



FAYETTEVILLE CITY COUNCIL
AGENDA
DECEMBER 3, 2012
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 Informational Briefing on Proposed Civil War Museum
Presented By: Bruce Daws, Historic Properties Manager

4.2 Community Development - Update on the progress of the Downtown Plan.
Presented By: Jami McLaughlin, Downtown Development Manager William
Grimes, Studio Cascade

4.3 Target For Action - Speed Limits : Review
Presented By: Lee Jernigan, P.E., City Traffic Engineer

4.4 Conversion of Private Streets to Public Streets

Presented By: Rusty Thompson, PE. PTOE Engineering and Infrastructure
Director

4.5 Consideration of Adoption of Revisions to Chapter 23, Article III,
Stormwater Management Ordinance
Presented By: Greg Caison, CSM, Stormwater Manager

4.6 Hire Fayetteville First - Near Term Actions / Policy Revision
Presented By: Kristoff Bauer, Asst. City 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 non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

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, 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.*

CITY COUNCIL ACTION MEMO

TO: Mayor and City Council
FROM: Bruce J. Daws, Historic Properties Manager
DATE: December 3, 2012
RE: **Informational Briefing on Proposed Civil War Museum**

THE QUESTION:

Status and Update on Proposed Civil War Museum

RELATIONSHIP TO STRATEGIC PLAN:

Growth and Development

BACKGROUND:

The Museum of the Cape Fear Historical Complex located at 801 Arsenal Avenue is part of the NC Department of Cultural Resources/Division of State History Museums. They are supported in part by a museum foundation. The museum foundation has retained the services of Mr. Davil Winslow, a consultant who has been charged with exploring a new direction for the Museum of the Cape Fear. The proposed new direction involves the building of a Civil War Museum on the grounds of the former U.S. and later Confederate Arsenal. Mr. Dale Iman, attended some of the meetings concerning the proposed Civil War Museum.

ISSUES:

The proposed new museum would be built on the former Arsenal Grounds. This land is currently owned by the City of Fayetteville, and is a designated Local Landmark property, which requires review by the Fayetteville Historic Resources Commission. It appears that if the money is raised it would be a couple of years before any building begins.

BUDGET IMPACT:

David Winslow's responsibility as the consultant involves raising money. He may ask for City funding in the furtherance of this project.

OPTIONS:

At this point, Mr. Winslow's presentation is informational only.

RECOMMENDED ACTION:

Mr. Winslow will brief City Council on the proposed plans. No action will be required.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Victor Sharpe, Community Development Director
DATE: December 3, 2012
RE: **Community Development - Update on the progress of the Downtown Plan.**

THE QUESTION:

What is the status of the Downtown Plan update?

RELATIONSHIP TO STRATEGIC PLAN:

Revitalized Downtown - A Community Focal Point

BACKGROUND:

- Studio Cascade will present an update on the progress of the Downtown Plan Update.
- They have spent time interviewing various stakeholders for the downtown, met with the Planning Commission twice, and are working to develop the draft goals, policies and action items.
- A "Storefront Studio" will be held December 4-6, 2012. This is a three day public workshop/charrette to solicit feedback on input received regarding vision, priorities and aspirations from various focus groups and the public.
- This event is being advertised in the Fayetteville Observer, Up & Coming Magazine, through direct mailings, City's website, Visit Downtown Fayetteville website, facebook, and twitter.
- Storefront Studio will be held at 100 Hay Street (former National Bank and First Citizens Bank Building)

ISSUES:

BUDGET IMPACT:

Funding has been allocated for this project.

OPTIONS:

This item is being presented for informational purposes.

RECOMMENDED ACTION:

Receive as information.

ATTACHMENTS:

Presentation



The Livery Antiques

The Livery Antiques



Tonight

- Process and role
- Existing plans
- Initial thoughts
- Storefront studio
- Discussion

City Council Work Session

December 3, 2012



Existing Plans

Renaissance Plan

Fayetteville Once and for All

Bragg Bl study

Murchison Rd study

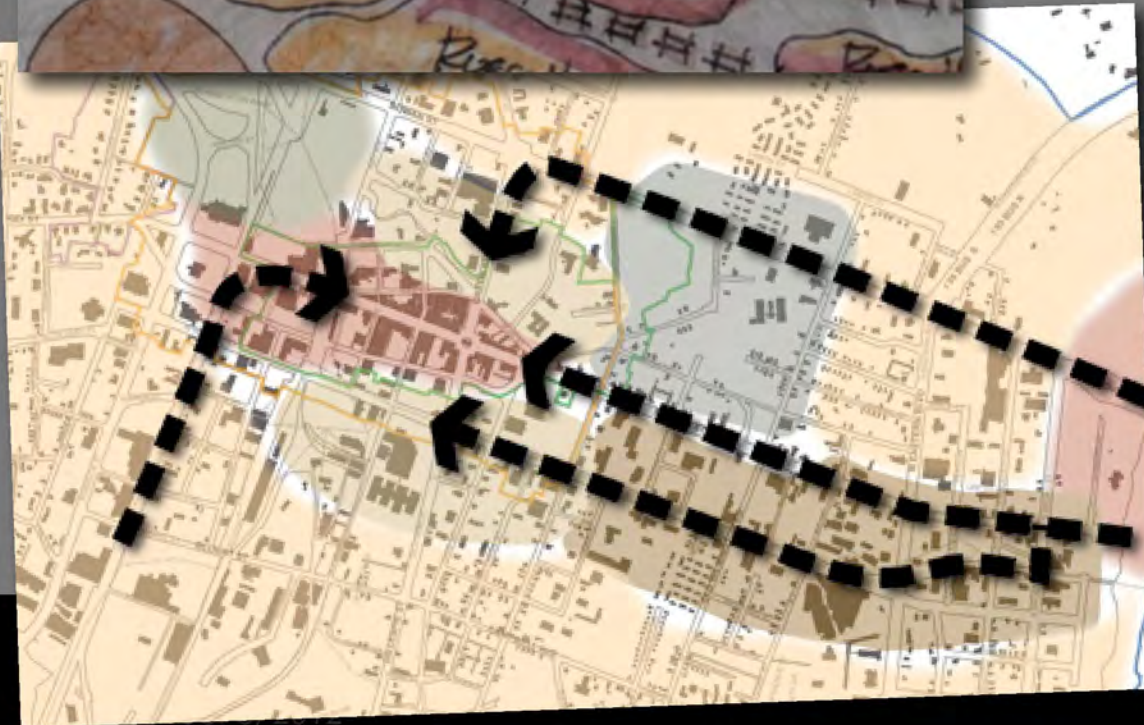
Comprehensive plan draft

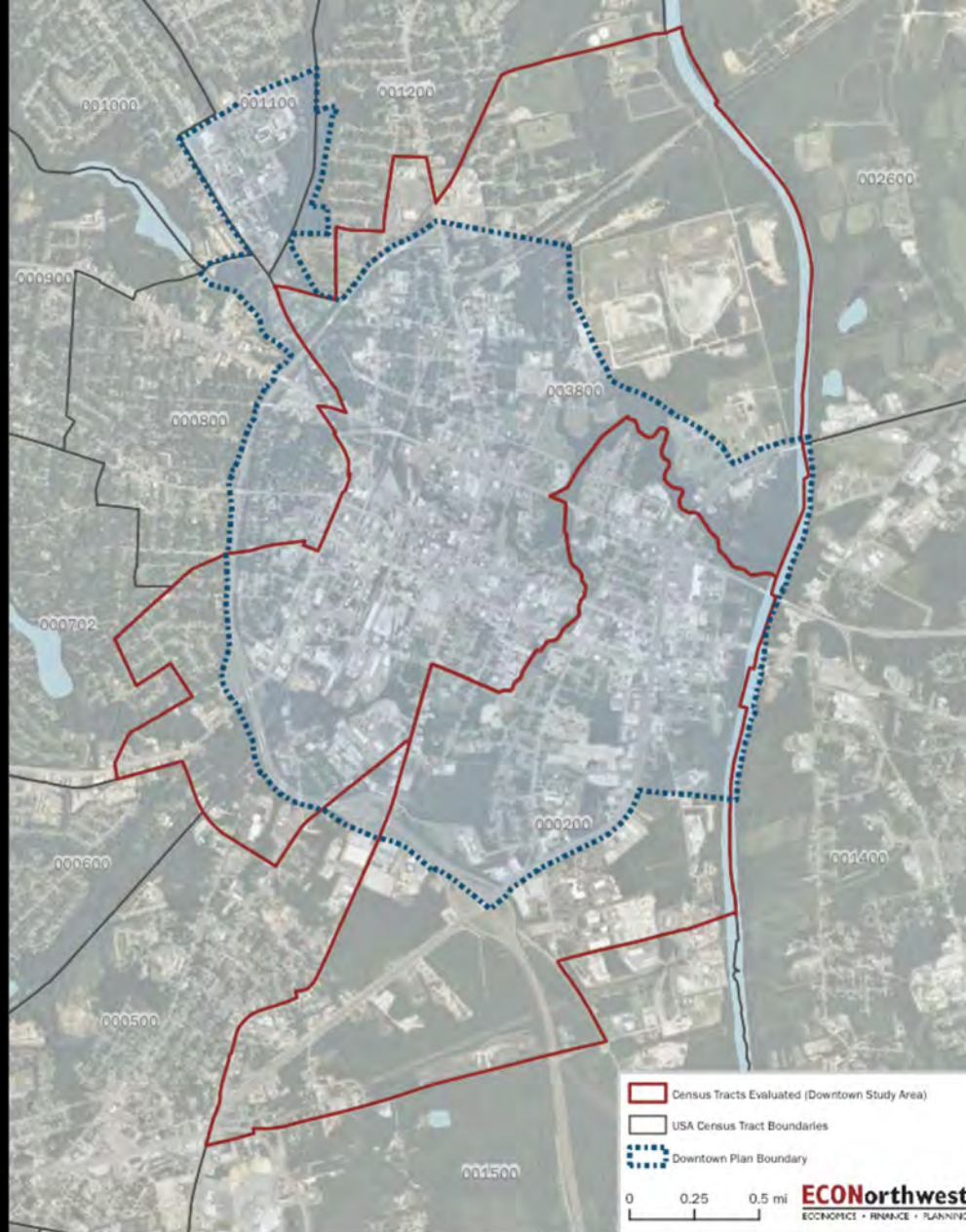


Initial Investigations



- Stakeholder interviews
- Spatial analysis
- Demographic snapshot
- Strategies



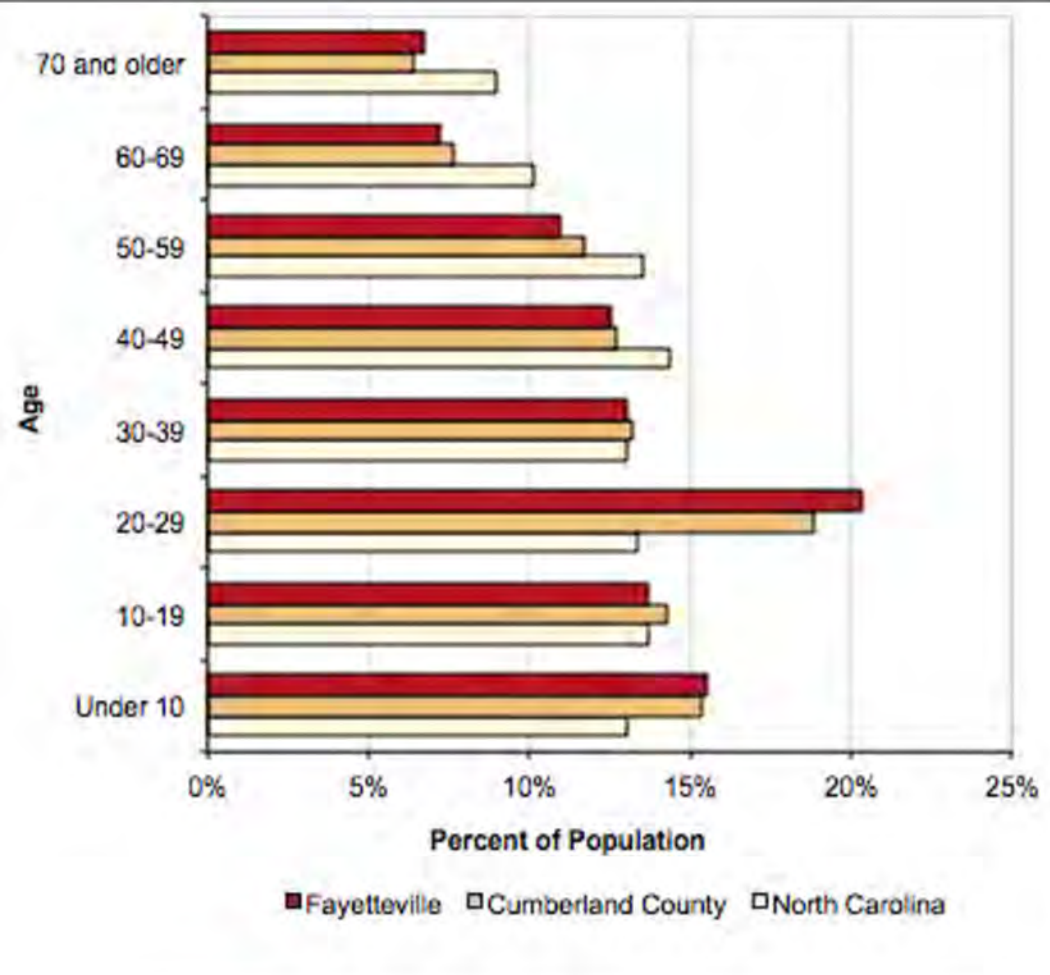


City Council Work Session
 December 3, 2012



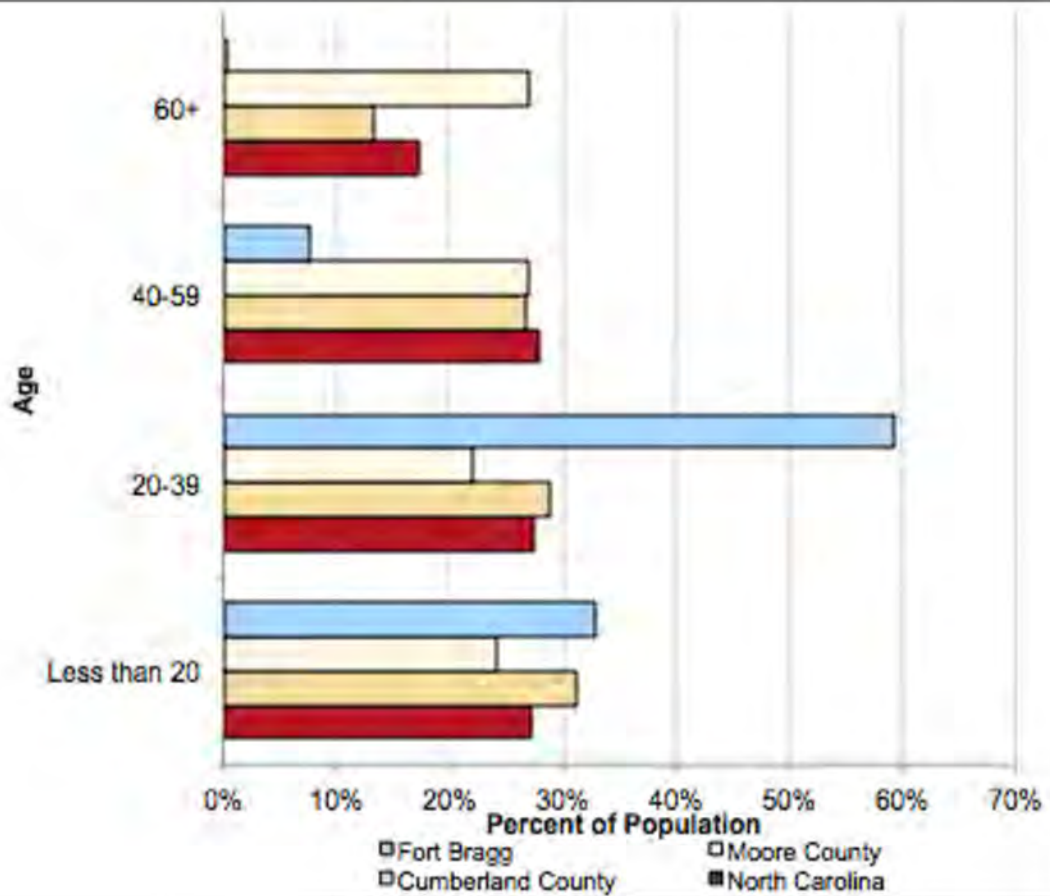
Demographic Snapshot

Younger



Demographic Snapshot

Bragg's youthfulness



Demographic Snapshot

Downtown population: 4,600
(2% of city)

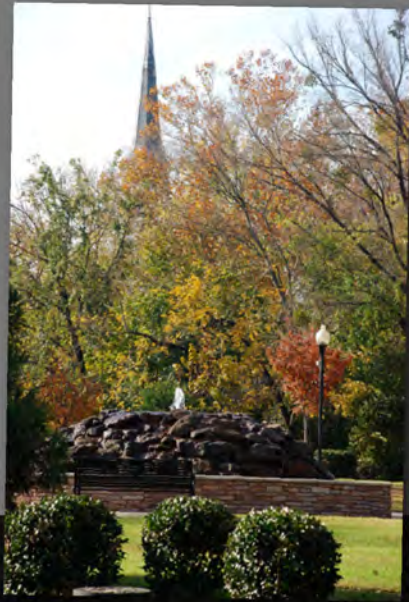


	White	African-American	All others
County	54%	36%	10%
F-Ville	48%	41%	11%
D-town	17%	76%	7%

Demographic Snapshot



	North Carolina		Cumberland Co.		Fayetteville	
	Number	Percent	Number	Percent	Number	Percent
In Labor Force	4,833,782	63%	164,597	66%	102,717	66%
In Armed Forces	82,087	1%	26,682	11%	21,290	14%
Employed	4,195,808	55%	117,105	47%	68,905	44%
Unemployed	655,910	9%	23,115	9%	13,687	9%
Not in Labor Force	2,782,615	37%	82,921	34%	52,626	34%
Total	7,616,397	100%	247,518	100%	155,343	100%



Stakeholder Thoughts

FSU

Downtown as heart

River

Parks & trails

Institutions/civic uses

Safety

Preservation

Housing

Lodging



City Council Work Session

December 3, 2012



Vision

Arts

Neighborhoods

Industry & infrastructure

Relationships



Work Session

December 3, 2012

Categories for Action/Phasing

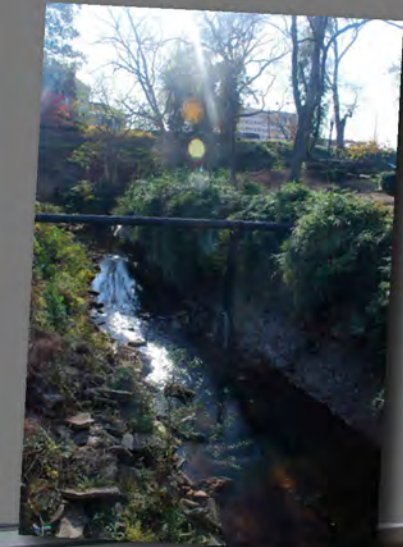
Central arts complex

Gateways

Cape Fear River

Neighborhood districts

Parks/recreation/
community centers



Destination Downtown

Regional attraction

Parking

Historic theme

River opportunity

FSU as creative contributor



City Council
December 3, 2012

Hometown Downtown



Living downtown

Living in town

Town center

Retail profile

Russell corridor

FSU as *alma mater*



City Council Work Session

December 3, 2012

Diversity Downtown

Living downtown

Living in town

Civic center

Retail profile

Russell/Grove/Hillsboro corridors

Neighborhood centers

FSU as touchstone



Issues

Safety

Synergy

Public realm

Housing supply

Growth policy

Transit

Partnerships



City Council Work Session

December 3, 2012



Quick Qs: About Downtown

Fayetteville is preparing a new **Downtown Renaissance Plan**, establishing a framework to guide downtown investment, development and decision-making for many years to come. For purposes of the plan, "downtown" includes FSU and areas roughly a mile in all directions from the Market House. This informal questionnaire will help gauge impressions and hopes for downtown - so tell us what you think!

I reside in: (check one) - Fayetteville - Cumberland County (outside Fayetteville) - Other



Note: Rank each statement below, where 1 = "Strongly disagree" and 5 = "Strongly agree"

	1	2	3	4	5	O/K	Why?
1. Downtown Fayetteville feels like a safe place.							
2. People in Fayetteville consider downtown the true "heart" of the community.							
3. Growth at Fort Bragg is having a sufficiently positive effect on downtown Fayetteville.							
4. Downtown has made the most of its opportunities over the last ten years.							
5. I encourage out-of-town friends and guests to visit downtown Fayetteville.							
6. I'd like to live within walking distance of the Market House if conditions were right.							
7. Downtown Fayetteville is a great place to own and operate a business.							
8. Downtown should expand its energy and neighborhoods.							

1000] Please complete and leave with p

Workshop Series

Help shape Downtown's future

Fayetteville is updating its Downtown "Renaissance Plan", establishing new goals and action items for the next 10 to 20 years. Attend one or both workshops or drop by our **storefront studio** anytime between 10:00 am and 6:00 pm, Tuesday thru Thursday.

...help shape the future of downtown!



Schedule of Events

Workshop 1: December 5, 6:00-8:00 pm (Wednesday)

Workshop 2: December 6, 6:00-8:00 pm (Thursday)

Open Studio: December 4-6, 10:00 am-6:00 pm

Location: 100 Hay Street (downtown)

For more, visit: www.facebook.com/downtownfayetteville



Exploration

Questionnaire
Publicity
Strategies





Storefront Studio

December 4 - 6

100 Hay

Tuesday:
Investigations/focus groups

Wednesday:
Alternatives/Open house

Thursday:
Synthesis/Presentation

10am - 6pm studio

6pm - 8pm events

City Council Work Session

December 3, 2012



The Livery Antiques

The Livery Antiques

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of Council
FROM: Lee Jernigan, P.E., City Traffic Engineer
DATE: December 3, 2012
RE: **Target For Action - Speed Limits : Review**

THE QUESTION:

What processes are in place for speed limits on roadways in the City of Fayetteville?

RELATIONSHIP TO STRATEGIC PLAN:

Growing City, Livable Neighborhoods - Great Place to Live

BACKGROUND:

Council approved Speed Limits Review in the City as a Target For Action.

ISSUES:

To discuss speed limit issues on City and NCDOT maintained roadways in the City.

BUDGET IMPACT:

This will have minimal impact on the budget.

OPTIONS:

N/A - Feedback and informational purposes only.

RECOMMENDED ACTION:

N/A - Feedback and informational purposes only.

ATTACHMENTS:

Target for Action - Speed Limits: Review

Goal 4: Growing City, Livable Neighborhoods – A Great Place to Live

Target For Action - Speed Limits: Review

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Speed Limits: Review



- **Targets For Action - Speed Limits: Review**
- **Information about Speed Limit process**
- **How are Speed Limits determined?**
- **Who initiates investigations and who investigates?**
- **How are speed limits determined on new development roads or newly annexed NCDOT roads?**

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Speed Limits: Review



City Maintained Roadways

- **Approximately 730 Miles, including neighborhoods which are 25 mph (Sec. 16-262 (3))**
- **Exceptions**
 - **McPherson Church(35/45), Old Owen Drive (35), Wingate Road (35), Green Street (35), etc., Ft. Bragg Road (35)**
 - **Hay Street (15/20), etc.**

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Speed Limits: Review



NCDOT Maintained Roadways

- Approximately 172 Miles, including most main routes
- Bragg Boulevard (35/45), Morganton Road (35/45), Ramsey Street (35/45), Gillis Hill (45), Raeford Road (45), etc.
- NCDOT Requires Municipal Concurrence for speed limit revisions
 - Existing speed limit remains if no Municipal concurrence

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Speed Limits: Review



How is a speed limit determined?

- **Roadway Characteristics** – roadway surface, lane width, grade, horizontal and vertical alignment, traffic volume, # of driveways and driveway spacing, roadway design speed
- **Shoulder Characteristics** – Shoulder Type (paved/grass), Curb and Gutter/Ditch, On Street Parking

Speed Limits: Review



How is a speed limit determined?

- **Accident History** – Accident patterns that may warrant speed limit revision
- **85th Percentile Speed** – “the speed at or below which 85 percent of the motor vehicles travel” (2009 MUTCD)
 - Most influential factor in determining speed limits
 - Previously listed factors influence the 85th Percentile speed, lane and shoulder width, sharp curves, etc., effect operating speeds

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Speed Limits: Review



What initiates a speed limit investigation?

- External Customer Request – NCDOT, citizen, elected official, media
- Internal Customer Request – E & I, FAST, other depts.
- Changes in Roadway Characteristics since last review
 - Manual of Uniform Traffic Control Devices (MUTCD) Guidance – “...reevaluate non-statutory speed limits on segments of their roadways that have undergone significant changes since the last review...”



Speed Limits: Review



Who conducts a speed limit investigation?

- **City Maintained Roadway – Engineering & Infrastructure Department, Traffic Services Division**
- **NCDOT Maintained Roadway – NCDOT Division 6, Fayetteville, Division Traffic Engineer**
 - Existing speed limit remains in place until NCDOT and Municipality concur on any change



Speed Limits: Review



What about speed limits on new development roads?

- **Future City Maintained Roadways – Neighborhoods are designed and posted for 25 mph (Sec. 16-262 (3))**
 - Traffic calming devices (speed humps, traffic circles, etc.) are recommended during staff review of the neighborhood development
 - Design speed of other type development roads (collectors, arterials) dictate posted speed



Speed Limits: Review



What about speed limits on new development roads?

- **Future NCDOT Maintained Roadways – NCDOT determines based on design speed of the roadway**



Speed Limits: Review



What about speed limits on newly annexed NCDOT roadways?

- **Newly Annexed Roadways – existing speed limit remains in effect until NCDOT revises the ordinance and requests the municipality concur with the change. (G. S. 20-141(f))**
- **Request for change follows the process previously discussed**



Speed Limits: Review



Questions?





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CITY COUNCIL ACTION MEMO

TO: Mayor and Members of Council
FROM: Rusty Thompson, PE. PTOE Engineering and Infrastructure Director
DATE: December 3, 2012
RE: **Conversion of Private Streets to Public Streets**

THE QUESTION:

What options are available to provide maintenance or conversion of private streets to public streets?

RELATIONSHIP TO STRATEGIC PLAN:

Growing City, Livable Neighborhoods, A Great Place to Live

BACKGROUND:

On October 8th, Council staff to investigate processes to convert a private streets to a public street.

ISSUES:

Our current ordinance does not provide for process for acceptance of existing private streets. The city does not have an inventory of the condition, length or rights of way for the private streets in question.

BUDGET IMPACT:

The conversion of each street would have to include a budget.

OPTIONS:

N/A- Information and feedback purposes only.

RECOMMENDED ACTION:

N/A- Information and feedback purposes only.

ATTACHMENTS:

Power Point Presentation - Private Streets

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Private Streets



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Privates Streets



- On October 8th, Council requested staff to investigate options to address concerns about the condition of private streets.
- To date staff has identified more than 691 private streets in Fayetteville.
- We do not know the condition, length or ownership of the streets.
- Our current ordinance does not provide a process for acceptance of existing private streets.
- Law does not allow expenditure of public funds on private properties.



Private Streets



Options

1. Municipal Service District
2. UDO changes
3. Existing Policy changes
4. Water and Sewer installation
5. Take no action



Option 1



- Legislative – GS 160A-536, AN ACT TO AUTHORIZE CITIES TO ESTABLISH A MUNICIPAL SERVICE DISTRICT FOR THE PURPOSE OF CONVERTING PRIVATE RESIDENTIAL STREETS TO PUBLIC STREETS
- A city may establish a **municipal service district** for the purpose of converting private residential streets to public streets if the conditions of this subsection are met.
- A municipal service district, commonly referred to as a Business Improvement District, is a financing mechanism used to provide revenue for a variety of services that enhance, not replace, existing city services.
- North Carolina has 49 improvement districts and is sixth in the nation for the most districts.

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Option 2



- Amend the Development Ordinance
- Any developer or property owner who desires to engage in one or more of the following, shall be required to upgrade the entire private street to conform to the UDO standard for new private streets.
- If one or more lots are being added to an existing nonconforming private street
- If subdividing a lot
- If extending or connecting to an existing nonconforming private street.

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Option 3



- Rescind the existing 1994 policy
- Create a new policy
 - To include an assessment process that would cover the cost for the evaluation of the streets, design, property acquisition to include condemnation and construction costs related with improving the street to an acceptable standard.
- Include options for improvement the community could select upon petition.
 - Paving with Sidewalks and Curb and Gutter
 - Paving with curb and gutter
 - Strip paving with sidewalks (with drainage ditches)
 - Strip paving (with drainage ditches)

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Option 4

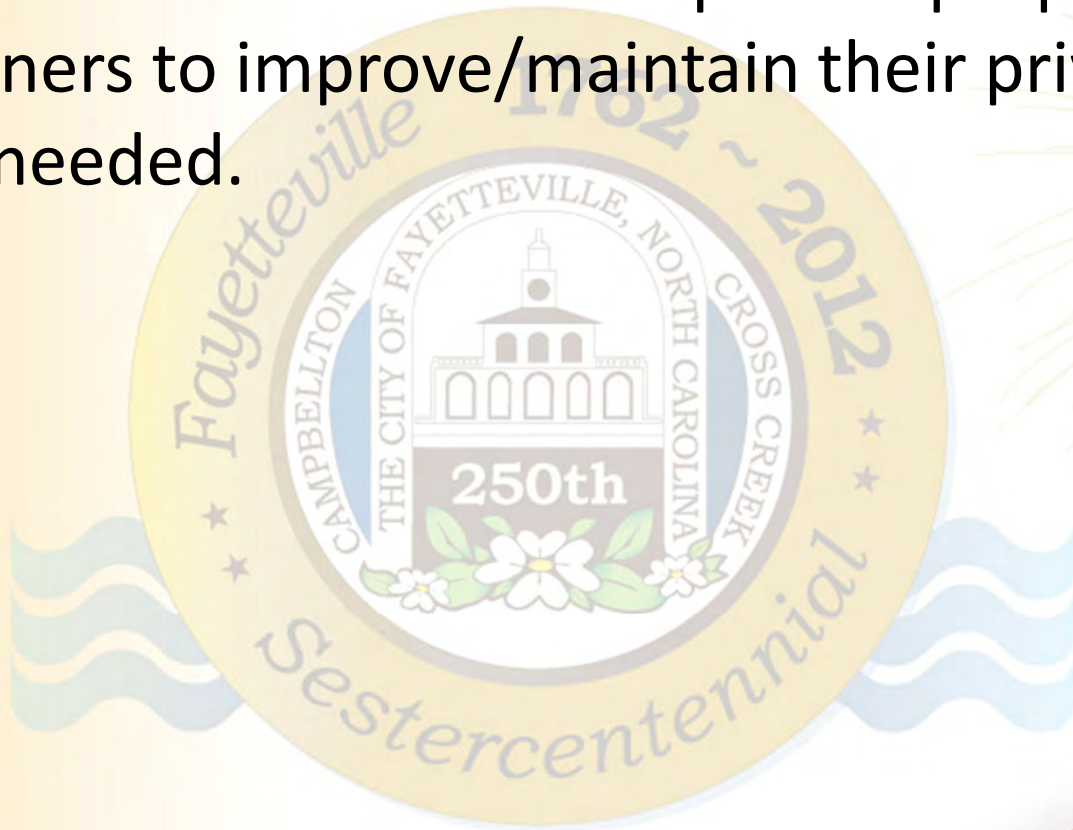


- Include the paving/re-building of the private street during the water and sewer installation as an option and include in the assessment.

Option 5



- Take no action and allow private property owners to improve/maintain their private street as needed.

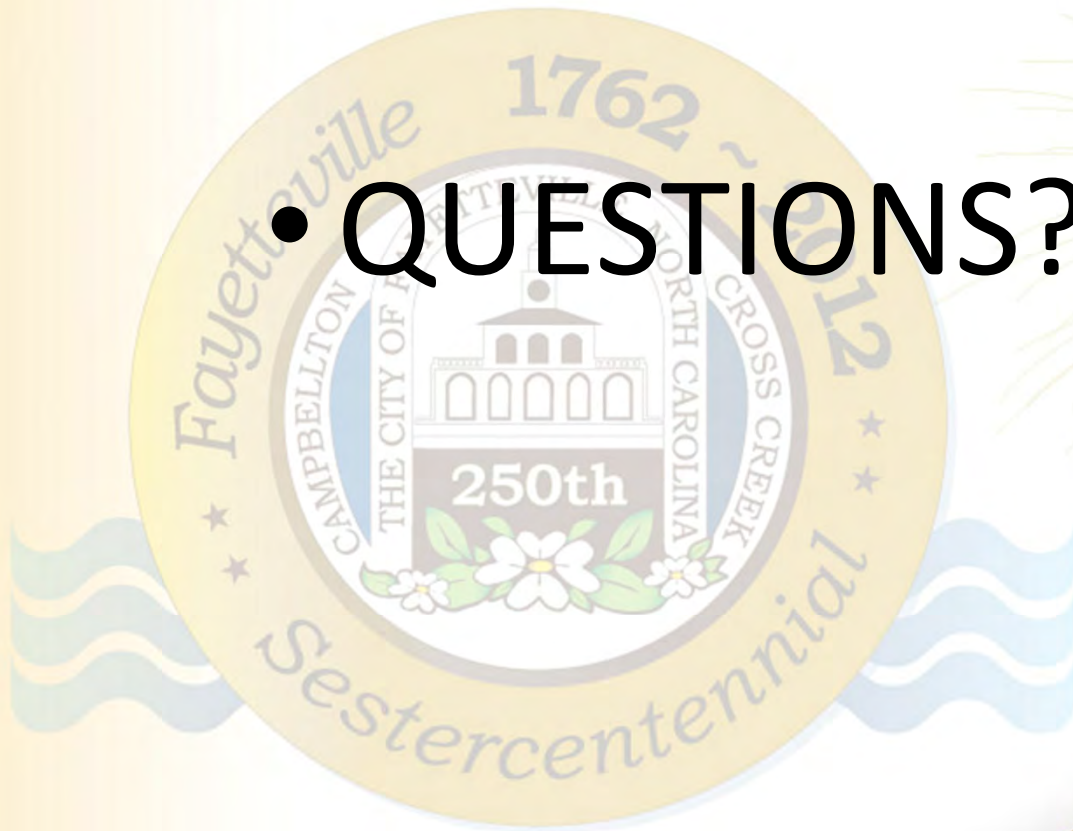


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Private Streets



• QUESTIONS?



City of
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North Carolina

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Greg Caison, CSM, Stormwater Manager
DATE: December 3, 2012
RE: **Consideration of Adoption of Revisions to Chapter 23, Article III, Stormwater Management Ordinance**

THE QUESTION:

Council is asked to adopt proposed revisions in the attached Stormwater Management Ordinance, Article III of Chapter 23 of the City Code of Ordinances.

RELATIONSHIP TO STRATEGIC PLAN:

Growing City, Livable Neighborhoods; More Efficient Government

BACKGROUND:

The Stormwater Management Ordinance, also referred to as Chapter 23, Article III, Stormwater Control, initially became effective January 2009 establishing minimum requirements to control the adverse effects of increased stormwater quantity and runoff quality. Further changes to Article III were adopted in February 2012 to allow for additional State-mandated Phase II regulations, performance guarantee adjustments, and other technical revisions. As City Staff and users in the community continue to apply the Ordinance and gain experience, administrative and procedural changes have been identified that can be refined and implemented to gain efficiencies for all users.

ISSUES:

City Staff and affected users have wrestled, at times, with matters surrounding (BMP) installation and performance. Recently, the Homebuilder's Association approached Staff to discuss continued concerns regarding the bonding process typically required for BMP performance guarantees particularly in single-family residential subdivisions. The performance guarantee effectively ensures that stormwater BMP's are constructed and installed according to engineering design. Users have expressed difficulty in obtaining financing for bonding without necessary permits as the process is currently written; staff agrees this could be unnecessarily burdensome. Staff is also seeking to relax the performance guarantee on commercial properties since those projects are usually of relatively short-term duration and protected by the Certificate of Occupancy (CO) issuance process.

Specific changes being proposed to make the performance guarantee process more user-friendly and less burdensome include:

Single-family residential subdivisions -- The performance guarantee now required for stormwater BMP's in single family subdivisions is 75% of the estimated construction cost prior to issuance of a permit. Changes are proposed to require a performance guarantee of 100% of the total estimated construction cost of converting the erosion control measure to the stormwater BMP approved under the permit and due at the approval of final plat. The conversion cost is usually much lower than the initial construction cost.

Commercial developments -- The performance guarantee that is now required for stormwater BMP's on commercial properties will become more site specific. Requirements may be waived by the City Engineer if conditions are warranted thereby also eliminating the administrative requirements associated with the handling of the performance guarantee.

BUDGET IMPACT:

This recommendation represents a procedural change that will be of little or no consequence to Budget.

OPTIONS:

1. Set a public hearing for consideration and voting on the proposed revisions to the Stormwater Control Ordinance, Article III of Chapter 23 of the City Code of Ordinances.
2. Defer any action.

RECOMMENDED ACTION:

This item is for discussion purposes. Unless Council has concerns or questions suggesting a different course, staff will set a public hearing for consideration and voting on the proposed revisions to the Stormwater Control Ordinance, Article III of Chapter 23 of the City Code of Ordinances.

ATTACHMENTS:

Excerpt of Ordinance showing proposed changes

PART II - CODE OF ORDINANCES
Chapter 23 - STORMWATER MANAGEMENT
ARTICLE III. - STORMWATER CONTROL

stormwater control measures and stormwater treatment practices required under this article shall be evaluated by the city engineer according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the latest version of the "Stormwater Best Management Practices Manual" as provided by the North Carolina Division of Water Quality. The city engineer shall determine whether proposed BMPs will be adequate to meet the requirements of this article.

(2) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the latest version of the "Stormwater Best Management Practices Manual" as provided by the North Carolina Division of Water Quality will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the latest version of the "Stormwater Best Management Practices Manual" as provided by the North Carolina Division of Water Quality, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this article. The city engineer may require the applicant to provide the documentation, calculations, and examples necessary for the city engineer to determine whether such an affirmative showing is made.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-33. - Approval and permit requirements.

(a) No final site plan or subdivision plan approval shall be issued or modified without the following items:

- (1) An approved stormwater design plan;
- (2) An executed operation and maintenance agreement, if required, in accordance with section 23-39;
- (3) The posting of an installation performance guarantee, if required, in accordance with section 23-41;
- (4) An approved erosion control plan, if applicable;
- (5) Right of entry given to the city for city personnel to enter property for emergency maintenance if necessary; and
- (6) Any off-site easements needed.

(b) No final certificate of occupancy permit shall be issued pursuant to chapter 7 of this Code of Ordinances or final plat approved without the following:

- (1) All final inspection requirements as per section 23-37 are met;
- (2) The posting of an installation performance guarantee, if required, in accordance with section 23-41;
- (23) Receipt of record drawings as outlined in section 23-37; and

PART II - CODE OF ORDINANCES
Chapter 23 - STORMWATER MANAGEMENT
ARTICLE III. - STORMWATER CONTROL

(34) A recorded operation and maintenance agreement, if required, in accordance with section 23-39

(c) All land clearing, construction, development and drainage shall be done in accordance with the approved stormwater design plan or previously approved revisions.

(d) Submittal and/or approval of stormwater design plans does not preclude the applicant from obtaining all other necessary permits and compliance with appropriate regulations including, but not limited to, the following:

- (1) Water supply watershed regulations, chapter 29 of this Code of Ordinances;
- (2) Federal wetland permits;
- (3) Water quality certifications; and
- (4) Sediment and erosion control requirements.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-34. - Building permit or street plan approval suspension and revocation.

(a) The following conditions shall represent grounds for suspension and/or revocation for building permit(s) and/or street plan approval(s):

- (1) Any violation(s) of the conditions of the stormwater design plan approval;
- (2) Construction not in accordance with the approved plans;
- (3) Approval of a stormwater design plan has not been obtained;
- (4) Noncompliance with correction notice(s); or
- (5) The existence of an immediate danger in a downstream area.

(b) If one or more of these conditions are found, a written notice of violation shall be served upon the owner or authorized representative and the time in which to correct the deficiencies shall be specified. The notice shall set forth the measures necessary to achieve compliance with the plan. Correction of these violations must be started immediately or the owner shall be deemed in violation of this article.

(c) If appropriate remedial actions as outlined in the written notice are not completed within the specified time period, a building permit or street plan approval will be suspended or revoked within seven days. The suspension or revocation will then be in force until the development is in compliance with this article.

(d) If a violation of this article is occurring that will cause significant damage to downstream property or structures, the city engineer can issue an immediate suspension or revocation.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-35. - Professional registration requirements.

(a) Stormwater design plans and design reports that are incidental to the overall or ongoing site

PART II - CODE OF ORDINANCES
Chapter 23 - STORMWATER MANAGEMENT
ARTICLE III. - STORMWATER CONTROL

- (1) The facilities have been constructed as shown on the record drawings; and
 - (2) The facilities meet the approved stormwater design plan and specifications.
- (f) As a minimum, the record drawings shall contain the following:
- (1) Mark through and redraw drainage structures when the as-built location deviates more than ten feet horizontally from the location indicated on the plans.
 - (2) Show all drainage structures, pipe inverts, and rim elevations.
 - (3) Show distances between drainage structures on the plan view as well as the profile.
 - (4) Show the final design specifications for all stormwater management facilities and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-38. - Ownership and maintenance of stormwater management facilities.

(a) All stormwater management facilities shall be privately owned and maintained unless the city accepts the facility for city ownership and maintenance. The owner thereof shall grant to the city a right of entry which allows for inspection and emergency repair, in accordance with the terms of the operation and maintenance agreement set forth in section 23-39, hereof.

(b) Single-family residential stormwater management facilities accepted for maintenance. The city shall accept functional maintenance responsibility of structural stormwater management facilities that are installed pursuant to this article following a warranty period of one year from the date of record-drawing certification described in section 23-37, or from the date the facility ceases to function as an erosion control measure and starts to function as a stormwater management facility, whichever is later, provided the stormwater management facility:

- (1) Only serves a single-family detached residential development or townhomes all of which have public street frontage;
- (2) Is satisfactorily maintained during the one-year warranty period by the owner or designee;
- (3) Meets all the requirements of this article;
- (4) Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, repair, or reconstruction; and
- (5) Prior to the release of the installation performance guarantee as outlined in section 23-41 (b), the developer shall pay into a maintenance fund used to maintain such facilities in the future an amount equal to 20 percent of the initial construction cost of the stormwater management facilities related to detention ponds or other BMPs constructed to meet the requirements of this article.

The city engineer must receive an application for transfer of maintenance responsibilities for the structural stormwater management facility along with the stormwater design plan submittal.

(c) The person responsible for maintenance of any stormwater management facility installed pursuant to this article and not covered under subsection (b) above, shall submit to the city engineer an

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stormwater management facility; however, in no case shall the right of entry, of itself, confer an obligation on the city to assume responsibility for the stormwater management facility.

(2) The operation and maintenance agreement must be approved by the city engineer prior to final approval, and it shall be referenced on the final plat and shall be recorded with the Cumberland County Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the city engineer within 14 days following its recordation.

(b) *Special requirement for homeowners' and other associations.* For all stormwater management facilities required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity in a single-family residential subdivision, the required operation and maintenance agreement shall include all of the following provisions:

(1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

(2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater management facilities. If stormwater management facilities are not performing adequately or as intended or are not properly maintained, the city, in its sole discretion, may remedy the situation, and in such instances the city shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the stormwater management facilities.

(3) Both developer and homeowners' association contributions shall fund the escrow account. Prior to the release of the installation performance guarantee as outlined in Section 23-41 (b), the developer shall pay into the escrow account an amount equal to 15 percent of the initial construction cost of the stormwater management facilities. Two-thirds (2/3) of the total initial construction cost shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the stormwater management facilities. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the escrow account budget.

(4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the city depending on the design and materials of the stormwater control and management facility.

(5) Granting to the city a right of entry to inspect, monitor, maintain, repair, and reconstruct stormwater management facilities.

(6) Allowing the city to recover from the association and its members any and all costs the city expends to maintain or repair the stormwater management facilities or to correct any operational deficiencies. Failure to pay the city all of its expended costs, after 45 days' written notice, shall constitute a breach of the agreement. In case of a deficiency, the city shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

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(7) A statement that this agreement shall not obligate the city to maintain or repair any stormwater management facilities, and the city shall not be liable to any person for the condition or operation of stormwater management facilities.

(8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the city to enforce any of its ordinances as authorized by law.

(9) A provision indemnifying and holding harmless the city for any costs and injuries arising from or related to the stormwater management facility, unless the city has agreed in writing to assume the maintenance responsibility for the stormwater management facility and has accepted dedication of any and all rights necessary to carry out that maintenance.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-40. - Inspection program.

(a) Inspections and inspection programs by the city may be conducted or established on any reasonable basis, including, but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities.

(b) If the owner or occupant of any property refuses to permit such inspection, the city engineer shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2, or its successor. No person shall obstruct, hamper or interfere with the city engineer while carrying out his or her official duties.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-41. - Performance guarantee for installation.

(a) Commercial developments.

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(a1) ~~Shall~~May be required. The city ~~shall~~may, at its discretion, require the submittal of a performance guarantee or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the stormwater management facilities are installed by the permit holder as required by the approved stormwater design plan.

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(b2) Amount. The amount of an installation performance guarantee shall be equal to at least 75 percent of the total estimated construction cost of the stormwater management facilities approved under the permit. The installation performance guarantee shall remain in place until at least one year after final approval. ~~In cases where the facility initially functions as an erosion control measure, the installation performance guarantee shall remain in place until at least one year after the facility starts to function as a stormwater management facility.~~

(c3) Use of performance guarantee.

(4)a. Forfeiture provisions. The performance guarantee shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this article, approvals issued pursuant to this article, or an operation and maintenance agreement

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established pursuant to this article.

~~(2)~~b. *Default.* Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any stormwater management facility in accordance with the applicable permit or operation and maintenance agreement, the city engineer shall obtain and use all or any portion of the guarantee to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement.

~~(3)~~c. *Costs in excess of performance guarantee.* If the city takes action upon such failure by the applicant or owner, the city may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the guarantee held, in addition to any other penalties or damages due.

~~(4)~~d. *Refund.* No sooner than one year after final approval, the applicant may petition the city to release the value of the performance guarantee. ~~For single-family residential subdivisions, the one-year timeframe shall be as outlined in section 23-39.~~ Upon receipt of such petition, the city engineer shall inspect the stormwater management facility to determine whether the controls are performing as designed and intended. The city engineer shall present the petition, inspection report, and recommendations to the director of the city engineering and infrastructure department.

a1. If the director of the city engineering and infrastructure department approves the report and accepts the petition, the city may release the installation performance guarantee upon execution by the applicant of an indemnification agreement in favor of the city which shall be a covenant upon the property and run with the land.

b2. If the director of the city engineering and infrastructure department does not accept the report and rejects the petition, the director of the city engineering and infrastructure department shall provide the applicant with instruction to correct any deficiencies and all steps necessary for the release of the installation performance guarantee.

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(b) Single-family residential subdivisions.

(1) Shall be required. The city shall require the submittal of a performance guarantee or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to approval of a final plat in order to ensure that the stormwater management facilities are installed by the permit holder as required by the approved stormwater design plan.

(2) Amount. The amount of an installation performance guarantee shall be equal to at least 100 percent of the total estimated construction cost of converting the erosion control measure to the stormwater management facilities approved under the permit. The installation performance guarantee shall remain in place until at least one year after the facility starts to function as a stormwater management facility.

(3) Use of performance guarantee.

a. Forfeiture provisions. The performance guarantee shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this article, approvals issued pursuant to this article, or an operation and maintenance agreement

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established pursuant to this article.

b. *Default.* Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any stormwater management facility in accordance with the applicable permit or operation and maintenance agreement, the city engineer shall obtain and use all or any portion of the guarantee to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement.

c. *Costs in excess of performance guarantee.* If the city takes action upon such failure by the applicant or owner, the city may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the guarantee held, in addition to any other penalties or damages due.

d. *Refund.* No sooner than one year after final approval as outlined in section 23-39, the applicant may petition the city to release the value of the performance guarantee. Upon receipt of such petition, the city engineer shall inspect the stormwater management facility to determine whether the controls are performing as designed and intended. The city engineer shall present the petition, inspection report, and recommendations to the director of the city engineering and infrastructure department.

1. If the director of the city engineering and infrastructure department approves the report and accepts the petition, the city may release the installation performance guarantee upon execution by the applicant of an indemnification agreement in favor of the city which shall be a covenant upon the property and run with the land.

2. If the director of the city engineering and infrastructure department does not accept the report and rejects the petition, the director of the city engineering and infrastructure department shall provide the applicant with instruction to correct any deficiencies and all steps necessary for the release of the installation performance guarantee.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-42. - Notice to owners; deed recordation and indications on plat.

The applicable operations and maintenance agreement pertaining to every stormwater management facility shall be referenced on the final plat and shall be recorded with the Cumberland County Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the Cumberland County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. For condominiums, the operations and maintenance agreement shall be recorded with the association documents.

(Ord. No. S2008-020, § 1, 10-27-2008)

Sec. 23-43. - Records of installation and maintenance activities.

The owner of each stormwater management facility shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record of inspection and shall submit the same upon reasonable request to the city engineer.

(Ord. No. S2008-020, § 1, 10-27-2008)

CITY COUNCIL ACTION MEMO

TO: Mayor & City Council
FROM: Kristoff Bauer, Asst. City Manager
DATE: December 3, 2012
RE: Hire Fayetteville First - Near Term Actions / Policy Revision

THE QUESTION:

Should Policy 135.2 be revised to clarify the focus of efforts to support local business?

RELATIONSHIP TO STRATEGIC PLAN:

BACKGROUND:

Council adopted policy 135.2, Hire Fayetteville First Jobs Creation Policy, on July 9, 2012. Staff presented a timeline and action plan for implementing that program during the Sept. 4th Council Worksession. That timeline included the steps necessary to complete a disparity study as directed by that policy.

On Oct. 1st, the Council discussed the definition of "Locally Owned Businesses" to be used in the adopted policy. Staff developed the following definition based on that conversation:

"Local Business shall be those that demonstrate they pay business personal or real property taxes to Cumberland County, hold a valid City of Fayetteville Privilege License if applicable, and have their principle place of business in Cumberland County or employ at least two Cumberland County residents at a place of business within Cumberland County."

At the Nov. 5th Council Worksession, Council discussed and confirmed the definition of "Locally Owned Business" above and staff presented a scope of work and cost estimate for the disparity study; recommending a \$300,000 budget amendment. The majority of Council present did not support moving forward with that budget amendment and asked staff instead to return at the Dec. 3rd Worksession with:

- Recommended revisions to Policy 135.2 consistent with Council discussion; and,
- Identification of specific actions that can be taken in pursuit of improving accountability of City purchasing practices and easing and promoting participation of local businesses in that process.

ISSUES:

Attached is a draft revision to 135.2 based upon Council conversation. The draft is intended to support Council's discussion. City Manager Voorhees points out that the process followed to this point seems to have missed a few fundamental steps. The condition of current purchasing practices, Council and community concerns regarding the same, and clear objectives for this initiative all remain poorly defined.

Staff will review a number of operational changes that can be implemented in January that will, over time, provide significantly more information regarding the outcomes and participants in the City's purchasing system. Limitations of those efforts will also be discussed. These efforts can move forward even should the Council agree to step back slightly to engage in a more directed conversation regarding what is possible and what is desirable.

BUDGET IMPACT:

None

OPTIONS:

RECOMMENDED ACTION:

This is for discussion purposes. If Council reaches apparent consensus regarding revisions to Policy 135.2, then staff will bring a revised policy to Council for consideration

ATTACHMENTS:

Policy 135.02 Hire Fayetteville First

Draft Revised Policy 135.02

Power Point Presentation - Hire Fayetteville First

SUBJECT – CITY COUNCIL Hire Fayetteville First Jobs Creation Policy	Number 135.2	Revised	Effective Date 7-09-12	Page 1 of 1
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In an effort to promote economic opportunity for Fayetteville/Cumberland County businesses and to support job creation in the City of Fayetteville, it is the policy of the City of Fayetteville and the City’s Public Works Commission (collectively, the “City”) to use the City’s spending powers in a manner that promotes fiscal responsibility and maximizes the effectiveness of local tax dollars by ensuring that City spending for goods and services provides business opportunity to businesses having a principal place of business within Fayetteville/Cumberland County, and Historically Underutilized Businesses (HUBs) as defined in N.C. General Statutes 143-48.4, and 143-128.4 (a), and (b), as measures to support the local economy.

To implement the policy, the City does hereby do the following:

- City seeks to establish goals in the future contingent upon a disparity study for all City departments for local and HUB business participation relating to procurement of all goods and services in the following categories:
 - locally owned businesses
 - women owned businesses
 - minority owned businesses
 - disabled and disadvantaged owned businesses
 - veteran owned businesses

SUBJECT – CITY COUNCIL Hire Fayetteville First Jobs Creation Policy	Number 135.2	Revised	Effective Date (Draft)	Page 1 of 1
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In an effort to promote economic opportunity for Fayetteville/Cumberland County businesses and to support job creation in the City of Fayetteville, it is the policy of the City of Fayetteville and the City’s Public Works Commission (collectively, the “City”) to use the City’s spending powers in a manner that promotes fiscal responsibility and maximizes the effectiveness of local tax dollars by ensuring that City spending for goods and services provides business opportunities for Local Businesses.

Local Businesses shall be those that demonstrate they pay business personal or real property taxes to Cumberland County, hold a valid City of Fayetteville Privilege License if applicable, and have their principle place of business in Cumberland County or employ at least two Cumberland County residents at a place of business within Cumberland County.

Consistent with state and federal procurement regulations, the City shall seek to facilitate the participation of Local Businesses in all areas of City procurement. The City will track and regularly report on the composition of vendors participating in the City’s procurement processes and on the effectiveness of efforts consistent with this policy.

To implement the policy, the City shall:

- Register vendors through a process designed to obtain information that will classify each as a Local Business, Woman Owned Business, Minority Owned Business, Veteran Owned Business, or other Historically Underutilized Businesses (HUBs) as defined in N.C. General Statutes 143-48.4, and 143-128.4.; and
- Develop programs and partnerships to educate and support the participation of subject businesses in City procurement opportunities; and
- Report regularly, no less than annually, regarding the composition of vendors utilized by the City

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Hire Fayetteville First - Policy 135.02



Hire Fayetteville First



What's Possible

- Short-Term operational changes

What's Desired

- Policy 135.02 revisions

What's Needed or Could Be Helpful

- Assistance With Program Development
- Focused Resources



What's Possible



Short-Term operational changes

- Website Revisions
- Vendor Registration Program
 - Limitations
 - Gets better with time
- Matchforce.org Idea



What's Desired



Policy 135.02 Revision

- Local Business
 - Defined – Focus
- Disparity Study
- Accountability
 - Information collection
- What's Possible

City of
Fayetteville
North Carolina

What's Needed



Program Development

- Outside assistance
- Council consensus
- Implementation strategies

Focused Resources

- History
- Sustaining the effort



Discussion



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