

**FAYETTEVILLE CITY COUNCIL**

**MINUTES**

**NOVEMBER 13, 2007**

**7:00 P.M.**

**CITY HALL COUNCIL CHAMBER**

Present: Mayor Anthony G. Chavonne  
Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Lois A. Kirby (District 5); Paul Williams (District 6); Curtis Worthy (District 7); Juanita Gonzalez (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Stanley Victrum, Assistant City Manager  
Doug Hewett, Assistant City Manager  
Karen M. McDonald, City Attorney  
Tiffanie Sneed, Police Department Attorney  
Tom Bergamine, Chief of Police  
Lisa Smith, Chief Financial Officer  
Jimmy Teal, Planning Director  
Brad Whited, Airport Director  
Kenny Horne, PWC Purchasing Manager  
Candice H. White, City Clerk  
Members of the Press

**INVOCATION - PLEDGE OF ALLEGIANCE**

The invocation was offered by Chaplain Joel Cocklin, Colonel Ft. Bragg Installation, followed by the Pledge of Allegiance to the American Flag.

Mayor Chavonne announced Council Members Robert Massey, Curtis Worthy and Keith Bates were in New Orleans, LA attending the National League of Cities Conference and would participate in proceedings by phone.

Mayor Chavonne recognized Boy Scout Troop 787 sponsored by the St. Patrick Knights of Columbus and led by Lance and Sharon Lombardo. Mayor Chavonne stated the scouts are working towards their citizenship and community badges.

Mayor Chavonne also recognized the attendance of Council Members-elect Bobby Hurst, Bill Crisp, Valencia Applewhite and Ted Mohn.

**1. APPROVAL OF AGENDA**

Council Member Gonzalez requested the addition of a closed session for consultation with attorney as Item 7.

**MOTION:** Council Member Haire moved to approve the agenda with the addition of a closed session for consultation with attorney.

**SECOND:** Council Member Meredith

**VOTE:** UNANIMOUS (10-0)

**2. PUBLIC FORUM:**

**A. Announcements and Recognition**

Mayor Chavonne and Council Member Williams presented a proclamation to Michelle Courie, President of the Junior League of Fayetteville, proclaiming November 13, 2007 to be Junior League of Fayetteville Day.

Mayor Chavonne and Council Member Haire presented Certificates of Recognition and firefighter's medallions to fire fighters Johnny Ammons, Tom Jerome and Captain Robert Hammonds for their rescue efforts at a motor vehicle accident in May 2007. Fire Chief Nichols introduced members of the Boyd family and stated the firefighters were credited with saving the life of their daughter and her ability to walk. Fire Chief Nichols presented Fire Department Chief's coins to the firefighters.

Mayor Chavonne and Council Member Gonzalez presented a proclamation to Mary Holmes, Director of the Cumberland Community Foundation, Inc., and representatives from non-profit

agencies proclaiming November as Non-Profit Awareness Month.

Mayor Chavonne and Council Member Meredith presented a proclamation to Jon Cone, Veterans Employment Consultant Supervisor, and his team members proclaiming November 11–17, 2007 as Employ a Vet Week.

## **B. Comment Period**

Mayor Chavonne opened the public comment period.

David R. Evans, 3208 Lillian Place, Fayetteville, NC 28306 spoke about the Operation Welcome Home event and the FireAntz hockey game on Friday, November 16, 2007 at the Crown Coliseum.

Mary “Bunny” English, 729 Hillsboro Street, Fayetteville, NC 28301 submitted a petition opposing the location of a homeless project by Fayetteville Area Operation Inasmuch on Hillsboro Street.

Walter Murphy, 7033 Timbercroft Lane, Fayetteville, NC 28314 expressed concern that the forced annexation cost him over \$100 extra a month according to the escrow analysis statement he received from his mortgage company.

Rose Marie Bonavia, 7338 Pebblebrook Drive, Fayetteville, NC 28314 spoke regarding her human relations complaint and requested that it be brought to the next City Council work session for action.

Mark Ledger, 430 Lionshead Road, Fayetteville, NC 28311 stated the facts should be heard before forming an opinion about the October traffic accident.

Sharon North, 902 Penwall Court, Fayetteville, NC 28303 stated people are acting on assumptions and opinion and not proven facts with regard to the October traffic accident.

Chris North, 902 Penwall Court, Fayetteville, NC 28303 stated the chain of command was correctly applied in the October traffic accident.

John C. Midgette, 2809 E. Millbrook Road. Raleigh, NC 27604 spoke as Executive Director of the NC Police Benevolent Association and stated the association will reserve judgment until the details are heard regarding the October traffic accident.

Michael McGuinness, Esq. 2034 Hwy. 701, North Lakewood Plaza, Elizabethtown, NC 28337 stated the law enforcement community has not made any judgments regarding the October traffic accident and needs to hear all of the facts and see all of the records.

David Stewart, 3717 Cherry Blossom Lane, Hope Mills, NC 28348 stated the October traffic accident should be put on hold and the Highway Patrol or insurance investigators should handle matters.

Imam Eronomy Mohammed, 2700 Murchison Road, Fayetteville, NC 28301 spoke to economic growth and development in Fayetteville.

Bishop Darius Lacewell, 52 Pearline Drive, Kelly, NC 28448 thanked the Mayor for welcoming inner city youth ministry to the area and stated he will work to implement programs in the community to help youth on the streets.

Linda L. Miller, 903 Rexdale Street, Fayetteville, NC 28301 expressed concern for what the actions of the city leaders involved in the October traffic accident might have said to children.

Culous Hayes, 6105 Conaway Drive, Fayetteville, NC 28314 stated he would like to see the October traffic accident go before the courts so professionals could handle it.

Albert Bryant, Jr., 5433 (illegible) Circle, Fayetteville, NC 28311 suggested extending transit operations from 6:00 a.m. to 10:00 p.m., establishing a transit panel and merging city/county transit systems.

Mark Norton, 2553 Sycamore Street, Fayetteville, NC 28306 expressed concern for the investigation and reporting of the automobile accident he was involved in on November 10, 2007.

Leonard Dixon, 8408 Cartman Drive, Fayetteville, NC 28314 expressed concern for the safety of children who walk to Lake Rim School and requested the installation of sidewalks or asphalt strips.

Leslie Griffith, 911 Romain Court, Fayetteville, NC 28303 stated investigation of the October traffic accident should be conducted by an entity outside of the area.

Bonnie Garropy, 866 Ridge Road, Fayetteville, NC 28311 expressed concern for the lack of sidewalks in her area and asked that the bus stop be relocated closer to where people live.

Ladon D. Goodwin, 9525 Mountain Home Drive, Fayetteville, NC stated the October traffic accident should not be tried in the media and an outside agency should perform an investigation.

Clinton Harris, 4713 Watauga Road, Fayetteville, NC 28304 stated he would like to know Police Department costs associated with an incident behind the Wachovia building on Raeford Road.

**3. CONSENT:**

**MOTION: Council Member Gonzalez moved to approve the consent agenda.**

**SECOND: Council Member Kirby**

**VOTE: UNANIMOUS (10-0)**

**A. Approve minutes:**

- 1. Regular Meeting Held on October 8, 2007
- 2. Agenda Briefing Meeting Held on October 18, 2007
- 3. Regular Meeting Held on October 22, 2007

**B. Tax Refunds Greater Than \$100**

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
com America, Inc.	1028168	2003-2006	Amended 2003 BPP Listing as company moved out of Cumberland County 6/30/01	\$331.03
WECT-TV				\$331.03

**C. Bid Awards for Purchase of Water and Wastewater Chemicals**

The Public Works Commission, during their regular meeting of October 24, 2007, approved the following bid awards for one-year contracts with option to extend contract for additional period(s) upon agreement of both parties for the purchase of water and wastewater chemicals and forward to City Council for approval. Bids were received September 27, 2007. Recommendation is to award bids to the low bidders as recommended by PWC.

- 1. JCI Jones Chemicals, Charlotte, NC low bidder in the amount of \$372,450.00 for the purchase of approximately 6,500,000 lbs. of Sodium Hypochlorite.

Bids were received as follows:

- JCI Jones Chemicals (Charlotte, NC)..... \$372,450.00
- Trinity Manufacturing (Hamlet, NC)..... \$377,000.00
- Univar USA (Greensboro, NC) \$474,500.00

- 2. General Chemical, Parsipanny, NJ low bidder in the amount of \$447,938.40 for the purchase of approximately 4,200 tons of 8.3% Liquid Aluminum Sulfate.

Bids were received as follows:

- General Chemical (Parsipanny, NJ)..... \$447,938.40
- GEO Specialty Chemicals (Little Rock, AR)..... \$556,298.40
- Kemira Water Solutions (Lawrence, KS)..... \$569,520.00
- C&S Chemicals (Marietta, GA)..... \$677,040.00

- 3. Basic Chemical Solutions, Morrisville, PA, low bidder in the amount of \$214,500.00 for the purchase of approximately 1000 tons of 50% Caustic Soda.

Bids were received as follows:

Basic Chemical Solutions (Morrisville, PA).....	\$214,500.00
JCI Jones (Charlotte, NC).....	\$223,500.00
Univar USA (Greensboro, NC).....	\$224,200.00
Brenntag Southeast (Durham, NC).....	\$224,800.00
Old World Industries (Northbrook, IL).....	\$281,460.00

**D. Award contract for the purchase of four (4) low entry cab and chassis with 25 cubic yard rear loading refuse compactor bodies to the low bidder meeting specifications, Southern Truck Service of Charlotte, North Carolina.**

The FY 07-08 budget allows for the replacement of Units #98/415, #98/423, #98/430 and #98/435. Formal bids were received October 2, 2007 for the purchase of these units. The low bidder meeting specifications is recommended.

Bids were received as follows:

Unit PriceTotal Price

Southern Truck Service (Charlotte, NC)(Loadmaster Body) .....	\$160,011.00	.....	\$640,044.00
Southern Truck Service (Charlotte, NC)(Heil Body) .....	\$164,828.00	.....	\$659,312.00
Southern Truck Service (Charlotte, NC)(McNeilus Body) .....	\$167,715.00	.....	\$670,860.00
Cavalier Equipment (Cloverdale, VA) .....	\$170,786.00	.....	\$683,072.00
NuLife Environmental (Easley, SC).....	\$171,721.00	.....	\$686,884.00

Transource, Inc. (Raleigh, NC) could not offer the low entry cab or bi-fold door on the driver side as specified, therefore, their bids were found to be non-compliant to the City's specifications.

**E.Award contract for the City's 2008 resurfacing work to the low bidder, Highland Paving Co. of Fayetteville, NC.**

Formal bids were received October 9, 2007 for resurfacing work to include resurfacing 67 streets (approximately 14.61 miles) and micro-surfacing 24 streets (approximately 8.80 miles). The low bidder is recommended.

Bids were received as follows:

Highland Paving Co. (Fayetteville, NC)...	\$3,067,296.48
Barnhill Contracting (Fayetteville, NC)....	\$3,095,069.74
Riley Paving (Carthage, NC).....	\$3,840,490.17

**F. Terminal Renovation Phase III Project Change Orders and Capital Project Ordinance Amendment 2008-6**

Council is asked to approve final change orders for Smith Construction and Intellect Integrated Electrical contractors to complete construction activities for the terminal building renovations. Additionally, a project ordinance amendment is requested to fund \$164,392 for additional seating in the terminal. The project ordinance amendment is funded by investment income, auction proceeds and transfers from the Airport Operating Fund.

**G. Budget Ordinance Amendment 2008-4 (Airport Operating Fund)**

This budget ordinance amendment will appropriate \$61,598 of Airport Operating Fund net assets to install needed audio/visual equipment for the Airport Commission Conference Room (\$37,067) and to provide an additional transfer for the Terminal Phase III Renovation Capital Project (\$24,531).

**H. Accept the Certification of Results from the Cumberland County Board of Elections for the October 9, 2007 Municipal Primary Election for City Council Districts 4, 5, 6, and 8**

STATE OF NORTH CAROLINA

OCTOBER 16, 2007

COUNTY OF CUMBERLAND

CANDIDATESVOTES RECEIVED

**FOR FAYETTEVILLE CITY COUNCIL**

**DISTRICT 4**

Chigbo Umerah	25
Greta Hawthorne	130

D.J. Haire 542

**DISTRICT 5**

Charles Lewis,I 49

Bobby Hurst 712

John C. Crawley 316

Larry Clubine 468

**DISTRICT 6**

George E. Scott 61

Kamina Fitzgerald 57

Richard D. Evans 268

Bill Crisp 372

**DISTRICT 8**

Charles B. Ragan 54

Ted Mohn 218

Juanita Gonzalez 148

The County Board of Elections for said county, having opened, canvassed, and judicially determined the original returns of the election in the precincts in this county, as above stated, do hereby certify that the above is a true abstract thereof, and contains the number of legal ballots cast in each precinct for each office named, the name of each person voted for, their party affiliation, and the number of votes cast for each person for the office named.

Given under our hand and seal this 16th day of October, 2007.

CUMBERLAND COUNTY BOARD OF ELECTIONS

**I. Approve sign permit for the annual Heart of Christmas Show on November 23rd, 24th and 25th.**

**J. Approve sign permit for the Home Builders Association's "Operation Welcome Home" campaign that includes the FireAntz hockey game on November 17th.**

**K. Request to Erect Banners to Celebrate "A Dickens Holiday"**

**4. DISCUSSION OF ACTIONS OF CITY MANAGER REGARDING TRAFFIC ACCIDENT OF OCTOBER 25, 2007**

Mayor Chavonne stated he had asked that the item be placed on the agenda because he believed the reporting of all activities surrounding the traffic accident and subsequent investigation should be reported openly, completely and honestly. Mayor Chavonne further stated, he believed the actions of the Mayor, City Manager and Police Department should be presented in an open public meeting and allow Council Members an opportunity to have their questions answered.

Mayor Chavonne provided a chronology of events in which he was involved on October 25, 2007. Mayor Chavonne explained the Mayor and Council Members are instructed to direct operational issues, concerns and complaints to the City Manager.

Mr. Iman provided a chronology of his involvement in events surrounding the traffic accident that occurred on October 25, 2007. Mr. Iman explained his role as City Manager was to ensure a complete and thorough investigation was performed.

Tom Bergamine, Chief of Police, spoke to the complaint he received on October 25, 2007 regarding problems with the traffic investigation.

Mayor Chavonne opened the floor for questions from Council Members.

Council Member Worthy asked how often traffic investigation follow-ups occur. Chief Bergamine responded follow-ups occur more often than might be expected in order to straighten out traffic accidents. Council Member Worthy asked whether traffic tickets determine guilt or innocence. Chief Bergamine responded the courts determine guilt or innocence.

Council Member Bates asked if an investigating officer was required to issue a citation at the time of an accident. Chief Bergamine responded there was no such requirement.

Council Member Massey asked Chief Bergamine why he was called on October 25, 2007. Chief Bergamine responded he was called by the City Manager because the officer in question was going to issue a citation but was not comfortable doing so because of difficulties

with witnesses.

Council Member Kirby asked about an officer's basis for issuing a citation. Chief Bergamine responded in accidents involving injury, officers look at evidence and witness statements and can seek guidance from supervisors based on information gathered.

Council Member Evans asked whether Council Members should have been notified of the accident. Mr. Iman responded the press releases emailed to Council Members are based on certain criteria and are disseminated by the Police Department Public Relations Division. Council Member Evans asked about the order of the investigation and the issuance of tickets. Chief Bergamine responded a traffic sergeant conducted an investigation before a ticket was issued to Jamal Jones.

Council Member Haire asked whether the training provided for police officers qualified them to write tickets. Chief Bergamine responded training is provided according to North Carolina state standards for traffic investigations and the issuance of tickets.

Council Member Williams asked whether the City Attorney or Police Attorney had reviewed the statements provided by the Mayor, City Manager or Chief of Police. Mr. Iman responded the attorneys received the statements at the same time as Council.

Council Member Massey asked Mr. Iman whether Mayor Chavonne relayed the complaint to him. Mr. Iman responded in the affirmative.

Council Member Gonzalez asked whether Mr. Knight was involved in the accident. Mr. Iman responded not to his understanding. Council Member Gonzalez asked whether Mr. Iman checked on the other driver. Mr. Iman responded in the negative. Council Member Gonzalez questioned whether Officer Rodriguez might have felt pressured at the hospital. Chief Bergamine responded he had asked Officer Rodriguez for the truth.

Council Members Meredith, Kirby, Evans and Williams offered comments regarding actions taken on October 25, 2007.

**MOTION: Council Member Williams moved to direct the City Attorney to coordinate with the State Bureau of Investigation (SBI) or appropriate agency to investigate the accident investigation for the Knight/Jones and Norton accidents.**

**SECOND: Council Member Gonzalez**

Mrs. McDonald responded to questions posed by Council Member Haire and a brief discussion ensued as to what the investigation would cover.

Council Member Williams clarified he also wanted the appropriate agency to investigate whether appropriate procedures were followed. Council Member Williams asked that it be added to his motion

**RESTATED MOTION:**

**Council Member Williams moved to direct the City Attorney to coordinate with the State Bureau of Investigation (SBI) or appropriate agency to investigate appropriate procedures followed and accident investigation for the Knight/Jones and Norton accidents.**

Council Member Gonzalez accepted the restated motion.

Mrs. McDonald advised that the Police Department had not had an opportunity to respond to the Norton situation and also that citizens who feel they have been treated unfairly by a police officer can file a complaint with the Office of Professional Standards who will investigate the complaint. Mrs. McDonald asked Council to consider these options before taking action to include the Norton accident in the investigation.

**VOTE: FAILED by a vote of 3 in favor (Council Members Worthy, Massey and Williams) to 7 in opposition (Council Members Gonzalez, Haire, Bates, Chavonne, Evans, Kirby and Meredith)**

Council Member Gonzalez stated she would like to make the same motion to investigate but just the Knight/Jones accident because an outside investigation is needed to handle that accident.

**MOTION: Council Member Gonzalez moved to direct the City Attorney to coordinate with the State Bureau of Investigation (SBI) or appropriate agency to investigate**

**appropriate procedures followed and accident investigation for the Knight/Jones accident.**

**SECOND: Council Member Williams**

**VOTE: UNANIMOUS (10-0)**

Council Member Gonzalez stated when she spoke with the North Carolina League of Municipalities legal department, they suggested the City Council could go on record and officially censure the Mayor if they all disagree with how the October 25, 2007 accident was handled.

**MOTION: Council Member Gonzalez moved that the Council officially censure the Mayor on the incident.**

**SECOND: Council Member Kirby**

Council Member Evans stated he saw no purpose to a censure of the Mayor prior to the investigation.

Council Member Williams stated all of the information should be gathered before censuring the Mayor. Council Member Haire concurred.

Council Member Kirby stated she wanted to be sure the right people are investigated and the right things are brought out.

Council Member Gonzalez stated a vote to officially censure the Mayor is the only thing Council can do with an elected official to restore the creditability and confidence of citizens.

Mayor Chavonne spoke to the obligation of elected official to ensure that every phone call is answered, every citizen has an equitable way for their complaints to be heard and professionals are in place to carry out standard policies and procedures related to complaints. Mayor Chavonne stated there is nothing that would indicate anyone circumvented the process on October 25, 2007 and the complaint received from his friend was allowed no more or no less than a complaint that would be received from any other citizen in Fayetteville.

**VOTE: FAILED by a vote of 5 in favor (Council Members Gonzalez, Worthy, Massey, Bates and Kirby) to 5 in opposition (Council Members Chavonne, Williams, Haire, Evans and Meredith)**

The regular session recessed at 9:45 p.m.

The regular session reconvened at 9:55 p.m.

## **5. PRESENTATION OF THE FISCAL YEAR 2006-2007 COMPREHENSIVE ANNUAL FINANCIAL REPORT**

Michelle Lloyd Thompson, Cherry, Bekart and Holland, presented this item and provided a summary of the Comprehensive Annual Financial Report. Ms. Thompson reported the City received a "clean opinion" on the audit report, which represented the highest assurance level. Recommended action was to accept the audited FY2006-2007 report.

**MOTION: Council Member Gonzalez moved to accept the Comprehensive Annual Financial Report from Cherry, Bekart and Holland.**

**SECOND: Council Member Evans**

**VOTE: UNANIMOUS (10-0)**

## **6. BOARDS AND COMMISSIONS**

### **NOMINATIONS**

**WRECKER REVIEW BOARD– 1 vacancy (1 disinterested person who is not a licensee, wrecker owner or operator, or a City employee to serve as Chairman) – 0 nominations made – 1 nomination needed**

No nominations were made. Council Members Gonzalez and Evans requested that Mr. Iman look into the operations and meeting schedule for the Wrecker Review Board and Historic Resources Commission respectively.

### **NOMINATIONS – Second Week**

**FAIR HOUSING BOARD – 3 vacancies – 3 nominations made– 0 nominations needed**

No nominations were made.

### **NOMINATIONS – First Week**

**FAYETTEVILLE REDEVELOPMENT COMMISSION – 1 vacancy due to resignation of term to expire in December 2008 – 0 nominations made – 1 nomination needed**

No nominations were made.

**FAYETTEVILLE REDEVELOPMENT COMMISSION – 1 vacancy – 0 nominations made – 1 nomination needed**

No nominations were made.

**FAYETTEVILLE ZONING COMMISSION – 1 alternate vacancy – 0 nominations made – 1 nomination needed**

Richard West was nominated for a second term as an Alternate by Council Member Kirby.

**PERSONNEL REVIEW BOARD – 3 vacancies – 0 nominations made – 3 nominations needed**

No nominations were made.

**7. CONSIDER CLOSED SESSION FOR CONSULTATION WITH ATTORNEY**

**MOTION:** Council Member Haire moved to go into closed session for consultation with attorney.

**SECOND:** Council Member Meredith

**VOTE:** UNANIMOUS (10-0)

The regular session recessed at 10:15 p.m.

**MOTION:** Council Member Meredith moved to reconvene in open session.

**SECOND:** Council Member Haire

**VOTE:** UNANIMOUS (10-0)

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

**INFORMATION ITEMS:**

**1. Statement of taxes collected for the month of October 2007 from the Cumberland County Tax Administrator**

2007 Taxes	\$2,139,373.19
2007 Vehicle Taxes	448,894.25
2007 Revit	5,241.86
2007 Vehicle Revit	343.72
2007 FVT	46,750.83
2007 Storm Water	140,306.35
2007 Fay Storm Water	206,044.41
2006 Annex	\$33,827.79
2006 Taxes	49,902.27
2006 Vehicle Taxes	79,289.87
2006 Revit	0.00
2006 Vehicle Revit	1.82
2006 FVT	10,140.84
2006 Storm Water	2,964.83
2005 Taxes	\$5,444.59
2005 Vehicle Taxes	3,867.43
2005 Revit	0.00
2005 Vehicle Revit	1.22
2005 FVT	762.35
2005 Storm Water	526.41
2004 Taxes	1,293.26
2004 Vehicle Taxes	984.86
2004 Revit	0.00
2004 Vehicle Revit	0.00
2004 FVT	210.83
2004 Storm Water	109.20
2003 and Prior Taxes	1,934.14



2003 and Prior Vehicle Taxes	4,617.48
2003 and Prior Revit	0.00
2003 and Prior Vehicle Revit	0.00
2003 and Prior FVT	757.05
2003 and Prior Storm Water	254.92
Interest	18,484.33
Interest (Revit)	2.72
Interest (Storm Water)	551.86
Interest (Fay Storm Water)	0.00
Interest (Annex)	347.85
Total Collections	\$3,196,232.56

**2. Copy of 2007-2008 Levy for the City of Fayetteville from the Cumberland County Tax Administrator**

**3. General Fund Revenue and Expenditure Report for the Three-Month Period Ended September 30, 2007**

There being no further business, the meeting adjourned at 10:42 p.m.