



FAYETTEVILLE CITY COUNCIL
AGENDA
FEBRUARY 1, 2010
5:00 P.M.
Lafayette Room

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 APPROVAL OF AGENDA

4.0 OTHER ITEMS OF BUSINESS

4.1 City Manager's Office - Annexation Policy

Presented By: Kristoff Bauer, Assistant City Manager

4.2 Special Projects - Downtown Historic District Boundaries

Presented By: Bruce Daws, Special Projects

4.3 Parks and Recreation - Corporate Sponsorship Policy

Presented By: Michael Gibson, Parks & Recreation Director

4.4 Parks and Recreation - Parks & Recreation Service Update

Presented By: Michael Gibson, Parks & Recreation Director

4.5 Engineering & Infrastructure - Uniform Street Lighting Ordinance

Presented By: Jeffery P. Brown, PE, Engineering & Infrastructure Director

4.6 PWC - City Council Request for Clarification of PWC Position on Water Service to Contaminated Areas in Cumberland County

Presented By: Steven K. Blanchard, PWC CEO/General Manager

5.0 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.

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 the City Clerk at cityclerk@ci.fay.nc.us, 910-4331989, 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: Kristoff Bauer, Assistant City Manager
DATE: February 1, 2010
RE: **City Manager's Office - Annexation Policy**

THE QUESTION:

What are the key policies that should guide the City's actions in pursuit or support of growth through annexation?

RELATIONSHIP TO STRATEGIC PLAN:

Council's Goal 1 "Growing City, Livable Neighborhoods - A Great Place To Live" specifically identifies the development of an "Annexation and Policy: Report, Resolution of Consideration and Actions." This item responds to this action item seeking further guidance from Council to assist in successfully completing this task.

BACKGROUND:

The City has initiated a number of involuntary annexations and recently entered into a Municipal Influence Area interlocal agreement with Cumberland County. While the impact of these steps on existing conditions will be discussed, the intent of this report is to focus on the current environment and future actions, not to revisit old debates.

ISSUES:

In describing the existing legal environment, I will address the existing Municipal Influence Area (MIA) interlocal agreement, what it does and does not do, and contrast that agreement with an Annexation Agreement as defined by state law. I will also differentiate between the City's authority in responding to voluntary annexation requests in contrast with pursuing involuntary annexation. First, however, I will identify a few current issues that make this conversation relevant and worthy of Council attention.

Current Issues:

1. The City of Hope Mills is considering the voluntary satellite annexation of a parcel near Jack Britt High School (see attached map) that is closer to Fayetteville. The parcel is slated for a commercial development project. Fayetteville could, as I will explain, act to prevent this annexation.
2. Consistent with the Council's Strategic Plan, staff has prepared a "resolution of consideration." The scope of that resolution must be established.
3. The key policies that will form the City's annexation policy and program consistent with the Council's Strategic plan must be identified.

Voluntary vs. Involuntary Annexation

Other than the obvious, there are a few key differences in the regulatory framework applying to voluntary (petition) annexation and involuntary annexation. First, an area considered for involuntary annexation must be contiguous with existing corporate limits along at least 1/8th of the proposed boundary. There is no such thing as an involuntary satellite (non-contiguous) annexation. Second, the area being annexed involuntarily must meet specific density requirements. In contrast, voluntary annexations can include vacant land and don't have to be contiguous. Satellite annexations must be voluntary, but are subject to five key restrictions (NCGS 160A-58 Attached):

- 1 - No portion in excess of three miles from primary corporate limits
- 2 - No portion closer to primary corporate limits of another jurisdiction
- 3 - Able to provide services
- 4 - Can't divide a subdivision
- 5 - Total area of all satellite areas taken together can't exceed 10% of the area of the existing

primary corporate limits.
(The restrictions above do not apply to voluntary contiguous annexations.)

The second restriction can result in parcels that can not legally be annexed by either of two near cities. To solve this, the statute give cities the opportunity to enter into an annexation agreement establishing the eventual boundaries between two jurisdictions.

Involuntary annexation does not carry the "closer to" restriction that applies to voluntary satellite annexation. If an area meets all the restrictions applicable to involuntary annexation, then it is possible to use the involuntary method to annex right to the border of a nearby jurisdiction.

The area between Hope Mills and Fayetteville can be annexed by either city using the involuntary method. Alternatively, either city could use contiguous voluntary annexation, assuming they get petitions from property owners, to annex property adjacent to them moving toward the other city, but eventually there would be an area that could not be annexed by either through this method. In the absence of involuntary annexation, the only way for all of the property between two cities to be annexed is through an annexation agreement.

This issue has already been solved, for now, between Fayetteville and Eastover. The Eastover incorporation statute specifically identifies the area between these two cities as subject to annexation by Fayetteville and not subject to annexation by Eastover as if there was an annexation agreement between the two cities. Fayetteville, therefore, currently has the flexibility to use either voluntary (satellite or contiguous) annexation or involuntary annexation to add properties in this area to its corporate limits.

MIA vs. Annexation Agreement

In response to a question about Fayetteville's ability to voluntarily annex satellite property near Eastover recently, I offered that perhaps the MIA agreement would serve as an Annexation Agreement resolving the "closer to" issue. I was wrong.

To satisfy the statute, an annexation agreement must be adopted by both cities involved, by ordinance. It further must specifically include a commitment from at least one jurisdiction not to annex an area that is then reserved to the other jurisdiction. The statute further provides for a process through which a county can formally recognize annexation agreements between cities in its jurisdiction. The map attached to the MIA agreement gave me the impression that this had occurred, but that is not the case.

The MIA agreement was adopted by resolution, not ordinance, between the City of Fayetteville and Cumberland County, not Hope Mills. The only mention of "annexation" is a restriction on Fayetteville's authority to require voluntary annexation in exchange for PWC wastewater service in the "sewer service area" outside the City's MIA. The MIA agreement, therefore, fails to satisfy the statutory requirements of an Annexation Agreement and doesn't restrict Fayetteville's authority to use involuntary annexation, nor does it resolve the "closer to" challenge for voluntary satellite annexation in the Hope Mills area. As mentioned earlier, the Eastover incorporation statute solves the "closer to" issue in Fayetteville's favor in that area.

Note: An Annexation Agreement was formally adopted by Fayetteville and Hope Mills in 1999. This Annexation Agreement, which expired in 2009, pertained to land near the I-95/NC-59 interchange.

Key Policies

There are several ideas used by jurisdictions to analyze and prioritize or eliminate annexation areas. Each has strengths and weaknesses.

- Financial Analysis

Some form of financial analysis is almost always used to judge the impact of a change in jurisdictional boundary. The goal of this analysis is deceptively simple; to estimate the change in income and expenditures caused by the proposed annexation.

Strength - This analysis is fundamental to proper financial planning. Regardless of the role this analysis is given in the decision making process, it must be completed to provide information necessary for financial planning. Determining the impact in, one to three fiscal years is usually fairly simple and straight forward based upon decisions within the authority of the policy making

body. The change in financial position, positive or negative, must be known as it will guide decisions regarding the funding of services. Fayetteville will have to have sufficient resources to provide the same level of services in the involuntarily annexed area upon effective date thereof with utilities being provided consistent with statutory requirements.

Weakness - In the short term, this calculation is almost always negative. Involuntary annexation requires a specific population density which means that these annexations are predominantly lower density residential property built to county standards. Correcting substandard infrastructure requires usually significant upfront capital, but any resulting increase in value does not quickly result in increased revenues. Some jurisdictions have attempted to overcome this weakness by engaging in complex long term financial analysis attempting to quantify spillover effects or multiplying factors that rely on assumptions or models that often suffer under close scrutiny. Relying on this analysis as a sole or critical justification will result in very few annexations or strained financial analysis.

- Regulatory Control

In the absence of an Extraterritorial Jurisdiction (ETJ) grant by the county, annexation is the only way for the Council to exercise direct control over land-use and development regulations.

Strength - This may allow the Council to participate in the direction of further or redevelopment of areas adjacent to the City. This may create opportunities for future growth and development and prevent lower value uses or development forms. It creates the opportunity to address nuisances that may have developed under less stringent county regulations. Guiding the development of areas in transition could promote higher value development and may provide opportunities to reduce sprawl development.

Weakness - Due to the density requirement, there is limited opportunity to use involuntary annexation to secure regulatory control of land prior to the development pattern being established under county regulations.

- Operational Development

The efficient reach of operational assets rarely conform precisely to jurisdictional boundaries. A fire station, for example, may end up placed near a jurisdictional boundary creating an opportunity to serve an increased tax base with little impact on cost. Alternatively, fire service in a city area near a boundary may be inadequate and the addition of an additional serviceable area could defray the cost of adding operational capacity.

Strength - When this kind of situation exists, it can provide opportunities to reduce the cost of improving service to existing city residents.

Weakness - This same opportunity can at times be accomplished through service agreements. This analysis is most relevant to services that depend on assets with significant fixed costs, e.g. a wastewater treatment plant. It is most relevant to cities that operate utilities and who only provide service to their citizens.

- Political/Community

The Department of Justice reviews every annexation to consider whether the assignment of the annexed population distorts the composition of existing political subdivisions inconsistent with policies established to protect racial representation goals. There may be other political or community objectives that a jurisdiction seeks to obtain or avoid.

Strength - Clearly communicates the objectives of the policy body allowing for analysis and discussion consistent therewith.

Weakness - Risk of focus on those to be annexed, who are not likely to support annexation, instead of upon existing city residents.

Final Thoughts: Had Fayetteville had the authority to control the extension of PWC utilities and consistently required annexation petitions in exchange for utility provision, then involuntary annexation may have been a tool Fayetteville never needed to use. Current utility extension policies promote both County growth and satellite annexation leading to inconsistent jurisdictional growth that will only be rationalized through involuntary annexation. Further, it is well established that high value commercial development follows population growth. This is evident in commercial development activity in the five phases of involuntary annexation undertaken by Fayetteville. It is also evident by the recent commercial activity in and near Hope Mills. Finally, annexation programs in this state that are successful, (that is result in the most orderly development, extension of services, and the least political angst) have a few key characteristics in common. They are persistent, consistent, well organized, and well executed. They are also in environments where the county supports regular ETJ extensions and annexation. Perhaps not coincidentally, these are areas characterized by strong economic health.

OPTIONS:

Hope Mills

1. Memorialize MIA areas as a formal Annexation Agreement
2. Negotiate an Annexation Agreement based on revised boundaries

Resolution Of Consideration

1. Act now consistent with MIA
2. Act now on MIA plus Statutory Eastover Area
3. Act now on a subset of MIA
4. Delay to act on an area consisting of MIA plus Hope Mills Annexation Agreement
5. Don't act on a Resolution of Consideration

Annexation Policy

1. Provide feedback on desirability and importance of policy alternatives

RECOMMENDED ACTION:

Discussion item - Staff will develop action items based upon discussion

ATTACHMENTS:

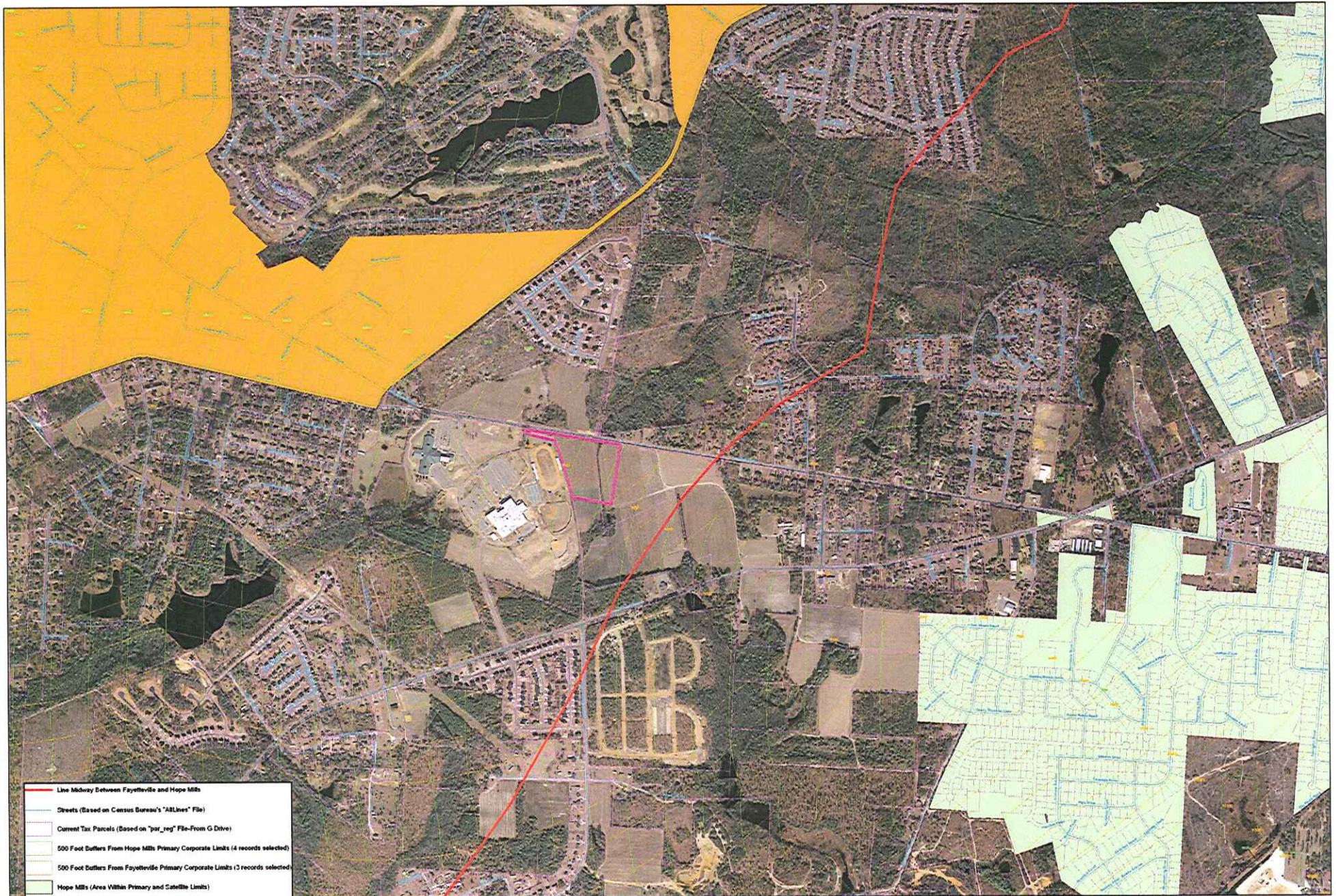
Map of Rockfish Road Site

MIA Map

Part 4. Annexation of Noncontiguous Areas.

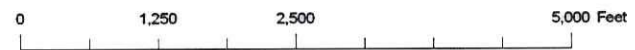
MIA Interlocal Agreement

Distance from Fayetteville and Hope Mills to Rockfish Road Rezoning Site (County Case P10-03)



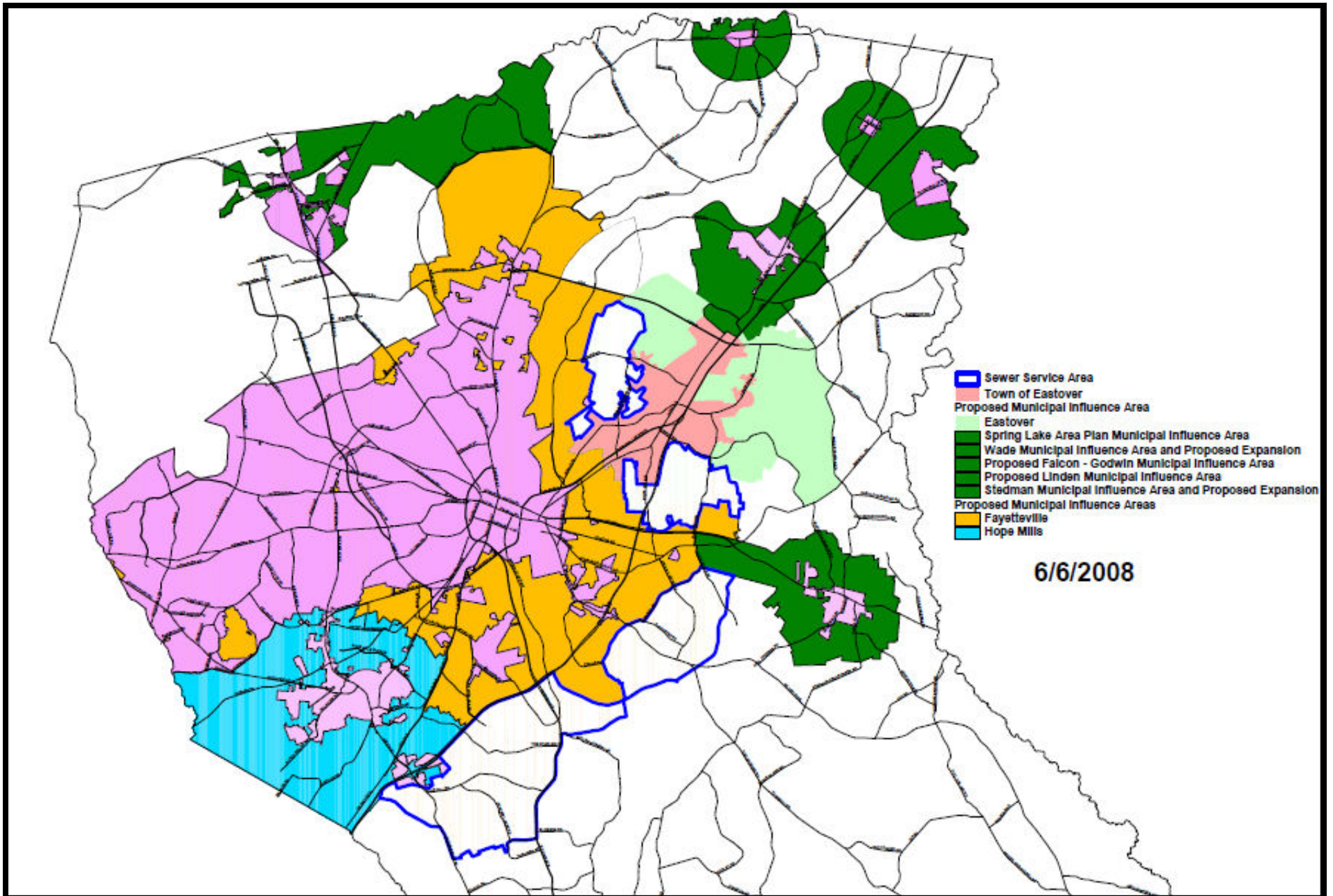
- Line Midway Between Fayetteville and Hope Mills
- Streets (Based on Census Bureau's "AllLines" File)
- Current Tax Parcels (Based on "par_reg" File-From G Drive)
- 500 Foot Buffers From Hope Mills Primary Corporate Limits (4 records selected)
- 500 Foot Buffers From Fayetteville Primary Corporate Limits (3 records selected)
- Hope Mills (Area Within Primary and Satellite Limits)
- Fayetteville (Area Within Primary and Satellite Limits)
- Rockfish Road Site (County Case P10-03)
- County Boundary (case102007).shp

Prepared 1/25/10 by staff of City of Fayetteville Planning Department.
 Note: Distances from Fayetteville and Hope Mills are measured from what are believed to be the Primary Corporate Limits of each town.
 Aerial photography is based on 2008 photos.



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Municipal Influence Area



Part 4. Annexation of Noncontiguous Areas.

§ 160A-58. Definitions.

The words and phrases defined in this section have the meanings indicated when used in this Part unless the context clearly requires another meaning:

- (1) "City" means any city, town, or village without regard to population, except cities not qualified to receive gasoline tax allocations under G.S. 136-41.2.
- (2) "Primary corporate limits" means the corporate limits of a city as defined in its charter, enlarged or diminished by subsequent annexations or exclusions of contiguous territory pursuant to Parts 1, 2, and 3 of this Article or local acts of the General Assembly.
- (3) "Satellite corporate limits" means the corporate limits of a noncontiguous area annexed pursuant to this Part or a local act authorizing or effecting noncontiguous annexations. (1973, c. 1173, s. 2.)

§ 160A-58.1. Petition for annexation; standards.

(a) Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, a city may annex an area not contiguous to its primary corporate limits when the area meets the standards set out in subsection (b) of this section. The petition need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford,

Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City, Swansboro, Taylorsville, Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon.

(b1) Repealed by Session Laws 2004-203, ss. 13(a) and 13(d), effective August 17, 2004.

(b2) A city may annex a noncontiguous area that does not meet the standard set out in subdivision (b)(2) of this section if the city has entered into an annexation agreement pursuant to Part 6 of this Article with the city to which a point on the proposed satellite corporate limits is closer and the agreement states that the other city will not annex the area but does not say that the annexing city will not annex the area. The annexing city shall comply with all other requirements of this section.

(c) The petition shall contain the names, addresses, and signatures of all owners of real property within the proposed satellite corporate limits (except owners not required to sign by subsection (a)), shall describe the area proposed for annexation by metes and bounds, and shall have attached thereto a map showing the area proposed for annexation with relation to the primary corporate limits of the annexing city. When there is any substantial question as to whether the area may be closer to another city than to the annexing city, the map shall also show the area proposed for annexation with relation to the primary corporate limits of the other city. The city council may prescribe the form of the petition.

(d) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1 shall be binding on the landowner and any such vested rights shall be terminated. (1973, c. 1173, s. 2; 1989 (Reg. Sess., 1990), c. 996, s. 4; 1997-2, s. 1; 2001-37, s. 1; 2001-72, s. 1; 2001-438, s. 1; 2002-121, s. 1; 2003-30, s. 1; 2004-203, s. 13(a), (c); 2004-57, s. 1; 2004-99, s. 1; 2004-203, ss. 13(a)-(d); 2005-52, s. 1; 2005-71, s. 1; 2005-79, s. 1; 2005-173, s. 1; 2005-433, s. 9; 2006-62, s. 1; 2006-122, s. 1; 2006-130, s. 1; 2007-17, s. 1; 2007-26, ss. 1, 2(a); 2007-62, s. 1; 2007-225, s. 1; 2007-311, s. 1; 2007-342, s. 1; 2008-24, s. 1; 2008-30, s. 1.)

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT, made and entered into on the 9th day of June, 2008, by and between the CITY OF FAYETTEVILLE, a North Carolina municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter "CITY"), and the COUNTY OF CUMBERLAND, a North Carolina body politic, organized and existing under the laws of the State of North Carolina (hereinafter "COUNTY"). (Collectively, the City and the County are the "Parties.")

WITNESSETH:

WHEREAS, the CITY and the COUNTY desire to enter into an agreement providing for a Municipal Influence Area (hereinafter "MIA") pursuant to the COUNTY's Zoning and Subdivision Ordinances, a Sewer Service Area Policy, and a Joint Planning Commission; and

WHEREAS, the governing bodies of the COUNTY and the CITY have by resolution duly approved and recorded this Interlocal Agreement (hereinafter the "Agreement") in their respective minutes.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and of the mutual benefits resulting from the Agreement, the Parties agree as follows:

AGREEMENT

This Agreement consists of this Interlocal Agreement, and Exhibit 1 delineating an MIA for the CITY and-delineating a Sewer Service Area.

Municipal Influence Area Established

The COUNTY Board of Commissioners approves, establishes, and designates an MIA for the CITY as shown in Exhibit 1. The CITY and the COUNTY shall review the CITY's MIA boundary every five (5) years and agree on its adjustment as appropriate. The first such review shall occur, after review and comment by the Municipal/County Planning Commission, by April 20, 2013 to take effect as of July 1, 2013.

The CITY's minimum standards of design (but not zoning) as addressed in Exhibit 1 to Section 3.20.2 of the County Subdivision Ordinance shall apply within the CITY's MIA, provided that the more stringent public street design standard, whether per the City Code or North Carolina DOT standards, shall apply.

The CITY shall create and adopt zoning districts substantially in conformance with the COUNTY's Mixed Use and Density Development Conditional Use Districts. On collector streets

in Density Development Conditional Use Districts within the CITY's MIA sidewalks shall be required only on one side of those collector streets.

For those zoning, subdivision, design, and/or development standards not addressed in this Agreement, the COUNTY standards, ordinances, small area plans and comprehensive plan shall be followed.

Sewer Service Area

1. The Sewer Service Area delineated in Exhibit 1 (or as expanded pursuant to the provisions of this Agreement) sets forth an area within which the parties contemplate that developments should be served by sanitary sewer. An annexation petition shall not be required for extension of sanitary sewer in this area.

2. No sewer should be provided or programmed outside the Sewer Service Area except sewer may be provided outside of the Sewer Service Area for areas served by a regional lift station if approved for installation as follows:

(a) The CITY Planning Board and the COUNTY's Joint Planning Board, meeting either separately or together as the Municipal/County Planning Commission provided for below, shall each review a request for expansion of the Sewer Service Area to be served by PWC. Each board by a separate vote, and PWC, shall then make a recommendation to the COUNTY's Board of Commissioners. The COUNTY's Board of Commissioners shall approve or disapprove that request. If approved with sewer service to be provided by PWC, the area to be served by the regional lift station would then become part of the Sewer Service Area. Whether or not to provide sewer service shall be within the discretion of PWC according to its usual and customary policies and procedures.

(b) The COUNTY's Joint Planning Board shall review a request for expansion of the Sewer Service Area to be served by a sewer service provider other than PWC. The COUNTY's Joint Planning Board and that sewer service provider shall then each make a recommendation to the COUNTY Board of Commissioners. The COUNTY Board of Commissioners shall approve or disapprove that request. If approved with sewer service to be provided by that sewer service provider, the area to be served by the regional lift station would then become part of the appropriate Sewer Service Area. Whether or not to provide sewer service shall be within the discretion of the sewer service provider according to its usual and customary policies and procedures.

(c) The foregoing procedure shall not be required for or apply to any request for sanitary sewer service outside of the Sewer Service Area for economic development projects receiving incentives from the COUNTY Board of Commissioners or the Fayetteville/Cumberland County Chamber of Commerce. Each sewer service provider shall review such requests in accordance with its customary policies and procedures.

3. Within the Sewer Service Area, the development standards set forth below shall apply. Zoning District references are to those districts as described in the COUNTY's Code of Ordinances ("County Code"), as applicable.

More specifically,

- a. Sewer Service. Sewer Service (hereinafter "Sewer") shall be required when density is greater than 2.2 units per acre. Sewer will not be required when density is 2.2 units per acre or less, provided, however, this Agreement shall not be deemed to, or applied to, downzone or decrease allowable densities of properties as zoned as of April 30, 2008.
- b. Water Service. Water Service (hereinafter "Water") shall be required when density is 2.2 units per acre or greater, provided, however, this Agreement shall not be deemed to, or applied to, downzone or decrease allowable densities of properties as zoned as of April 30, 2008.
- c. Sidewalks. Sidewalks shall be required on one side of collector streets and along both sides of all thoroughfares. A thoroughfare is a major street in the street system that serves as an avenue for the circulation of traffic into, out, or around the community and carries high volumes of traffic. A collector is a street whose principal function is to carry traffic between local streets and thoroughfares and that also may provide direct access to abutting properties. It serves or is designed to serve (at build out), directly or indirectly, at least 100 dwelling units.
- d. Public Streets. The more stringent standard public street design standard, whether per the City Code or North Carolina DOT standards, shall apply.
- e. If the CITY's MIA boundary is subsequently extended to include an area formerly in the Sewer Service Area, a project in that area which has been approved for development in phases in the Sewer Service Area but which is thereafter brought into the CITY's MIA any phase undeveloped as of the date it is brought into the CITY's MIA may nevertheless be completed under COUNTY standards, regulations and ordinances if the developer obtains zoning permits for such phase and incurs substantial expenditures on reliance on that zoning permit within two years of the date the MIA boundary is extended to include that project.

Municipal/County Planning Established

1. The COUNTY and the CITY establish Municipal/County Planning for the purpose of addressing and making recommendations on inter-jurisdictional planning and related issues, examples of which may include, but are not limited to, transportation, air quality, parks, economic development (e.g., business park location siting), utility extensions, new school locations, military (e.g., housing, buffers, support areas), as well as small area plans that are in the MIA.

2. Municipal/County Planning shall be comprised of the City of Fayetteville Planning Commission and the Cumberland County Planning Board meeting in joint session. The City of Fayetteville Planning Commission and the Cumberland County Joint Planning Board shall meet quarterly, or more often as necessary or desirable to further the purposes of this Agreement, for Municipal/County Planning. The Chairperson from time to time of the City Planning Commission and of the Joint Planning Board shall alternate from year to year as Presiding Officer for Municipal/County Planning. The COUNTY and CITY planning staffs shall cooperate to provide staff and logistical support as appropriate for Municipal/County Planning.

Duration and Termination

1. This Agreement shall continue through December 31, 2030, except that either party may by resolution of its governing board terminate this Agreement on six months prior notice.

2. This Agreement may be amended by resolution of the City Council and COUNTY's Board of Commissioners.

IN WITNESS WHEREOF, the parties hereto have executed this Interlocal Agreement as of the date first above written.

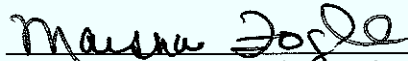
COUNTY OF CUMBERLAND

By:



J. BREEDEN BLACKWELL, Chairman

ATTEST:



MARSHA FOGLE, Clerk to the Board


CITY OF FAYETTEVILLE

By:

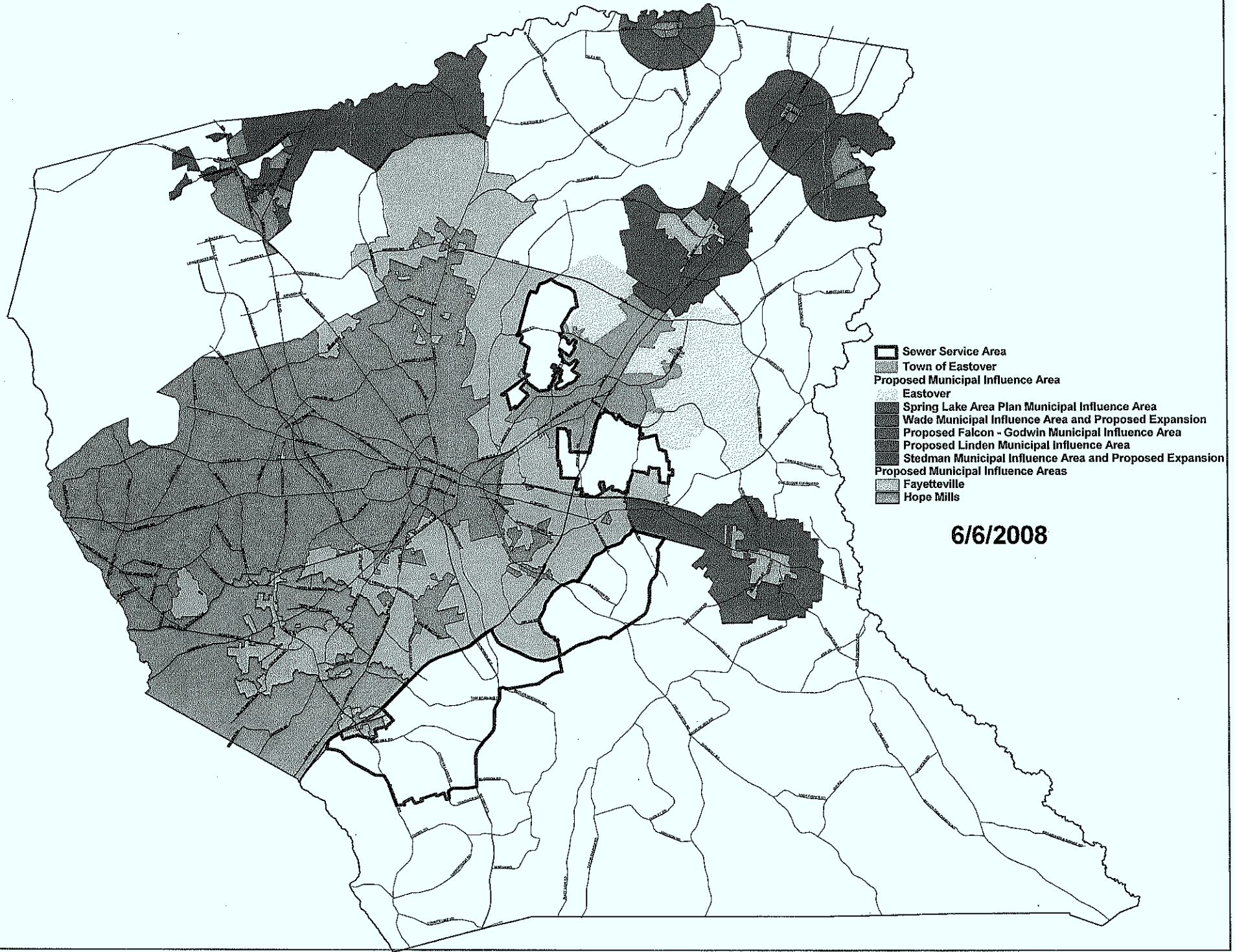


ANTHONY G. CHAVONNE, Mayor

ATTEST:



CANDICE H. WHITE, City Clerk



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Bruce Daws, Special Projects
DATE: February 1, 2010
RE: **Special Projects - Downtown Historic District Boundaries**

THE QUESTION:

How the Historic District was established and can the City change the impacted properties?

RELATIONSHIP TO STRATEGIC PLAN:

Goal 2 - More Attractive City - Clean and Beautiful

BACKGROUND:

- The City Council had inquired about how the Historic District was established and wants to know if the City could change the properties impacted.

ISSUES:

- Need explanation on how & why the Historic District was established.
- Can city change the properties eligible to receive benefits and impacted by applicable regulations.

OPTIONS:

This is for discussion purposes.

RECOMMENDED ACTION:

No action required.

ATTACHMENTS:

Parks & Recreation - Downtown Historic Area

REPORT ON FAYETTEVILLE HISTORIC DISTRICTS

AND

THE FAYETTEVILLE HISTORIC RESOURCES COMMISSION

ESTABLISHING HISTORIC DISTRICTS AND BOUNDRIES:

- Establishing Historic Districts and their boundaries is done in accordance with the enabling legislation and the guidelines of the State Historic Preservation Office.
- To be considered for designation as a historic district, an area must have a concentration of properties that are historically, visually, or culturally related.
- A district may include diverse types of historic properties, but together they must form a unified entity with its own identity.
- The properties must together convey a physical sense of the historical environment.
- Examples of historic districts include residential areas, business districts, industrial complexes, rural villages, rural landscapes, and college campuses.
- When Fayetteville's Historic Districts were established an investigation report was prepared by a qualified architectural historian, which included the historical, architectural, and cultural significance of the proposed area along with a boundary map. Each property in the proposed area was evaluated to determine its significance and if it was "contributing" or "non-contributing" to the district. It is very common for historic districts to have both "contributing" and "non-contributing" properties within their boundaries.
- The State Historic Preservation Office reviewed the report and boundaries, and made written recommendations.
- Public hearings were held for the public to comment and make recommendations.
- The Fayetteville Historic Resources Commission recommended the proposed Historic District and boundaries to City Council.
- Upon receipt of the report and recommendations, City Council voted to designate the historic district and its boundaries.

FAYETTEVILLE HISTORIC RESOURCES COMMISSION:

- The Fayetteville Historic Resource Commission is comprised of eleven (11) citizens appointed by City Council that fall within the required categories which include an architect, Realtor, Developer, or General Contractor, Historic Preservationist, Cultural or Social Historian, Historic District Property Owner, Building Designer or Land Use Design Professional, and At-Large.

- At the regular monthly meeting of the Fayetteville Historic Resource Commission the following City Staff Personnel are present: Assistant City Attorney, Planning Director, Zoning Personnel, and Historic Properties Manager.
- The Fayetteville Historic Resources Commission applied for and met the requirements for the City of Fayetteville to be designated as a “Certified Local Government” awarded by the United States Department of the Interior upon recommendation of the State Historic Preservation Officer. A “Certified Local Government” meets additional standards and is therefore eligible to compete for historic fund grants. One of the requirements of a “Certified Local Government” is mandated annual training. In order to meet that standard, two commission members and one city staff member have to attend the annual state training conference which covers topics ranging from legal process to design review.
- The Fayetteville Historic Resources Commission works closely with property owners and rarely denies a property owners’ request for a Certificate of Appropriateness. During FY 2009 only three-and-a-half percent of the total Certificates of Appropriateness were denied.

DESIGN GUIDELINES:

- When reviewing property owner’s applications for Certificates of Appropriateness, the Commission uses its established design guidelines to determine whether proposed changes are in keeping with the special character of the district.
- When the City of Fayetteville assumed responsibility for the Commission from the County Joint Planning Board, the design guidelines were not detailed and sometimes led to poor decisions, based on a lack of clearly defined standards.
- In 2000, the Fayetteville Historic Resources Commission retained a qualified Architectural Historian to draft a set of comprehensive Design Guidelines.
- The draft guidelines were reviewed by the State Historic Preservation Office.
- On December 18, 2000, the Design Guidelines were approved by City Council, and adopted as part of the Preservation Ordinance by reference.
- Some properties in the Historic District were acted upon by the Fayetteville Historic Resources Commission prior to the new comprehensive Design Guidelines.
- Also some earlier “New Construction” projects followed the old standard for that type of development in a historic district.

PUBLIC EDUCATION AND TOURISM:

- The Fayetteville Area Convention and Visitors Bureau promotes the Historic Districts to incoming visitors.
- The City of Fayetteville conducts a number of guided tours in the Historic Districts, ranging from school groups, civic groups, church groups, Fayetteville Leadership Academy, and Youth Academy etc.

CHANGING THE BOUNDRIES OF THE HISTORIC DISTRICT:

- The City Council has the authority to amend the boundaries of the Historic Districts, which would require coordination with the State Historic Preservation Office.
- When properties are removed from the historic district, and design guidelines no longer apply, poor appearance could adversely affect the special visual qualities found in the district.
- Properties removed from the district are not eligible for special Preservation Tax Credits. The rehabilitation of several properties downtown has been the direct result of Tax Credits. The rehabilitation of a historic property in the Downtown District could qualify for 40 percent tax credit. This program administered through the North Carolina State Historic Preservation Office provides a dollar-for-dollar reduction of income tax owed equal to a total of 40 percent of the cost of rehabilitating “certified historic structures.”

Respectfully,

Bruce J. Daws
Historic Properties Manager

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Michael Gibson, Parks & Recreation Director
DATE: February 1, 2010
RE: **Parks and Recreation - Corporate Sponsorship Policy**

THE QUESTION:

Should the City adopt a Corporate Sponsorship Policy?

RELATIONSHIP TO STRATEGIC PLAN:

Goal 5 - Greater Community Unity - Pride in Fayetteville: Objective 5 - Marketing the City before the City.

BACKGROUND:

- The Parks and Recreation Department is interested in seeking corporate resources as a means for funding various athletic and/or special events throughout the City.
- The department continually finds itself faced with opportunities from businesses and corporations interested in sponsorship of programs, facilities and events. For many years this department has found tremendous value in collaborating with organizations that enhance our ability to deliver parks and recreation services as long as those groups are consistent with and suitable to our goals.
- With an expanding community the department looks to maintain and elevate the level of service, meet all new expectations, and provide a quality of life that is consistent with the goals of the Council, and management of the City of Fayetteville.
- FCPR staff find ourselves competing for shrinking public dollars. Upon your approval this policy will allow staff to engage, and seek out what we believe to be the many opportunities for corporate support that exist and have yet to arrive to this community.

ISSUES:

- No current guidelines or criteria to control the implementation of corporate sponsorship.

OPTIONS:

This is for discussion purposes. Feedback regarding the interest in and desired composition of a corporate sponsorship policy is sought.

RECOMMENDED ACTION:

No action required.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Michael Gibson, Parks & Recreation Director
DATE: February 1, 2010
RE: **Parks and Recreation - Parks & Recreation Service Update**

THE QUESTION:

To evaluate joint Parks and Recreation Service

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4 - More Efficient Government - Cost-Effective Service Delivery

BACKGROUND:

It is the City of Fayetteville ongoing effort to maintain a funding source within the City and County Parks and Recreation areas that adequately provides a level of practical, useful, dynamic and affordable leisure activities that add value to citizens quality of life. Further, to achieve in great detail an organization that responds to its community's lifestyle by developing and training employees that produce activities for that outcome.

UPDATE

- Staff met with City and County managers to develop performance measures for Fayetteville-Cumberland County Parks and Recreation
- The group's consensus was to research and provide recommendation for improvements in staff efficiency measures.

ISSUES:

NA

OPTIONS:

NA

RECOMMENDED ACTION:

Informational purposes only

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Jeffery P. Brown, PE, Engineering & Infrastructure Director
DATE: February 1, 2010
RE: **Engineering & Infrastructure - Uniform Street Lighting Ordinance**

THE QUESTION:

City Council must adopt a street lighting ordinance in order for Progress Energy to seek approval from the State Utilities Commission to charge residents for street lights within their service area located within the City.

RELATIONSHIP TO STRATEGIC PLAN:

Desirable Neighborhoods

BACKGROUND:

- PWC has been paying for the cost of street lights within a specific area served by Progress Energy since it was annexed into the City.
- PWC, South River EMC and Lumbee River EMC all charge residents within the subdivisions they serve for street lights on residential streets.

ISSUES:

- PWC will no longer continue to make a transfer to the City to cover the cost of street lights within Progress Energy's service area beginning July 1, 2010.
- If a street lighting ordinance is not adopted by Council, then the City will have to cover the cost of providing street lighting for this area out of the General Fund at an expense of approximately \$320,000.
- With the adoption of a uniform street lighting ordinance, Progress Energy can then request through the State Utilities Commission to charge the residential customers for street lighting within their service area.

OPTIONS:

- Place item on an upcoming agenda for adoption.
- Take no action.

RECOMMENDED ACTION:

Adopt the Uniform Street Lighting Ordinance at one of the regularly scheduled Council Meetings in February to allow Progress Energy adequate time to seek approval through the State Utilities Commission in order to charge residents in their service area for residential street lights.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Steven K. Blanchard, PWC CEO/General Manager
DATE: February 1, 2010
RE: **PWC - City Council Request for Clarification of PWC Position on Water Service to Contaminated Areas in Cumberland County**

THE QUESTION:

Does PWC have an official position on providing water service to areas in Cumberland County where well water has been contaminated and defined as non-drinkable?

RELATIONSHIP TO STRATEGIC PLAN:

N/A

BACKGROUND:

N/A

ISSUES:

Does PWC have an official policy and if so, what is it?

OPTIONS:

N/A

RECOMMENDED ACTION:

N/A

ATTACHMENTS:

Draft Water Extension Policy

Draft

Water Extension Policy

Outside Fayetteville and Fayetteville's MIA

It shall be the policy of the Fayetteville Public Works Commission (FPWC) to assist Cumberland County and/or its rural districts in developing a rural water system in specific areas as identified by Cumberland County (CC). FPWC will provide the following:

1. Participate in the discussions and review of plans to extend water into specific areas in the County.
2. Assist with the development of funding options for water main extensions.
3. Consider providing water to a rural area as a wholesale customer of FPWC and provide O&M services for that water system.
4. Consider providing water to a rural area where the water system is installed and turned over to FPWC to own and operate.

(Draft 10-1-09)

Draft

Drinking Water Well Contamination Policy

It shall be the policy of the Fayetteville Public Works Commission (FPWC) 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.

- Where water lines need to be extended, FPWC will consider participating in the cost of the water main extension to and through the contaminated area if the line extension will become property of FPWC.
- The amount of participation in the cost will be determined by FPWC on a case-by-case basis.

(Draft 10-1-09)