrictive zoning classification for property located at 230 Robeson Street. Containing 0.47 acres more or less and being the property of Charleston Seven Group, LLC.
- 6.13 **City Attorney - Proposed settlement with AIT and Lease Agreement.**
- 6.8 **PWC - Interlocal Agreement between the County of Cumberland and the Public Works Commission of the City of Fayetteville, NC, for the Brooklyn Circle water main extension project.**

The Public Works Commission, during their regular meeting on January 13, 2010, approved the Interlocal Agreement between the County of Cumberland and the Public Works Commission for the Brooklyn Circle water main extension project and forwarded to City Council for approval. This extension project would provide water service to 17 contaminated well lots in the Brooklyn Circle area. PWC's contribution toward the cost of the project was \$12,700.00. Participation in this project was previously approved by the Commission. The City Council approved and executed the Interlocal Agreement with the County of Cumberland.

Council Member Applewhite pulled this item for discussion.

Mr. Joe Callis, PWC Business Planning Manager, presented a brief overview.

Council Member Applewhite inquired who had initiated the agreement. Mr. Callis responded the Cumberland County Board of Commissioners.

Council Member Applewhite requested a Council briefing at a future meeting. Mr. Dale Iman, City Manager, confirmed the February 1, 2010, work session meeting for the date of the briefing.

MOTION: Council Member Applewhite moved to approve.
SECOND: Council Member Massey
VOTE: UNANIMOUS (10-0)

7.0 PUBLIC HEARINGS

- 7.1 **Engineering & Infrastructure - Public hearing to consider closing a portion of Crystal Drive.**

Mr. Jeffery Brown, Engineering & Infrastructure Director, briefed Council regarding this item. He stated a petition was received from Ms. Carolyn Armstrong for the closure of a portion of Crystal Drive. He stated this section of street served as a private driveway to an existing residence and the property owner was planning on redeveloping the parcel and the adjacent parcels. He stated the public hearing was required to receive comments on the closure.

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Council Member Bates requested clarification that the applicant had knowledge that they could not request the City to pave this street in the future. Mr. Brown replied in the affirmative.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing opened and closed at 7:16 p.m.

RESOLUTION AND ORDER CLOSING A PORTION OF CRYSTAL DRIVE FROM THE END OF CURRENT CITY MAINTENANCE TO THE SOUTH END OF THE STREET. RESOLUTION NO. R2010-006.

MOTION: Council Member Meredith moved to adopt the resolution and order the closing of a portion of Crystal Drive.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

7.2 PWC - Public hearing regarding the resolution declaring cost, ordering preparation of preliminary assessment roll and calling public hearing approved by City Council at the January 11, 2010, meeting for the Arran Lake area of the Phase 5 Annexation.

Mr. Joe Callis, PWC Business Planning Manager, presented this item and stated the following: On January 11, 2010, City Council approved the resolution declaring cost, ordering preparation of preliminary assessment roll, and calling a public hearing. The resolution set the date of the public hearing for Monday, January 25, 2010. A notice was published in The Fayetteville Observer regarding the public hearing and the preliminary assessment notices were mailed January 13, 2010, informing the property owners of the proposed assessment and the public hearing date. The Arran Lakes area of the Phase 5 Annexation project resulted in 26,170 feet of sanitary sewer main having been installed at a cost to date of \$3,973,233.00. Construction contracts in the annexation area indicated the average per parcel cost for sanitary sewer, which included the service lateral, was \$10,188.00 or an average per foot linear cost of \$140.00 for mains without laterals. In keeping with the presentations held in the original neighborhood meetings, the sanitary sewer assessment rate for single-family residential lots was recommended at \$5,000.00 which included both the main and lateral charges. This amount does not include what is referred to as the facility investment fee of \$640.00 for sewer, however, if property owners make application for service within six months of being notified sewer was available, PWC waives the facility investment fee. For properties that required grinder pumps, the average lateral charge of \$790.00 was recommended. After the public hearing, the next step in the process would be to approve the resolution confirming the assessment roll and levying assessments, which was scheduled for February 8, 2010. After approval of the resolution, the confirmed assessment roll would be delivered to the PWC tax collector who would then mail the final assessment notices to the property owners on February 9, 2010, and publish a newspaper notice on March 1, 2010.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:24 p.m.

Mr. Imam Eronomy Mohammed, 1700 Murchison Road, Fayetteville, NC 28302, appeared in favor.

There being no one further to speak, the public hearing closed at 7:25 p.m.

7.3 Development Services - Voluntary Annexation Petition - River Landing Center, LLC - Property on Andrews Road across from Rosebank Drive.

Mrs. Marsha Bryant, Planner, presented a summary of the annexation ordinance. She stated the property consisted of 128.04 acres and was located on Andrews Road. She stated the Cumberland

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County Commissioners had zoned the property to Mixed Use/Condition Use District and approved a plan consisting of 128 single-family parcels, 192 multi-family units, and 124,950 square feet of office space. She informed Council that the property was contiguous to the City limits. She further stated that since the developer, Mr. John Koenig, requested PWC water and sewer services, a petition for annexation was required and submitted.

Mayor Pro Tem Haire questioned whether there was an investment fee. Mrs. Bryant stated there was an impact fee.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing opened and closed at 7:28 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA (RIVER LANDING PROPERTY - LOCATED ON THE SOUTHERN SIDE OF ANDREWS ROAD ACROSS FROM ROSEBANK DRIVE). ANNEXATION ORDINANCE NO. 2010-01-513.

MOTION: Council Member Bates moved to adopt the proposed ordinance approving the requested annexation with an effective date of January 25, 2010.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 Development Services - Case No. P09-45F: The initial zoning of 128 acres of newly annexed property on the south side of Andrews Road across from Rosebank Drive to MU Mixed Use Conditional Zoning District. River Landing Center, LLC, owner.

Mr. Craig Harmon, Planner II, briefed Council regarding this item. He stated the City received a petition requesting voluntary contiguous annexation into the City. He explained this request related to the above annexation request and that Council could only take action after the annexation had been acted upon. He further explained Cumberland County approved this property for a Mixed Use Development/Conditional Use District on April 20, 2009. The right-of-way for the I-295 Bypass runs along the southern border of the property. The Zoning Commission and staff moved to approve the initial zoning to MU/CZ Mixed Use Conditional District based on the City's policy and the record of Cumberland County's action related to this property including all conditions established thereby.

MOTION: Council Member Bates moved to approve the initial zoning to MU/CZ Mixed Use Conditional District based on the City's policy and the record of Cumberland County's action related to this property including all conditions established thereby.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

8.2 Appointment Committee (Council Member Hurst): Presentation of Appointment Committee recommendations for Ethics Commission appointments.

MOTION: Council Member Hurst moved to approve the Appointment Committee's recommendations for the Ethics Commission appointments.

SECOND: Council Member Crisp

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

8.3 Police - Consideration of proposed ordinance revisions to Article VII, Wrecker and Tow Ordinance.

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Sgt. Matthew Dow, Police Department, provided a summary of the proposed ordinance revisions incorporated from the meeting conducted with the Wrecker Review Board on December 15, 2009, as well as the following revisions: (1) the proposed truck size requirement was deleted; therefore, the primary truck size reverted back to original requirement; and (2) the deletion of the statement regarding Council Member ownership.

A question and answer period ensued.

MOTION: Council Member Crisp moved to recommend approval of all proposed ordinance revisions.

SECOND: Council Member Meredith

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

MOTION: Council Member Mohn moved that staff provide Council with a presentation with demographic maps and other requests at a future work session meeting.

SECOND: Council Member Applewhite

VOTE: PASSED by a vote of 6 in favor (Council Members Applewhite, Davy, Haire, Massey, Meredith, and Mohn) to 4 in opposition (Council Members Chavonne, Bates, Crisp, and Hurst)

8.4 City Manager - Fayetteville Police Department Operating Procedure 3.8: Response to Sexual Assault Cases.

Mr. Dale Iman, City Manager, presented this item based on Council's direction at the conclusion of the January 19, 2010, special meeting as follows:

As stated in his letter dated January 19, 2010, Cumberland County District Attorney Edward Grannis advised the Fayetteville Police Department to refrain from having extra judicial discussions of pending investigations. This letter, which tracks on his August 4, 2008, memorandum to local law enforcement agencies, does recognize the public's legitimate interests in these types of cases. However, in both letters he urged caution in the release of detailed information concerning pending investigations.

Additionally, staff met with members of Rape Crisis Volunteers of Cumberland County (RCVCC) who are concerned a revision to the operating procedure will be "going backwards for victims' rights." RCVCC believes that the number of reported sexual assaults is up over prior years, because victims had confidence that the Fayetteville Police Department would handle their information with a high level of confidentiality.

While RCVCC understood the desire of the City Council in requesting the operating procedure change, they felt a change in policy would reduce the number of victims who reported attacks to the Fayetteville Police Department. During that meeting they cited examples of women who were recently assaulted and refused to report the incident to police because of the recent media attention and the fear that the Fayetteville Police Department could no longer shield their identity.

The RCVCC's stated preference is to see no change from the current procedures used by the Fayetteville Police Department; which is to release sexual assault information upon request or when the need for confidentiality is outweighed by the need for public disclosure. However, understanding the City Council's direction, RCVCC was comfortable with the revisions in section 3.8.4 - Public Awareness. (Pages 154-156 of the agenda packet)

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A discussion period ensued.

- MOTION:** Council Member Bates moved to have City Council support and accept the revision to the Fayetteville Police Department Operating Procedure 3.8: Response to Sexual Assault Cases.
- SECOND:** Mayor Pro Tem Haire

Council Member Applewhite inquired whether the procedure could be modified in the future. Mr. Iman replied in the affirmative.

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

8.5 City Manager's Office - FY 2010 Strategic Plan 2nd Quarter Report.

Mr. Doug Peters, Executive Director FCCCC, summarized the Economic Development Group Quarterly Dashboard Report, 2nd Quarter (2009-2010).

Mr. Doug Hewett, Assistant City Manager, reviewed the elements of the strategic plan and provided an overview of the progress made and anticipated actions for the following targets for action.

POLICY AGENDA	
Top Priority	High Priority
Unified Development Ordinance	County Jail Capacity
Murchison Road Corridor Redevelopment	Air Quality Non-Attainment
Parks and Recreation Service	Emergency Medical Transport Performance Report
Annexation Policy	Tree Preservation Ordinance
Workforce Development	Building Demolition
Recycling Program for Multifamily and Commercial	Property Revaluation and Tax Rate
	Legislative Agenda and Lobby Strategy

MANAGEMENT AGENDA	
Top Priority	High Priority
Crime Reduction Strategy and Report	Reclaiming Neighborhoods Strategy
FAST Improvements	Police Staffing
Community Report Card	Non-Stop Air Service to Washington, DC
Community Watch Expansion	Telling the City's Positive Story
Economic Development	Northwest Gateway Project

9.0 ADMINISTRATIVE REPORTS

9.1 City Clerk - Monthly statement of taxes collected for December 2009 from the Cumberland County Tax Administrator.

2009 Taxes \$14,293,663.97
 2009 Vehicle Taxes 393,818.76

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2009	Revit	45,742.03
2009	Vehicle Revit	357.84
2009	FVT	47,578.74
2009	Transit Tax	47,573.79
2009	Storm Water	622,036.95
2009	Fay Storm Water	1,244,865.97
2009	Recycle Fee	335,194.44
2008	Annex	336.53
2008	Taxes	7,622.79
2008	Vehicle Taxes	64,700.08
2008	Revit	0.70
2008	Vehicle Revit	12.29
2008	FVT	8,279.82
2008	Transit Tax	7,838.09
2008	Storm Water	549.20
2008	Recycle	902.89
2008	Fay Storm Water	371.93
2008	Annex	0.00
2007	Taxes	2,256.95
2007	Vehicle Taxes	3,101.14
2007	Revit	0.00
2007	Vehicle Revit	0.00
2007	FVT	574.12
2007	Storm Water	98.72
2007	Fay Storm Water	73.25
2007	Annex	0.00
2006	Taxes	1,111.60
2006	Vehicle Taxes	1,033.24
2006	Revit	0.00
2006	Vehicle Revit	0.00
2006	FVT	231.99
2006	Storm Water	24.12
2006	Annex	433.21
2005 and Prior	Taxes	975.01
2005 and Prior	Vehicle Taxes	2,624.33
2005 and Prior	Revit	0.00
2005 and Prior	Vehicle Revit	0.99
2005 and Prior	FVT	479.74
2005 and Prior	Storm Water	24.00
Interest		15,457.34
Interest (Revit)		2.45
Interest (Storm Water)		1.36
Interest (Fay Storm Water)		50.43
Interest (Annex)		49.46
Interest (Fay Recycling)		97.71
Total Collections		17,150,237.97

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:23 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
LAFAYETTE ROOM/HUMAN RESOURCE
DEVELOPMENT TRAINING ROOM
FEBRUARY 1, 2010
5:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); 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)

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

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Patricia Bradley, Assistant City Attorney
Rob Anderson, Chief Development Officer
Michael Gibson, Parks & Recreation Director
Jeffery Brown, Engineering & Infrastructure Director
Steven K. Blanchard, PWC CEO/General Manager
Bruce Daws, Historical Properties Manager
Jackie Tuckey, Public Information Officer
Mike Bailey, Hope Mills Planning
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Haire.

3.0 APPROVAL OF AGENDA

MOTION: Council Member Bates moved to approve the agenda with the addition of Item 4.0, closed session for consultation with the attorney; thereby renumbering "Other Items of Business" as Item 5.0 and moving renumbered Items 5.4 and 5.5 to Items 5.1 and 5.2.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0)

4.0. Closed session for consultation with the attorney.

MOTION: Council Member Bates moved to go into closed session for consultation with the attorney.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (9-0)

The regular session recessed at 5:06 p.m. The regular session reconvened at 5:35 p.m. in the Human Resource Development Training Room.

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

SECOND: Council Member Bates

VOTE: UNANIMOUS (9-0)

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5.0 OTHER ITEMS OF BUSINESS

5.1 Engineering & Infrastructure - Uniform Street Lighting Ordinance.

Mr. Jeffery Brown, Engineering & Infrastructure Director, briefed Council regarding the proposed ordinance. He stated adoption of the ordinance was a requirement to allow Progress Energy to seek approval from the State Utilities Commission to charge City residents for street lights within their service areas.

Following discussion, consensus was to bring back for approval with the deletion of the provisions for LED lighting requirement.

5.2 PWC - City Council request for clarification of PWC position on water service to contaminated areas in Cumberland County.

Mr. Steven Blanchard, PWC CEO/General Manager, provided an overview on the Fayetteville Public Works Commission policy to assist Cumberland County and/or its rural districts in developing a rural water system in specific areas as identified by Cumberland County and its policy to assist the City and County in responding to areas where drinking water wells have been confirmed as contaminated by the Cumberland County Health Department or other appropriate Government Agency.

Discussion ensued.

5.3 City Manager's Office - Annexation.

Mr. Kristoff Bauer, Assistant City Manager, presented this item and addressed the existing Municipal Influence Area (MIA) Agreement. He further discussed annexation agreements as defined by State law, the City's authority in response to voluntary annexation requests, and involuntary annexation.

Following a discussion period, consensus was for staff to address the following two issues for discussion at a future work session meeting:

1. Isolated areas which have not been annexed (Donut holes)
2. Annexation Issues with Hope Mills

5.4 Special Projects - Downtown Historic District boundaries.

Mr. Bruce Daws, Historical Properties Manager, presented this item. He explained how and why the Historic District was established and briefed Council on the Certificate of Appropriateness requirements.

Council Member Mohn raised questions regarding when a building could be demolished or rebuilt and boarded up buildings in the Historic District and whether there was a time limitation. Finally, he inquired about Council's authority change the guidelines.

Discussion ensued regarding boarded up building time limitation and Council's authority to change guidelines.

5.5 Parks and Recreation - Corporate Sponsorship Policy.

Mr. Michael Gibson, Parks & Recreation Director, presented this item and discussed staff's interest in developing a corporate sponsorship policy.

Consensus was for staff to present the policy at a future work session meeting for Council input.

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5.6 Parks and Recreation - Parks & Recreation service update.

Mr. Michael Gibson, Parks & Recreation Director, provided an update regarding the consolidation efforts with Cumberland County. He stated staff met with City and County Managers to develop performance measures for Fayetteville-Cumberland County Parks and Recreation at which time consensus was to research and provide recommendations for improvements in staff efficiency measures.

Mr. Dale Iman, City Manager, informed Council issues relating to this matter would be discussed at the February 6, 2010, budget work session meeting.

There being no further business, the meeting adjourned at 8:06 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

020110

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FAYETTEVILLE CITY COUNCIL
BUDGET WORK SESSION MINUTES
HUMAN RESOURCE DEVELOPMENT TRAINING ROOM
FEBRUARY 6, 2010
8:00 A.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Council Member Robert A. Massey, Jr. (arrived at 8:53 a.m.) (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
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Terrie Hutaff, Human Resources Development Director
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Haire.

3.0 CITY OF FAYETTEVILLE CITY COUNCIL BUDGET DISCUSSION - ECONOMIC OUTLOOK AND CITY CHALLENGES PRESENTATION.

The following information was presented by staff:

Mr. Dale Iman, City Manager:

- Objectives
- Challenges
- General Fund Financial Forecast
- Economic Outlook

Mrs. Lisa Smith, Chief Financial Officer:

- Overview of FY 09/10 City Revenue (to date)
- FY 2011 to FY 2015 Financial Forecast
- Key Assumptions for Financial Forecast
- General Fund Financial Forecast
- FY 2011 Projected Funding Gap
- Projected Fund Balance Impact
- Fund Balance Projection

Mr. Dale Iman, City Manager:

- Exploring Options for Balancing Future Budgets
- Forecasted FY 2011 General Fund Revenue Composition
- Ad Valorem Tax Comparisons
- Forecasted FY 2011 General Fund Expenditure Composition
- Remaining Service and Support
- Staff Options to Close Gap

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Following the presentation, an exercise ensued to compile Council options to close the financial gap which resulted in the following Council member suggestions. Council members were then instructed to place dots by the options they would like for staff to research. Items receiving dots would be researched further.

Ideas for Increasing Revenue (+) <i>*(Received at least 3 dots)</i>	Ideas for Cutting Expenses (-) <i>*(Received at least 3 dots)</i>
Develop policies that require development by downtown property owners (5)	Dispose of surplus property (5)
Offer more incentives to businesses, developers, and investors in order for them to purchase permits (4)	Leaf season and maintenance reduction (4)
Outsource jobs for local businesses; review through the entire City to find cost savings (4)	Reduce funding to outside agencies (4)
Aggressively recruit industry (4)	Discontinue City T.V. Show
Examine City relations with PWC and/or reexamine (4)	
Annex industrial parks where City-owned utilities are used (4)	
Better leverage the assets we have to grow our tax/revenue base (PWC utilities); Explore sale of utility services—why can't profits go to the City? (4)	
Impact fee per new lot developed for P&R (3)	

Other Ideas for Increasing Revenue (+) <i>*(Did not get a minimum of 3 dots)</i>	Other Ideas for Cutting Expenses (-) <i>*(Did not get a minimum of 3 dots)</i>
Increase false alarm fees (2)	Delay purchase of multi-modal properties (2)
Developer impact fees (2)	Pgrm funds—that are suppose to match funds. Decrease line items if organization can't come up with matching amount (2)
Fee increase on special services (2)	No police vehicles out of City limits (2)
Fee Recovery Total (1)	Small insurance premium increase for City employees (2)
Pay-for-performance vs. Automatic Cola (1)	Vehicle maintenance competitive (1)
Re-examine City investments (1)	Reduce recreation center hours of operation (1)
Charge churches/religious facilities some type of property tax (1)	Reduce mowing (1)
Decrease number of false alarms before time begins (1)	Cut arts funds (1)
Explore other fee changes - other departments (0)	Slow demolition (1)
Add new solid waste bulky item fee (0)	Conduct vehicle maintenance review (1)

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Other Ideas for Increasing Revenue (+) <i>*(Did not get a minimum of 3 dots)</i>	Other Ideas for Cutting Expenses (-) <i>*(Did not get a minimum of 3 dots)</i>
Increase service development fees (0)	Election method and years (0)
What services can be sent to county or state (0)	End extra sports seasons and extended playoffs (0)
Enforce Fines (0)	Reduce debt capacity (0)
Use of Fund Balance in accordance with policy (0)	Close streets that are not paved and citizens live on extended driveway (0)
	Parks and Recreation Process Improvements (0)

Mr. Iman emphasized the following three key concepts:

- Team work (Council and Staff)
- Communication
- Positive Change

AGENDA BRIEFING FOR FEBRUARY 8, 2010, MEETING.

Mr. Kristoff Bauer, Assistant City Manager, presented the following items scheduled for the Fayetteville City Council's February 8, 2010, agenda:

ZONING CASES:

- A. Case No. P09-36F: The rezoning from R6 Residential District to R5/CZ Residential Conditional Zoning District for townhomes on properties located at 108, 110, 202 and 204 Pinecrest Drive. Thomas L. Bradford, dba Pear Tree Properties, LLC, and Island Time Pizza, LLC, owner.**

Mr. Bauer stated the staff recommended denial and the Zoning Commission recommended approval. He informed Council that the applicant had indicated he may request a continuance.

Discussed ensued about the costs when a case is continued.

Mrs. Karen McDonald, City Attorney, explained that each time the hearing was continued, the City pays the cost of advertising and public notification; however, should the case be denied and reapplied for after one year the applicant would pay the cost.

Council Member Bates asked whether Council could deny the rezoning and waive the twelve month waiting period for reapplying. Mrs. McDonald replied in the affirmative.

- B. Development Services - Case No. P09-46F. The rezoning of the property located at 412 Gillespie Street from R5 Residential District to C1 Commercial District or to a more restrictive zoning classification. St. Joseph's Episcopal Church, owner.**

Mr. Bauer stated the staff recommended denial and the Zoning Commission recommended approval.

- C. Development Services - Case No. P09-35F: The rezoning from C1P Commercial District to R5/CZ Residential Conditional Zoning District for an apartment complex on property located at 5951 Cliffdale Road. Containing 11.21 acres more or less and being the property of Tart and Tart, Inc.**

Mr. Bauer stated staff and the Zoning Commission recommended approval with conditions.

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ADDITIONAL ITEMS:

A. FROM FAMPO - LIGHT RAIL GRANT:

Mr. Dale Iman, City Manager, explained this was a request received from the Fayetteville Area Metropolitan Planning Organization to add an item to the agenda to consider a grant application for Light Rail from the Amtrak Train Station to PWC.

Eight votes are necessary to place this item on the agenda. There was no consensus to add this item to the agenda.

Mr. Iman provided an update on the Gas House property located on Rowan Street. He stated the developer submitted a project that would facilitate development on the site.

B. Mayor Chavonne requested recognition of Carmon Renee Burks who passed away on February 4, 2010.

There being no further business, the meeting adjourned at 11:20 a.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
FEBRUARY 8, 2010
7:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); 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 Bradley, Assistant City Attorney
Rob Anderson, Chief Development Officer
Craig Harmon, Planner II
Paul Dordal, BRAC RTF Executive Director, Futures, Inc.
Jackie Tuckey, Public Information Officer
Rita Perry, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order at 7:00 p.m.

2.0 INVOCATION

The invocation was offered by Council Member Haire.

3.0 PLEDGE OF ALLEGIANCE

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag.

Announcements and Recognition

Council Member Bates announced the groundbreaking for Veteran's Park would be on Thursday, February 11, 2010, at 8:00 a.m.

Council Member Applewhite announced the availability of the summer lunch program at Nutritionnc.com.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

5.0 PUBLIC FORUM

NAME	ADDRESS	SUBJECT/CONCERN
Michael Davis	9127 Tokay Station Fayetteville, NC 28311	Military Support
Pat Stewart	623 Bessemer Circle Fayetteville, NC 28301	In favor of the Multi-Modal Center
LeReine Roark	450 Hay Street; #513 Fayetteville, NC 28301	Various topics
Gwen York	5703 Cypress Road Fayetteville, NC 28304	Domestic Violence

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NAME	ADDRESS	SUBJECT/CONCERN
Imam Eronomy Mohammed	2700 Murchison Road Fayetteville, NC 28303	Public Officials

6.0 CONSENT

MOTION: Council Member Meredith moved to approve the consent agenda.

SECOND: Council Member Massey

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Mohn)

6.1 PWC - Resolution confirming assessment roll and levying assessments - Arran Lakes East and West.

The preliminary assessment roll was made available at the City Clerk's office for review by property owners and the public hearing was held on January 25, 2010. As outlined in the public hearing and set forth in information previously provided property owners in the affected area, the sanitary sewer assessment rate for a typical single-family residential lot was applied on a per lot basis at \$5,000.00. This amount included both the main and lateral charge. For properties that required grinder pumps, the area average lateral charge of \$790.00 was recommended. This resolution confirms the assessment roll and levys the assessment.

**RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS.
RESOLUTION NO. R2010-007.**

7.0 PUBLIC HEARINGS

7.1 Development Services - Case No. P09-35F: The rezoning from C1P Commercial District to R5/CZ Residential Conditional Zoning District for an apartment complex on property located at 5951 Cliffdale Road. Containing 11.21 acres more or less and being the property of Tart and Tart, Inc.

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 Zoning Commission and Planning staff recommended approval.

Council Member Crisp inquired on the location of the chain link fence. Mr. Harmon replied that the fencing would be along all the abutting properties.

Council Member Applewhite questioned whether a left turning lane would be necessary due to the volume of traffic and whether a traffic accident analysis was performed. Mr. Harmon stated NCDOT had not deemed it a necessity; however, there would be a separate right turning lane and a traffic accident analogy had not been performed.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:29 p.m.

Mr. C. L. Tart, P.O. Box 8, Dunn, NC 28335, appeared in favor.

Mr. Tommy McRae, P.O. Box 1027, Dunn, NC 28335, appeared in favor.

There being no one further to speak, the public hearing closed at 7:35 p.m.

Council Member Applewhite requested Mr. Iman, City Manager, to address the accident rate on Cliffdale Road. Mr. Iman explained that the City had no Transportation Planner in the Planning Division to conduct such a study.

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Council Member Meredith questioned the applicant, Mr. Tart, regarding his support of a bus stop at the subject property and whether it was possible to include it as a condition. Mr. Anderson responded that without dialogue with NCDOT the condition could present an issue.

Council Member Crisp requested clarification of NCDOT not having an issue with the increase in traffic. Mr. Anderson answered in the affirmative and stated a comparison was done to prior traffic from the health club.

Council Member Crisp questioned the process required for NCDOT to agree to a bus stop. Mr. Anderson stated the Planning staff would work in conjunction with the Transit Department to determine the feasibility of the location. Mr. Iman further stated there was presently no bus route at that location.

MOTION: Council Member Meredith moved to approve the requested rezoning.

SECOND: Council Member Hurst

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

7.2 Development Services - Case No. P09-36F: The rezoning from R6 Residential District to R5/CZ Residential Conditional Zoning District for townhomes on properties located at 108, 110, 202, and 204 Pinecrest Drive. Thomas L. Bradford, dba Pear Tree Properties, LLC, and Island Time Pizza, LLC, owner.

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 application was sent back to the Zoning Commission from Council to be reheard as a Conditional Zoning request and the new conditions of this request limited the number of units to eight and the application was conditioned to the site plans.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:48 p.m.

Mr. Thomas Bradford, applicant, stated he was available to answer any questions.

Mr. W. M. Ward, Jr., 2201 Morganton Road, Fayetteville, NC 28303, appeared in opposition and expressed concern regarding the lack of compatibility of the proposed structure with the surrounding structures.

Mr. Christopher Fletcher, 112 Pinecrest Drive, Fayetteville, NC 28303, appeared in opposition and expressed concern regarding the increase in traffic.

There being no one further to speak, the public hearing closed at 7:52 p.m.

MOTION: Council Member Hurst moved to deny the requested rezoning and to waive the one-year waiting period requirement to reapply.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

7.3 Development Services - Case No. P09-46F: The rezoning of the property located at 412 Gillespie Street from R5 Residential District to C1 Commercial District or to a more restrictive zoning classification. St. Joseph's Episcopal Church, owner.

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

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stated the Zoning Commission recommended approval based on (1) the properties between this one and Gillespie Street being zoned commercial, and (2) the zoning to commercial fostering new development and/or redevelopment in this area. He stated the Planning staff recommended denial based on (1) the property currently not having legal access, (2) the rezoning moving the commercial zoning district one lot deeper into the surrounding residential development, (3) the new commercial district being surrounded on three sides by residential, and (4) the subject property being landlocked.

MOTION: Council Member Davy moved to deny the requested rezoning.
SECOND: Council Member Bates
VOTE: UNANIMOUS (10-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 BRAC Regional Task Force (BRAC RTF) - Pipeline NC Presentation.

Mr. Paul Dordal, BRAC RTF Executive Director, Futures, Inc., provided an overview of PipelineNC.com, an education and workforce internet platform for job seekers and employers in the Fort Bragg region.

8.2 City Manager's Office - Fayetteville Forward Action Agenda Update.

Mr. Dale Iman, City Manager, reviewed the elements of the Fayetteville Forward Action Agenda and provided an overview of the progress made and anticipated actions for the following targets for action.

Goal 1: Growing City, Livable Neighborhoods - A Great Place to Live

- Annexation Policy
- Community Wellness Plan
- Residential Rental Property Program

Goal 2: Greater Tax Base Diversity - Strong Local Economy

- Base Realignment and Closure
- Murchison Road Redevelopment Plan
- Non-Stop Air Service
- Economic Development Incentives

Goal 3: More Attractive City - Clean and Beautiful

- Commercial and Multi-Family Recycling
- Fayetteville Area System of Transit
- Uniform Residential Street Lighting

Goal 4: More Effective City Government - Cost Effective Service Delivery

- Elected Officials Development
- Legislative Agenda and Federal Relations
- Public Transportation
- Public Safety Refinements
- City Financial Planning

Goal 5: Greater Community Unity - Pride in Fayetteville

- Ethics Commission
- Equal Access

Goal 6: Revitalized Downtown - A Community Focal Point

- North Carolina Veterans Park
- Downtown Parking
- Downtown Beautification

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There being no further business, the meeting adjourned at 7:59 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
SPECIAL MEETING MINUTES
LAFAYETTE ROOM
FEBRUARY 17, 2010
4:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); 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
Tom Bergamine, Chief of Police
Jackie Tuckey, Communications Manager/Public Information Officer
Dr. Craig Fraser, Police Executive Research Forum
Mr. Bill Tegeler, Police Executive Research Forum
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order at 4:00 p.m.

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Haire.

3.0 POLICE EXECUTIVE RESEARCH FORUM (PERF)

Mr. Craig Fraser, Director of Management Services, and Mr. Bill Tegeler, Deputy Director of Management Services, of the Police Executive Research Forum, presented an Operational Study of the Fayetteville Police Department outlined as follows:

- **About the Police Executive Research Forum (PERF)**
- **Scope of Study**
 - Operations
 - Practices
 - Staffing
- **Purpose of Study**
 - Plan for the Future
 - Maximize Resources
 - Maintain High Quality Service to the Community
- **Study Methodology**
 - Evaluation of Local Factors Impacting Crime and Disorder
 - Interviews: One-on-One and in Groups Settings
 - Personal Observations
 - Attendance of FOCUS Meeting
 - Review of Policy, Procedure, and Practice
 - Analysis of Data Including:
 - Service Demands
 - Staffing
 - Deployment

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➤ Identified Best Policing Practices in Fayetteville

- Community Wellness Plan
- Focusing On the Community Using Statistics (FOCUS)
- Cold Case Unit
- Commitment to Accreditation
- Concentrate on Juvenile Crime
- B Street Initiative
- Operation Cease Fire Movie Nights

➤ Staffing Recommendations

- Patrol staffing should be allocated based upon:
 - Goal = An Average of 50% Time Consumed by Calls for Service (CFS)
 - Now 66% of Patrol Time is Consumed by CFS
 - With 17 federally funded officers CFS time will average 58%
 - Sectors Rather than Zones
 - Time Consumed Workload by DOW and TOD:

	<u>Day Shift</u>	<u>Evening Shift</u>	<u>Mid Shift</u>
Campbellton	28%	40%	32%
Cross Creek	26%	45%	28%

➤ Campbellton Staffing Recommendations

- Recommended: 79
- Current Staffing: 61
- COPS Funded: 7
- Requiring Funding: 11

➤ Cross Creek Staffing Recommendations

- Recommended: 87
- Current Staffing: 64
- COPS Funded: 10
- Requiring Funding: 13

➤ Staffing Recommendations

- Detective staffing should be based upon the number of cases and type of crimes committed and cases to be investigated:
 - 1 Homicide Detective
 - 2 Juvenile/CAP Detectives
 - 2 Property Detectives
- The department should eliminate one Assistant Chief position and reorganize into 3 bureaus
- The Mounted Unit should be phased out and officers redeployed to patrol
- Four civilian Police Investigative Aide (PIA) positions should be established
- A mid-level Narcotic Unit made up of 1 sergeant and 6 detectives should be initiated
- The Cross Creek Station should staff its front desk during normal business hours
- One full-time and one part-time crime scene technician should be added to the Forensics Unit

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➤ Complete PERF Staffing Recommendations

ADDITIONAL STAFFING NEEDED FOR THE FPD Division/Function	Positions Added	Positions Eliminated	Difference
Assistant Chief		1	-1
Operations Support Bureau Captain	1		1
Patrol Officers (Campbellton)	18		18
Patrol Officers (Cross Creek)	23		23
Front Desk (Cross Creek Station)	1 (civilian)		1 (civilian)
Investigative (Homicide Detective)	1		1
Investigative (Juvenile/CAP Detectives)	2		2
Investigative (Property Detectives)	2		2
Investigative (Narcotic Sergeant)	1		1
Investigative (Narcotic Detective)	6		6
Investigative Aides*	4		4
Forensics Unit (Technicians)	1 F and 1 PT		1 F and 1 PT
Records Report Entry		5	-5
Subtotal	60 full-time 1 part-time	6 full-time	54 full-time 1 part-time
Patrol Officer Positions Acquired Through Federal Funding	17 full-time		-17 Fed funded
TOTAL: Additional Positions Recommended	43 full-time 1 part-time	6 full-time	37 full-time 1 part-time

Note: These positions will only become available when the new Field Report Entry System is fully operational. These positions should be converted to staff the front desk at Cross Creek and the next Investigative Aide positions.

➤ Improve Efficiency

- A bar-coding system should be added to the evidence room
- The department should develop a facilities strategic plan
- The Report Taking Unit should expand the types of non-emergency calls it takes
- The department should consolidate and enter into an agreement with Cumberland County Communications for services
- The department may reduce CFS by enhancing the alarm ordinance and requiring alarm verification
 - Account for about 15 % or over 17,000 CFS per year
 - 98.8% are false alarms
 - Alarm calls are responsible for 6,604 man hours per year or an equivalency of 3.2 full-time officer positions
- Special Events not sponsored by the City of Fayetteville should be cost neutral

➤ Investigations

- Cases assigned for follow-up investigation should have a 14-day closure
- Detectives should attend patrol roll call on a regular basis
- Operations Bureau should convert some permanent detective positions to rotational
- Enhancements should be made to the Forensics Processing Bay
- Watch Commanders should be responsible for assigning follow-up investigations to officers

➤ Building on FOCUS

- Evaluating crime problems based on:
 - CFS
 - UCR crime and clearance guidelines
 - Traffic accidents
 - Reducing harm and fear in community
- Continue to invite other agencies including federal, state and local departments, code enforcement, public works,

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social services, the DA and Sheriff Office and the military should continue to be invited to participated in FOCUS meetings

- Continue analyzing crime and disorder with military deployments to determine if there is a relationship between the two

➤ **Community Engagement**

- Officers should be assigned to the same sector for a minimum of 6 months
- Work in partnership with the military leadership to develop policies of mutual concern. Bi-weekly meetings should be established between the 2 agencies
- At the conclusion of the FSU's study of gun violence in Fayetteville "Study Circles" should be created by City Manager appointment to review the report and identify key issues and recommendations to improve the safety of those who live, work and travel in Fayetteville

➤ **Growth**

- The department should continue preparing for increases of population in the next 2-4 years due to BRAC
- Consideration be given to the creation of a policy in which developers are required to contribute financially to maintain the City's ability to provide the same level of service resulting from the impact of their development

➤ **Policy Change Recommendations**

- **General Order 2.2**
 - Review Secondary Employment for the latest IRS rulings and opinions on independent contractor vs. employer status, the implications of class of worker status and the requirements for paying federal employment tax
- **General Order 3.4**
 - Employees assigned to the property and evidence room should be subject to periodic drug screens
 - The department should also establish a random drug screen policy for all sworn officers of the agency
- **General Order 4.1**
 - The department should develop a separate policy for CED's
 - The department should not allow an officer to discharge warning shots
- **General Order 4.2**
 - The department should limit police motor vehicle pursuits to persons suspected and/or involvement in felonious crime
- **General Order 5.8**
 - Confidential funds should be audited quarterly by a representative of the City Finance

➤ **Conclusion**

- The Fayetteville Police Department is an enlightened agency facing unique challenges to providing police services:
 - Expansion of Fort Bragg and Pope Air Force Base
 - Sudden annexation after years of non-growth
 - Diverse and transient population

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- FPD is lead through progressive policing strategies and practices:
 - o Well thought out Community Wellness Plan as blueprint for future through: intelligence lead policing, community partnerships, crime prevention and operational efficiency
 - o FOCUS - data based decision making
 - o CALEA - management improvement model
 - o Community Oriented Philosophy as guiding philosophy in delivering services
 - o Problem-solving strategies to make efficient use of resources
 - o Decentralized command for geographic responsibility and accountability
 - o Creative use of partnerships and collaborations as exemplified in the Cold Case Unit, Operation Ceasefire, Crime Stoppers, Project Safe Neighborhoods, Safety Over Speed and Community Watch
 - o Expanding use of technology
- Implementation of the recommendations included in the PERF Operation Study of FPD provides the department an opportunity to become a model police agency
 - o Integrate prioritized recommendations into the Community Wellness Plan
 - o Phase in recommendation as budget and opportunities allow

A discussion as well as a question and answer period ensued.

There being no further business, the meeting adjourned at 4:58 p.m.

Respectfully submitted,

RITA PERRY
City Clerk

ANTHONY G. CHAVONNE
Mayor

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FAYETTEVILLE CITY COUNCIL
AGENDA BRIEFING MINUTES
LAFAYETTE ROOM
FEBRUARY 17, 2010
5:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager
Karen M. McDonald, City Attorney
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Craig Harmon, Planner II
Marsha Bryant, Planner
Karen Hilton, Planner Division Manager

Mr. Craig Harmon, Planner II, presented the following items scheduled for the Fayetteville City Council's February 22, 2010, agenda:

CONSENT ITEM

Case No. P10-04F: The rezoning from PND Planned Neighborhood Development District to C1A Area Commercial District or to a more restrictive zoning classification for property located at the SW corner of Bingham Drive and Bailey Lake Road. Containing 7.1 acres more or less and being the property of Rivers of Living Water Church of God, Inc., and Diane and Donald Johnson.

Mr. Craig Harmon, Planner II, presented this item. 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 explained the property had been zoned and approved through Cumberland County as a PND Planned Neighborhood Development District which would allow for a mix of use when a PND Plan was submitted and approved. He explained that if a PND plan was not submitted or not approved, then the property could be developed under the standards for a R10 Residential District. He stated no PND Plan was ever submitted to the County for the property. He stated the Zoning Commission and Planning staff recommended approval of the rezoning to C1A based on the 2010 Land Use Plan calling for high-density commercial on the property, the property having access to both major and minor thoroughfares, and the 2030 Growth Vision Plan calling for smaller scale commercial development to be clustered in locations convenient to surrounding residential areas.

PUBLIC HEARING ITEMS

Case No. P09-41F: Appeal of Zoning Commission denial of request to rezone property located at 1802 Conover Drive from R10 Residential District to P2 Professional District. KAAVU LLC, owner.

Mr. Craig Harmon, Planner II, presented this item. 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 informed Council that the redesign of the Hospital facilities changed the character of the area along Village Drive and caused an increase in rezoning requests. He stated the Zoning Commission and Planning Staff recommended denial of the rezoning based on (1) a straight map change could facilitate a more coordinated redevelopment of both this and the corner lot, but it would also allow individual use of this single lot for office use, thus facilitating

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inappropriate nonresidential encroachment into the neighborhood; (2) while hospital activity and the noise of the emergency entrance drive suggested that offices were appropriate long-term uses in the immediate area, the lots along Village and Conover Drives were not big enough individually to be re-used for offices without having negative impacts on both the neighborhood behind them and the function and appearance of the corridor; (3) appropriate re-use or redevelopment in the immediate area would include a substantial buffer establishing a protective edge for the neighborhood, a landscaped streetscape, coordinated access, and an urban building pattern; and (4) individual rezoning should not occur in this one to two block area unless either a small area plan was completed and an overlay was in place to achieve at least the objectives in number 3 above, or the application included a conditional zoning and the site plans achieved the objectives in number 3 above. He stated that either approach would help assure that adequate and appropriate parking, landscaping/buffering, access, and building size/height were achievable.

Case No. P09-50F: Appeal of a Zoning Commission denial of a request to rezone from R10 Residential District to P2 Professional District or to a more restrictive zoning classification for property located at 3405, 3409, 3413 Village Drive. Billy R. and wife, Catherine W., Parker, owner.

Mr. Craig Harmon, Planner II, presented this item. 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 informed Council that the redesign of the Hospital facilities changed the character of the area along Village Drive and caused an increase in rezoning requests. He stated the Zoning Commission and Planning Staff recommended denial of the rezoning based on (1) a straight map change could facilitate a more coordinated redevelopment of both this and the corner lot, but it would also allow individual use of the single lot for office use, thus facilitating inappropriate nonresidential encroachment into the neighborhood; (2) while hospital activity and the noise of the emergency entrance drive suggested that offices were appropriate long-term uses in the immediate area, the lots along Village and Conover Drives were not big enough individually to be re-used for offices without having negative impacts on both the neighborhood behind them and the function and appearance of the corridor; (3) appropriate re-use or redevelopment in the immediate area would include a substantial buffer establishing a protective edge for the neighborhood, a landscaped streetscape, coordinated access, and an urban building pattern; and (4) individual rezoning should not occur in this one to two block area unless either a small area plan was completed and an overlay was in place to achieve at least the objectives in number 3 above or the application included a conditional zoning and the site plans achieved the objectives in number 3 above. He stated either approach would help assure that adequate and appropriate parking, landscaping/buffering, access, and building size/height were achievable.

Case No. P10-02F: The rezoning from R6 Residential District to P2 Professional District or to a more restrictive zoning classification for property located at 129 North Plymouth Street. Containing 0.56 acres more or less and being the property of Tina Dicke and Bruce Morrison.

Mr. Craig Harmon, Planner II, presented this item. 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 while the 2010 Land Use Plan calls for high-density commercial across Plymouth Street from the property, the County now looks to the 2030 Growth Vision Plan for guidance in approving rezoning. He stated that County staff had indicated that they would be unlikely to recommend a commercial rezoning on the property across the street unless it was part of a major development/concept plan. He stated rezoning a single small area in the middle of the block, contrary to the Land Use Plan and without other compelling reasons,

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was often viewed as spot zoning which was considered contrary to professional planning practices. He stated the Zoning Commission and Planning staff recommended denial of the rezoning based on (1) the 2010 Land Use Plan calling for medium-density residential, (2) the 2030 Growth Vision Plan calling for caution in rezoning residential area to commercial uses just because they were on or near a highway, (3) currently single-family residential (including owner occupied) and agricultural uses surrounded the property, and (4) spot zoning.

Case No. P10-03F: The rezoning from AR Residential District to R10 Residential District or to a more restrictive zoning classification for property located at 4584 Carula Lane. Containing 14.91 acres more or less and being the property of Pamela Autry and Martha West.

Mr. Craig Harmon, Planner II, presented this item. 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 Zoning Commission and Planning staff recommended approval of the rezoning based on (1) the 2010 Land Use Plan calling for low-density residential (R10 being one of the City's low-density districts), (2) the property abutting an already approved subdivision zoned R10, and (3) the 2030 Growth Vision Plan stating that development should occur at densities appropriate for the site. He stated the recommended zoning would be appropriate for the level of service and compatible with the proposed/existing homes in the area.

Case No. P10-05F: The rezoning from R6 and R10 Residential Districts to M2 Industrial District or to a more restrictive zoning classification for property located at 624, 628, 708, and 714 Dunn Road and David J Road, and being all of Bishop Salvage Yard. Containing 26.38 acres more or less and being the property of David and Jill Soles and Gerald Bishop and Bishop Leasing.

Mr. Craig Harmon, Planner II, presented this item. 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 currently there was a salvage yard in operation on the properties and it was a nonconforming use on residentially zoned property and a significant portion of the property was also within the floodplain property. He informed Council that the rezoning request was in response to an ordinance adopted by City Council in November 2008 that established a three-year amortization process to close and remove all vehicles/junk from any non-conforming salvage yard by January 1, 2012. He stated the applicant had been cited for being in violation of the first year's requirements. He stated staff was continuing to research operational aspects and stated review/inspection procedures in the case and updates would be provided where relevant. He stated the Zoning Commission recommended approval of the rezoning based on (1) the history of compatibility with surrounding properties, (2) the sufficient area and separation possible for this type of operation, (3) the loss of jobs if the salvage yard was shut down, and (4) that the applicant would have to submit an application for a Special Use Permit as well, where specific conditions could help mitigate concerns. He stated the Planning staff recommended denial of the rezoning based on (1) the 2010 Land Use Plan recommending medium-density residential and open space or conservation uses for the properties, (2) the existing land use was a nonconforming salvage yard (rezoning to M2 would be contrary to the objectives of the recently adopted ordinance requiring the closing and removal of all vehicles from such salvage yards), (3) the M2 industrial was the least restrictive (most permissive) zoning district in the City (it would allow a variety of commercial and heavy industrial uses that would be inappropriate for the area based on the property being within the floodway or the 100-year floodplain), and (4) the applicant's intent was to receive M2 zoning in order to request a Special Use Permit to change the salvage yard from a nonconforming business to a conforming business. He stated this change would allow the salvage yard to continue operating beyond January 1, 2012, and the use was

DRAFT

inconsistent with state law adopted in 2000 prohibiting salvage yards within 100-year floodplain areas.

There being no further business, the meeting adjourned at _____ p.m.

Respectfully submitted,

KAREN M. MCDONALD
City Clerk

ANTHONY G. CHAVONNE
Mayor

021710

DRAFT

FAYETTEVILLE CITY COUNCIL
DINNER AND DISCUSSION MEETING MINUTES
LAFAYETTE ROOM
FEBRUARY 22, 2010
6:00 P.M.

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3) (arrived at 6:15 p.m.); 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
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Janet C. Smith, Assistant City Attorney
Patricia C. Bradley, Assistant City Attorney
Jeffrey Brown, Engineering & Infrastructure Director

Mayor Chavonne called the meeting to order.

Closed session for consultation with the attorney and consultation with the attorney regarding litigation in the matter of *Advanced Internet Technologies v. City of Fayetteville*.

MOTION: Council Member Bates moved to go into closed session for consultation with the attorney and consultation with the attorney regarding litigation in the matter of *Advanced Internet Technologies v. City of Fayetteville*.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0)

The regular session recessed at 6:10 p.m. The regular session reconvened at 6:40 p.m.

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

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

There being no further business, the meeting adjourned at 6:40 p.m.

Respectfully submitted,

KAREN M. MCDONALD
City Attorney

ANTHONY G. CHAVONNE
Mayor

022210

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Jerry Dietzen, Environmental Services Director
DATE: March 8, 2010
RE: **Environmental Services - Solid Waste Ordinances Revisions**

THE QUESTION:

Does City Council wish to approve updates to the Solid Waste Code of Ordinances that will change the department name to Environmental Services, allow curbside recyclables to be collected only from approved containers, clarify the location of where carts are to be placed following collection, prohibit the collection of sheet glass for safety/breakage reasons and clarifies the ability of the department to charge for the collection and disposal of large piles of mixed uncontainerized piles of trash.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3 - More Attractive City (3) Cleaner community with less trash and less visual blight. Goal 4 - More Efficient City Government - Cost Effective Service Delivery (3) Services delivered in a cost effective manner.

BACKGROUND:

The Solid Waste Department added sustainability to its list of responsibilities in May of 2009. The department name was changed to Environmental Services to better align it with the added tasks. This request is to officially change the name in the City Code of Ordinances. When approved, the City Attorney's office will make the changes in the City Code as needed. Curbside recycling is contracted to Waste Management for collection and hauling to the material recovery facility (MRF). Our contract with Waste Management does not require them to collect recyclables from containers not provided by or purchased from city for that purpose. Some residents place recyclables in containers that cannot be picked up by the collection equipment Waste Management uses; therefore, the recyclables do not get collected and residents are not pleased if the recyclables inadvertently get placed in a garbage truck. Addressing this item in the ordinance would allow the department to manage curbside recycling more effectively. The previous ordinance requires residents to remove their roll carts from the curb the evening after collection is completed but does not indicate the intent of the ordinance. We believe the intent was to have the carts placed so they are not seen as you drive down the street. This is an appearance issue in many neighborhoods. We are asking the residents to return their roll carts to the side or rear of the house so the carts are in an inconspicuous place. We believe this will improve neighborhood appearances and make it easier the department to deal with those residents who consistently leave their carts at the curb beyond collection days. Finally, other language will better allow the for a more orderly cleanup process when a resident places piles of loose, mixed and/or uncontainerized debris at the street and has moved out or refuses to properly prepare it for collection. The wording will also reinforce the current ordinance that allows the department to charge the homeowner a fee for this special cleanup if necessary.

ISSUES:

The current ordinance does not reflect the current name of the department. Some recyclables are being placed in garbage trucks and then disposed of in the landfill because residents sometimes place them in a container that cannot be collected by Waste Management's recycling collection equipment. Some residents are not removing their roll carts far enough from the curb after collection. This causes visual clutter in the neighborhoods and is objectionable. The current ordinance does not specify where to place the roll carts or how far to roll them away from the curb,

so it is difficult to get residents to pull them to an inconspicuous place in the yard. The department's collection equipment cannot pick up sheet glass, glass doors/windows and mirrors without breaking the glass. This causes a hazard for the employees and leaves a mess of shattered glass at or in the street when the collection is complete. The department has difficulty getting some residents to prepare their garbage properly for collection at times. Some residents move out of the area or are evicted and leave significant piles of mixed garbage at the curb. Many violators are difficult to contact therefor cannot or will not return to containerize their trash for collection. Occasionally, this causes significant delays and use of additional equipment and manpower to rectify.

OPTIONS:

Approve the recommended changes in the Code of Ordinances with or without adjustments. Make no changes and leave the ordinance as is.

RECOMMENDED ACTION:

Approve the recommended changes to the Solid Waste Ordinance and direct staff to format the amendment consistent with Section 1-6 of the City Code.

ATTACHMENTS:

Proposed Solid Waste Ordinance Revision

Sec. 22-3. Definitions.

Environmental services means the department and personnel responsible for the administration, operation, and daily activities encompassing the collection of all refuse, solid waste, and other materials as provided in this section on behalf of the City, both now and as hereinafter designated.

Properly containerized means stored in accordance with the provisions of Sec. 22-9 of this chapter.

Properly disposed means disposed of in accordance with the provisions of this Chapter. Residential units for the purposes of this chapter, shall mean residential properties which are subject to the solid waste user fee.

Sec. 22-9. Maintenance of containers.

(a) Garbage, scraps, perishable refuse, wet waste, organic matter, or other solid waste subject to an odorous decay shall be placed in garbage containers conveniently situated for collection by the city solid waste department. It shall be unlawful to scatter any solid waste over any premises in the city. All wastes deposited in a prescribed approved solid waste container will be accepted by solid waste department employees for disposal.

(b) No container shall be cleaned on public property except that under supervision of the solid waste director or designee, and no residual materials or refuse from the cleaning of solid waste containers shall be allowed to drain into a public gutter, street, sidewalk or storm sewer or into a constant flowing or intermittent flowing stream or stream bed.

(Code 1961, § 14-9)

(c) Recyclable material shall be collected only from City-approved recycle carts for collection of recyclables. No recyclable material shall be collected from carts designated for the disposal of solid waste or yard debris.

Sec. 22-10. Collection routes, schedules, and pickup of rollout refuse containers by city.

(5) Solid waste collection begins at 7:00 a.m. and containers not available for collection on the scheduled day will not be collected until the next regularly scheduled day.

Containers shall be removed from the curb the day that they are serviced, and shall not be stored in front of a dwelling or commercial establishment, or otherwise in front of the building line closest to the street. Any variations from these requirements requires the approval of the solid waste director or designee. Failure to remove the container from the curb the day that the container is serviced is deemed in violation of this section, which shall result in the following:

a. As a result of a first violation, written warning of such violation shall be issued to the owner, occupant, lessor, lessee, or person in charge of the premises where the container is located with no monetary penalty being imposed;

b. Any second or subsequent violations shall subject the offender to a civil penalty in accordance with the fee and penalty schedule as approved by city council. Such civil penalty shall be recovered by the city in a civil action in the nature of a debt if the offender does not pay the penalty within the time prescribed in subsection (c) of this section.

c. In the case of a second or subsequent violation of this section, a written citation shall be issued to the owners, occupant, lessor, lessee or person in charge of the premises where the containers are located, stating the amount of the penalty and that the penalty is

to be paid to the finance director, City Hall, 433 Hay Street, Fayetteville, North Carolina, within five days. If the penalty is not paid within the time prescribed, the city may initiate a civil action in the nature of a debt and recover the sum of the penalty plus the costs of the action.

d. Each and every day's violation of any provision of this section after the first violation shall constitute a separate and distinct offense.

(8) Yard waste containerization requirements and collection services.

4. Additional requirements for bulky pickup. The intent of this section is to provide limited bulky limb and tree debris removal service to residents of the city who pay the solid waste user fee as follows:

vi. Solid waste management department shall charge a fee for each truckload of debris (approximately 20 cubic yards) generated by the owner, occupant, or resident of a residential unit; Provided that in no case, will the environmental services department collect yard debris generated by a contractor or person other than the owner, occupant, or resident of a residential unit.

(10) Bulk trash, including, but not limited to, mattresses, lawnmowers, etc., Bulk trash collection shall be provided to residential units provided notification is made to the solid waste management department prior to the scheduled curbside collection day for bulk trash and under the following conditions:

a. Bulk trash shall be placed to the curb by 7:00 a.m. on the collection day to assure pickup.

b. Bulk trash must be separated from all other refuse prior to collection.

c. All glass in windows, doors, mirrors and other items with large expanses of glass must have the glass removed and where practicable placed in a City-approved container for collection.

d. All gasoline/fuel must be removed from all lawn equipment prior to collection.

e. Oxygen tanks and other medical equipment, propane tanks, large oil tanks used for household purposes or batteries from any residentially used premises, etc., shall not be collected by the city.

f. Furniture and/or mattresses shall be limited to five pieces per collection.

g. Overflow volumes of wet and dry garbage will not be collected as bulk trash.

h. Any bulky trash or other items not properly prepared for disposal as provided in this section and any items that exceed the size indicated by this chapter, will not be collected by the environmental services department.

Sec. 22-17. Notice to abate unlawful conditions; abatement by city where conditions of matter admit of no delay; penalty.

(a) If any person shall violate the provisions of section 22-16, it shall be the duty of the city inspection director or his designated representative to give notice to the owner or to any person in possession of the subject property, in accordance with section 22-18 of this chapter, as follows:

(1) That an unlawful condition exists thereupon and that the unlawful condition shall be abated by the owner and if the unlawful condition is not abated, that the owner will be subject to a civil penalty as set forth in section 22-20; and

- (2) That if the property owner does not abate the unlawful condition within ten days:
- a. The property owner will be charged an administrative fee in accordance with the fee and penalty schedule as approved by city council regardless of who abates the unlawful condition;
 - b. The inspection director or his designated representative may proceed without notice to abate the unlawful condition and charge the actual cost of abatement to the property owner; and
 - c. In addition to any other penalty imposed, the administrative fee, the actual cost of abatement or both shall be collected in the manner as provided for delinquent taxes, pursuant to G.S. 160A-193.

(b) Upon the completion of any removal and abatement by the city, the inspection director or his designated representative shall deliver to the deputy tax collector a statement showing the actual cost of the abatement of the unlawful condition, in which statement, in addition to the cost of labor, hauling, and other necessary items of expense, shall be included an administrative fee in accordance with the fee and penalty schedule as approved by city council. The deputy tax collector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, and the amount of the bill shall become a lien upon such property and, if not paid within 30 days, shall be collected as in the manner provided for the collection of delinquent taxes.

(c) If the same person, corporation, or other property owner or occupant has failed to abate a violation within the ten-day period allowed in this section for the same or different parcels of property at least twice in the same 24-month period, then if the same person, corporation, or other property owner or occupant fails to abate a third or subsequent unlawful condition within the ten-day period allowed in this section and within the same 24-month period of the first two violations as specified in this section, the person, corporation, or other property owner or occupant shall be subject to a \$1,000.00 civil penalty, collectible as set forth in subsection (a) of this section, in addition to any other fee imposed by this chapter for a continuation of the violation after the ten-day period allowed in this section.

(d) In the event that the environmental services director or his designee determines that an unlawful condition constitutes an imminent danger to the public health or safety, such that notice to the property owner could not be provided without endangering the public, the environmental services director or his designee may take immediate action to remove or abate the unlawful condition, and the property owner shall be subject to the costs and penalties of such abatement as provided in this section and in accordance with the fee schedule adopted by the council. As soon as is practicable after the abatement of the unlawful condition, the property owner who has been assessed the costs for such abatement under this subsection, shall be given notice as prescribed by this section, and in addition such notice shall inform the property owner of the opportunity to request a hearing with the environmental services director or his designee within 30 days of the notice of the assessment. Such request shall be made in writing, filed with the environmental services director or his designee, and shall state the reasons why the owner should not be assessed the costs of the abatement. Failure of the property owner to file a written appeal within the time prescribed by this section will result in the waiver of the opportunity to file an appeal of the assessment, and the property owner will be

responsible for all costs associated with the abatement as otherwise provided in this chapter.

(Code 1961, § 14-17; Ord. No. S2001-005, § 1, 2-5-2001)

Sec. 22-22. Solid waste collection schedule and services.

The city shall provide the following level of services to all residential establishments:

- (1) Garbage and household trash collection, limited to the contents of two rollout or other approved containers for the service described in subsections 22-10(1) and (2), on a scheduled day one time per week from residential units only;
- (2) Refuse, other than garbage or heavy debris, from residential units only properly containerized or as prescribed by subsection 22-10(8) on a scheduled day one time per week;
- (3) One stationary container (lodal) per week.

(Code 1961, § 14-22; Ord. No. S2004-008, § 2, 6-28-2004)

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Financial Officer
DATE: March 8, 2010
RE: **Finance - Approve Tax Refunds Greater Than \$100**

THE QUESTION:

Staff requests Council approval of tax refunds.

RELATIONSHIP TO STRATEGIC PLAN:

Core Value: Stewardship

BACKGROUND:

- The Cumberland County Board of Equalization and Review approved two refunds at their January 2010 meeting for the City of Fayetteville.
- Council approval is requested to issue the tax refunds approved by the board.
- The individual refunds are reflected in the attached memorandum.

ISSUES:

None.

OPTIONS:

1. Approve the tax refunds.
2. Do not approve the tax refunds and request additional information.

RECOMMENDED ACTION:

Approve the refunds.

ATTACHMENTS:

Tax Refunds Greater Than \$100



March 8, 2010

MEMORANDUM

TO: Lisa Smith, Chief Financial Officer *LS*

FROM: Nancy Peters, Accounts Payable *NP*

RE: Tax Refunds of Greater Than \$100

The tax refunds listed below for greater than \$100 were approved by the Cumberland County Special Board of Equalization for the month of January, 2010.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Howard, Pearl M.	3760280	2007	Property burned	136.23
DLL/AAC Acceptance, LLC	8950455	2005-2008	Listed twice in Error	917.22
TOTAL				\$1053.45

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Terrie Hutaff, Human Resources Development Director
DATE: March 8, 2010
RE: **Human Resources Development - Revisions to the Personnel Ordinance**

THE QUESTION:

There have been changes to the Family Medical Leave Act (FMLA) and to the City's Longevity Pay Plan that need to be updated in the Personnel Ordinance.

RELATIONSHIP TO STRATEGIC PLAN:

None

BACKGROUND:

The City's Personnel Ordinance has not been significantly modified in 15 years. The Human Resources Development and Legal staffs are working on a complete revision of the ordinance. Although the staffs are working on the revisions, there have been changes to the FMLA and longevity ordinance that need to be implemented. Specifically in January 2009, the federal government amended the FMLA to provide unpaid leave for employees due to immediate family members' involvement in active military duty. Additionally, Longevity Pay was eliminated for employees hired on or after July 1, 2009. These changes have been made to the policy and employee handbook and the Personnel Ordinance needs to be amended as well.

ISSUES:

Ensuring that our ordinance is consistent with federal law and our Personnel Policy.

OPTIONS:

RECOMMENDED ACTION:

Approve the recommendation and direct staff to format the amendment consistent with Section 1-6 of the City Code.

ATTACHMENTS:

Ordinance Amending Chapter 19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 19, PERSONNEL, 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:

Section 1: Section 19-153 is amended by inserting the underlined portion:

Regular full-time employees, with the exception of Police Officers, hired prior to July 1, 2009 are eligible for longevity pay based on the table listed below.

Longevity increments shall be added to employee's base pay in recognition of years of continuous service as follows:

- After five years . . . 2 1/2%
- After ten years . . . 4 1/2%
- After 15 years . . . 6%
- After 20 years . . . 7 1/2%

Police Officers receiving longevity pay on April 17, 2006 have their longevity pay rolled into their base pay and are no longer eligible for future longevity increments. All other City Employees hired on or after July 1, 2009 are not eligible for longevity pay.

Sec. 19-189. Family and medical leave is amended by inserting the underlined portion:

- (a) City employees are eligible for unpaid leave in accordance with the Family and Medical Leave Act of 1993 as amended January 2009 (FMLA) when an employee requires absence from work due to the birth, foster care, or adoption of a child, the care of a child, spouse or parent who has a serious medical condition or the inability of the employee to perform the essential functions of his job due to a serious health condition.
- (b) Family and medical leave is limited to 12 weeks (except as listed below) in any 12 consecutive months and is available only to regular full-time or part-time employees who have 12 months of service and have worked a minimum of 1,250 hours in the 12 months preceding the leave request.
- (c) Employees may be eligible for 26-weeks of unpaid caregiver leave to care for a child, spouse, parent, or next of kin who is a current member of the armed forces and was seriously injured or became ill while on active military duty. In this case the 12-month period begins when the leave commences and ends 12 months later regardless of the calculation method for the FMLA year.

The 26-week caregiver leave entitlement applies for each service member and for each illness or injury incurred, and includes combined FMLA and qualifying exigency leave during any 12 month period in which military caregiver leave is taken.

(d) Employees are entitled to active duty leave for up to 12 weeks of unpaid leave for employees eligible due to any qualifying exigency arising from the employee's child of any age, spouse, or parent being called on, or up to, active duty (or being notified of an impending call or order to active duty) in support of a action or operation against an opposing military force.

e) Employees may be granted family and medical leave in a paid status through the use of accumulated sick leave, holiday leave, vacation leave or compensatory time.

(-f) An employee's health care coverage will be maintained by the city for the duration of family and medical leave. Dependent health care coverage and any other contributory benefits may be continued at the employee's expense.

(-g) When there is an inconsistency between the provisions of this section and the Family and Medical Leave Act of 1993 as amended January 2009, the Family and Medical Leave Act of 1993 as amended January 2009 shall control.

(Code 1961, § 22-43)

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 or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

Adopted this the _____ day of _____, 2010.

CITY OF FAYETTEVILLE

ANTHONY G. CHAVONNE, Mayor

ATTEST:

RITA PERRY, City Clerk

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Gloria Wrench, Purchasing Manager
DATE: March 8, 2010
RE: **Police - Bid Award for the Purchase of 2010 Police Cars**

THE QUESTION:

Staff requests approval to award contract for the purchase of thirty-one (31) 2010 Dodge Charger Police Cars.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government - Cost Effective Service Delivery

BACKGROUND:

The City currently has the need to purchase thirty-one (31) new police cars.

Formal bids were received February 16, 2010 as follows:

Ilderton Dodge, Chrysler, Jeep, High Point, NC	\$865,817.12
Crown Dodge, Fayetteville, NC	\$933,565.00

The contract will consist of the following: (12) marked cars; (2) marked cars with kennels; (14) marked cars with no partitions or prisoner seats; and (3) unmarked cars.

The total budgeted amount for the purchase of these cars is \$1,158,000. Seven (7) marked police cars will be funded by the COPS Hiring Recovery Program Grant.

ISSUES:

None

OPTIONS:

(1) Award contract according to staff recommendation. (2) Not award contract.

RECOMMENDED ACTION:

Award contract for the purchase of thirty-one (31) 2010 Dodge Charger Police Cars to the low bidder, Ilderton Dodge, Chrysler, Jeep, High Point, North Carolina, in the amount of \$865,817.12.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Steven K. Blanchard, PWC CEO/General Manager
DATE: March 8, 2010
RE: **PWC - Bid Recommendation - Electric Meters**

THE QUESTION:

The Public Works Commission of the City of Fayetteville requests Council approve bid award for annual electric meter contract.

RELATIONSHIP TO STRATEGIC PLAN:

Quality Utility Services

BACKGROUND:

The Public Works Commission, during their meeting of February 24, 2010, approved the following recommended bid awards for the annual electric meter contract, with option to extend contract for additional one-year period(s) upon agreement of both parties, and forward to City Council for approval. Items are budgeted in the CIP Budget in the total amount of \$800,000 (\$400,000 each for FY 2010 and FY2011). Bids were received February 2, 2010 as follows:

1. Shealy Electrical, Greenville, SC, low bidder meeting specifications in the total amount of \$255,750.00 for purchase of approximately 1500 Self-Contained, Form 2S, Class 200, 120-480 Volt, Solid State Demand Electric Meters

<u>Bidders</u>	<u>Unit Price</u>	<u>Total Cost</u>
Shealy Electrical, Greenville, SC	\$170.50	\$255,750.00
HD Supply Utilities, Wake Forest, NC	\$183.95	\$275,925.00

Bids were solicited from four (4) vendors with two (2) vendors responding.

2. Shealy Electrical, Greenville, SC, low bidder in the amount of \$144,375.00 for purchase of approximately 3500 Form 2S, Class 200, 240 Volt, Non-Demand Electric Meters

<u>Bidders</u>	<u>Unit Price</u>	<u>Total Cost</u>
Shealy Electrical, Greenville, SC	\$41.25	\$144,375.00
HD Supply Utilities, Wake Forest, NC	\$44.98	\$157,430.00

Bids were solicited from four (4) vendors with two (2) vendors responding.

ISSUES:

Shealy Electrical is not classified as a SDBE, minority, or woman-owned business.

OPTIONS:

N/A

RECOMMENDED ACTION:

Award bids as follows:

1. Shealy Electrical, Greenville, SC, low bidder meeting specifications in the total amount of \$255,750.00 for purchase of approximately 1500 Self-Contained, Form 2S, Class 200, 120-480 Volt, Solid State Demand Electric Meters
2. Shealy Electrical, Greenville, SC, low bidder in the amount of \$144,375.00 for purchase of approximately 3500 Form 2S, Class 200, 240 Volt, Non-Demand Electric Meters

ATTACHMENTS:

Bid Recommendation

Bid Recommendation

Bid History

**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: Steve Blanchard, CEO/General Manager **DATE:** February 17, 2010

FROM: Gloria Wrench, Purchasing Manager

.....
ACTION REQUESTED: Award annual contract for the purchase of approximately (1500) Self-Contained, Form 2S, Class 200, 120-480 volt, solid state demand Electric Meters (with the option to extend contract for additional one-year period(s) upon the agreement of both parties).
.....

BID/PROJECT NAME: Annual Electric Meter Contract

BID DATE: February 2, 2010 **DEPARTMENT:** Electric Meter Shop

BUDGET INFORMATION: Total budgeted CIP amount for the purchase of electric meters - \$800,000 (\$400,000 each for FY2010 and FY2011)

.....

BIDDERS	UNIT PRICE	TOTAL COST
<u>Shealy Electrical, Greenville, SC</u>	<u>\$170.50</u>	<u>\$255,750.00</u>
<u>HD Supply Utilities, Wake Forest, NC</u>	<u>\$183.95</u>	<u>\$275,925.00</u>

.....

AWARD RECOMMENDED TO: Shealy Electrical Wholesalers, Greenville, SC

BASIS OF AWARD: Lowest bidder meeting specifications

AWARD RECOMMENDED BY: Greg Green and Gloria Wrench

.....
COMMENTS: Bids were solicited from four (4) vendors with two (2) vendors responding. The low bidder meeting specifications is recommended. HD Supply Utilities submitted an alternate bid; however, the alternate meter did not meet our specifications.
.....

ACTION BY COMMISSION

APPROVED _____ **REJECTED** _____
DATE _____

ACTION BY COUNCIL

APPROVED _____ **REJECTED** _____
DATE _____

**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: Steve Blanchard, CEO/General Manager **DATE:** February 17, 2010

FROM: Gloria Wrench, Purchasing Manager

.....
ACTION REQUESTED: Award annual contract for the purchase of approximately (3500) Form 2S, Class 200, 240 volt, non-demand Electric Meters (with the option to extend contract for additional one-year period(s) upon the agreement of both parties).
.....

BID/PROJECT NAME: Annual Electric Meter Contract

BID DATE: February 2, 2010 **DEPARTMENT:** Electric Meter Shop

BUDGET INFORMATION: Total budgeted CIP amount for the purchase of electric meters - \$800,000 (\$400,000 each for FY2010 and FY2011)

.....

BIDDERS	UNIT PRICE	TOTAL COST
<u>Shealy Electrical, Greenville, SC</u>	<u>\$41.25</u>	<u>\$144,375.00</u>
<u>HD Supply Utilities, Wake Forest, NC</u>	<u>\$44.98</u>	<u>\$157,430.00</u>

.....

AWARD RECOMMENDED TO: Shealy Electrical Wholesalers, Greenville, SC

BASIS OF AWARD: Low bidder

AWARD RECOMMENDED BY: Greg Green and Gloria Wrench

.....
COMMENTS: Bids were solicited from four (4) vendors with two (2) vendors responding. The low bidder is recommended.
.....

ACTION BY COMMISSION

APPROVED _____ **REJECTED** _____
DATE _____

ACTION BY COUNCIL

APPROVED _____ **REJECTED** _____
DATE _____

BID HISTORY

ANNUAL ELECTRIC METER CONTRACT

Advertisement

1. Public Works Commission Website 01/12/10

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

List of Prospective Bidders

1. HD Supply Utilities, Wake Forest, NC
2. WESCO Distribution, Inc., Raleigh, NC
3. Shealy Electrical, Greenville, SC
4. Stuart C. Irby Co., Rocky Mount, NC

SDBE/MWBE Participation

Shealy Electrical Wholesalers is not classified as a SDBE, minority, or woman-owned business.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Tom Bergamine, Chief of Police
DATE: March 8, 2010
RE: **Police - Approval of the Ordinance Revisions to Article VII, Wrecker & Tow Ordinance**

THE QUESTION:

Whether to approve the proposed ordinance revisions to Article VII, Wrecker & Tow Service of the Fayetteville City Code?

RELATIONSHIP TO STRATEGIC PLAN:

This action is requested based on Principle H of the Council's Strategic Plan, Partnership and Citizens, specifically, working together with citizens to solve problems. Additionally, this is also an initiative under the guiding principle of Operational Efficiency within the Police Department's Community Wellness Plan (Target for Action: Crime Reduction Strategy and Report).

BACKGROUND:

At the November 9, 2009 City Council meeting, Sergeant Matthew Dow, Police Department, presented information regarding a new management system that will aid citizens in the recovery of towed vehicles and the management of the City's wrecker rotation list. Proposed ordinance revisions necessary for the successful implementation of the new management system were presented to Council. Members of the Cumberland County Wrecker's Association expressed concerns regarding the revisions. Council directed Staff to meet with the Wrecker Review Board to address the issues raised by the wrecker industry, including, but not limited to the following items: increased insurance requirements, updated language, City Code compliance, predatory towing, requirements for all tows-not just rotation (C:Logic). A meeting was conducted with the Wrecker Review Board on December 15, 2009 and from that meeting recommendations were incorporated into the revised ordinance.

At the January 25, 2010 City Council meeting, Council requested Staff to address additional issues and present the findings at a future meeting.

At the March 1, 2010 City Council Work Session meeting, Council directed Staff to remove the cap on the number of wrecker services allowed on the rotation list and to present the revised ordinance at the March 8, 2010 City Council meeting. Additionally, Staff informed Council of the requirement for the Rules & Regulations Policy to be revised to coordinate with this ordinance revision.

ISSUES:

Status of revised Wrecker Ordinance.

OPTIONS:

(1) Approve all ordinance revisions (2) Approve some ordinance revisions (3) Deny approval

RECOMMENDED ACTION:

Approve the ordinance amendments and authorize staff to revise the policies consistent with the approved ordinance amendments

ATTACHMENTS:

Proposed Wrecker Ordinance Revision

ARTICLE VII. WRECKER AND TOW SERVICE

Sec. 24-221. Definitions.

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

Applicant means a person, firm, or corporation engaged in the business of, or offering the services of, a vehicle wrecker or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle manufactured and designed for the primary purpose of removing and towing disabled motor vehicles that desires to participate in the rotation list by making application to the same.

Chief of police means the executive head of the police department of the city or anyone designated by him.

Consensual tow means a tow where the vehicle owner, operator or his agent or designee is present at the scene and the individual owner, operator or his agent or designee expressly requests that a specific towing or wrecker company to remove his vehicle and enters into a private contract with the towing or wrecker company for towing services.

Driver means any person driving a wrecker upon the streets, roads and public thoroughfares of the City of Fayetteville.

Licensee means a person, firm or corporation, or employee, agent or contract agent of any person, firm or corporation issued a license under the terms of this article.

Non-consent tow means a tow occurs without prior consent or authorization of the owner or operator of the motor vehicle that is to be towed. For purposes of this provision, a “non-consent tow” includes:

(i) a repossession ;

(ii) a city (county) initiated tow from public or private property;

(iii) a law enforcement initiated tow from public property;

or

(iv) a tow of a vehicle initiated by a private party.

Rollback means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a minimum deck length of 16 feet, and being constructed of steel or aluminum. The deck must have a minimum load capacity of 7,000 pounds, a deck winch with a minimum capacity of 6,000 pounds, and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet.

Rotation calls means calls for towing services made by the City using licensees from the City’s rotation list.

Rotation list means a list maintained by the police department containing the names of those wreckers licensed by the city to respond to requests made by the police department for the towing of vehicles.

Rotation wrecker services means the towing, lifting, righting, winching, removal or storage of a city-owned vehicle, illegally parked vehicle, wrecked vehicle, damaged vehicle, inoperable vehicle, seized vehicle, abandoned vehicle, disabled vehicle or other designated vehicle in accordance with the city rotation list.

Tow or towing means the act of moving damaged or disabled vehicles, illegally parked vehicles, and vehicles that must be moved for safekeeping and evidentiary purposes, and abandoned, wrecked, dismantled or inoperative vehicles constituting a nuisance.

Towing Operator means any person, firm corporation or other entity, whether licensed or not, who owns or operates a business which engages, in whole or in part, in the business of towing, removal or storage of motor vehicles in the City of Fayetteville.

~~Wrecker means a truck chassis having a minimum gross vehicle weight rating of 141914,000 pounds with a wheelbase of 84 inches from the rear of the cab to the rear axle, a hydraulic boom assembly having a minimum lifting power of 16,000~~16,000~~ pounds~~12 tons~~, a hydraulic wheel lift having a minimum lifting power of 334,000 pounds retracted, as rated by the manufacturer. A wrecker must also have two 12,000 pound winches and any additional safety equipment as specified by the chief of police and incorporated herein by reference as set forth in this article. ~~Any licensee that is currently on the rotation list as of September 1, 2000, may meet the requirements set forth in section 24-223 by using the size requirement set forth in section 24-224 until such equipment is replaced.~~~~

Wrecker inspector means the person designated within the City's police department to fulfill his duties as outlined in this article.

(Code 1961, § 20-164; Ord. No. S2001-004, §§ 1, 2, 2-5-2001)

Cross references: Definitions generally, § 1-2.

Sec. 24-222. Policy.

In order to protect persons who operate motor vehicles inside the city, it is desirable and necessary to adopt this article to ensure licensing, storage, availability, and other controls over persons and firms ~~licensed to provide wrecker service~~providing towing and vehicle storage services.

(Code 1961, § 20-165)

Sec. 24-223. Duties and requirements of licensees under this article.

(a) The licensee shall provide a wrecker vehicle of sufficient size and weight as defined in section 24-221. The operator of such wrecker shall follow the manufacturer's operation manual in the operation of such wrecker. The wrecker operator shall not attempt to tow any vehicle that would reduce the weight of the front axles of the wrecker by 50 percent or more.

(b) All wreckers shall be equipped with warning lights required under state law. Wreckers and rollbacks shall operate all warning devices while stopped in or near a street, highway, public vehicular area, or any other area where vehicles may travel. Wreckers and rollbacks are not required to operate warning lights while in tow unless the vehicle is oversized or a condition exists that requires towing the vehicle substantially below the speed limit. A wrecker or rollback with a vehicle in tow must have auxiliary tow lights attached to the towed vehicle in a manner that allows following traffic to observe whether the towing unit is turning or braking. If a rollback is transporting a vehicle on the bed and the turn and brake lights are visible to the rear, no auxiliary tow lights are necessary. on-scene and while vehicle is in tow. Pursuant to North Carolina state law, all wreckers shall also have the name of the owner printed on both the sides of the vehicle in letters not less than three inches in height. Wreckers and rollbacks shall be marked in accordance with N.C. Gen. Stat. § 20-101, as it may be modified from time to time.

(c) The licensee shall provide continuous 24-hour-a-day service each day of the year, and there shall be an attendant on duty at the storage lot, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday except for emergencies and ~~wrecker service calls~~ State and Federal holidays. This attendant shall be clothed with the authority to release any vehicle upon the legal conditions of release being fulfilled. The attendant should also be authorized to provide assistance to the driver and any relevant information regarding the towing of their vehicle, including, but not limited to, billing inquiries and property damage. The daytime calls at the daytime rate will be for calls received from 8:00 a.m. until 5:00 p.m. Monday through Friday. The nighttime call rate will be for calls received from 5:01 p.m. until 7:59 a.m. Monday through Friday. The night rate will be charged for all calls received on weekends and holidays. The licensee shall also post instructions in an area that is visible to the public regarding how to retrieve the driver's vehicle when attendants aren't present.

~~(d) The licensee shall assume all liability and shall indemnify and save the city harmless from such liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the firm's employees or other persons and shall maintain the required insurance policies.~~

~~(ed)~~ The licensee shall not release any vehicle directly impounded by the city without authorization by the police department.

~~(f) The licensee shall charge for services such rates as may be fixed by the city council.~~

~~(ge)~~ Wrecker services Licensees shall perform towing service for the city on a rotation basis.

(h) No licensee or agent of the licensee shall intercept police calls by any means for the purpose of soliciting business.

(i) No licensee or agent of the licensee shall engage in unfair and deceptive trade practices in the course and operation of its business in violation of N.C. Gen. Stat. § 75-1, et. seq.

~~(h)~~

(i) Only drivers holding valid North Carolina driver's licenses may respond to City rotation calls. The licensee shall provide North Carolina licensed wrecker drivers for the purpose of responding to city rotation calls. Except as excluded by G.S. 20-8(3). Drivers must adhere to the North Carolina Driver's License Act, N.C. Gen. Stat. § 20-5, et seq. Out-of-state drivers will not be permitted to respond to rotations calls. When the applicant submits his application, he shall provide Aa current copy of all driver's licenses for his wrecker drivers who will be responding to city rotation calls. shall be provided by the applicant upon application to the city rotation lists. Drivers with felony offenses or misdemeanors related to North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, offenses involving moral turpitude or the offense of driving under the influence of an intoxicating liquor or drug, or who isare an habitual offenders of traffic laws, will not be authorized to respond to city rotation calls.

(k) Drivers employed by licensees are required to attend and successfully complete eight hours of hands-on training and pass a written test pertaining to the towing and recovery of vehicles. This training shall be conducted by a recognized training facility or by a trained and certified licensee.

~~(j)(k)~~ The licensee shall provide:

(1) ~~Available space~~An outdoor space measuring 8,600 square feet for properly accommodating and protecting ~~a minimum of 15 disabled~~ motor vehicles to be towed or otherwise removed from the place where they are disabled. Such storage space for vehicles shall be enclosed by a minimum six-foot chain link fence or a fence of similar strength and shall have all entrances and exits secure from public access and be compliant with all applicable articles of the Fayetteville City Code;

~~(2) (2)~~ A storage vault or storage room on the storage lot or premises which is adequate to secure and protect personal property which may be left in vehicles towed to a private wrecker. An office space with proper signage identifying the business and telephone number

(3) The storage lot shall be located within the corporate limits of the City Fayetteville. If a licensee and/or applicant is a family member of another licensee and/or applicant, or has a monetary interest, or is otherwise employed by another licensee and/or applicant, the respective businesses must be at least one mile apart.

(4) Licensees are prohibited from sharing any office space, employees or equipment that is subject to inspection with other licensees. However, licensees may request assistance from another licensee to

assist in a particular tow or vehicle recovery, provided that the assisting licensee supervises and operates its own equipment at the scene of that tow or vehicle recovery.

(l) Licensees shall be held responsible for the actions of their employees. Failure to correct or prevent conduct that is in violation of this article that the Licensee had knowledge of, or should have had knowledge of by the exercise of due diligence, will result in action being taken against the Licensee, up to, and including, removal from the city rotation list.

(m) Upon request or demand, and proof of ownership or right of possession, a licensee shall return personal property stored in a vehicle, provided that all authorized charges for towing of the vehicle have been paid. A licensee may not require payment of any storage fees as a prerequisite to release personal property. Any items attached to the vehicle such that a tool of any type is required for removal is not considered personal property under this provision.

(n) All wrecker and rollbacks utilized by the Licensee shall be registered to the Licensee at the address indicated on the Licensee's application as its storage lot or principal place of business within the City of Fayetteville.

(o) Licensees must release vehicles from storage after regular business hours upon request of the Fayetteville Police Department or the owner of the vehicle. Licensees may charge a release fee in accordance with the fee schedule approved by City Council referred to in Section 24-237 for such service as it may be modified from time to time. The Licensee may also require payment of the release fee at the time of the release.

(p) Licensees must tow vehicles to their designated storage facility or to another location designated by the vehicle owner or the Fayetteville Police Department. Charges for tows to a police facility, where the vehicle is not relocated to the licensee's storage facility within fourteen 14 days, shall be paid by the City.

(Code 1961, § 20-166)

Sec. 24-224. Additional equipment authorized.

(a) After having met the requirement of subsection 24-223(a), an ~~operator~~ Licensee may have an additional wrecker meeting the requirements of subsection 24-223(a). ~~of not less than 1014,000 pounds GVWR (one ton) with dual rear wheels. This wrecker must have at least a single cable with no smaller than a 5/16 inch in diameter 6,000-pound winch and boom structure and a minimum of 3,000-pound wheel lift a boom rated at 8 tons with two 8,000 pound winches with 100 foot cables no smaller than 3/8 of an inch in diameter and a wheel lift having a minimum lifting power of 3,000 pounds retracted as rated by~~

~~the manufacturer.~~ All auxiliary equipment must be duplicated on this additional wrecker as required by the wrecker inspector for large wreckers.

(b) After having met the requirement of subsection 24-223(a), ~~an operator Licensee~~ may have a rollback for the purpose of initial response to rotation calls. This rollback must have a minimum gross vehicle weight of 14,000 pounds, a minimum deck length of 16 feet and be constructed of steel or aluminum. The deck winch must have a minimum capacity of 6,000 pounds and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet. All auxiliary equipment must be duplicated on the rollback as required by the wrecker inspector for the primary rotation wrecker, except dollies.

(c) It is not the intent of this section to allow the wrecker defined in subsection (a) of this section to be used as a substitute for that required in subsection 24-223(a), in order to be eligible to be on the rotation list.

(Code 1961, § 20-167; Ord. No. S2001-004, § 3, 2-5-2001)

Sec. 24-225. Application for license.

~~Any person desiring to perform towing work at police request~~ applicants shall submit an "application for wrecker service license" in duplicate to the wrecker inspector. Applications ~~forms~~ shall be obtained from the office of the wrecker inspector. This ~~form application~~ shall ~~state~~ include:

(1) The name, ~~home and business address and telephone number~~ of the applicant/owner, and name of the business if different from name of owner; ~~home and business address and telephone;~~

(2) That the storage lot on which towed vehicles will be stored is located within the city limits and additional information concerning the size and security features of the lot;

(3) The towing equipment available, its size and capacity;

(4) A complete listing of the insurance policies, complying with section 24-229 and the carriers and agents the wrecker applicant would place into effect upon license approval;

~~(5) A copy of a current city privilege license;~~

~~(6) Copies of all valid North Carolina drivers' licenses for its drivers. Copies of drivers' licenses for drivers excluded by G.S. 20-8(3).~~

~~(7) Such other information as the wrecker inspector may find reasonably necessary to determine whether or not the requirements of this article will be complied with and that it is in the best interest of the public health, safety and welfare to issue a license to the applicant;~~

~~(6) The applicant shall also provide a current city privilege license.~~

~~(7) The applicant shall also provide a current copy of all North Carolina driver's licenses for its wrecker drivers.~~

(Code 1961, § 20-168)

Sec. 24-226. Licensing.

(a) ~~Within 30 days (strike 30 days) a~~Within a reasonable period, but no later than ninety (90) days after receiving an "application for wrecker service license," the wrecker inspector shall conduct an investigation to determine if the applicant has complied with the necessary standards and criteria of this article, and that it is in the best interest of the public health, safety and welfare that a license shall be issued to the applicant after having complied with the provisions of section 24-223. If approved, the applicant's name shall be placed at the end of rotation list; provided, that if an applicant is refused a license by the wrecker inspector, the applicant shall have the right to appeal the denial to the wrecker review board for a determination concerning the issuance of license to such applicant. The appeal shall be in accordance with section 24-243.

~~(b) (b)~~ After the initial approval of the licensing, the wrecker inspector shall conduct an annual inspection to ensure that the licensee maintains the necessary equipment and is otherwise in compliance with the requirements of this article.

~~(b) no more than when a waiting list and considered for selection to the City wrecker rotation list the applications. Applicants from the waiting list will beed for selection to the City rotation list~~

(Code 1961, § 20-169)

Sec. 24-227. Mandatory refusal of application.

If an applicant has been convicted, entered a plea of nolo contendere, or received a prayer continued for judgement within the last ~~three~~five years for ~~of a any criminal offense as defined by Chapters 14 or 90 of the North Carolina General Statutes~~felony offenses or misdemeanors related to North Carolina's Controlled Substances and Vapors Act as it may be modified from time to time ~~felony or misdemeanor involving moral turpitude~~ or the offense of driving under the influence of an intoxicating liquor or drug, or is an habitual offender of traffic laws, it is the finding of the city council that it is not in the best interest of the public health, safety or welfare to issue a license under this article to such applicant and therefore any such application shall be denied.

(Code 1961, § 20-170)

Sec. 24-228. Conditions precedent to issuance of license.

When an application is approved, a license will be issued when:

~~(1) (1)~~ Insurance policies required by this article have been procured and a copy of each policy has been given to the wrecker inspector.

Each policy shall be written by a company licensed to do business in ~~the state~~North Carolina, and issued in the name of the licensee.

(2) Each licensee must have its own insurance policies to insure its business, including, but not limited to, equipment, employees, real property and other personal property. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insureds on their respective policies. shall be issued to each business, identified by a separate policy number.

(23) The requirements of this article and all other governing laws and ordinances have been met, including that each licensee maintains a business with a business telephone listing within the city limits. This business will be at the same location as the storage lot.

(Code 1961, § 20-171)

Sec. 24-229. Insurance.

The following are the minimum insurance requirements to be kept and maintained by any licensee under this article at all times such license is in effect:

(1) *Garage/auto liability policy.* A garage liability policy covering the operation of the licensee's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$1,000,000.00, ~~for any one person injured or killed and a minimum of \$300,000.00 for more than one person killed or injured in any accident and an additional \$50,000.00 for property damage.~~

(2) *Garage keeper's/On-Hook Coverage policy.* A garage keeper's ~~legal~~ liability policy for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount of \$100,000.00 (\$20,000.00 per claim per vehicle). This shall not be a requirements for open storage areas. Similarly, each licensee must have its own "on hook" insurance policy in the minimum amount of \$100,000.00.

(3) *Notice of change.* Each policy required under this section must contain an endorsement by carriers providing ten days' notice to both the city and the insured in the event of any change in coverage under the policy.

(4) Each licensee must have a separate liability insurance policy issued in the name of the licensee. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insured on their respective policies.

(Code 1961, § 20-172)

Sec. 24-230. Hold harmless provision.

Any licensee shall indemnify, save and hold harmless the city, its officers, agents, and employees, from any and all claims, actions, defenses, suits, and proceedings arising out of any negligent ~~act~~, grossly negligent or intentional, willful or wanton misconduct on the part of a licensee, employee, or part-time employee of the licensee, which such ~~negligent act~~misconduct is the proximate cause of damage to any vehicle towed or stored in a lot authorized under the terms of this article, including, but not limited to, liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the firm's employees or other persons.

(Code 1961, § 20-173)

Sec. 24-231. Wrecker inspector; office created.

There is hereby created the office of wrecker inspector, who shall be appointed by the city manager.

(Code 1961, § 20-174)

Sec. 24-232. Duties generally.

The wrecker inspector shall be responsible for:

(1) The practical administration of the wrecker ordinances and regulations and the safety and welfare of the public in connection with the operation and use of rotation wreckers;

(2) The inspection of wreckers;

(3) Advising the chief of police, the city manager, and the wrecker review board with respect to matters governed or incidentally involved in the operation or administration of the wreckers and the rotation wrecker ordinance, after having conferred with members of the wrecker industry.

(4) Making recommendations for submission to the city manager, wrecker review board, and to the city council, after having conferred with members of the wrecker industry. with respect to the adequacy of wrecker service in the city to serve the public convenience and necessity;

(5) Making such studies and recommendations as he may deem advisable looking towards more efficient operation of wreckers and rotation wreckers to the end that the public safety and welfare will be served and proper as adequate wrecker service to the general public will be promoted;

(6) May collect data and statistics related to non-consent tow and release of vehicles.

(7) The wrecker inspector may prescribe procedures for the reporting of information relating to the impound and recovery of non-consent tows

and, consistent with law, operate a centralized data system for the tracking of this information.

(68) All other duties as required by this article.

(Code 1961, § 20-175)

Sec. 24-233. Cost and inspections.

(a) Except as provided in section 24-234, all costs incident to towing and storage shall be paid by the owner, or person in charge or possession of the towed and stored vehicle, to the licenseetowing operator, and a receipt for payment shall be issued to such person. With regard to rotation calls, The the city shall assume no liability or responsibility for any vehicle removed from any place without the authority of the police department. Each licensee shall maintain approved records and claim check system to assure release of vehicles to the rightful owner or authorized person. Such records shall be open to the police department and/or the wrecker inspector for investigation of specific complaints, in writing, and for compiling surveys under this article. Any licensee shall permit any person appointed by the wrecker inspector to inspect his records, vault, security room, or storage area at such reasonable times as the wrecker inspector shall deem appropriate.-

(b) Any administrative costs due to the city and imposed by this article, to include any service fee due for the operation and maintenance of a centralized electronic data reporting system, shall be collected by the licensee towing operator at the same time the cost incident to towing and storage are collected in subsection (a) of this section, and immediately paid to the City's Finance Department or designeeoffice of the wrecker inspector by the licensee.

(Code 1961, § 20-176)

Sec. 24-234. Wreckers called by the police.

The police department shall ensure that wreckers are called to the scene of an accident or to impound vehicles on a rotation basis, distributing the calls from the rotation list. The chief of police shall not call or cause to be called any wrecker not on the rotation list unless all such wreckers are unavailable, or unless the owner of the vehicle to be towed requests that a specific wrecker be called; any wrecker called by the police department not on the rotation list shall comply with statutory insurance requirements. In accordance with North Carolina's Incident Management policy, as may be periodically modified, it is specifically permitted for the police department to call a wrecker out of sequence where, due to the public's health, safety and welfare, -or in an emergency or life-threateninglife-threatening situation, proximity to the wreck and estimated response

time make it more necessary to do so. Out of sequence calls shall count as rotation calls.

(Code 1961, § 20-177)

Sec. 24-235. Storage of vehicles.

(a) It shall be the responsibility of any licensee to secure in a safe manner any vehicle or personal property contained in such vehicle that is placed in the custody of the licensee as a result of being called by the city police department to perform a tow. The area within which such vehicle and/or personal property shall be stored shall meet the minimum requirements of subsection 16-223(i). If at the time the vehicle was towed the storage area provided by the licensee is full, then the licensee shall secure the vehicle and/or personal property elsewhere as permitted by the police department. In the event that the vehicle or personal property placed in his custody is the subject of a police investigation for evidentiary purposes, and the storage area is full, then the licensee shall immediately contact the wrecker inspector or the desk sergeant on duty and make arrangements to secure the vehicle and/or personal property in a safe manner.

(b) Whenever a vehicle is impounded and held for evidentiary purposes as the result of a criminal arrest, the owner of the vehicle shall be reimbursed by the city for any towing and storage fees incurred during the period of time that the car is held for evidentiary purposes only upon one of the following conditions being met:

- (1) ~~If~~The owner is not arrested with any crime arising out of the alleged criminal activity resulting in the impoundment; or
- (2) ~~If~~The vehicle is returned pursuant to the provisions of G.S. 90-112.1; or
- (3) If the owner is arrested, ~~only if~~ the charge is ~~dismissal~~dismissed or there is a finding of no probable cause in district court.

In the case where none of the above conditions have been satisfied, the city shall reimburse the towing operator for any towing and storage fees and/or assist the towing operator in obtaining restitution as allowed by law.

(Code 1961, § 20-178)

Sec. 24-236 Electronic Reporting of Tow Information

(a) The eCity shall, consistent with state and local law, prescribe a form or other method for the electronic reporting of all ~~non-consent tow~~stowing services provided within the City of Fayetteville in order to facilitate and expedite the recovery of a vehicle from a vehicle storage facility, as defined in this ordinance.

(b) The towing operators, as defined by this ordinance, shall report by electronic means to the police department all necessary information required to

assist the City in notifying the registered owner regarding the towing and/or release of their vehicle. The reporting shall be completed within sixty (60) minutes from the time the vehicle is delivered to the storage lot, provided that the tow occurred during normal business hours, or by 9:00 a.m. the following business day if the vehicle was towed during non-business hours. The necessary information related to the towing of the vehicle information to be reported should include, but is not limited to, the following:

- (1) the name and address of the registered owner of the vehicle.
- (2) the location of the stored vehicle;
- (3) a description of the stored vehicle, including the color, —make, and model of the vehicle;
- (4) -vehicle license plate number and state; and a license number, if there is one;
- (5) vehicle identification number (VIN); motor vehicle registration information.; and
- (6)—the date and time that the vehicle was towed; and
- (7) the location from where the vehicle was towed. the date the vehicle was released from custody. —

If applicable, the wrecker operator shall also provide the following information within sixty (60) minutes of releasing the vehicle:

- (1) the owner's driver's license/identification number;
- (2) the date and time the vehicle was released from custody; and
- (3) the identity of the individual to whom the vehicle was released, to include the name, address and driver's license/identification number if different from that of the registered owner. —

Sec. 24-_____ . Facilitating Recovery of Non-Consent Towed vehicles; Reporting of Data.

(a) The wrecker inspector shall collect data and statistics related to the impoundment and release of the following vehicles that are towed as non-consent tows in accordance with state law and with this ordinance. Data should include information relating to:

- (1) Vehicles that are towed by law enforcement; and
- (2) Vehicles that are towed as private property impounds, repossession, and emergency tows.

(b) The wrecker inspector may prescribe procedures for the reporting of information relating to the impound and recovery of non-consent tows and, consistent with law, operate a centralized data system for the tracking of this information.

Sec. 24-236237. Fees.

The city council, from time to time, upon the recommendation of the wrecker inspector, after having consulted with the licensees, shall establish a table of maximum fees and costs that may be charged by licensees under the provisions of this article, and establish any administrative fees due to the city to be charged per tow for the costs incurred in

administering the provisions of this article-, including the assessment of an administrative fee for all non-consent tows initiated under this ordinance.

(Code 1961, § 20-179)

Sec. 24-~~237~~238. Other regulations.

The wrecker inspector, subject to approval by the city manager, shall establish and cause the enforcement of reasonable rules and regulations for licensees as from time to time he deems appropriate for the safety, well-being, and protection of citizens within his jurisdiction and their property. These rules and regulations, as approved by the city manager from time to time, shall be incorporated in this section by reference. A copy of these rules and regulations shall be available for inspection in the office of the wrecker inspector at all times.

(Code 1961, § 20-180; Ord. No. S2001-004, § 4, 2-5-2001)

Sec. 24-~~238~~239. Solicitation of business.

(a) It shall be unlawful for ~~the operator of any wrecker towing operator~~ or person acting on behalf of any ~~wrecker or towing service operator, whether that vehicle or towing service is licensed under the provisions of this article or not,~~ to stop or approach within 1,500 feet of a scene of an accident or disabled vehicle either for the purpose of soliciting an engagement for towing service, either directly or indirectly, or to contact the owner/operator or legal possessor of a disabled or wrecked vehicle, either directly or ~~indirectly, or indirectly, or~~ to solicit by phone, for the purpose of soliciting business or to furnish any towing service, unless the ~~wrecker towing~~ operator has been summoned to such scene by the owner/operator or legal possessor of a disabled or wrecked vehicle or has been requested to perform such service at the request of a law enforcement officer or agency pursuant to that agency's procedures. For purposes of this section, unlawful solicitation shall include, but is not limited to, the distributing of business cards, tokens or items of any kind bearing ~~the name~~ the name of a ~~wrecker or towing firm~~ towing operator within 1,500 feet of a scene of an accident or disabled vehicle by a licensee not summoned to such scene as provided in this section.

(b) It shall be unlawful for a city, county or state employee to solicit for any towing ~~or wrecker service operator~~. For purposes of this section, unlawful solicitation shall include the distributing of business cards, tokens or items of any kind bearing the name of a ~~wrecker or towing firm~~ operator at anytime.

(Code 1961, § 20-181; Ord. No. S2001-004, § 5, 2-5-2001)

Sec. 24-~~239~~240. Suspension or revocation of license.

(a) The following shall be grounds for suspension or revocation of a license issued under this article:

(1) The license was secured by fraud or by the concealment of a material fact by the licensee and such fact, if known, would have caused a refusal to issue a license;

(2) The licensee, or any employee, representative or agent of the licensee, is charged with any criminal offense as defined by Chapters 14felony or any violations of 90 of the North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, General Statutes, or the offense of driving under the influence of an intoxicating liquor or drug.

(3) The licensee failed to procure insurance as provided in Sections 24-228 and 24-229.

(24) The licensee has violated any of the requirements of the regulations established by the wrecker inspector under this article;

(35) Past services rendered by any licensee are shown to be detrimental to the public health, safety, and welfare, including overcharging of wrecker fees or false charging of items done by the wrecker business;

(46) The licensee paid in the form of a gratuity any third person for information as to the location of the accident;

(57) The licensee has violated the fee schedule by overcharge or false charges;

(68) Failure to operate the wreckers specified in such a manner as to serve the public adequately and efficiently;

(79) Failure to maintain wrecker and recovery equipment, to include all vehicles used in towing, vehicle in good condition;

(810) Failure to pay the city privilege license fee imposed upon wreckerslicensees;

(911) Failure to report accidents while towing city rotation call vehicles or to furnish such other records and reports as may be required by this chapter and/or the wrecker inspector;

(12) Failure to pay civil penalties issued pursuant to this ordinance;

(1013) The intentional, willful or wanton Failure-failure to comply with any of the provisions of this chapter, ordinance or state laws relating to the operation of wreckers; and-

(14) The intentional, willful or wanton failure to comply with the reporting requirements of this ordinance, as may be periodically modified.

(b) If the wrecker inspector determines that any of the above violations have occurred, he shall have the authority to revoke or suspend a license as follows:

(1) For violation of subsection (a)(1) through (3) of this section, revocation;

(2) For a first time violation of subsections (a)(24) through (10134) of this section, suspension up to 30 days;

(3) For a second violation of subsections (a)(~~24~~) through (~~10134~~) of this section, within a period of two years from the date of the first suspension, suspension up to 60 days; and

(4) For a third violation of subsections (a)(~~24~~) through (~~10143~~) of this section, within a period of two years from the date of the first violation, revocation.

(c) Any licensee who has his license revoked shall be eligible to apply for a new license one year from the date of the revocation. For purposes of this section, the date of suspension or date of revocation shall be the date of the notification by the wrecker inspector pursuant to section 24-240, or if an appeal is made, the date of the final action by the wrecker review board.

(Code 1961, § 20-182)

Sec. 24-~~240~~241. Notification of suspension or revocation by wrecker inspector.

Such revocation or suspension shall be in writing and notify the licensee of the following:

(1) The nature of the violation;

(2) The wrecker inspector's recommendation as to whether the licensee should remain on the rotation wrecker list, should be suspended, or its license revoked;

(3) That the licensee has a right to appeal such action to the wrecker review board.

(Code 1961, § 20-183)

Sec. 24-~~241~~242. Wrecker review board.

There is hereby established a wrecker review board whose function is to hear appeals from any decision of the wrecker inspector pursuant to this article. The board shall be composed of a chairman, two individuals selected by the licensees, and two individuals appointed by the chief of police. The chairman shall be selected by the city council, and shall be a disinterested person who is not a licensee, wrecker owner or operator, or a city employee. Two members of the wrecker review board shall be selected by the licensees by means of a vote of the licensees. The chief of police shall appoint two members of the police department who hold the rank of sergeant or higher to the wrecker review board. All members shall serve for a term of two years, and no member shall serve more than two consecutive terms. The wrecker inspector shall serve as a nonvoting advisor and to bring complaints to the wrecker review board.

The wrecker review board will meet on a quarterly basis irrespective of whether they receive any notices of appeals. All meetings, to include appeal hearings, will be governed by North Carolina's open meeting laws.

(Code 1961, § 20-184)

Cross references: Administration, ch. 2.

Sec. 24-~~242~~243. Appeal to the wrecker review board.

Whenever any provision of this article shall provide for an appeal of a decision of the wrecker inspector to the wrecker review board, the following procedure shall be followed:

- (1) The appellant shall give written notice of appeal to the city clerk within ten days of receiving the notice of the action he is appealing;
- (2) The wrecker review board shall hold a hearing on the appeal within 30 days of receipt of the written notice of appeal;
- (3) The written notice of appeal shall state whether or not the appellant wants an open or closed hearing before the wrecker review board. In the event of the failure to make such a request, such hearing shall be open.

(Code 1961, § 20-185)

Sec. 24-~~243~~244. Action pending appeal; lapse of time; waiver.

(a) Whenever a provision of this article states a specific time within which an appeal must be taken, and regardless of the level of authority from which the appeal may be taken, if the appeal is not taken within the time prescribed, then the action of the wrecker inspector from which the appeal may have been taken is deemed to be final.

(b) The action of the wrecker inspector suspending or revoking the rights granted under the authority of this article shall be effective upon receipt of notice by the licensee; provided, that if the licensee files a timely appeal, then any right under this article heretofore existing shall continue in effect during the pendency of any appeal or 30 days, whichever is sooner.

(c) Any hearing may be continued upon 48 hours' written notice prior to the date of the hearing; provided, that if the new date for the hearing is more than 30 days from the date of the original notice of appeal, then the rights of the appellant pursuant to subsection (b) of this section may only be extended upon a showing of good cause.

(Code 1961, § 20-186)

Sec. 24-~~244~~245. Hearing; action of wrecker review board.

(a) The purpose of the hearing before the wrecker review board shall be to determine whether or not the action of the wrecker inspector in suspending or revoking the rights and privileges of the appellant was in the best interests of the public health, safety, and welfare of the city. The appellant shall be permitted to present any evidence relevant to the subject matter of the appeal. The hearing

shall be administrative in nature, and the action of the wrecker review board shall be final.

(b) If the action of the wrecker review board is to affirm the action of the wrecker inspector, then the effective date of the action shall be the date of the hearing. Any period of actual suspension as the result of a continuance prior to the hearing shall be counted toward any period of suspension approved by the wrecker review board.

(Code 1961, § 20-187)

Sec. 24-~~245~~246. Hearing procedures.

Any hearing before the wrecker review board shall use the following procedures:

- (1) The hearing shall be open, unless specifically requested by the appellant prior to the hearing;
- (2) The appellant shall be entitled to make any statements either by an attorney or someone of his own choosing;
- (3) The appellant shall be entitled to make any statements or present any witnesses on his behalf that he desires;
- (4) The hearing shall be administrative in nature, there shall be a right of cross examination;
- (5) The appellant shall be entitled to transcribe the proceedings at his own cost.

(Code 1961, § 20-188)

Sec. 24-~~246~~247. Applicability to previous licensees; noncompliance.

Whenever this article is amended from time to time by the city council and such amendments shall render any current approved licensee in noncompliance with this article as amended, such ~~noncomplying-noncompliant~~ licensee shall have a period of one year from the effective date of the amendment of the article within which to comply.

(Code 1961, § 20-189)

Sec. 24-~~247~~248. Persons prohibited from holding a license.

No ~~city council member~~ ~~council member,~~ or employee directly involved with the administration of this article shall be permitted to hold a license under the terms of this article.

(Code 1961, § 20-190)

Sec. 24-249. Improper towing

(a) It is a misdemeanor offense to tow a motor vehicle from a lot that is subject to the provisions of N.C.G.S. 20-219.2, as it may be modified from time to time, unless the lot and individual parking spaces are properly designated as mandated by that statute.

(b) Any towing operator shall not charge the owner or operator of the towed vehicle in excess of one hundred dollars (\$100.00) for the non-consensual tow of the motor vehicle or in excess of twenty-five dollars (\$25.00) per day for storage fees; however, no storage fees shall be charged for the first twenty-four (24) hour time period from the time the vehicle is towed from the property. The fee of one hundred dollars (\$100.00) shall be all inclusive. The fees referred to in this section shall be payable by cash, debit card or major national credit card at no extra cost. Failure to accept credit or debit cards for payment or to charge an additional fee for payment with a credit or debit card is a violation of this section and is punishable as a misdemeanor. No additional fees may be charged for using dollies, trailers, lifts, Slim jims or any other equipment or service. However, the maximum fees in this section shall not apply to the non-consensual towing of vehicles weighing in excess of two (2) tons. Non-consensual towing fees and storage rates shall be established by the City Council in accordance with their fee schedule, as it may be modified from time to time.

(c) Any towing operator removing a private vehicle at the request of any person, other than a police officer on duty, shall report to the Fayetteville Police Department the fact that the vehicle was towed and its present storage space in accordance with Sec. 24-236 of this article.

(d) Any towing operator summoned to tow any vehicle in a non-consensual towing shall not tow the vehicle and shall release the vehicle for a charge not to exceed fifty (50) percent of the non-consensual towing rate set out in paragraph (b) herein if the operator of the vehicle returns prior to the tow truck having left the location to which he was summoned and moves the vehicle immediately and prior to the tow truck having left the location to which it was summoned. The towing operator shall permit the owner of a vehicle towed non-consensually to remove personal property from a vehicle in the custody of the towing operator without any charge or fees. If the towing operator has removed personal property from the vehicle, it shall be returned to the owner of the property at no charge upon request made to the towing operator.

Sec. 24-~~248~~250. Enforcement.

(a) A violation of section 24-238, solicitation of business, by a licensee, shall submit the violator to a civil penalty in the nature of a debt in the sum of \$3,000.00 for each large rotation size tow and \$500.00 for each automobile rotation size tow. The civil penalty shall be imposed by a citation served personally or by registered mail to the violator by the wrecker inspector.

(b) Any violation of this article, other than sections 24-238 or 24-249, by a licensee, shall submit the violator to a civil penalty of \$100.00—\$250.00 in an amount in accordance with the fee schedule as adopted by the city council, as may be periodically modified. In addition, if-if a wrecker or towing service licensee is in violation under this article more than three times in one year for a violation of this article, the wrecker or towing service licensee shall also be subject to removed-removal from the rotation list for a period of one year. For purposes of removal and/or revocation, the -The violations can arise from the same incident, occur simultaneously and during the same incident.

(c) If a civil penalty issued under this section is not paid as set forth in the citation within thirty (30) days of receipt thereof, failure to pay shall result in the institution -City instituting collection procedures of an action in the nature of a debt in a court of competent jurisdiction to collect the civil penalty as pursuant to G.S. 160A-175(c) to collect the debt. The licensee will be suspended from all City rotation lists until the civil penalty is satisfied.

(Code 1961, § 20-191; Ord. No. S2001-004, § 6, 2-5-2001)

Secs. 24-249--24-270. Reserved.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Lisa Smith, Chief Finance Officer
DATE: March 8, 2010
RE: **Finance - General Fund Revenue and Expenditure Reports for the Three-Month Period Ended September 30, 2009 and the Six-Month Period Ended December 31, 2009**

THE QUESTION:

Information only. No action required.

RELATIONSHIP TO STRATEGIC PLAN:

BACKGROUND:

ISSUES:

None

OPTIONS:

RECOMMENDED ACTION:

No action required.

ATTACHMENTS:

09.30.09 Financials

09.30.09 Notes to Financials

12.31.09 Financials

12.31.09 Notes to Financials

**General Fund Revenue Report
For the Three Month Period Ended
September 30, 2009**

	FY2009 Actual thru September	FY2010 Annual Budget As Of September	FY2010 Actual thru September	FY2010 % of Budget Obtained	Actual % Change Over Last Year
Ad Valorem Taxes					
Ad valorem taxes					
Current year	5,507,002	55,653,209	5,268,776	9.47%	-4.33%
Prior year	575,850	1,162,000	513,290	44.17%	-10.86%
Penalties	45,092	315,000	47,956	15.22%	6.35%
Ad Valorem Taxes	6,127,944	57,130,209	5,830,023	10.20%	-4.86%
Other Taxes					
Vehicle license tax	155,415	627,285	148,285	23.64%	-4.59%
Privilege license	907,918	1,084,100	878,992	81.08%	-3.19%
Cablevision franchise tax	-	430,604	-	0.00%	NA
Gross Receipts Tax on Rental Property	83,805	544,590	74,579	13.69%	-11.01%
Other Taxes	1,147,138	2,686,579	1,101,856	41.01%	-3.95%
Unrestricted Intergovernmental Revenues					
Local option sales tax	7,269,895	32,375,771	7,051,177	21.78%	-3.01%
Utility franchise tax	920,309	4,647,921	1,291,805	27.79%	40.37% 1
Telecommunications sales tax	530,023	2,219,165	500,428	22.55%	-5.58%
Piped natural gas tax	80,105	679,507	64,358	9.47%	-19.66%
Video franchise fee	588,857	2,503,918	691,772	27.63%	17.48%
Beer and wine tax	-	992,105	-	0.00%	NA
Local	158,199	684,409	113,207	16.54%	-28.44% 2
Unrestricted intergovernmental	9,547,388	44,102,796	9,712,746	22.02%	1.73%
Restricted Intergovernmental Revenues					
Federal - Public Safety	6,078	2,268,611	226,673	9.99%	3629.44% 3
Powell Bill allocation	5,270,237	5,027,328	5,156,834	102.58%	-2.15%
State - Other	6,166	23,600	1,666	7.06%	-72.98%
State - Public Safety	19,567	65,400	14,625	22.36%	-25.25% 4
Solid waste disposal tax	-	136,913	-	0.00%	NA
County Recreation	167,688	2,656,792	162,668	6.12%	-2.99%
County - Other	17,846	77,689	17,814	22.93%	-0.18%
Restricted intergovernmental Revenues	5,487,582	10,256,333	5,580,281	54.41%	1.69%
Sales and Services					
Permits and fees	573,545	1,987,000	480,786	24.20%	-16.17% 5
Property leases	78,365	764,664	82,235	10.75%	4.94%
Engineering/planning services	79,316	370,172	83,115	22.45%	4.79%
Public safety services	265,022	1,196,437	210,049	17.56%	-20.74% 6
Environmental services	16,971	71,939	19,604	27.25%	15.52%
Recreation and cultural services	244,994	986,133	278,508	28.24%	13.68% 7
Other fees and services	116,766	91,921	20,531	22.34%	-82.42% 8
Sales and services	1,374,979	5,468,266	1,174,829	21.48%	-14.56%
Other Revenue					
Refunds and sundry	208,959	625,556	153,600	24.55%	-26.49%
Indirect cost allocation	246,530	1,112,866	270,739	24.33%	9.82%
Special use assessment	72,320	195,000	52,667	27.01%	-27.18% 9
Other Revenue	527,809	1,933,422	477,005	24.67%	-9.63%
Investment Income	15,505	839,500	3,168	0.38%	-79.57% 10
Other Financing Sources					
Transfers In	1,986,982	9,172,772	2,167,282	23.63%	9.07%
Sale of capital assets	38,193	231,500	34,034	14.70%	-10.89%
Capital Leases, Bonds and Other Debt	-	750,000	750,000	100.00%	NA
Other Financing Sources	2,025,175	10,154,272	2,951,316	29.06%	45.73%
Fund Balance Appropriation	-	4,086,290	-	0.00%	NA
Revenues	26,253,520	136,657,667	26,831,225	19.63%	2.20%

Note: Subtotals are subject to rounding.

**General Fund Expenditure Report
For the Three Month Period Ended
September 30, 2009**

<u>Description</u>	<u>FY2009 Actual thru September</u>	<u>FY2010 Annual Budget As of September</u>	<u>FY2010 Actual thru September</u>	<u>FY2010 % of Budget Expended</u>	<u>Actual % Change Over Last Year</u>	
General Fund						
City Attorney	287,066	1,076,690	415,416	39%	45%	1
City Manager	224,810	833,969	196,256	24%	-13%	2
Community Development	87,504	1,193,365	338,637	28%	287%	3
Engineering & Infrastructure	5,039,626	11,015,401	5,732,730	52%	14%	4
Environmental Services	1,825,616	7,327,661	1,972,915	27%	8%	
Finance	479,085	2,477,239	618,741	25%	29%	5
Fire & Emergency Management *	5,032,259	21,731,099	5,984,609	28%	19%	6
Human Relations	55,100	241,746	54,337	22%	-1%	
Human Resources Development	305,856	1,202,869	270,891	23%	-11%	7
Information Technology	632,822	2,651,639	897,893	34%	42%	8
Inspections	734,472	2,784,560	693,454	25%	-6%	
Management Services	195,085	829,642	185,905	22%	-5%	
Mayor & Council	167,965	748,683	169,631	23%	1%	
Other Appropriations *	5,212,034	22,915,381	1,701,970	7%	-67%	9
Parks, Recreation & Maintenance *	4,149,437	15,272,180	3,996,905	26%	-4%	
Planning	217,371	734,549	187,924	26%	-14%	10
Police	10,650,268	43,620,994	10,343,488	24%	-3%	
General Fund	35,296,376	136,657,667	33,761,702	25%	-4%	

*Reflects redistribution of \$906,200 from the Other Appropriations budget to the Fire and Emergency Management budget (\$843,384), Parks & Recreation / Maintenance budget (\$62,816) for vehicle replacement.

General Fund Revenue and Expenditure Variances
Notes for the Three Month Period Ended September 30, 2009
(Compared to the Three Month Period Ended September 30, 2008)

Revenues

1. Utility Franchise Tax – The increase is primarily due to the annexation of Fort Bragg.
2. Local – The decrease is primarily due to the timing difference of the Fayetteville Metropolitan Housing Authority payment for law enforcement services. The first quarter payment for FY09 was paid in September whereas the first payment for FY10 was not made until October due to contract discussions.
3. Federal Public Safety – Federal Intergovernmental Revenues – Increase is due primarily to revenue received from a FEMA grant totaling \$211,442 in FY10 that was not awarded in FY09.
4. State Public Safety – The decrease is due a reduction in Hazmat travel and training expenditures during FY10 as compared to the same period in FY09.
5. Permits and Fees – Decrease due to a reduction in building permits of approximately \$120,717 in FY10 as compared to the same period in FY09. FY09 had two large building projects (Health Department and Town Place Suites) during this time. This is offset by an increase of \$18,278 in HVAC permits for the same time comparison primarily due to HVAC permits issued for the Wood Valley Apartment Complex.
6. Public Safety Services – Decrease is primarily due to a reduction in police, and fire code violations and fire false alarm fees in FY10 as compared to FY09.
7. Recreation and Cultural Services – Increase is due to an increase in recreational activities offered at the recreation centers for FY10. Some activities are new, and some familiar activities have expanded to being offered at more centers than in prior years.
8. Other Fees and Services – Decrease primarily due to a \$92,530.00 decrease in Unified Work Program revenue from Cumberland County in FY10 compared to FY09 for reimbursement of the Murchison Road Study – Phase II project that was completed in FY09.
9. Special Use Assessment – Decrease primarily due to reduction of \$39,859 in FY10 for lot/demolition assessment collections offset by an increase of \$20,205 in street assessment collections.
10. Investment Income – Investments are pooled throughout the year, and therefore, most investment income is not allocated among the benefiting

General Fund Revenue and Expenditure Variances
Notes for the Three Month Period Ended September 30, 2009
(Compared to the Three Month Period Ended September 30, 2008)

funds until the end of each fiscal year.

Expenditures

1. City Attorney – The increase is primarily due to an increase in outside legal fees.
2. City Manager – The decrease is primarily due to a decrease of \$24,500 in personnel expenses due to a vacancy.
3. Community Development – The increase is primarily due to the combination of rent for Festival Park Plaza for \$111,083 and a \$181,968 HOME Project Match that occurred in FY10 but not in FY09, offset by a payment of \$50,000 to the BRAC Project Committee for FY09.
4. Engineering & Infrastructure – The increase is primarily due to a \$629,245 charge from the Public Works Commission for a budgeted decorative street light project in FY10.
5. Finance – The increase is primarily due to a timing difference of the payment for 1st quarter tax collection services of \$157,768 in FY10. 1st quarter tax collection services were not paid until the second quarter of FY09.
6. Fire & Emergency Management – The increase is primarily due to the purchase of a ladder truck in FY10 of \$674,562.
7. Human Resources Development – The decrease is primarily due to a payment of \$35,293 for training materials in FY09 that did not occur for the same period in FY10.
8. Information Technology – The increase is primarily due to a \$288,662 transfer to a capital project fund for the annual computer replacement program that occurred in FY10 but did not occur in FY09.
9. Other Appropriations – The decrease is primarily due to transfers that occurred during this period in FY09 and are not budgeted in FY10 or have not yet occurred. These include \$940,188 related to the Phase V Annexation, \$2,250,000 for the Hope VI project, \$84,376 for the Texfi property acquisition, and \$200,000 for Downtown Streetscape.
10. Planning – The decrease is primarily due to a decrease in payments for the Unified Development Ordinance contract and the Ramsey Street corridor study in FY10 compared to FY09, as well as an offsetting increase in personnel costs of \$37,512.

**General Fund Revenue Report
For the Six Month Period Ended
December 31, 2009**

	FY2009 Actual thru December	FY2010 Annual Budget As Of December	FY2010 Actual thru December	FY2010 % of Budget Obtained	Actual % Change Over Last Year
Ad Valorem Taxes					
Ad valorem taxes					
Current year	40,138,946	55,653,209	43,970,582	79.01%	9.55%
Prior year	912,716	1,162,000	810,926	69.79%	-11.15%
Penalties	93,560	315,000	92,220	29.28%	-1.43%
Ad Valorem Taxes	41,145,221	57,130,209	44,873,728	78.55%	9.06%
Other Taxes					
Vehicle license tax	319,453	627,285	315,529	50.30%	-1.23%
Privilege license	962,699	1,084,100	928,401	85.64%	-3.56%
Cablevision franchise tax	97,225	430,604	86,059	19.99%	-11.48%
Gross Receipts Tax on Rental Property	197,078	544,590	172,834	31.74%	-12.30%
Other Taxes	1,576,456	2,686,579	1,502,824	55.94%	-4.67%
Unrestricted Intergovernmental Revenues					
Local option sales tax	15,565,011	32,375,771	12,188,889	37.65%	-21.69% 1
Utility franchise tax	1,825,654	4,647,921	1,291,805	27.79%	-29.24% 2
Telecommunications sales tax	1,086,071	2,219,165	500,428	22.55%	-53.92% 3
Piped natural gas tax	245,676	679,507	64,358	9.47%	-73.80% 4
Video franchise fee	1,208,352	2,503,918	691,772	27.63%	-42.75% 5
Beer and wine tax	-	330,702	-	NA	NA
Local	337,740	684,409	304,342	44.47%	-9.89%
Unrestricted intergovernmental	20,268,505	43,441,393	15,041,594	34.63%	-25.79%
Restricted Intergovernmental Revenues					
Federal - Public Safety	12,565	772,802	429,324	55.55%	3316.87% 6
Powell Bill allocation	5,270,237	5,027,328	5,158,654	102.61%	-2.12%
State - Other	10,900	23,600	23,152	98.10%	112.40%
State - Public Safety	33,024	65,400	23,924	36.58%	-27.56% 7
Solid waste disposal tax	25,816	136,913	37,839	27.64%	46.57% 8
County Recreation	1,392,348	2,656,792	1,792,771	67.48%	28.76% 9
County - Other	36,912	77,689	44,059	56.71%	19.36%
Restricted intergovernmental Revenues	6,781,802	8,760,524	7,509,724	85.72%	10.73%
Sales and Services					
Permits and fees	987,147	1,987,000	868,915	43.73%	-11.98% 10
Property leases	142,785	764,664	152,155	19.90%	6.56%
Engineering/planning services	166,229	370,172	178,418	48.20%	7.33%
Public safety services	515,472	1,196,437	347,271	29.03%	-32.63% 11
Environmental services	34,152	71,939	37,299	51.85%	9.21%
Recreation and cultural services	448,649	986,133	489,548	49.64%	9.12%
Other fees and services	145,268	91,921	43,944	47.81%	-69.75% 12
Sales and services	2,439,702	5,468,266	2,117,550	38.72%	-13.20%
Other Revenue					
Refunds and sundry	362,134	635,556	297,818	46.86%	-17.76%
Indirect cost allocation	493,059	1,112,866	541,478	48.66%	9.82%
Special use assessment	142,027	195,000	83,304	42.72%	-41.35% 13
Other Revenue	997,221	1,943,422	922,600	47.47%	-7.48%
Investment Income	33,209	839,500	6,857	0.82%	-79.35% 14
Other Financing Sources					
Transfers In	3,975,979	9,172,772	4,339,856	47.31%	9.15%
Sale of capital assets	146,731	231,500	83,819	36.21%	-42.88% 15
Capital Leases, Bonds and Other Debt	-	9,509,246	9,509,246	100.00%	NA
Other Financing Sources	4,122,710	18,913,518	13,932,921	73.67%	237.96%
Fund Balance Appropriation	-	9,739,789	-	0.00%	
Revenues	77,364,826	148,923,200	85,907,796	57.69%	11.04%

* Subtotals are subject to rounding.

**General Fund Expenditure Report
For the Six Month Period Ended
December 31, 2009**

<u>Description</u>	<u>FY2009 Actual thru December</u>	<u>FY2010 Annual Budget As of December</u>	<u>FY2010 Actual thru December</u>	<u>FY2010 % of Budget Expended</u>	<u>Actual % Change Over Last Year</u>	
General Fund						
City Attorney	475,206	1,084,729	672,127	62%	41%	1
City Manager	430,833	849,642	403,492	47%	-6%	
Community Development	205,989	1,286,998	549,499	43%	167%	2
Engineering & Infrastructure *	6,919,219	13,815,161	9,617,197	70%	39%	3
Environmental Services *	4,124,098	7,961,130	3,502,148	44%	-15%	4
Finance	1,186,015	2,597,725	1,199,543	46%	1%	
Fire & Emergency Management *	9,811,378	22,174,424	10,739,855	48%	9%	
Human Relations	108,790	243,893	106,533	44%	-2%	
Human Resources Development	517,874	1,307,480	489,136	37%	-6%	
Information Technology	971,157	2,951,904	1,512,445	51%	56%	5
Inspections	1,332,867	2,814,333	1,255,635	45%	-6%	
Management Services	426,199	863,419	305,025	35%	-28%	6
Mayor & Council	262,856	766,135	476,633	62%	81%	7
Other Appropriations *	8,385,150	31,300,360	13,331,002	43%	59%	8
Parks, Recreation & Maintenance *	7,647,323	15,504,044	7,176,407	46%	-6%	
Planning	385,966	827,919	302,539	37%	-22%	9
Police	19,290,335	42,573,904	19,183,180	45%	-1%	
General Fund	62,481,255	148,923,200	70,822,396	48%	13%	

*Reflects redistribution of \$1,459,997 from the Other Appropriations budget to the Fire and Emergency Management budget (\$995,000), Engineering & Infrastructure budget (\$369,824), Parks & Recreation / Maintenance budget (\$62,816) and Environmental Services budget (\$32,357) for vehicle replacement.

General Fund Revenue and Expenditure Variances
Notes for the Six Month Period Ended December 31, 2009
(Compared to the Six Month Period Ended December 31, 2008)

Revenues

1. Local Option Sales Tax – Timing difference due to FY09 sales tax includes six months of sales tax revenue (July – December 2008) while FY10 includes posting of five months of sales tax revenue (July – November 2009). December sales tax revenues will be received from the state approximately March 15, 2010. Sales tax revenues as of November 2009 compared to November 2008 have decreased less than 1% or \$44,915.
2. Utility Franchise Tax – The decrease is due to a timing difference. Revenues have not yet been received for the quarter ending 12/31/09, as compared to the same period in FY09. The 2nd quarter payment is expected to be received March 15th. Revenues were up approximately 40%, or \$371,496, for the period ending 09/30/09 as compared to the same period in FY09. This increase was primarily attributed to the annexation of Fort Bragg.
3. Telecommunications Sales Tax – The decrease is due to a timing difference. Revenues have not yet been received for the quarter ending 12/31/09, as compared to the same period in FY09. The 2nd quarter payment is expected to be received March 15th. Revenues for the period ending 09/30/09 were down approximately 6%, or \$29,595, as compared to the same period in FY09.
4. Piped Natural Gas Tax – The decrease is due to a timing difference. Revenues have not yet been received for the quarter ending 12/31/09, as compared to the same period in FY09. However, revenues were down approximately 20%, or \$15,747, for the period ending 09/30/09 as compared to the same period in FY09. The 2nd quarter payment is expected to be received March 15th.
5. Video Franchise Fee – The decrease is due to a timing difference. Revenues have not yet been received for the quarter ending 12/31/09, as compared to the same period in FY09. The 2nd quarter payment is expected to be received March 15th. Revenues for the period ending 09/30/09 were up approximately 17%, or \$102,915, as compared to the same period in FY09.
6. Federal Public Safety – Federal Intergovernmental Revenues – Increase is due primarily to revenue received from a FEMA grant totaling \$401,372 in FY10 that was not awarded in FY09.
7. State Public Safety – The decrease is due to a reduction in Hazmat travel and training expenditures during FY10 as compared to FY09.
8. Solid Waste Disposal – The increase is primarily due to the annexation of Fort Bragg.

General Fund Revenue and Expenditure Variances
Notes for the Six Month Period Ended December 31, 2009
(Compared to the Six Month Period Ended December 31, 2008)

9. County Recreation – This revenue source primarily consists of the recreation tax levied by Cumberland County on property in the un-incorporated areas of the County. The increase in this revenue is primarily due to the revaluation of real property that occurred in 2009.
10. Permits and Fees – Decrease due to reductions in building permits of \$125,239 and in Plumbing Permits of \$16,564 in FY10 as compared to the same period in FY09. FY09 had two large building projects (Health Department and Town Place Suites) during this time. This is offset by an increase of \$12,632 in HVAC permits for the same time comparison primarily due to permits issued for the Wood Valley Apartment Complex.
11. Public Safety Services – Decrease is partially due to a reduction in police and fire code violations and false alarms in FY10 as compared to FY09. Additionally, the decrease is attributed to a timing difference. FY09 reflects TSA airport security reimbursements through December while FY10 reflects reimbursements through September.
12. Other Fees and Services – Decrease primarily due to a decrease in Unified Work Program revenue from Cumberland County in FY10 compared to FY09 due to the reimbursement of the Murchison Road Study – Phase II project that was completed in FY2009.
13. Special Use Assessment – Decrease primarily due to a reduction in FY10 for lot/demolition assessment collections.
14. Investment Income – Investments are pooled throughout the year, and therefore, most investment income is not allocated among the benefiting funds until the end of each fiscal year.
15. Sale of Capital Assets – Decrease is partially due to a timing difference in the posting of auction sales. FY09 reflects revenue through December, while FY10 only reflects revenue through November.

Expenditures

1. City Attorney – The increase is primarily due to an increase in outside legal fees.
2. Community Development – The increase is primarily due to the combination of rent for Festival Park Plaza for \$286,207 and an increase in the local match requirement for the HOME Program (\$90,849 increase over FY09), offset by a \$50,000 contribution to the BRAC Project Committee that occurred in FY09 but not in FY10.

General Fund Revenue and Expenditure Variances
Notes for the Six Month Period Ended December 31, 2009
(Compared to the Six Month Period Ended December 31, 2008)

3. Engineering & Infrastructure – The increase is primarily due to transfers to the Transportation Fund to fund the \$1,892,000 local match for the railroad improvement project and \$203,599 local share of various municipal agreements. In addition, the increase can be attributed to a \$629,245 charge from the Public Works Commission for a budgeted decorative street light project in FY10.
4. Environmental Services – The decrease is primarily due to the following: a \$309,743 decrease in motor vehicle expenditures due to the number of vehicles purchased in FY10 versus FY09. Four crane carriers and a Ford F250 pickup were purchased in FY09 while 2 crane carriers with refuse truck bodies were purchased in FY10. Additionally, there was a \$166,330 decrease in personnel expenditures in FY10 as compared to FY09.
5. Information Technology – The increase is primarily due to a \$320,162 transfer to a capital project fund for the annual computer replacement program that occurred in FY10 and not in FY09. This is offset by an FY10 decrease in the purchase of small computer equipment of \$51,084. Additionally, there was an increase of approximately \$230,312 in personnel costs in FY10 compared to FY09.
6. Management Services – The decrease is primarily due to a decrease in personnel costs of \$108,361 due to departmental vacancies.
7. Mayor and Council – The increase is related to election expenditures (\$214,043) in FY10 that did not occur in FY09.
8. Other Appropriations – The increase in the current fiscal year is primarily due to the refunding of the outstanding 1996, 1999 and 2000 General Obligation bonds (\$8,600,308) and the associated cost to issue the refunding bonds (\$129,690). This is offset by a decrease in transfers that occurred during the same period in FY09 that are not budgeted in FY10 or have not yet occurred. These transfers include \$778,498 related to the Phase V Annexation, \$2,250,000 for the Hope VI project, \$84,376 for the Texfi property acquisition, and \$200,000 for Downtown Streetscape.
9. Planning – The decrease is primarily due to a decrease in payments for the Unified Development Ordinance contract and the Ramsey Street corridor study in FY10 compared to FY09, as well as an offsetting increase in personnel costs of \$36,185.