

**FAYETTEVILLE CITY COUNCIL
MINUTES
MAY 29, 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)(arrived at 8:03 p.m.); Lois A. Kirby (District 5); Paul Williams (District 6); Curtis Worthy (District 7)(arrived at 7:18 p.m.); Juanita Gonzalez (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Kyle Sonnenberg, Assistant City Manager

Stanley Victrum, Assistant City Manager

Doug Hewett, Assistant City Manager

Karen M. McDonald, City Attorney

Amanda Briggs, Assistant City Attorney

Lisa Smith, Chief Financial Officer

Jimmy Teal, Planning Director

Jackie Tuckey, Communications Manager

Mick Noland, PWC Water Resource Chief Operations Officer

Bob Bates, Lamar Advertising General Manager

Candice White, City Clerk

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Imam Abdul Haneef of the Omar Ibn Syid, Fayetteville, NC. The Pledge of Allegiance to the American Flag followed and was led by Troop 740 from Haymount United Methodist Church and Troop 745 from Salem United Methodist Church.

Mr. Jim Ammons, Troop 740 Assistant Scout Master, presented chocolate covered popcorn and a coin commemorating the 60th anniversary of Troop 740 to the Mayor and Council Members.

ANNOUNCEMENTS

There were no announcements.

1. APPROVAL OF AGENDA

Council Member Williams requested that the Parade of Homes sign petition be added to the agenda as Item 2.N.

Mrs. Karen M. McDonald, City Attorney, called attention to the amendment to page 143 of the agenda packet, which would add a description to Section 2.3 and change the proposed adoption date from June to May.

Council Member Gonzalez asked that Item 5 be moved to the Consent Agenda as Item 2.O. and include a revision of the civil penalty to \$500 for the first offense and \$1,000 for offenses thereafter.

MOTION: Council Member Gonzalez moved to approve the agenda with the aforementioned changes.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (8-0)

2. CONSENT:

Mrs. McDonald requested a revision to Item 2.B. to be consistent with Council's direction that all leases be extended month-to-month until the policy has been revised and brought to Council for approval.

Council Member Williams requested Item 2.H. and Item 2.O. be pulled for discussion.

Council Member Gonzalez requested Item 2.M. be pulled for discussion.

MOTION: Council Member Kirby moved to approve the consent agenda with the exception of Items 2.H., 2.M. and 2.O. and the inclusion of the revision to Item 2.B.

SECOND: Council Member Massey

VOTE: UNANIMOUS (8-0)

A. Approve Minutes:

- 1. Special Joint Meeting held on April 12, 2007**
- 2. Regular Meeting held on April 23, 2007**
- 3. Work Session Meeting held on May 7, 2007**

B. Adopt a resolution authorizing a one-year lease of the third floor of 222 Hay Street to the Community Outreach Assistance Services (CORAS)

C. Adopt resolutions setting a public hearing to consider the paving assessment of four city streets

RESOLUTION DECLAINING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR ALFRED STREET (FROM CAMPBELL AVENUE TO VANSTORY STREET). R2007-025

RESOLUTION DECLAINING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR BROADFOOT AVENUE (FROM SIMPSON STREET TO MORGAN STREET). R2007-026

RESOLUTION DECLAINING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR ROOSEVELT STREET (FROM WILMA STREET TO DEAD END). R2007-027

RESOLUTION DECLAINING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR SCARBOROUGH STREET (FROM OLD WILMINGTON ROAD TO "C" STREET). R2007-028

D. Consider approving technical amendments to Section 1-7 of the Fayetteville City Code

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 1-7 OF CHAPTER 1, GENERAL PROVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. S2007-018

E. Consider technical amendment to Section 14-61 of the Fayetteville City Code

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 14-61 OF CHAPTER 14, HOUSING, DWELLINGS AND BUILDINGS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. S2007-019

F. Consider offer to purchase a portion of vacant city lot on Weiseger Street for upset bids

G. Approve bid recommendation to award contract for Annexation Phase V, Project 1, Section 1A, Brentwood

H. Pulled at the request of Council Member Williams.

I. Approve the rezoning from P2 professional district to C1 commercial district or to a more restrictive zoning classification for property located at 6424 Yadkin Road. Containing .32 acres more or less and being the property of Guzman Wildemar and wife as evidenced by deed recorded in Deed Book 5774 and Page 155, Cumberland County Registry. Case No. P07-28F.

J. Approve the rezoning from C1P commercial district to R5 residential district or to a more restrictive zoning classification for property located north of Village Drive and east of Purdue Drive. Containing 5.57 acres more or less and being the property of Dark Branch Golf Center as evidenced by deed recorded in Deed Book 4542 and Page 375, Cumberland County Registry. Case No. P07-29F.

K. Approve the rezoning from R10 residential district to R6 residential district\conditional zoning to allow a 56-unit apartment complex for property located west of Rim Road and south of Castle Falls Circle. Containing 6 acres more or less and being the property of

William Richardson and Robert Cellner as evidenced by deed recorded in Deed Book 3163 and Page 193, Cumberland County Registry. Case No. P07-32F.

L. Approve the rezoning from R6 residential district to C1 commercial district\conditional zoning to allow the expansion of an existing garden nursery for property located on the eastern side of Ramsey Street between Circle Court and Brainard Avenue. Containing .95 acres more or less and being the property of Randall Page as evidenced by deed recorded in Deed Book 5121 and Pages 766-770, Cumberland County Registry. Case No. P07-33F.

M. Pulled at the request of Council Member Gonzalez.

N. Approve Parade of Homes sign petition request for a special use permit to advertise the 16th Annual Homebuilders Association of Fayetteville's Parade of Homes to be held on the weekends of June 2, 3 and June 9, 10 at various locations inside Fayetteville and Cumberland County.

O. Pulled at the request of Council Member Williams.

H. Approve resolution against House Bill 1587

RESOLUTION AGAINST HOUSE BILL 1587 "THE LOCAL GOVERNMENT FAIR COMPETITION ACT". R2007-024

Council Member Williams requested a two-week delay for review of House Bill 1587 and input from the local Chamber of Commerce.

MOTION: Council Member Williams moved to delay action on the resolution for two weeks.

SECOND: Council Member Kirby

Mr. Mick Noland, PWC Water Resource Chief Operations Officer, spoke to the importance of the City and PWC's ability to participate in actions being considered by the legislature regarding telecommunications. Mr. Dale E. Iman, City Manager, provided background information on HB 1587 and stated the North Carolina League of Municipalities opposed HB 1587.

VOTE: FAILED by a vote of 3 in favor (Council Members Williams, Evans and Kirby) to 5 in opposition (Council Members Chavonne, Bates, Massey, Gonzalez and Meredith).

MOTION: Council Member Meredith moved to follow staff recommendation and approve the resolution.

SECOND: Council Member Bates

VOTE: PASSED by a vote of 5 in favor (Council Members Chavonne, Bates, Massey, Gonzalez and Meredith) to 3 in opposition (Council Members Williams, Evans and Kirby).

M. Approve a request from Lamar Advertising to upgrade a legal non-conforming billboard at the intersection of Raeford Road and Faison Avenue and upgrade a second legal non-conforming billboard on All-American Freeway north of Yadkin Road in exchange for removing a two-sided billboard on Hillsboro Street near the Rowan Street Bridge.

Council Member Gonzalez asked that action be delayed until the Planning Commission had an opportunity to review the ordinance.

MOTION: Council Member Gonzalez moved to delay action until June 25, 2007.

SECOND: Council Member Meredith

Mr. Jimmy Teal, Planning Director, explained the Planning Commission would hold a public hearing on June 5, 2007 regarding whether to amend the ordinance to allow one-sided non-conforming billboards to be upgraded to two-sided billboards and would forward a recommendation to the Council for the June 25, 2007 meeting. Mr. Bob Bates, Lamar Advertising General Manager, responded to questions posed by Council Members.

VOTE: UNANIMOUS (9-0)

O. Fayetteville Beautiful Ordinance Committee recommendations and revisions to Chapter 22 of the Fayetteville City Code

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING VARIOUS SECTIONS OF CHAPTER 22, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. S2007-020

Council Member Williams spoke in opposition to the proposed civil penalty increases.

MOTION: Council Member Williams moved to approve the ordinance as originally drafted.

SECOND: Council Member Worthy

Council Member Gonzalez spoke in support of the proposed civil penalty increases and reiterated the penalty was for illegal dumping. Council Member Bates concurred. Mrs. Amanda Briggs, Assistant City Attorney, responded to questions posed by Council Member Williams.

Council Member Williams withdrew his motion.

MOTION: Council Member Gonzalez moved to approve the ordinance as written with a revision of the civil penalty for illegal dumping to \$500 for the first offense and \$1,000 for offenses thereafter.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (9-0)

3. PUBLIC HEARINGS:

A. Consider Public Input on the Proposed Fiscal Year 2007-2008 Budget

Mr. Iman presented highlights of the proposed fiscal year 2007-2008 budget.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:40 p.m.

Mr. Mark Ledger, 430 Lionshead Road, Fayetteville, NC spoke in favor and commended Council on the thought and diligence that went into developing the proposed budget.

Ms. Jeannie Nelson, 212 Hay Street, Fayetteville, spoke in favor and stated she supported the City's proposed reduction in funding to the Cumberland County Business Council (CCBC).

Mr. William E. Harris, 5706 Meharry Drive, Fayetteville, NC spoke in opposition and expressed concern over the lack of police patrol and bus service in his community.

Ms. Rebecca Lemings, 114 N. Ingleside Drive, Fayetteville, NC spoke in opposition and expressed concern for congestion and speeding in the school zone on Reilly Road.

Mr. Kathleen Tannehill, 7514 Ascot Avenue, Fayetteville, NC spoke in opposition and expressed concern for the safety of children who attend school on Reilly Road.

The public hearing closed at 7:55 p.m.

No action was required on this item. Mayor Chavonne reminded citizens of the public hearings on budget related items scheduled for Thursday, June 7, 2007 at 7:00 p.m.

B. Consider the rezoning from C1P commercial district and R10 residential district to C1 commercial district or to a more restrictive zoning classification for property located on the northwest corner of Sequoia Road and Hope Mills Road. Containing .42 acres more or less and being the property of David Faircloth as evidenced by deed recorded in Deed Book 3479 and Page 739, Cumberland County Registry. Case No. P07-25F

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the City Council set a public hearing for this case at the April 23, 2007 meeting. Mr. Teal further stated the Hope Mills Road Land Use Plan suggests commercial uses for the site. Mr. Teal stated the Zoning Commission recommends approval of C1 commercial district.

This is the advertised public hearing set for this date and time. There being no one to speak, the public hearing opened and closed at 8:00 p.m.

MOTION: Council Member Bates moved to approve the recommendation of the Zoning Commission for C1 commercial district.

SECOND: Council Member Worthy

VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Gonzalez).

C. Consider the rezoning from R10 residential district to P2 professional district or to a more restrictive zoning classification for property located at 3202 and 3206 Boone Trail. Containing .92 acres more or less and being the property of Eugene and Myrtle England and Mary Callahan as evidenced by deed recorded in Deed Book 749 and Page 196, Cumberland County Registry. Case No. P07-34F.

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to use both properties for office uses. Mr. Teal further stated the 2010 Land Use Plan Map for the two lots suggests residential uses. Mr. Teal stated the Zoning Commission recommends denial of the rezoning request.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:05 p.m.

Dr. Rakesh Gupta, 2595 Vixen Street, Fayetteville, NC spoke in favor and stated the gastroenterologists with whom he practices intend to construct a one or two-story endoscopy office on the property.

Mr. Eugene England, Sr., 3202 Boone Trail Drive, Fayetteville, NC spoke in favor and provided an overview of changes to the neighborhood due to non-residential development in surrounding areas.

Mr. William Julian, 3123 Boon Trail Drive, Fayetteville, NC spoke in favor and stated he did not object to the rezoning.

Mr. Randy LaBarge, 3205 Boone Trail Drive, Fayetteville, NC spoke in favor and stated he would like to see Council approve the rezoning.

Mr. Gary Strickland, 4298 Sids Mill Road, Fayetteville, NC spoke in favor and stated he owned the property at 3302 Boone Trail Drive. Mr. Strickland stated the rezoning would bring value to his property and he had no objections to the rezoning.

Mr. William R. Cain, 3213 Boone Trail Drive, Fayetteville, NC spoke in opposition and expressed concern as a 48-year resident that non-residential development would soon consume all of Boone Trail Drive and cause him to have to leave his home.

Mr. Larry Law, 3310 Boone Trail Drive, Fayetteville, NC spoke in opposition and expressed concern that the rezoning would adversely affect the quality of life for current residents of Boone Trail Drive.

Ms. Charlotte Icenogle, 3221 Boone Trail Drive, Fayetteville, NC spoke in opposition and expressed concern as a 40-year resident that construction of a large office building would ruin her neighborhood.

Mr. Herbert C. Miller, 3210 Boone Trail Drive, Fayetteville, NC spoke in opposition and expressed concern as a 35-year resident because people in the neighborhood want to keep their homes as long as they can.

On rebuttal, Mr. Eugene England, Sr., 3202 Boone Trail Drive, Fayetteville, NC appeared and spoke to existing commercial businesses in the area.

On rebuttal, Mr. William R. Cain, 3213 Boone Trail Drive, Fayetteville, NC appeared and stated Boone Trail Drive has always wanted to be a residential area.

The public hearing closed at 8:30 p.m.

MOTION: Council Member Gonzalez moved to approve the recommendation of the Zoning Commission and deny the rezoning.

SECOND: Council Member Evans

SUBSTITUTE MOTION: Council Member Worthy moved to rezone the property to P4.

SECOND: Council Member Haire

Mr. Teal explained how differences between P2 and P4 professional zoning would affect construction on the property.

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

D. Consider an application by Sonya Brown for a Special Use Permit as provided by the City of Fayetteville Code of Ordinances, Article IV, Section 30-107(24) to allow a daycare in an R10 residential district for property located at 913 Country Club Drive. Containing .52 acres more or less and being the property of Lewis Jourden, M.I.T. of Cumberland, Inc. as evidenced by deed recorded in Deed Book 3721 and Page 619, Cumberland County Registry. Case No. P07-35F.

Mr. Teal stated the applicant wishes to operate a daycare at this location. Mr. Teal further stated the Zoning Commission recommends approval with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:47 p.m.

Ms. Sonya E. Brown, 636 Dowless Drive, Fayetteville, NC spoke in favor and stated the property was a great location for a daycare to service the community and school across the street.

No one appeared in opposition and the public hearing closed at 8:49 p.m.

MOTION: Council Member Bates moved to approve the Zoning Commission recommendation with conditions as outlined.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

E.Consider approval of an infill project located on McNeill Circle, Part II of Churchill Manor

Mr. Teal stated the Planning Commission held a public hearing on May 1, 2007 and did not approve the project. Mr. Teal stated the applicant has appealed the case triggering a public hearing by City Council. Mr. Teal further stated the applicant has revised his original plan from two attached townhouses units to two detached residential units in response to the neighbors' request. Questions were raised regarding whether the revised plan should go back to the Planning Commission. Mr. Teal stated the Planning Commission recommends denial.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:53 p.m.

Mr. Bob Measamer, 511 Thorncliff Drive, Fayetteville, NC spoke in favor and stated he revised his design to be compatible with the surrounding neighborhood and acceptable to the neighbors.

Ms. Helen Zumbahlen, 2511 McNeill Circle, Fayetteville, NC spoke in opposition and expressed concern that no one spoke with her family or the family on the other side of the property about plans for the infill project.

The public hearing closed at 8:59 p.m.

MOTION: Council Member Worthy moved to approve the revised plan for two detached residential units.

SECOND: Council Member Meredith

Mr. Teal explained the setback requirements and stated the detached residential units met all zoning, subdivision and infill requirements. Mr. Teal further explained the process that would be involved for zero lot line development and stated it is a permitted use under the zoning and subdivision ordinance provided the guidelines are met.

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

4. Consideration of Resolution endorsing the Incorporation of Eastover

Mayor Pro Tem Massey called attention to the map labeled "Proposed Town of Eastover Boundaries (as of 4/30/07)", page 196 of Council's agenda packet.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE ENDORSING THE INCORPORATION OF EASTOVER SUBJECT TO CERTAIN AMENDMENTS TO HOUSE BILL 1191. R2007-029

MOTION: Mayor Pro Tem Massey moved to adopt the resolution endorsing the incorporation of Eastover subject to certain amendments to House Bill 1191 as follows: 1) the boundary of the Town shall be those shown in the salmon color; 2) Eastover will not extend its boundaries by annexation or otherwise for the area shown in green; 3) the City of Fayetteville reserves the right to annex the areas shown in green and

gold; 4) Eastover for a period of fifteen years will not extend its boundaries by annexation or otherwise for the areas shown in gold; 5) Eastover agrees to be bound by the terms of the sales tax interlocal agreement regarding its incorporation and any subsequent annexation; and 6) the areas shown in green and gold shall be in the City of Fayetteville's Municipal Influence Area more fully set forth in Council's agenda packet.

SECOND: Council Member Haire

Council Member Gonzalez asked about the subsequent process. Mrs. McDonald stated should Council approve the resolution to include conditions as outlined, it would be forwarded to the Joint Legislative Commission on Municipal Incorporation for revisions to the bill. Mrs. McDonald stated should the bill not be amended to include the terms as outlined in the resolution, then there would be no support.

Council Member Evans asked if Progress Eastover Committee would accept the terms. Mayor Chavonne responded in the affirmative.

VOTE: UNANIMOUS (10-0)

5. Pulled and placed on the consent agenda at the request of Council Member Gonzalez.

6. Consideration of Adoption of a Resolution Pursuant to NCGS §160A-20 of the City Council of the City of Fayetteville, Approving an Installment Financing Contract and a Deed of Trust and Other Related Matters for the EE Miller Recreation Center and Fire Station #15 (Buhmann Drive) subject to Local Government Commission Approval

Mrs. Lisa Smith, Finance Director, provided a brief overview of the process involved in the financing arrangements for the two facilities.

A RESOLUTION PURSUANT TO NCGS § 160A-20 OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING AGREEMENT AND A DEED OF TRUST WITH RESPECT THERETO AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS SUBJECT TO LOCAL GOVERNMENT COMMISSION APPROVAL. R2007-030

MOTION: Council Member Gonzalez moved to adopt the resolution.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

7. BOARDS AND COMMISSIONS:

NOMINATIONS – First Week

AIRPORT COMMISSION – 3 vacancies – 3 nominations needed – 0 nominations made

Inder P. Nijhawan was nominated by Mayor Chavonne.

Dr. Dudley C. Miller was nominated by Council Member Williams.

Dawn M. Gibson and Joel Schur were nominated by Council Member Bates.

Ralph P. Hamilton was nominated by Council Member Evans.

Shirley Pillar was nominated by Mayor Pro Tem Massey.

Discussion ensued regarding absences of ex-officio members.

FAYETTEVILLE-CUMBERLAND HUMAN RELATIONS COMMISSION – 4 vacancies – 4 nominations needed – 0 nominations made

Theodore DeBose was nominated by Mayor Pro Tem Massey.

Frank Maness, Jr., Pamela Suggs Story and Peter Paoni were nominated by Council Member Evans.

Shirly Chao and Rose Marie Hare were nominated by Council Member Bates.

Claybon Rodell Lowe was nominated by Council Member Haire.

Crystal Moore-McNair was nominated by Council Member Gonzalez.

PUBLIC WORKS COMMISSION – 1 vacancy – 1 nomination needed – 0 nominations made

Luis J. Olivera was nominated by Council Member Bates.

PUBLIC WORKS COMMISSION RETIREMENT BOARD – 1 vacancy – 1 nomination needed – 0 nominations made

Glenn B. Adams was nominated by Council Member Evans.

JOINT STORMWATER ADVISORY BOARD – 2 vacancies - 2 nominations needed – 0 nominations made

J. Michael Harpe was nominated by Council Member Bates.

Rev. Willis Mitchell was nominated by Council Member Evans.

Ben Chisolm was nominated by Mayor Pro Tem Massey.

INFORMATION ONLY – No Action Needed

BOARD OF ADJUSTMENT – 1 vacancy due to resignation of position expiring in August 2009

FAYETTEVILLE CITY PLANNING COMMISSION – 1 vacancy due to resignation of position expiring in July 2008

THERE WERE NO INFORMATION ITEMS.

There being no further business, the meeting adjourned at 9:37 p.m.