

FAYETTEVILLE CITY COUNCIL
MINUTES
JANUARY 28, 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
Stanley Victrum, Assistant City Manager
Kyle Sonnenberg, Assistant City Manager
Doug Hewett, Assistant City Manager
Karen M. McDonald, City Attorney
Karen Hilton, Assistant Planning Director
Kyle Garner, Planner

Bobby B. Teague, Engineering and Infrastructure Director
Jeffrey Brown, City Engineer
Robert Barefoot, Parks and Recreation Director
Victor Sharpe, Community Development Director
Steve Blanchard, PWC CEO/General Manager
Mike Lallier, Public Works Commissioner
Joe Glass, Water/Sewer Engineering Manager
Mick Noland, Water Resources Chief Operating Officer
Jackie Tuckey, Communications Manager/Public Information Officer
Candice H. White, City Clerk
Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Rev. Arnold Coley, Police Chaplain and Pastor of Smith Chapel A.M.E. Zion Church of Garland, NC, 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 Bates moved to approve the agenda.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

2. CONSENT:

Council Member Meredith requested Item 2.J. pulled for discussion. Council Member Haire requested Item 2.H. pulled for discussion. Council Member Crisp requested a location under Item 2.M. amended to indicated Strickland Bridge Road and Raeford Road.

MOTION: Council Member Massey moved to approve the agenda with the exception of Item 2.H. and Item 2.J. and the amendment to Item 2.M.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

The following items were approved:

A. Capital Project Ordinance Amendment 2008-9 (EE Miller Recreation Center)

This amendment will increase the budget for the EE Miller Recreation Center project by \$60,000. The source of funds for the amendment is a \$60,000 General Fund transfer. If this amendment is approved, the revised budget for the project will be \$2,297,050. These funds will be used for equipment, furniture, landscaping, area lighting, and irrigation at the EE Miller Recreation Center.

B. Budget Ordinance Amendment 2008-5

This ordinance amendment will appropriate a \$10,000 donation received from The Arts Council of Fayetteville/Cumberland County for electric outlets and lighting installed at Festival Park. In addition, the ordinance will establish the fiscal year 2008 budget for the City's Fleet Maintenance Internal Service Fund to facilitate the closing of the fund. The projected total net assets of the fund are being appropriated to fund the transfer of the existing inventory of transit vehicle parts to the Transit Fund and the transfer of the remaining net assets to the General Fund.

C. Set a Public Hearing and Approve a Preliminary Resolution Requiring the Paving Without Petition of Certain Soil Streets

PRELIMINARY RESOLUTION REQUIRING THE PAVING WITHOUT PETITION OF CERTAIN SOIL STREETS. RESOLUTION NO. R2008-002

D. Amendment to Chapter 29 of the Code of Ordinances; Water Supply Watershed Management and Protection

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING VARIOUS SECTIONS OF CHAPTER 29, WATER SUPPLY WATERSHED MANAGEMENT AND PROTECTION, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2008-004

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

Council is being asked to set a public hearing for the February 25, 2008 Council meeting and approve a preliminary resolution requiring the paving without petition of: Adam Street from Kennedy Street 384 feet to a turn-around; Canal Street from Kennedy Street to Wayde Street; Carbonton Street from Old Wilmington Road 476 feet to a cul-de-sac; Grace Avenue from Old Wilmington Road 351 feet to a dead end; Gurley Street from Robeson Street 470 feet to a cul-de-sac; Guthrie Street from Holt Williamson Street to McDuffie Street; McDuffie Street from Guthrie Street to Eastern Blvd; Lucas Street from Cool Spring Street 408 feet to a turn-around; Plummers Lane from Hawley Lane 283 feet to a cul-de-sac; Upton Street from Stevens Street 259 feet to a cul-de-sac; Woodsdale Drive from Camden Road 581 feet to the railroad; and Farrell Avenue from Dunn Road 1070 feet to a cul-de-sac. This is the first one-third of the soil streets listed to be paved in a three-year period.

F. Adopt Resolution Declaring Property Surplus

RESOLUTION DECLARING PROPERTY EXCESS TO CITY'S NEEDS AND QUITCLAIMING CITY TITLE IN THE PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2008-003

G. Adopt Resolution Abandoning a Utility Easement on Land as Evidenced in Plat Book 33, Page 37

RESOLUTION OF ABANDONMENT OF UTILITY EASEMENT RECORDED IN PLAT BOOK 37, PAGE 33, CUMBERLAND COUNTY REGISTER OF DEEDS. RESOLUTION NO. R2008-004

H. Pulled at the request of Council Member Haire.

I. **Approve the initial zoning to PND planned neighborhood development for property located on the west side of Ramsey Street. Containing 40.43 acres more or less and being the property of North Ramsey Street Partners, LLC as evidenced by map and legal description by the City of Fayetteville. Case Number P07-78F.**

J. Pulled at the request of Council Member Meredith.

K. **Approve sign permit for the annual Craftsmen's Spring Festival on March 9th and 10th. The signs are to be placed at various locations throughout the city from Monday, March 3rd to Monday, March 10th.**

L. **Approve Sign Permit for Methodist University Loyalty Day event on Tuesday, February 12th. The signs are to be placed at Methodist University and the Up & Coming offices on Rowan Street from Tuesday, February 5th to Wednesday, February 13th.**

M. **Approve Sign Permit for the Home Builders Association's "Operation Welcome Home" Campaign that Includes the FireAntz Hockey Game on Saturday, February 9th.**

2.H. Approve the rezoning from C1P commercial district to R5A residential district\conditional zoning to allow a maximum of 300 apartment units for property located at the corner of Morganton Road and Reilly Road. Containing 20.92 acres more or less and being the property of D&L Investments, LLC. Case Number P07-69F.

MOTION: Council Member Haire moved to set a public hearing for February 25, 2008.

SECOND: Council Member Bates

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

MOTION: Council Member Haire moved to approve the recommendation of staff and rezone the property.

SECOND: Council Member Meredith

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

2.J. Approve a request from Lamar Advertising to upgrade a one-sided billboard to a two-sided digital billboard in the vicinity of Wal-Mart on Ramsey Street in exchange of removing a two-sided billboard in the vicinity of Wal-Mart on Ramsey Street.

MOTION: Council Member Meredith moved to set a public hearing for June 23, 2008.

SECOND: Council Member Evans

Council Member Meredith stated the date in June would allow staff sufficient time to review the current ordinance; however, the public hearing could be scheduled sooner should staff complete their review prior to that time.

VOTE: UNANIMOUS (10-0)

ITEM 3. PUBLIC HEARINGS:

A. Consider the rezoning from R15 residential district to P2 professional district or to a more restrictive classification for property located at 4704 Rosehill Road. Containing .48 acres more or less and being the property of Glenda & James Hobson. Case Number P07-73F.

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 explained the applicant has operated a beauty salon at this location for about twenty-five years and the business use is non-conforming, but a rezoning to a professional district would change the use to conforming. Mr. Garner stated the Zoning Commission recommends rezoning to P2 professional zoning and planning staff recommend P4 professional zoning.

Mr. Garner responded to questions regarding signage allowances.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:15 p.m.

Glenda Hobson, 4704 Rosehill Road, Fayetteville, NC 28311 appeared in favor, stated she wanted the property rezoned to a conforming use and she preferred P2 zoning because it would allow for a larger sign.

Pat Hales, 461 Stacy Weaver Drive, Fayetteville, NC 28311 appeared in favor and P2 zoning is being requested because a large sign is needed.

James F. Hobson, 4704 Rosehill Road, Fayetteville, NC 28311 appeared in favor and stated the business needs a sign that can be noticed.

Rachel Bennett, 6740 Appian Way, Fayetteville, NC appeared in favor and stated the business needs a sign that is visible from the road.

No one appeared in opposition and the public hearing closed at 7:20 p.m.

MOTION: Council Member Massey moved to rezone the property to P2 professional following Zoning Commission recommendation.

SECOND: Council Member Crisp

Council Member Bates offered comments in favor of P4 zoning. In response to a request by Council Member Haire, Mr. Garner outlined the differences between P2 and P4 signage allowances.

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

Karen M. McDonald, City Attorney, advised a second reading would be required.

B. Consider the rezoning from C1P commercial district to C3 commercial district\conditional zoning to allow an auto body repair business for property located on Bingham Drive Extension. Containing 1.50 acres more or less and being the property of Peter and Paula Stewart. Case Number P07-74F.

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 applicants wish to rezone a portion of their land for an auto body repair business. Mr. Garner explained the conditional zoning request limits the use to only an auto body repair business. Mr. Garner stated the Zoning Commission recommends approval of the C3 commercial\conditional zoning request for an auto body shop at that location consistent with the site plan submitted by the applicant.

Council Member Crisp asked how the applicant would be held to ten vehicles and whether environmental studies had been conducted. Mr. Garner responded the zoning enforcement agency would monitor the number of vehicles and information regarding environmental studies would be addressed during the public hearing.

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

Neil Yarborough, The Yarborough Law Firm, 115 E. Russell Street, Fayetteville, NC 28301 appeared in favor and spoke to modern methodology for performing car repairs and the handling of environmental issues in five areas of the body shop's operation.

Steven McClothlin, 1073 Briarcliff Road, Mooresville, NC 28115 appeared in favor and provided information regarding the professionalism of the business center facilities and operations.

Kenneth R. Jones, 6461 Bingham Place, Fayetteville, NC 28304 appeared in opposition and expressed concern for the contamination of nearby residential wells caused by chemicals, solvents and cleaners.

Carl R. Lane, 6481 Bingham Place, Fayetteville, NC 28304 appeared in opposition and expressed concern for the negative environmental impact to residential properties in the area.

Steven McClothlin, 1073 Briarcliff Road, Mooresville, NC 28115 appeared in rebuttal and spoke to the recycling of solvents and detention, and to the environmental and customer service friendly aspects of the business.

Neil Yarborough, The Yarborough Law Firm, 115 E. Russell Street, Fayetteville, NC 28301 appeared in rebuttal and stated the facility would be a federally, state and locally regulated and should be encouraged because of its new methodology.

Kenneth R. Jones, 6461 Bingham Place, Fayetteville, NC 28304 appeared in rebuttal and expressed concern for the residences in the area that would be put at risk before they are able to receive city water and sewer.

Carl R. Lane, 6481 Bingham Place, Fayetteville, NC 28304 appeared in rebuttal and stated as a resident, he has concerns about the quality of the drinking water.

There was no one further to speak and the public hearing closed at 8:00 p.m.

Questions were posed to Mr. Yarborough regarding stormwater drainage and retention ponds, and water and sewer facilities.

At the request of Mayor Chavonne, Mr. Garner reviewed the guidelines that accompanied the Zoning Commission's recommendation for approval.

At the request of Council Member Haire, Mr. McClothlin explained how large quantity spills would be handled, how egg-crate containers would be used to catch and confine leakages, and how floor drains would run liquids through water separators.

Council Member Applewhite asked about the regulation of water quality. Mr. Iman explained regulation is through the Department of Environment and Natural Resource (DENR). Council Member Applewhite asked who would assume liability for water contamination were it to

occur. Mrs. McDonald advised the business would be liable if it could be established that they were the cause.

Mayor Chavonne asked whether Council could impose a condition that the applicant set up a well monitoring system. Mrs. McDonald stated should Council have an interest in imposing the condition, further research would be needed.

Questions continued regarding hours of operation, separators for parking lot run off and ground water monitoring. Council Member Meredith asked Mr. Lane and Mr. Jones whether installation of a well monitoring system would be acceptable. They responded in the affirmative.

MOTION: Council Member Bates moved to deny the rezoning.

SECOND: Council Member Mohn

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

C. Consider the rezoning from R10 residential district to P2 professional district for property located at 2033 and 2029 Hope Mills Road. Containing .73 acres more or less and being the property of Jesus Benitez and Julia Gonzalez, respectively. Case Number P07-77F.

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 applicants wish to rezone their properties from residential zoning to professional zoning. Mr. Garner further stated the Hope Mills Road Land Use Study recommends professional uses for these properties and explained P2 zoning would provide a transition. Mr. Garner stated the Zoning Commission recommends approval of the P2 professional zoning for both properties and that the reason this case was scheduled for a public hearing was one of the applicants had indicated she might withdraw her request.

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 8:30 p.m.

MOTION: Council Member Bates moved to approve P2 professional zoning for both properties.

SECOND: Council Member Evans

VOTE: UNANIMOUS (10-0)

D. Consider an amendment to the Fayetteville Code of Ordinances, 30-120(4)(c), Mini-warehousing Design Standards, to improve the design excellence and creativity within the community for mini-warehousing facilities.

Mr. Garner presented this item and explained the Joint Appearance Commission developed design standards for mini-warehousing facilities in response to a City Council request to provide standards for such facilities. Mr. Garner highlighted the proposed guidelines. Mr. Garner stated the Joint Appearance Commission and the Planning Commission recommend adoption of the design standards.

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 8:34 p.m.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ZONING, ARTICLE IV, DISTRICT USE REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2008-005

MOTION: Council Member Bates moved to approve the ordinance amendment with an additional design guideline that outside lights be directed toward the interior of the property.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

E. Public Hearing to Consider Adoption of Resolution Directing the Extension of the City's Municipal Water Distribution System to Serve a Portion of the Rim Road Area

Mr. Iman provided background information leading up to the public hearing and proposed special assessment for improvements to properties in the Rim Road area. Mr. Iman summarized the state's participation in the project and stated property owners on Debbie Drive and Maggie Circle could petition the city for the extension of the city's water system. Mr. Iman stated according to information provided by the Health Department and the state, the wells in those areas are not threatened by contamination. Mr. Iman responded to questions posed by Council.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:35 p.m.

Eric Vaughn Hendricks, 5308 Ashby Street, Hope Mills, NC 28348 appeared in favor and suggested that a corrective action plan be developed to clean up the water and revive the land. Geraldine Chavis, 7555 Debbie Drive, Fayetteville, NC 28314 appeared in favor and stated all residents in the area should receive municipal water.

Lofton E. Stewart, 7537 Maggie Circle, Fayetteville, NC 27314 appeared in favor and asked that the water extension project be extended to include Maggie Circle.

Caroline Lambertson, 2045 Rim Road, Fayetteville, NC 28314 appeared in favor and asked that the city include her property in the water extension project.

No one appeared in opposition and the public hearing closed at 8:47 p.m.

RESOLUTION DIRECTING THE EXTENSION OF ITS MUNICIPAL WATER DISTRIBUTION SYSTEM BE UNDERTAKEN TO SERVE A PORTION OF THE RIM ROAD AREA. RESOLUTION NO. R2008-005

MOTION: Council Member Meredith moved to adopt the attached resolution.

SECOND: Council Member Haire

Council Member Bates asked about the possibility of a friendly amendment to include Debbie Drive and Maggie Circle; other related questions followed. Mr. Blanchard reported according to PWC policy, the cost to extend water to noncontaminated wells would be \$16,000 a lot and properties receiving city water out of sequence would receive a 100% assessment.

Mrs. McDonald spoke to the statutory nature of the process and advised that if Council's interest was to add other properties, the process would have to either start all over again or Council could approve the process under consideration and then direct staff to initiate the statutory process for the other properties.

VOTE: UNANIMOUS (10-0)

4.

CURBSIDE RECYCLING PROGRAM

Doug Hewett, Assistant City Manager, provided an overview of events leading up to the recommended curbside recycling program and outlined the main components of the program as follows: 1) weekly single-stream curbside recycling; 2) using 35-gallon rollout recycling carts; 3) with an initial annual fee of \$42 per household; and 4) with service to begin in July 2008. Mr. Hewett clarified materials that could be recycled, reviewed educational and marketing plans for the recommended program, and reviewed items requiring Council action.

A. Authorize the curbside recycling fee of \$42 per each single-family household for FY 2009. The fee will be billed on the property owner's tax bill each year.

MOTION: Council Member Haire moved to authorize the curbside recycling fee of \$42 for each single-family household for FY 2009.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

B. Adopt Budget Ordinance Amendment 2008-6 to appropriate \$1,672,249 of financing proceeds and \$320,841 of fund balance in the General Fund to be transferred to the new Recycling Fund, and to establish the budget for the Recycling Fund for the current fiscal year.

MOTION: Council Member Crisp moved to adopt Budget Ordinance Amendment 2008-6.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

C. Adopt the reimbursement resolution necessary to finance \$1,672,249 of General Fund equipment and vehicles.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA DECLARING THE INTENTION OF SAID CITY TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND TO BE MADE IN CONNECTION WITH THE ACQUISITION OF EQUIPMENT AND VEHICLES FOR THE ENGINEERING AND INFRASTRUCTURE, SOLID WASTE, FIRE, MANAGEMENT SERVICES, INFORMATION TECHNOLOGY, PARKS, RECREATION AND MAINTENANCE AND POLICE DEPARTMENTS. RESOLUTION NO. R2008-066

MOTION: Council Member Meredith moved to adopt the reimbursement resolution.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

D. Authorize the award of contract to Waste Management, Inc., low bidder, to provide once-per-week curbside collection of recyclables service to all single-family households to begin on or about July 1, 2008. Pricing in accordance with the submitted bid.

MOTION: Council Member Crisp moved to authorize the award of contract to Waste Management, Inc.

SECOND: Council Member Applewhite

VOTE: UNANIMOUS (10-0)

E. Award of bid for the purchase and delivery of 60,000 each, 35 gallon carts to Otto Environmental Systems, LLC, low bidder, for the curbside collection container to be used for the recycling program. Pricing in accordance with the submitted bid.

MOTION: Council Member Bates moved to award bid for the purchase and delivery of 60,000 each, 35 gallon carts to Otto Environmental Systems, LLC for the curbside collection container to be used for the recycling program.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

INFORMATION ITEMS:

1. Report of tax refunds less than \$100.

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
First Presbyterian Church of Fayetteville Trustees	0024840	2006	Clerical Correction	22.32
First Presbyterian Church of Fayetteville Trustees	0024858	2006	Clerical Correction	34.91
First Presbyterian Church of Fayetteville Trustees	0024874	2006	Clerical Correction	39.14
Price, Naomi Eppler	6047422	2006	Corrected Assessment	39.49
TOTAL				\$135.86

There being no further business, the meeting adjourned at 9:20 p.m.