

**FAYETTEVILLE CITY COUNCIL
MINUTES
TUESDAY - MAY 27, 2008
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); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (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
Lisa Smith, Chief Financial Officer
Tracey Broyles, Budget and Evaluation Manager
Jimmy Teal, Planning Director
Karen Hilton, Assistant Planning Director
Kyle Garner, Planner

Bobby B. Teague, Engineering and Infrastructure Director

Jerry Dietzen, Solid Waste Management Director

Robert Barefoot, Parks and Recreation Director

Candice H. White, City Clerk

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Imam Abdul Haneef, Masjid Omar Ibn Sayyid, followed by the Pledge of Allegiance to the American Flag.

ANNOUNCEMENTS AND RECOGNITIONS

There were no announcements or recognitions.

1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda and continue the public hearings for Items 3.C., 3.D., and 3.E.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

2. CONSENT:

Council Member Haire requested Item 2.L. pulled for discussion.

MOTION: Council Member Haire moved to approve the consent agenda with the exception of Item 2.L.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

The following items were approved:

A. Approve Minutes:

1. City Council Meeting held on April 28, 2008

B. Adopt Special Revenue Fund Project Ordinance Amendment 2008-2 (Appropriation of Federal Forfeiture and Controlled Substance Tax Funds for Law Enforcement Purposes)

This amendment will appropriate \$245,719 in controlled substance tax revenues, federal forfeiture funds and interest income to increase resources for law enforcement purposes. The Fayetteville Police Department has requested \$89,779 for the purchase of updated recording equipment for nine interview rooms to comply with House Bill 1626.

C. Adopt Special Revenue Fund Project Ordinance 2008-14 (Preserve America Grant - Wayfinding Signage Project) and Accept the Preserve America Grant from the United

States Department of Interior – National Park Service

This project ordinance will establish a \$300,586 budget for a wayfinding signage project. The source of funds for this ordinance consists of a \$150,000 grant from the US Department of the Interior - National Park Service through its Preserve America Program, a \$100,000 local cash match and \$45,846 in-kind match from the Fayetteville Area Convention and Visitors Bureau, and a \$4,740 in-kind match from the City of Fayetteville. The funds will be used to plan, design and implement a complete wayfinding signage system throughout Fayetteville/Cumberland County, with an emphasis on historic and cultural resources. The grant and application material are attached for your consideration.

D. Adopt Budget Ordinance Amendment 2008-9 (Multiple Funds)

This budget ordinance amendment will transfer budget appropriation amounts between the Other Appropriations budget and department budgets to reflect usage of fiscal year 2007-2008 General Fund vehicle replacement funding (as authorized in the original budget ordinance). The budget amendment also adjusts appropriations based upon mid-year projections, increasing budgets for: the General Fund to \$141,481,483; the Parking Fund to \$350,236; the Central Business Tax District (CBTD) Fund to \$170,137; the Enhanced 911 (E911) Fund to \$4,030,651; the Transit Fund to \$4,967,442; the Airport Fund to \$3,338,973; and the Law Enforcement Officer Special Separation Allowance (LEOSSA) Fund to \$477,000. The budget amendment will reduce the appropriation for the City’s Fleet Maintenance Internal Service fund to \$11,144.

E. Bid Recommendation – Purchase of 39,000 GVWR Cab and Chassis with Digger Derrick, Derrick Body and Air Compressor

Approve bid award to Altec Industries, Birmingham, AL in the amount of \$183,827.00.

Bids were received as follows:

Altec Industries (Birmingham, AL).....	\$183,827.00
Terex utilities (Glen Allen, VA).....	\$183,644.00
Smith International (Fayetteville, NC).....	\$184,235.99

F. Renewal License Agreement for Antenna Attachments

G. First Amendments to PCS Site Agreements and Memorandums of First Agreements to PCS Site Agreements

H. Addition of Certain Streets to the City of Fayetteville System of Streets

I. Accept an Offer to Purchase a Portion of a City-Owned Lot

J. Ordinance Amendment to the Sewer Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 28-82 OF CHAPTER 28, WATER AND SEWERS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2008-008

K. Consider changing the mailing notification for rezoning cases, initial zoning cases and special use permits from 500 feet from the property boundary to 750 feet from the property boundary and changing the mailing notification for variance and appeal cases from 500 feet from the property boundary to 300 feet from the property boundary.

L. Pulled at the request of Council Member Haire.

M. Approve the rezoning from AR agricultural/residential district to R10 residential district or a more restrictive zoning classification for property located at 7786 Cottonwood Avenue. Containing .35 acres more or less and being the property of Gillis Properties. Case No. P08-21F

N. Approve the rezoning from AR agricultural/residential to C1P commercial district or to a more restrictive zoning classification for property located at 7727 Raeford Road. Containing 1.00 acre more or less and being the property of J. Gillis, LLC. Case No. P08-22F

O. The following property is found to contribute to blight in the neighborhood. After notice to the owner and his failure to repair or demolish the property himself, this action authorizes the City to demolish the property and place a lien against the property for the cost of that action.

1. **Sapona Road Mobile Home Park (PIN 0446-69-2273 / 0446-69-0426);**

Robert Pierce

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2008-14

2.L. Approve the rezoning from R5 residential district to P2 professional district or a more restrictive zoning classification for property located at 909 and 915 Arsenal Avenue and 207 Davis Street. Containing .69 acres more or less and being the property of Edmund Williams. Case No. P08-18F

Council Member Haire stated Item 2.L. had been pulled in error.

MOTION: Council Member Bates moved to approve Item 2.L.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

3. PUBLIC HEARINGS:

A. Public Hearing to Consider Closing a 15-foot wide alley running between N. Racepath Street and Pepsi Lane

Bobby Teague, Engineering and Infrastructure Director, stated the public hearing was in response to a petition from abutting property owners to officially close a 15-foot wide alley running between N. Racepath Street and Pepsi Lane just north of Person Street. Mr. Teague stated the referenced alley was not currently used for access to any properties and access to abutting properties would not be denied as a result of the closure. Mr. Teague stated staff recommendation was for approval.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:09 p.m.

Richard M. Lewis, Jr., 330 *** Street, Fayetteville, NC appeared in favor as legal counsel for the petitioners and stated no parties would be denied access to any properties as a result of the closure of the alley, which had not been opened for some time.

No one appeared in opposition and the public hearing closed at 7:10 p.m.

RESOLUTION AND ORDER CLOSING AN UNNAMED ALLEY LOCATED BETWEEN PEPSI LANE AND NORTH RACEPATH STREET. RESOLUTION NO. R2008-033

MOTION: Council Member Meredith moved to adopt the resolution and order closing the alley between N. Racepath Street and Pepsi Lane.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

B. Consider Public Input on the Proposed Fiscal Year 2008-2009 Budget

Dale E. Iman, City Manager, provided a brief summary of the Fiscal Year 2008-2009 recommended budget and stated the general fund and all other fund budgets totaled a recommended amount of \$175.3 million, which when combined with the Public Works Commission budget, totaled a recommended budget amount of \$441.1 million or an increase of 6.9% over the original budget from the prior year.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:12 p.m.

Albert Bryant, 927 Shannon Drive, Fayetteville, NC appeared in favor and stated although he supported the recommended budget, he wanted the City to acquire additional buses and vehicles for the public transit system.

Gary Cooper, 123 Thorncliff Drive, Fayetteville, NC appeared in favor representing the Cumberland County Business Council (CCBC) and stated the CCBC supported the recommended budget and looked forward to a continued partnership with the City.

Jose I. Cardona, 233 Addison Street, Fayetteville, NC appeared in opposition and expressed concern regarding various recommended organizational budget items and the Downtown Development Manager position.

Mary Lee Wactor, 1200 Bostian Drive, Fayetteville, NC appeared in opposition and asked that Council consider additional budgeting for sidewalks, bike paths and activities in which children could participate.

Imam Economy Mohammed, 2700 Murchison Road, Fayetteville, NC appeared in opposition and stated he supported budget items for law enforcement and education.

There was no one further to speak and the public hearing closed at 7:25 p.m.

Mayor Chavonne advised Council would take action on the Fiscal Year 2008-2009 Budget at the June 9, 2008 meeting.

Mayor Chavonne reiterated Council took action earlier to continue Items **3.C., 3.D., and 3.E.** and therefore the public hearings for those items would not be conducted during the meeting.

F. Consider an application by Heather Jones for a Special Use Permit for a daycare facility in an R10 residential district for developed property located at 6258 Cliffdale Road. Containing .46 acres more or less and being the property of Darryl Rozier. Case No. P08-15F

Mr. Garner 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. Garner stated Ms. Jones wishes to place a daycare on residentially zoned property, which requires a special use permit by City Council. Mr. Garner further stated the Zoning Commission recommends approval with conditions as outlined and staff would also recommend inclusion of a one-year stipulation that should the applicant not receive a certificate of occupancy following issuance of the permit, the permit would be revoked.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:30 p.m.

No one appeared in favor.

Wayne Harris, 422 Libeth Place, Fayetteville, NC appeared in opposition and expressed concern for additional traffic the daycare would generate and the safety of children who play in the area.

There was no one further to speak and the public hearing closed at 7:33 p.m.

Mr. Garner responded to questions posed by Council Member Haire regarding the conditions outlined for fencing and driveway permits. Council Member Evans posed questions regarding driveway and drop off areas as reflected in the site plan. Additional questions followed regarding hours of operation, enrollment, and staffing.

Mr. Garner confirmed for Council Member Crisp the applicant would have to secure DOT approval for egress and ingress from Cliffdale Road because the use would change from residential to commercial.

MOTION: Council Member Applewhite moved to approve the special use permit based on the findings of fact with conditions as outlined A-I.

SECOND: Council Member Haire

Council Member Bates spoke in opposition to businesses in residential areas and expressed concern for the neighboring properties. Council Member Applewhite noted the limited availability of twenty-four hour daycares in Fayetteville.

VOTE: PASSED by a vote of 6 (Council Members Chavonne, Applewhite, Meredith, Haire, Hurst and Mohn) in favor to 4 in opposition (Council Members Evans, Massey, Bates and Crisp).

G. Consider the rezoning from P2 professional district to C1 commercial district or to a more restrictive zoning classification for property located at 515 Bunce Road. Containing .834 acres more or less and being the property of Horizons Property Management, LLC. Case No. P08-16F

Mr. Garner 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. Garner stated the applicant wishes to use the property for retail uses. Mr. Garner further stated planning staff recommended denial of the rezoning and the Zoning Commission recommends approval.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:50 p.m.

Larry Boney, 4165 Ferncreek Drive, Fayetteville, NC appeared in favor and stated the proposed use of the property was for an icehouse. Mr. Boney provided a computer generated rendering and a site plan depicting the intended use.

No one appeared in opposition and the public hearing closed at 7:53 p.m.

Council Member Haire asked if maintenance could be imposed as a condition. Mr. Garner responded in the negative and noted staff was currently developing an icehouse ordinance. Council Member Haire requested the icehouse ordinance contain provisions regarding maintenance.

Council Member Applewhite inquired whether the site plan as presented could be imposed as a condition on the property. Mr. Garner responded in the negative.

MOTION: Council Member Applewhite moved to approve rezoning of the property to C1 commercial.

SECOND: Council Member Evans

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Massey, Meredith and Bates)

H. Consider the rezoning from R10 residential district to C1 commercial district or to a more restrictive zoning classification for property located at 7502 Telfair Drive.

Containing .56 acre more or less and being the property of Wallis & Rosemonde Waller.

Case No. P08-23F

Mr. Garner 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. Garner stated the applicant wishes to use the property for retail uses. Mr. Garner further stated planning staff recommended denial of the rezoning and the Zoning Commission recommends approval.

In response to a question posed by Council Member Haire, Mr. Garner stated a Reilly Road study conducted and completed in 1997 by the County recommended light commercial office-type uses for the property.

Candice H. White, City Clerk, informed Council a citizen had requested to speak after the 7:00 p.m. cutoff. Karen M. McDonald, City Attorney, advised Council could vote to suspend their rules should they wish to allow the additional speaker.

MOTION: Council Member Bates moved to allow an additional citizen to speak.

SECOND: Council Member Evans

VOTE: UNANIMOUS (10-0)

This is the advertised public hearing set for this date and time. The public hearing opened at 8:10 p.m.

Rosemonde Waller, 7502 Telfair Drive, Fayetteville, NC appeared in favor and stated she deferred to Jonathan Charleston.

Wallis Waller, 7502 Telfair Drive, Fayetteville, NC appeared in favor and stated he deferred to Jonathan Charleston.

Scott Ivey, 255 Lovington Drive, Fayetteville, NC appeared in favor and stated he deferred to Jonathan Charleston.

Fely G. Arnold, 6510 Delliert Court, Fayetteville, NC appeared in favor and stated she deferred to Jonathan Charleston.

Jonathan Charleston, 201 Hay Street, Suite 2000, Fayetteville, NC appeared in favor as legal counsel for the applicant and stated the character of the Reilly Road area had changed to predominately commercial uses making the 2010 Land Use Plan adopted in 1996 less reliable today. Mr. Charleston spoke further regarding the widening of Reilly, the increased traffic count and the associated noise, and commercial uses in the area.

Kathleen M. Tannenhill, 7514 Ascot Avenue, Fayetteville, NC appeared in opposition and expressed concern for additional traffic problems likely associated with the rezoning of the property.

Jeremy M. Mathis, 7510 Ascot Avenue, Fayetteville, NC appeared in opposition and expressed concern that the only entrance to the property was from Telfair Drive as the property faced Telfair Drive, not Reilly Road.

Nancy B. Torres, 7584 Deerwood Drive, Fayetteville, NC appeared in opposition as the Community Watch leader for the LaGrange subdivision and stated another business does not need to be added to the area.

Juanita Gonzalez, 222 Wickford Court, Fayetteville, NC appeared in opposition and stated rezoning the entrance or gateway to Telfair Drive would be at the detriment of the established residential neighborhood.

On rebuttal, Jonathan Charleston stated commercial uses surround the subject property, traffic incidental to the rezoning would be insignificant, there is no evidence traffic utilizes Telfair Drive for access to Reilly Road, the subject property is on the corner of Telfair Drive and Reilly Road and entrance to the subject property will be subject to DOT approval.

On rebuttal, Jeremy Mathis stated the subject property can be viewed from his residence and neither he nor Ms. Tannenhill are completely removed from it.

On rebuttal, Nancy Torres stated neither she nor members of the Community Watch wanted to live next door to commercial uses. Ms. Torres asked if a compromise could be reached for P4 zoning.

No one appeared in opposition and the public hearing closed at 8:35 p.m.

Mr. Garner responded to questions regarding traffic impact, permitted uses under C1 zoning classification, and the zoning and use of properties to the south, east and west of the subject property.

MOTION: Council Member Bates moved to deny the request.

SECOND: Council Member Evans

In response to a question posed by Council Member Evans, Mr. Garner stated the majority of the commercial uses on Reilly Road were inherited by the City when the properties were annexed in 2005.

Council Member Meredith spoke to traffic issues and fatalities on Reilly Road.

VOTE: PASSED by a vote of 6 in favor (Council Members Chavonne, Meredith, Haire, Bates, Crisp and Evans) to 4 in opposition (Council Members Hurst, Massey, Mohn and Applewhite)

Mayor Chavonne asked staff to perform a study of Reilly Road to provide direction on potential land uses for the area.

I. Consider a local landmark designation in accordance with the guidelines established in Chapter 30, Article XV, Section 30-455 of the Fayetteville City Code for property located at 1525 Morganton Road, the DeVane-Lyon-Dawson House.

Bruce Daws, Historic Properties Manager, provided an overview of the process for recommending properties as historic landmarks. Mr. Daws stated the property at 1525 Morganton Road, owned by Hannah Dawson, was the sole surviving example of Dutch Colonial Revival with bungalow detailing in the City of Fayetteville. Mr. Daws explained the property tax impact to the City should the designation be approved and stated the Historic Resources Commission unanimously recommended approval of the local landmark designation.

Mr. Daws responded to questions posed by Council Members Crisp and Bates regarding the authenticity of the property's architecture, whether the City would acquire any responsibilities to the property should the designation be granted and whether there were plans to incorporate the property into the State's registry.

This is the advertised public hearing set for this date and time. There being no one in favor or in opposition, the public hearing opened and closed at 9:05 p.m.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY DESIGNATING THE DEVANE-LYON-DAWSON HOUSE AT 1525 MORGANTON ROAD, FAYETTEVILLE, NORTH CAROLINA AS A HISTORIC LANDMARK. ORDINANCE NO. NS2008-15

MOTION: Council Member Meredith moved to approve the local landmark designation.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

4. TOWN HOME AND CONDOMINIUM DUMPSTER REIMBURSEMENT REVIEW

Jerry Dietzen, Solid Waste Management Director, provided a brief history of dumpster reimbursements to townhouse and condominium developments and stated Council identified the elimination of the reimbursements in its strategic plan as a high priority target for action. Mr. Dietzen stated the recommendation of staff was to eliminate the solid waste collection reimbursements for commercial garbage at townhouse and condominium developments beginning in fiscal year 2008-2009.

MOTION: Council Member Meredith moved to eliminate the solid waste collection reimbursements for commercial garbage at townhouse and condominium developments.

SECOND: Council Member Applewhite

FRIENDLY AMENDMENT: Council Member Bates moved to eliminate the solid waste collection reimbursements for commercial garbage at townhouse and condominium developments effective July 1, 2008.

Council Member Applewhite accepted the friendly amendment.

VOTE: UNANIMOUS (10-0)

5. RESOLUTION IN SUPPORT OF PARKS BOND ISSUE

Robert Barefoot, Parks and Recreation Director, stated the resolution for Council consideration was to place a joint parks bond on the November 2008 ballot. Mr. Barefoot further stated the Fayetteville City Council and Cumberland County Board of Commissioners were presented a list of park improvements projects recommended by the Parks and Recreation Advisory Commission at their joint meeting on April 8, 2008 and all projects were part of the Parks and Recreation Master Plan adopted by the Fayetteville City Council and Cumberland County Board of Commissioners in April 2006.

Council Member Haire inquired as to whether the presentation had been made to the County and whether they supported a parks bond on the November ballot. Mr. Barefoot responded the project recommendations had been presented to the County's Facilities Committee and there was no indication of support for a bond at that time. Mayor Chavonne stated placing a joint parks bond on the November 2008 ballot had been presented at the joint meeting on April 8, 2008 and, should the City and County come together and endorse a November referendum for citizen vote, work on intergovernmental arrangements could ensue. Mr. Barefoot and Mr. Iman responded to further questions and discussion ensued.

MOTION: Council Member Evans moved that Council not support the resolution to place a parks bond on the November 2008 ballot.

There was no second and the motion died.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, DECLARING THE CITY COUNCIL'S SUPPORT FOR A JOINT PARKS BOND ISSUE WITH CUMBERLAND COUNTY. RESOLUTION NO. R2008-032

MOTION: Council Member Meredith moved to approve the resolution for the recommended projects on the November ballot and ask the County to do the same.

SECOND: Council Member Haire

Council Members Bates and Crisp spoke in support of the recommended projects and in opposition to an increase in taxes.

VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Evans and Haire)

6. PROVIDE NOMINATIONS TO THE ANIMAL CONTROL BOARD

Following nomination by Council, the names of Rose Marie Bonavia, Leon Goldtein, Juanita Gonzalez and Eddie L. Hollingsworth will be forwarded to the Cumberland County Board of Commissioners for their consideration of appointment.

INFORMATION ITEM:

**1. General Fund Revenue and Expenditure Report for the Nine-Month Period
Ended March 31, 2008**

There being no further business, the meeting adjourned at 9:35 p.m.