

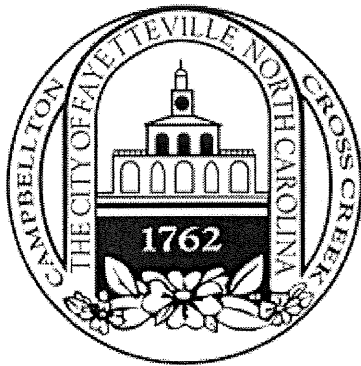
**FAYETTEVILLE CITY COUNCIL
WORK SESSION AGENDA
AUGUST 2, 2010
5:00 P.M.**

VISION STATEMENT

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

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

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



FAYETTEVILLE CITY COUNCIL
WORK SESSION AGENDA
AUGUST 2, 2010
5:00 P.M.
LAFAYETTE CONFERENCE ROOM

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 APPROVAL OF AGENDA

4.0 OTHER ITEMS OF BUSINESS

4.1 Revisions of Alarm Ordinance and Fees

Presenters: Charles Hunter, Police Captain
Karen McDonald, City Attorney

4.2 Development of Fire Station #19-Andrews Road

Presenters: Benny Nichols, Fire Chief
Craig Hampton, Special Projects Director

4.3 Certificate of Appropriateness Presentation

Presenter: Bruce Daws, Historic Properties Manager

4.4 Fayetteville Area System of Transit (F.A.S.T.) Operations and Work Plan Update

Presenter: Doug Hewett, Assistant City Manager

4.5 Nightclub Behavior

Presenters: Tom Bergamine, Police Chief
Charles Kimble, Assistant Police Chief

4.6 Council Member Request(s): (In order of receipt date)

- (a) Council Member Mohn - Parking of Big-Rig Cabs in Residentially Zoned Areas
- (b) Council Member Davy – Consider Restoring 25% Funding Cuts for Non-Profits

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 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: Charles Hunter, Police Captain and Karen McDonald, City Attorney
DATE: August 2, 2010
RE: **Revisions of Alarm Ordinance and Fees**

THE QUESTION:

Whether to re-adjust the adopted fee schedule as it pertains to false alarm fees/fines.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government - Cost Effective Services Delivery & Growing City, Livable Neighborhoods

BACKGROUND:

As a result of Council's direction to periodically review all fees during the budget process, the alarm fees were reviewed. Since the fees had not been adjusted in several years and due to the high number of false alarm activations, staff recommended the fees be increased. Staff's presentation included information regarding fees charged in other cities. Due to an oversight by staff, information was presented to Council that was inaccurate. As a result, staff was directed to review the fees and to consider revisions to the appeal process.

City staff met with alarm industry representatives on July 20, 2010. The topics of discussion included the Fee Schedule, Alarm Permitting Process, and the Appeals Process.

Fee Schedule. The consensus of the group was to recommend the following fee schedule modifications:

1st alarm.....	Free, warning letter will be sent
2nd alarm.....	Free
3rd alarm.....	\$25.00
4th alarm.....	\$50.00
5th alarm.....	\$50.00
6th alarm.....	\$100.00
7th alarm.....	\$100.00
8th alarm and above.....	\$200.00

The group also agreed that the fees would be imposed from the effective date of the amendment and that the fee schedule will be based on the fiscal year.

Alarm Permits. At this time, industry representatives are not in favor of instituting an alarm permit process. Staff remains interested in developing a registration process and will initiate further discussion with industry representatives.

Appeals Process. While industry representatives expressed confidence in our current alarm coordinator, it was agreed that there should be an appeal step available in which the "enforcer" of the fines was not the final say. The proposed revision allows an appeal to an administrative hearing officer under Section 1-9 of the City of Fayetteville Code of Ordinances. This additional appeal step would allow an appeal within ten days after receipt of the decision of the alarm coordinator and is the same as the appeal process for several other civil citations. This change would necessitate an amendment Section 4-7(a) of the City Code.

ISSUES:

1. A need to update the false alarm fee schedule.
2. Update to the appeal process for those wishing to appeal regarding false alarm issues.

OPTIONS:

1. Make no changes to the FY 2011 fee schedule regarding false alarm fees.
2. Adopt a revision to the FY 2011 fee schedule as it applies to false alarm fees and adopt a change to City Ordinance Section 4-7(a) of Chapter 4, Alarm Systems Regulations, as recommended by staff and industry representatives to include an appeal step.
3. Provide direction to staff.

RECOMMENDED ACTION:

- Adoption of the revised fee schedule as indicated above.
- Consider amendment to City Ordinance Section 4-7(a) of Chapter 4, Alarm Systems Regulations, regarding an additional appeal step to an administrative hearing officer.

ATTACHMENTS:

Alarm Ordinance and Appeal Provisions

The underlined text was adopted on July 12, 2010. The shaded text is for consideration.

Chapter 4

ALARM SYSTEMS REGULATIONS

Sec. 4-1. Short title.

This chapter shall be known and may be cited and referred to as alarm systems regulations.

Sec. 4-2. Purpose.

The purpose of this chapter is to establish regulations governing alarm systems requiring response thereto by the city police or fire department. The terms of this chapter shall in no way prohibit alarm companies from providing service by private source to other offices within or outside the city.

Sec. 4-3. Definitions.

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

Alarm means the activation of an alarm system signal that produces either an audible sound that can be heard from the interior or exterior of the building housing the alarm system, or the emission of a signal to a direct monitoring service which in turn notifies the city communications center that the alarm has been activated.

Alarm business means the business by any individual, partnership or corporation servicing, repairing, altering, replacing, moving or installing any alarm system, or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility, and shall not include any other activity of the business.

Alarm coordinator means a person or persons designated by the City Council or their designee to administer, control, and review false alarm reduction efforts and administer the provisions of this chapter.

Alarm installation means any alarm device or combination of devices installed for one or more buildings.

Alarm response means the dispatch or response of a fire or police unit as the result of an alarm.

Alarm system means any electronic or mechanical device which emits any signal, electronic, visible, audible, silent, recorded or otherwise, which is designed, intended, or used to detect fire or an unauthorized entry into a building, structure, or premises, to signal a fire or an attempted robbery or holdup, or to alert others of a fire or the commission of an unlawful act in or around a building, structure, or premises.

Alarm user means any person, corporation, partnership, proprietorship, governmental or educational entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of the premises.

Automatic dialing device means any type of device which automatically sends signals over regular telephone lines as opposed to dedicated alarm lines.

Dedicated alarm line means a special leased telephone line circuit maintained for the sole purpose of transmitting alarm signals.

Digital alarm means an alarm system which automatically sends signals over regular telephone lines connecting to a digital receiving console, as opposed to a telephone hand set.

Direct connecting alarm means an alarm utilizing dedicated alarm lines to connect to a remote receiving console.

False alarm means an alarm dispatch request to a law enforcement agency, when the responding law enforcement officer finds no evidence of a criminal offense or attempted criminal offense after having completed a timely investigation of the alarm site.

Local alarm means an alarm or device which produces a signal not connecting in any way to any alarm monitoring centers, such as store or home burglar alarms actuating bell devices.

Officer means either a sworn law enforcement officer or a member of the city fire department.

Tape dialer alarm means an alarm system which automatically sends a signal over regular telephone lines and plays a pre-recorded message.

Sec. 4-4. General regulations.

- (a) The alarm user shall be responsible for knowing the contents of this chapter.
- (b) Alarm systems may be connected directly to a private alarm control center, or may be a local alarm.
- (c) All automatic dialing devices shall conform with section 4-5.
- (d) Local alarms shall be of a type that sounds for no more than 15 minutes.

(e) Any alarm existing as of the effective date of the ordinance from which this chapter is derived shall also be governed by the regulations of this chapter.

(f) Each local alarm user shall furnish to the city police department alarm coordinator the name and telephone number of at least one, no more than three, persons authorized and able to deactivate the alarm system.

(g) After the effective date of the ordinance from which this chapter is derived, it shall be unlawful to connect a local alarm without first notifying the city police department alarm coordinator of the name and telephone number of person authorized and able to deactivate the alarm system. Any changes in the name or telephone number of person authorized and able to deactivate the alarm system must be communicated to the city police department alarm coordinator immediately.

(h) Burglar alarm systems installed within the city shall be equipped with an automatic bell time cut-off module to prevent continuous alarm sounding when the user is unavailable to manually silence the alarm. System or test devices which give a delay of ten seconds or longer prior to alarm system activation in order to warn the alarm user of an open alarm circuit are highly recommended for all burglar alarm systems to prevent false alarms.

(i) Alarm systems installed after the effective date of the ordinance from which this chapter is derived will be required to have reset capabilities, and to reset within 15 minutes. An alarm system cut-off shall be installed to override all malfunctioning alarms. Users whose alarm systems were installed prior to the effective date of the ordinance from which this chapter is derived shall have one year from the effective date of the ordinance from which this chapter is derived to convert their systems to comply with the provisions of this chapter.

Sec. 4-5. Automatic dialing devices; interconnection to police department.

(a) No automatic dialing device shall be interconnected to any telephone numbers of the city police department or communications center after the effective date of the ordinance from which this chapter is derived.

(b) Within six months of the effective date of the ordinance from which this chapter is derived, all automatic dialing devices interconnected to any telephone numbers of the police department or communications center shall be disconnected. The user of each such device shall be responsible for having the device disconnected upon notification by the chief of police.

(c) Each separate violation of this section shall be deemed a separate punishable offense under section 4-9.

Sec. 4-6. Alarm responses.

(a) An alarm response deemed to be false as defined by this chapter by the responding law enforcement officer to the alarm site will be charged a user fee, in accordance with the fee schedule adopted by the city council.

(b) The alarm user or his representative shall reset an alarm system when notified by an officer that the alarm has activated. When an alarm sounds continuously for a period of 60 minutes from the time officers respond to the alarm, due to the failure of the alarm user or his representatives to reset the alarm, every subsequent 60-minute period or portion thereof that the alarm continues to sound shall be deemed a separate alarm. The alarm user shall reimburse the city for each alarm resulting from the continuous operation of an alarm in accordance with the fee schedule adopted by the city council.

(c) For purposes of this chapter, calendar year shall mean January 1 through December 31.

Sec. 4-7. Exclusions.

(a) For the purpose of determining a false alarm in section 4-6, and as defined by this chapter, an alarm shall not include a false alarm which is:

- (1) Determined to have been activated by extreme weather conditions or acts of nature as reported by the city fire department to the city communications center;
- (2) Activated by an electrical power outage to the electric meter on the building housing the activated alarm system, provided that the alarm user shall provide proof of the electrical outage within five business days of the alarm response; or
- (3) An alarm where there is physical evidence of a fire, unauthorized entry, robbery, or other crime having been committed at the premises where the alarm was activated.

Any determination that an alarm activation was not one of the exclusions in this section may be appealed to the alarm coordinator or the fire chief, as the case may be, within 72 hours. The decision of the alarm coordinator or fire chief may be appealed to an administrative hearing officer within ten days after receipt of the decision of the alarm coordinator or fire chief, pursuant to Section 1-9 of the City of Fayetteville Code of Ordinances. If the decision of the alarm coordinator or fire chief is not appealed, the decision shall be deemed final.

(b) A local alarm activated during alarm system testing procedures shall not be considered an alarm for the purpose of computing alarm responses, if the alarm user first notifies the city communications center.

Sec. 4-8. Reimbursement.

It shall be unlawful for an alarm user to fail to reimburse the city, in accordance with section 4-6, for an alarm response by the police department.

Sec. 4-9. Enforcement of violations.

Violations of this chapter, including the failure to pay the fees imposed by section 4-6 within 14 days upon notice that such fees are due, shall subject the offender to a civil penalty in the amount of \$50.00, in addition to any other fees then currently due and owing as provided by this chapter. Such civil penalties and fees may be recovered by the city in a civil action in the nature of a debt, pursuant to G.S. 160A-175(c).

Chapter 1

GENERAL PROVISIONS

Sec. 1-9. Appeal of civil penalties.

Whenever the recipient of a citation for a violation of chapter 4, alarm systems regulations; chapter 11, fire protection and prevention; article XI of chapter 16, abandoned, junked, and nuisance vehicles; article X of chapter 16, parking; chapter 17, offenses and miscellaneous provisions; chapter 18, parks and recreations; chapter 22, solid waste; chapter 24, streets and sidewalks; and chapter 26, taxicabs, has failed to pay a civil penalty as a result of the violation, prior to the initiation of the civil action to enforce the city's remedy, the recipient of the citation shall be notified in writing that:

- (1) The case may be reviewed by an administrative hearing officer to determine the validity of the civil penalty provided the recipient of the citation makes a written request to the city attorney's office for the hearing within ten days of receipt of the notice of the opportunity to be heard by the administrative hearing officer;
- (2) The written request for the hearing shall be on a form to be provided with the written notice and the hearing shall be held within 14 days of the receipt of the written request;
- (3) The decision of the hearing officer if in favor of the individual receiving the citation shall be final, but if the hearing officer shall determine that in his opinion the civil penalty is due, then the city may proceed to initiate the civil action, but the decision of the hearing officer shall not be admissible by the city in the prosecution of the action; and
- (4) The hearing officer shall be one of the safelight appeals hearing officers.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Benny Nichols, Fire Chief
DATE: August 2, 2010
RE: **Development of Fire Station #19-Andrews Road**

THE QUESTION:

Does Council wish to approve the development agreement and future bid and finance actions that will place the station within a developing commercial complex?

RELATIONSHIP TO STRATEGIC PLAN:

1. City Goal #2: Growing City, Livable Neighborhoods-A Great Place To Live
2. City Goal #3-More Efficient City Government-Cost Effective Service Delivery
3. Approved Project in 5-year CIP
4. Budget Approved and Established for FY-11

BACKGROUND:

As a result of increased fire and rescue service demand increases, the closure of Cumberland County fire station #10, and a contract between the city and Cumberland County for the city to provide fire protection and 1st responder services in this area, the Fayetteville Fire Department relocated and began occupying Fire Station #19-T (Temporary) in June 2009. FFD #19T is located on land leased from the Cumberland County School system and will not be available in the future due to school needs to expand.

During the past two years city staff has explored several sites for location of a permanent station within this service area. A potential site adjacent to the Pine Forest High School was determined to be too costly to develop due to extreme engineering measures and storm water design that would have to be implemented due to the contour of the land of the available parcel.

Subsequently the city was contacted by the developer of Patriot Park and River Landing about potentially co-locating within the business park currently under development. The offer was made to sell the land to the city at the developer's actual cost and to provide a semi-finished lot with all major utilities and landscape features completed to the site. Thereafter the city would be responsible for constructing the building pad and building. Costs of these utilities would also be installed and provided to the city at developer's cost. Entry and exit roads were also provided as part of the business park development.

The location of the site is ideal for the fire department's needs and city staff has not located any other parcels that could be obtained for the prices offered by this developer or developed as timely as the recommended parcel. This northern Fayetteville area is one of the fastest growing areas of the city. For this site the station design is almost identical to the recently constructed station #15 on Cliffdale Road. We are using the same drawings and specifications from that station to bid and construct FFD#19-P.

Fire Station #19-Permanent is an approved CIP project within the city's 5-year CIP plan and is an approved expenditure in the FY-11 budget that began July 01, 2010. If approved to proceed the next actions will be to complete the construction documents and issue the bids for the station. After receipt of bids Council will be asked to approve the final development agreement and related financial actions and authorize the city manager or designee to execute all documents necessary to complete the development agreement and financing actions, and construct the station.

The attached project schedule shows Council that date being in November; however, city staff and

the design firm will move with all due haste to improve that schedule if possible. The total budget for FFD#19 is \$3.14 Million and the estimated value of the development agreement is not to exceed \$465,000. The station and equipment included is estimated at \$2.4 Million.

ISSUES:

1. Placing this station in this location will require a revision to the conditional use permit issued for this development area. That process requires two public hearings and final approval by Council. A schedule is attached as a reference.
2. Council will approve the construction bid and financing package for the station at a later meeting.

OPTIONS:

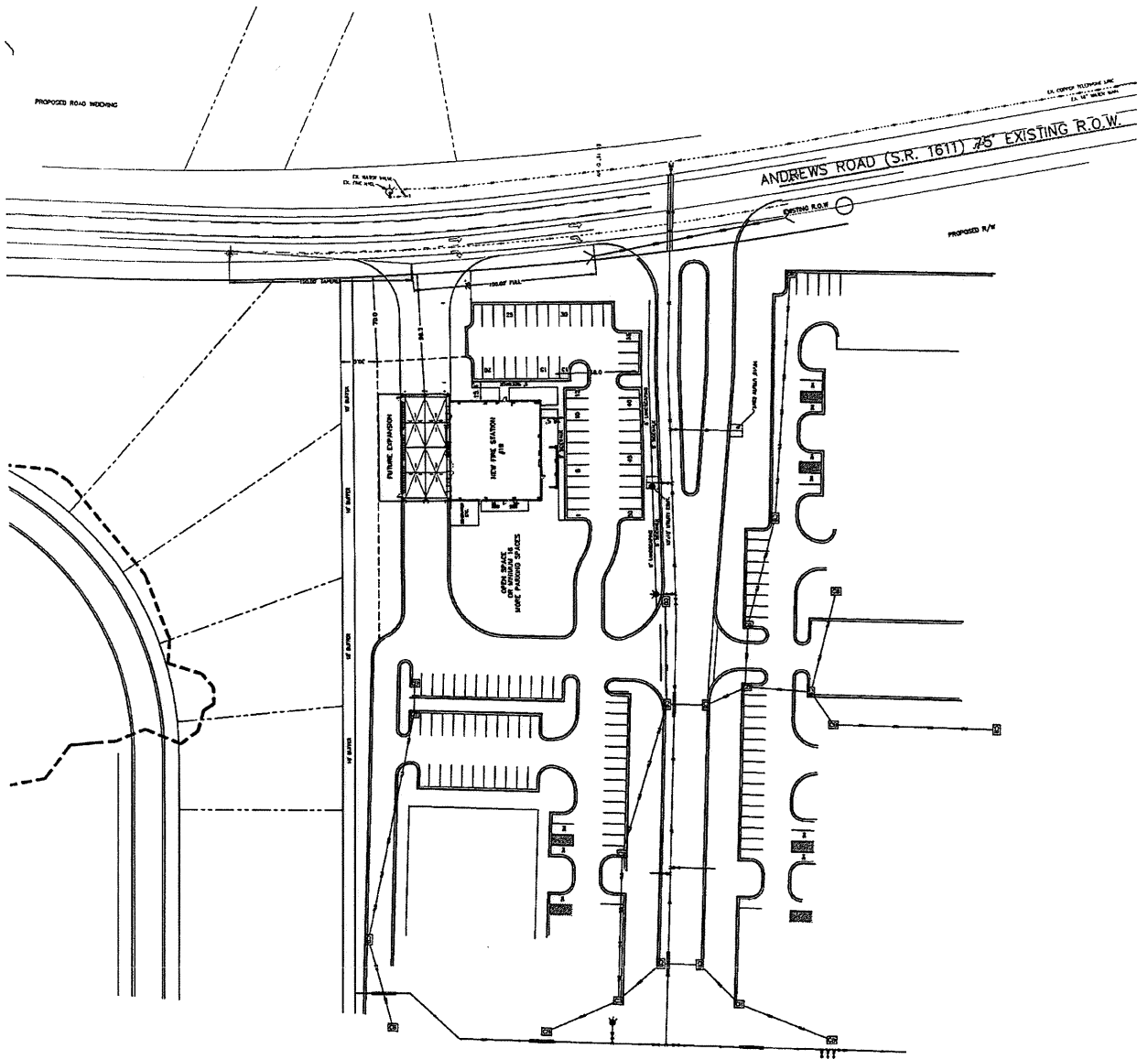
1. Authorize city staff to proceed with the project schedule and bid the station project and perform other related work per the scheduled tasks.
2. Do not authorize the project and provide direction to staff.

RECOMMENDED ACTION:

1. Authorize city staff to proceed with the project schedule and bid the station project and perform other related work per the scheduled tasks.

ATTACHMENTS:

Development Schedule-FFD#19 Station
Location and Layout FFD#19 P



CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Bruce Daws, Historic Properties Manager
DATE: August 2, 2010
RE: **Certificate of Appropriateness Presentation**

THE QUESTION:

Does the Certificate of Appropriateness process meet Council's interest to maintain the historic character and context within Fayetteville's historic districts.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 2 - More Attractive City - Clean and Beautiful

BACKGROUND:

The City Council requested an update regarding the Certificate of Appropriateness process within the City's historic districts.

ISSUES:

NA

OPTIONS:

For informational purposes only

RECOMMENDED ACTION:

For informational purposes only

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Doug Hewett, Assistant City Manager/Dale Iman, City Manager
DATE: August 2, 2010
RE: **Fayetteville Area System of Transit (F.A.S.T.) Operations and Work Plan Update**

THE QUESTION:

Do the updated work priorities and recommendations for F.A.S.T. operations meet Council's interests?

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4, Objective 1 - More Efficient City Government - Investing in the City's infrastructure, facilities and equipment

BACKGROUND:

During the FY 2011 budget development and subsequent adoption, the City Council expressed interest in discussing the following:

- City Council goal of reaching Local Fare Per Capita (LFPC) of peer NC cities
- Fare philosophy for F.A.S.T. riders
- Work plan and usage of the estimated \$519,000 in unspent FY10 funds designated for one-time Transit enhancements and quarterly reporting on same
- Citizen involvement via modifications to the Transit Advisory Committee and the former Blue Ribbon Task Force
- Departmental overview and successes

ISSUES:

None

OPTIONS:

None

RECOMMENDED ACTION:

Provide direction to staff following discussion.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Tom Bergamine, Police Chief
DATE: August 2, 2010
RE: **Nightclub Behavior**

THE QUESTION:

Clarification from City Council on direction regarding "Nightclub Behavior"

RELATIONSHIP TO STRATEGIC PLAN:

- Growing City, Livable Neighborhood, A Great Place to Live

BACKGROUND:

On March 17, 2010, Councilman Wesley Meredith submitted a request to direct staff to research strengthening our ordinance to complement "Nightclub Behavior".

ISSUES:

1. Require nightclubs to provide (and/or hire off-duty sworn officers) security in AND outside their establishments during AND after closing to ensure any unacceptable behavior is better controlled.
2. To strengthen our noise ordinances, and
3. Require the nightclubs to clean up their sites of trash and litter in the immediate area.

OPTIONS:

Need City Council's direction on this matter to better assist with this endeavor.

RECOMMENDED ACTION:

N/A

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Applicable City Council Member(s)
DATE: August 2, 2010
RE: **City Council Request(s): (In order of date of receipt)**
(a) Council Member Mohn - Parking of Big-Rig Cabs in Residentially Zoned areas
(b) Council Member Davy - Consider Restoring 25% Funding Cuts for Non-Profits

THE QUESTION:

As stated on attached City Council Agenda Item Request Form(s)

RELATIONSHIP TO STRATEGIC PLAN:

As stated on attached City Council Agenda Item Request Form(s)

BACKGROUND:

NA

ISSUES:

NA

OPTIONS:

NA

RECOMMENDED ACTION:

As stated on attached City Council Agenda Item Request Form(s)

ATTACHMENTS:

- (a) Council Member Mohn - Parking of Big-Rig Cabs in Residentially Zoned areas
- (b) Council Member Davy - Consider Restoring 25% Funding Cuts for Non-Profits

City Council Agenda Item Request

Date of Request: 20 July 2010 - For Council's August 2010 Work Session

Name of Requester: Council Member Ted Mohn - District 8

Agenda Item Title: Parking of Big-Rig Cabs in Residentially Zoned areas

What do you want to accomplish with this item?

Determine if city council is willing to consider revising the current ordinance/code (section 30-221 (i) (1)) concerning the parking of tractor-trailer cabs within neighborhoods.

Determine if council willing to consider modifying the current ordinance for over-the-road drivers that are only home a portion of each month and allow them to park their cabs on their property or in front of their home.

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

- Strong Local Economy - Jobs
- Partnership of Citizens - Jobs
- Rich Heritage - Trucking Jobs
- Sustainable Community - Jobs

Comments:

I have been contacted several times by truck drivers living within Fayetteville city limits concerning the current ordinance that prohibits the cab portion of a tractor trailer to park within residential areas.

Many of these drivers (our fellow hard working tax paying citizens) are on the road 20-25 days per month and only come home on occasion and have no secure place to park their cabs. These truck are their family's livelihood.

City Council Agenda Item Request

Date of Request: 22 July 2010 - For Council's August 2010 Work Session

Name of Requester: Council Member Kady-Ann Davy, District 2

Agenda Item Title: Consider Restoring 25% Funding Cuts for Non-Profits

What do you want to accomplish with this item?

Develop some dialogue and consensus with Council to restore these well needed funds on a one time basis.

Provide future direction for staff to revisit the application and funding process.

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

Goal #1 - Greater Tax Base Diversity

- Retain and grow current businesses and job
- Job opportunities for citizens and our children
- Educational opportunities for a lifetime

Goal #2 - Growing City, Livable Neighborhoods - A Great Place to Live

- Convenience - Shopping, recreation, education and entertainment
- Positive choices of activities in your leisure time

Comments: