

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
AUGUST 24, 2009
7:00 P.M.**

Present: Mayor Anthony G. Chavonne
Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3 – arrival time 7:35 p.m.); Darrell J. Haire (District 4 – arrival time 7:20 p.m.); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Council Member Wesley A. Meredith (District 9)
Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Patricia C. Bradley, Assistant City Attorney
Lisa Smith, Chief Financial Officer
Benjamin Nichols, Fire Chief
Rob Anderson, Chief Development Officer
Bruce Daws, Historical Properties Manager
Craig Harmon, Planner II
Rusty Thompson, City Traffic Engineer
Michael Gibson, Parks & Recreation Director
Jackie Tuckey, Communications Manager/Public Information Officer
Rita Perry, 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.

RECOGNITIONS AND ANNOUNCEMENTS

Council Member Hurst announced an invitation to the citizens to attend the second Citizens' Academy which will begin Wednesday, September 16, 2009 through October 28, 2009 from 6:00 p.m. – 8:30 p.m., which is available at no charge to all City of Fayetteville residents and applications can obtain at the city's website: cityoffayetteville.org or call 433-1578. The deadline is September 4, 2009 with limited space.

Council Member Applewhite announced the first day of school for Cumberland County children and encouraged citizens to exercise safety over speed.

Council Member Meredith recognized visitor, Josh Roomer who is a Civic Leadership Principles intern with the City. He extended congratulations to him for his many accomplishments.

Council Member Evans Acknowledged the presence of Tony McKinnon with the United Postal Workers, and his efforts save the Haymount Hill Post Office.

1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.

SECOND: Council Member Evans

VOTE: UNANIMOUS (8-0)

2. CONSENT:

Mayor Chavonne requested the inclusion of a list of additional of sign locations for the Greek Festival to Item 2.O.

Council Member Applewhite requested to pull Item 2.C. for discussion.

MOTION: Council Member Applewhite moved to approve the consent agenda with the exception of Items 2.C. and the additional sign location list for the Greek Festival.

SECOND: Council Member Bates

VOTE: UNANIMOUS (8-0)

A. Approve Minutes:

1. **City Council meeting held on June 8, 2009.**
2. **City Council meeting held on June 13, 2009.**
3. **Agenda Briefing meeting held on July 22, 2009.**
4. **Dinner and Discussion meeting held on July 27, 2009.**
5. **City Council meeting held on July 27, 2009.**

B. Approve the rezoning from P2 professional district to C1 commercial district or to a more restrictive zoning classification for property located at 6460 Yadkin Road. Containing 0.433 acres more or less and being the property of John Dowdy. Case Number P09-22F

The property is part of an existing shopping center that is split zoned with commercial and professional zoning. The applicant is requesting C1 commercial zoning in order for the entire shopping center to be zoned commercial. The Zoning Commission and Planning staff concur with the applicant's request.

C. Pulled for discussion by Council Member Applewhite.

D. Renovation of Airport Fire Station 10

1. Approval for Renovation of Airport Fire Station 10

The Airport has plans to renovate and improve the airport fire station and has secured federal grant funding to participate in the costs. The project will add an additional large equipment bay and new training and living quarters for operations. The following approvals are requested to move the project forward and secure federal funding:

Approve FAA grant number AIP 36 (part B) for 2009 in support of renovations to Fire Station 10. The Federal grant represents 95% of the total cost in the amount of \$1,100,305.00. The airports 5% will come from passenger facilities charges (PFC) in the amount of \$57,911.05.

2. Capital Project Ordinance 2010-8 (Aircraft Rescue and Fire Fighting (ARFF) Building Rehabilitation Project)

This ordinance will appropriate \$1,736,467 for the ARFF building rehabilitation project at the Airport. The funding sources for this action consist of two federal grants totaling \$1,649,643 as well as a required local match of \$86,824.

3. Contract Award – Aircraft Rescue and Firefighting Facility (ARFF)

Award contract in the amount of \$1,099,798.00 to Keystone Construction & Consulting, LLLC, Hope Mills, NC, for the Aircraft Rescue and Firefighting Facility (ARFF) at the Fayetteville Regional Airport.

E. Special Revenue Fund Project Ordinance Amendment 2010-3 (FY2009-2010 Community Development Block Grant)

This amendment will reduce the project budget appropriation by \$87 to be consistent with the grant award received from the U.S. Department of Housing and Urban Development (HUD).

F. Special Revenue Fund Project Ordinance 2010-5 (Homelessness Prevention and Rapid Re-Housing Program)

This ordinance will appropriate \$589,648 for the American Recovery and Reinvestment Act of 2009 (ARRA) Homelessness Prevention and Rapid Re-Housing Program awarded by the U.S. Department of Housing and Urban Development (HUD). The grant will be used to provide homeless prevention assistance to households who would otherwise become homeless and to provide assistance to rapidly re-house people who are experiencing homelessness.

G. Special Revenue Fund Project Ordinance 2010-6 (Community Development Block Grant Recovery Program)

This ordinance will appropriate \$385,584 for the American Recovery and Reinvestment Act of 2009 (ARRA) Community Development Block Grant Recovery Program awarded by the U.S. Department of Housing and Urban Development (HUD). The grant will be used for the Residential Façade Grant Program and a Demolition Program.

H. Special Revenue Fund Project Ordinance 2010-7 (FY2008 Assistance to Firefighters Grant)

This ordinance appropriates \$245,210 for the purchase of fitness equipment and to fund training certifications, physical exams and fitness evaluations. The funding sources for this action consist of a federal grant of \$196,168, awarded through the FY2008 Assistance to Firefighters Grant, and a required local match from the General Fund of \$49,042. The local match was included in the FY2009-2010 General Fund Budget.

I. Capital Project Ordinance 2010-10 (FY2010 American Recovery and Reinvestment Act (ARRA) Transit Capital Grant for Hybrid Electric Buses and Security Plan Development)

This ordinance will appropriate \$3,097,720 for five 35-foot hybrid electric buses, emergency response drills and security training.

J. Municipal Agreement & Resolution for Railroad Crossing Improvements at Southgate Road

Council is being asked to approve a Municipal Agreement and Resolution with NCDOT-Rail Division for Southgate Road. This agreement is necessary in order to improve the protective devices at the crossing location.

K. Capital Project Ordinance Amendment 2010-17 (EE Miller Recreation Center)

This amendment will increase the appropriation for the EE Miller Recreation Center project by \$8,008. The source of funds for this amendment is investment income earned on the capital lease proceeds borrowed to construct the recreation center. Other minor adjustments are made to align the revenue budget with the actual funding sources received to construct the recreation center.

L. Accept an offer to purchase vacant City owned lot on Old Wilmington Road

To take final action on an offer from Dan V. Kinlaw to purchase a City-owned, PWC managed lot. The offering price is 100% of tax appraised value. Council approved advertisement of the offer to purchase at the July 27 meeting; the offer was published in the Fayetteville Observer and no upset bids were received within the 10 day upset bid period. Parcel is not located within the Hope VI project area and is being conveyed subject to 40' drainage/utility easement.

M. Accept an offer to purchase vacant City owned lot on Boone Trail

To take final action on an offer from John M. Hall, Jr. to purchase a City owned, PWC managed lot. The offering price is 100% of the tax appraised value. Council approved the advertisement of the offer to purchase at the July 27 meeting; the offer was published in the Fayetteville Observer and no upset bids were received within the 10 day upset bid period. Parcel is being conveyed subject to a 100' C P & L easement.

N. Resolution for Series 2009 Revenue and Revenue Refunding Bonds

The Public Works Commission of the City of Fayetteville requests Council adopt a Resolution pertaining to the Series 2009 Revenue and Revenue Refunding Bonds

O. Approve sign permit for the 19th annual Greek Festival occurring on September 9th through September 13th.

The request is to place banner signs on the light poles at the AAMCO lot at 1047 Bragg Boulevard and fly the American and Greek flags at the Saints Constantine & Helen Greek Orthodox Church from August 26th through September 14th. The sign ordinance provides temporary signage for festivals and special events. The City Council approved this request last year.

P. Request from Cape Fear Botanical Gardens

The Cape Fear Botanical Garden is completing the final phase of its master plan which includes building a visitor's center complex. Cape Fear Botanical Garden has requested that the City release all restrictions and reversionary interest in the 10.1 acre tract upon which the visitor's center is being constructed. This release would be effective during the time Cape Fear Botanical Garden is indebted to the bank and in the event of foreclosure. The City's restrictions and reversionary interest would reattach upon satisfaction of the deed of trust.

C. Approve the rezoning from AR agricultural\residential district to R6\CZ residential district\conditional zoning for property located on Rim Road between Olted Road and Identity Road just south of Cliffdale Road. Containing 14.9 acres more or less

and being the property of Vance and Elizabeth Hall and Alex and Catherine Hall. Case Number P09-23F

Council Member Applewhite pulled this item for discussion.

MOTION: Council Member Applewhite moved to set a public hearing to consideration other option.

SECOND: Council Member Evans

Council Member Mohn questioned the necessity of setting another public hearing. Council Member Applewhite explained the traffic concerns and requested additional traffic analysis. Craig Harmon, Planner II, explained the process of evaluating the traffic impact for a conditional use zoning request.

Rusty Thompson, City Traffic Engineer, informed Council the previous driveway was already reviewed and granted by NCDOT and the existence of a secondary site that will connect into a non-DOT roadway; therefore, a traffic review is not performed. He further elaborated on the Traffic Impact Analysis (TIA) procedures regarding new developments and suggested the developments be viewed as one with a driveway alignment with April Drive and the potential of a signal light in the future.

A question and answer period ensued regarding the sizes of the complexes, future traffic in the area, the process and timeline of aligning the driveway with April Drive and future widening of Rim Road.

Mr. Thompson explained two options for driveway alignment since there is one owner for both properties, either review through Technical Review Committee (TRC) or be set as part of conditional zoning. He updated Council regarding the widening of Rim Road which is currently unfunded.

Discussion ensued regarding the combined-development recalculations as it pertains to traffic, a revised staff recommended site plan and a Traffic Impact Analysis (TIA).

VOTE: PASSED by a vote of 6 in favor (Mayor Chavonne, Council Members Applewhite, Bates, Crisp, Hurst, and Meredith) to 2 in opposition (Council Members Evans and Mohn)

3. PUBLIC HEARINGS:

A. Consider the rezoning from R6 residential district to R5 residential district or to a more restrictive zoning classification for property located at 108, 110, 202 and 204 Pinecrest Drive. Containing 0.89 acres more or less and being the properties of Pear Tree Properties, LLC, Thomas Bradford and Island Time Pizza, LLC. Case Number P09-24F

Mr. Craig Harmon, Planner II, presented this item and 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. He stated the applicant is requesting this case be remanded back to the Zoning Commission as conditional use zoning. He explained the history of this case as it being initially denied by the Zoning Commission; therefore, is before Council as an Appeal Item. He summarized Council's options as follows: (1) to remand the case back to the Zoning Commission; (2) hold the public hearing then remand it back to the Zoning Commission; or (3) hold the public hearing and vote on the case as presented. He clarified that if this case is remanded back to the Zoning Commission it would still require two public hearings being the Zoning Commission and City Council.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:28 p.m.

Mr. Thomas Bradford, 2919 Breezewood Avenue, Suite 200, Fayetteville, NC 28304, appeared in favor, stated he declined to speak if Council agreed to his request to remand this case back to the Zoning Commission and to allow the other speaker their opportunity to address Council.

Mrs. Karen McDonald clarified to Mr. Bradford and others present to speak in favor, that Council has not made a decision and they should utilize this opportunity to support their case.

Mr. Thomas Bradford then explained his request and his request to remand this case back to the Zoning Commission for conditional use zoning.

Mr. W.M. Ward, 2201 Morganton Road, Fayetteville, NC 28303, appeared in opposition and expressed concerns with traffic, the appearance of the proposed structures which was not in harmony with existing structures in the neighborhood and property devaluation.

Mr. Christopher Fletcher, 112 Pinecrest Drive, Fayetteville, NC 28305, appeared in opposition and expressed concerns with traffic and property value.

There being no one further to speak, the public hearing closed at 7:38 p.m.

MOTION: Council Member Hurst moved to allow the applicant to send this matter back to the Zoning Commission for Conditional Use.

SECOND: Council Member Massey

VOTE: PASSED by a vote of 8 in favor (Mayor Chavonne, Council Members Applewhite, Crisp, Evans, Haire, Hurst, Massey and Meredith) to 2 in opposition (Council Members Bates and Mohn)

B. Consider an application by MME Enterprises LLC, for a Special Use Permit to allow mini-storage units in a C3 commercial district for property located at 902 Cedar Creek Road. Containing 2.87 acres more or less and being the property of MME Enterprises LLC. Case Number P09-26F

Mr. Craig Harmon, Planner II, presented this item and 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. He stated the applicant is requesting a Special Use Permit for mini-storage units.

Council Member Bates inquired whether ordinance regulations prohibiting the parking of vehicles and boats in the front of the properties automatically pertain to this case or should the conditions be listed. Mr. Harmon confirmed the latter.

A question and answer period ensued regarding imposing conditions and the applicant's requirement to adhere to the proposed site plan guidelines.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:45 p.m. All speakers were sworn in.

Mr. Michael Evans, 12 Elkton Drive, Pinehurst, NC 28374, appeared in favor to answer any questions.

There being no one further to speak, the public hearing closed at 7:46 p.m.

MOTION: Council Member Evans moved to approve the Special Use Permit with Conditions

SECOND: Council Member Bates

VOTE: PASSED by a vote of 8 in favor (Mayor Chavonne, Council Members Applewhite, Crisp, Evans, Haire, Hurst, Massey and Meredith) to 2 in opposition (Council Members Bates and Mohn)

C. Economic Development Incentive – Property Tax Grantback Funding Agreement for the Bellagio Project

Rob Anderson, Chief Development Officer, presented this item and provided a program description, proposed project site plan, developer's cost estimate and the City's projected tax revenue estimate.

Council Member Mohn clarified the developer initially pays taxes and upon complying with all requirements a portion of the taxes are granted back.

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 7:50 p.m.

MOTION: Council Member Haire moved to approve the Property Tax Grantback Funding Agreement

SECOND: Council Member Massey

Council Member Haire commended Belliagio for the development of this project in the community.

VOTE: PASSED by a vote of 9 in favor (Mayor Chavonne, Council Members Applewhite, Crisp, Evans, Haire, Hurst, Massey, Mohn and Meredith) to 1 in opposition (Council Member Bates)

D. Request to Rename Cross Creek Park the Lafayette Park in honor of the Marquis de Lafayette

Bruce Daws, Historical Properties Manager and President of the Lafayette Society, presented this item and provided a summary of Lafayette's history and the various dedications in his honor. A question and answer period ensued.

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 8:01 p.m.

MOTION: Council Member Evans moved to deny the request to rename Cross Creek Park to Lafayette Park in honor of Marquis de Lafayette

SECOND: Council Member Crisp

Council Member Mohn stated Cross Creek Park is part of the City's history and another park may be more suitable to rename after Marquis de Lafayette.

VOTE: PASSED by a vote of 8 in favor (Council Members Bates, Crisp, Evans, Haire, Hurst, Massey, Mohn and Meredith) to 2 in opposition (Mayor Chavonne and Council Member Applewhite)

E. Request to Name a Conference Room at Myers Recreation Center in honor of Lois B. Moses

Michael Gibson, Parks & Recreation Director, introduced J.D. Pone, Advisory Board Chair, who presented this item.

Council Member Applewhite questioned the existence of conference rooms named after other city dignitaries and the decision making criteria. J.D. Pone responded in the affirmative regarding naming of conference rooms and Michael Gibson explained the decision making process.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:06 p.m.

Mrs. Kady-Ann Davy, 208 Fountainhead Lane #107, Fayetteville, NC 28301, appeared in favor and expressed support for the request.

Mr. Michael Evans, 1211 Simpson Street, Fayetteville, NC 28305, appeared in favor and urged Council to approve the request.

There being no one further to speak, the public hearing closed at 8:11 p.m.

MOTION: Council Member Evans moved to approve the request to name a Conference Room at Myers Recreation Center in honor of Lois B. Moses

SECOND: Council Member Haire

VOTE: PASSED by a vote of 9 in favor (Mayor Chavonne, Council Members Applewhite, Crisp, Evans, Haire, Hurst, Massey, Mohn and Meredith) to 1 in opposition (Council Member Bates)

4. CONSIDER THE FOLLOWING GENERAL OBLIGATION REFUNDING BOND MATTERS:

Lisa Smith, Chief Financial Officer, presented this item and provided a summary of an investment firm's analysis and recommendation.

A. RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AND AUTHORIZING THE FILING OF AN APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION IN CONNECTION WITH THE PROPOSED ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE CITY

MOTION: Council Member Mohn moved to adopt the resolution making certain findings and determinations and authorizing the filing of an application with the Local Government Commission in connection with the proposed issuance of general obligation refunding bonds of the city

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

B. ORDER AUTHORIZING \$14,000,000 GENERAL OBLIGATION REFUNDING BONDS

MOTION: Council Member Meredith moved to approve the order authorizing \$14,000,000 general obligation refunding bonds

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

RECOMMENDED ACTIONS:

1. Designate the Chief Financial Officer to make and file with the City Clerk a sworn statement of debt for the City.

MOTION: Council Member Meredith moved designate the Chief Financial Officer to make and file with the City Clerk a sworn statement of debt for the City.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

2. Adopt the bond order and direct the City Clerk to publish the bond order once in the Fayetteville Observer.

MOTION: Council Member Meredith moved to adopt the bond order and direct the City Clerk to publish the bond order once in the Fayetteville Observer

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

INFORMATION ITEM:

1. Confirmation of City of Fayetteville Taxes for the 2008-2009 Fiscal Year and Tax Levy for 2008-2009 from Cumberland County Tax Administrator.

There being no further business, the meeting adjourned at 8:18 p.m.