

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
OCTOBER 11, 2010  
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Absent: Council Member William J. L. Crisp (District 6)

Others Present:

Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager

Kristoff Bauer, Assistant City Manager

Karen M. McDonald, City Attorney

Janet Smith, Assistant City Attorney

Craig Harmon, Planner II

Frank Lewis, Senior Code Enforcement Administrator

Doug Byrd, Fayetteville-Cumberland County Chamber of  
Commerce

Nathan Walls, Public Information Specialist

Members of the Press

#### **1.0 CALL TO ORDER**

Mayor Chavonne called the meeting to order at 7:00 p.m.

#### **2.0 INVOCATION**

The invocation was offered by Mayor Pro Tem Haire.

#### **3.0 PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the American Flag was recited by those in attendance.

#### **4.0 APPROVAL OF AGENDA**

**MOTION: Council Member Bates moved to approve the agenda with the addition of Item 7.16, Fire Antz Special**

**Sign Permit request, and Item 9.2, closed session to discuss an economic development matter.**

**SECOND: Council Member Meredith**

**VOTE: UNANIMOUS (9-0)**

#### **5.0 Announcements and Recognitions**

Mayor Chavonne and Council Member Davy, on behalf of the City Council and City of Fayetteville, presented a proclamation to Ms. Gwen York proclaiming October 2010 Domestic Violence Awareness Month.

#### **6.0 Public Forum**

Mr. Homer Walker, 3307 Wishing Lane, Fayetteville, NC 28302, expressed concerns regarding harassment by a police officer during a traffic stop.

Mr. James McLeod, 1805 J Street, Fort Bragg, NC; Ms. Lucinda Stocks, 4422 Ellenbrook Drive, Fayetteville, NC 28312; Mr. Leroy Nunn Touche, Sr., 3231 Bardaman Avenue, Hope Mills, NC 28348; Ms. Louise D. Hammond, 1600 Veanna Drive, Fayetteville, NC 28301; Ms. Roenitha McNeill, 5005 Tangerine Drive, Fayetteville, NC 28304; Ms. Lanessa Edmonds, 224 Grove View Terrace, Fayetteville, NC 28301; expressed concerns of children being withdrawn from sports activities at recreation centers and not being allowed to complete the season due to an error in assignments.

Due to the time limit expiring on the public forum, the remaining speakers were not allowed to speak. Mayor Chavonne requested those in the audience in agreement with the concerns raised to stand. Several members of the audience stood.

**7.0 Consent**

**MOTION:** Council Member Bates moved to approve the consent agenda with the exception of Items 7.5 and 7.6.

**SECOND:** Council Member Meredith

**VOTE:** UNANIMOUS (9-0)

**7.1 Airport Land Acquisition along Doc Bennett Road, Budget Ordinance Amendment 2011-3 and Capital Project Ordinance 2011-7.**

**7.2 Case No. P10-30F. The rezoning of 82.87 acres between Santa Fe Drive, Bragg Boulevard, All American Freeway, and Fort Bragg Military Reserve (the Military Business Park) from R6 Residential and C1P and C3 Commercial Districts to M2 Industrial District. Waverly Broadwell Family LLC and Broadwell Brothers LLC, owners.**

**7.3 Case No. P10-32F. The rezoning of 0.43 acres at 120 N. Cool Spring Street from R5 Residential District to P4 Neighborhood Professional District. Frank Crawford, owner.**

**7.4 Case No. P10-34F. The rezoning of 3.93 acres located at 2515 Downing Road from C1P Commercial District to M2 Industrial District. Richard and Howard King, owners.**

**7.5 Pulled for discussion by Council Member Bates.**

**7.6 Pulled for discussion by Council Member Bates.**

**7.7 Award contract for the purchase of one 35,000 lb. rubber tire loader to Rob’s Hydraulics, Inc., Grimesland, NC, low bidder, in the amount of \$141,000.00.**

Bids were received as follows:

Rob’s Hydraulics, Inc. (Grimesland, NC).....	\$141,000.00
Interstate Equipment Co. (Cary, NC).....	\$141,085.00
R. W. Moore Equipment Co. (Raleigh, NC).....	\$149,300.00
Gregory Poole Equipment Co. (Hope Mills, NC).....	\$169,962.00

**7.8 Purdue DriveMunicipal Agreement for railway crossing signals and gates. COPY OF A RESOLUTION PASSED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. RESOLUTION NO. R2010-078.**

**7.9 Capital Project Ordinance Amendment 2011-11 (railway grade crossing signals on Purdue Drive).**

**7.10 Capital Project Ordinance 2011-6 (FY 2011 Transit Multi-Modal Center grant).**

**7.11 Budget Ordinance Amendment 2011-4 (public safety software, hardware, and radio antennas).**

**7.12 Award contract for the purchase of two 10' non-walk-in rescue units to KME Fire Apparatus, c/o Slagle Fire Equipment Company, South Boston, VA, low bidder, in the amount of \$228,600.00**

Bids were received as follows:

KME Fire Apparatus, c/o Slagle Fire Equipment Co. (South Boston, VA).....	\$228,600.00
Pierce Manufacturing, c/o Triad Fire, Inc. (Kernersville, NC).....	\$246,932.00
Anchor-Richey E.V.S. (Taylorsville, NC).....	\$259,550.00

**7.13 Bid Recommendation – Award contract for Annexation Phase V, Project III, Area 9-Summerhill, to Colt Contracting Co, Clinton, NC, lowest responsive, responsible bidder, in the amount of \$2,219,490.60.**

Bids were received as follows:

Colt Contracting Co. (Clinton, NC).....	\$2,219,490.60
ES&J Enterprises, Inc. (Autryville, NC).....	\$2,247,924.80
T.A. Loving Co. (Goldsboro, NC).....	\$2,339,742.00
State Utility Contracts (Monroe, NC).....	\$2,370,008.00
Dellinger, Inc. (Monroe, NC).....	\$2,526,367.00

Plans and specifications were requested by 13 contractors with 6 responding.

**7.14 Resale of foreclosed property at 4907 Rosehill Road to previous owner in accordance with N.C.G.S. § 105-376(C).**

**7.15 Extension of Grant Agreement for Cape Fear River Trail - Phase 2.**

**7.5 Ordinance authorizing the demolition of the structure at 1301 Hillsboro Street.**

This item was pulled for discussion by Council Member Bates.

Mr. Frank Lewis, Senior Code Enforcement Administrator, presented this item and advised the structure was a church that had burned. He stated the property changed hands and the new owners applied to Community Development for funding assistance to have the structure removed. He stated Community Development scheduled an appointment with the owners for October 14, 2010. He stated they were requesting the ordinance in case the owners failed to proceed with demolition or repair of the structure.

**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. NS2010-012.**

**MOTION: Council Member Bates moved to approve the ordinance authorizing the demolition of the structure at  
1301 Hillsboro Street.**

**SECOND: Council Member Davy**

**VOTE: UNANIMOUS (9-0)**

**7.6 Ordinance authorizing the demolition of the structure at 811 Bedrock Drive.**

This item was pulled for discussion by Council Member Bates.

Mr. Frank Lewis, Senior Code Enforcement Administrator, presented this item and advised the structure was a privately owned house that had burned. He stated the owner of the property applied to Community Development for assistance in the demolition of the structure and the contract was awarded. He stated they were requesting the ordinance in case the owner failed to proceed with demolition or repair of the structure.

**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. NS2010-013.**

**MOTION: Mayor Pro Tem Haire moved to approve the ordinance authorizing the demolition of the structure at  
811 Bedrock Drive.**

**SECOND: Council Member Massey**

**VOTE: UNANIMOUS (9-0)**

**8.0 PUBLIC HEARINGS**

**8.1 Economic development incentives for Strategic Solutions Unlimited, Inc., to support redevelopment within the  
City's Revitalization Zone.**

Mr. Doug Byrd, Fayetteville-Cumberland County Chamber of Commerce, presented this item and provided background information. He stated Strategic Solutions Unlimited, Inc. (SSU), was currently located on Maxwell Street and would maintain that building and keep the current employment level at that location. He stated they were seeking to acquire and renovate an additional building in the Revitalization Zone located at 225 Gray Street. He stated the project

would include expending an estimated \$450,000.00 to renovate the building and increasing the estimated tax value of the property by 117 percent to an estimated \$1.3 million. He stated they would employ at the new location from 20 to 50 people and would recruit locally.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing was opened and closed.

**MOTION: Council Member Bates moved to approve the proposed incentives package for SSU and authorize the City**

**Manager to execute an economic development incentive agreement with SSU consistent with the agenda item and Council's adopted policy.**

**SECOND: Council Member Hurst**

**VOTE: UNANIMOUS (9-0)**

**8.2 Case No. P10-31F. The rezoning of 2.2 acres located between Raintree Drive and Coinjock Circle on the west side of**

**Strickland Bridge Road from R10 Residential District to C1P Commercial District.**

**Elite Investments, Inc., owner.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and provided overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the purpose for rezoning was to create commercial properties for retail outlets. He stated the Zoning Commission recommended approval of the rezoning based on the following: (1) the rezoning would not be detrimental to the surrounding neighborhood and (2) would be close enough to other commercial properties to not be spot zoning. He stated the Planning staff recommended denial of the rezoning to C1P or any other commercial district based on the following: (1) the 2010 Land Use Plan called for low-density residential; (2) the property was currently surrounded by residential zoning and uses; (3) the 2030 Growth Vision Plan cautioned against rezoning residential properties just because they front major roads; and (4) the possible illegal spot zoning.

A question and answer period ensued regarding the zoning of the surrounding properties and whether accident and traffic reports were requested. Mr. Harmon responded that the reports were not requested.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Thomas Neville, Attorney for the applicant, 150 North McPherson Church Road, Fayetteville, NC 28303, appeared in favor. He provided information on the lots in the area. He stated there were very old businesses in the area that were commercial activities already and the area was a mixture of commercial, vacant and abandoned, and residential properties.

Ms. Deloris Leflore, 2111 Coinjock Circle, Fayetteville, NC 28304, appeared in opposition and advised her property was across the street and expressed traffic concerns. She stated they took pride in their neighborhood and would not want a strip mall and car lot in the heart of the neighborhood.

Mr. William Manuel, 813 TC Jones Road, Raeford, NC 28376, appeared in opposition and advised he attended the church in the neighborhood and expressed traffic concerns.

There being no one further to speak, the public hearing was closed.

**MOTION: Council Member Applewhite moved to deny the rezoning of the property as recommended by staff from R10 to C1P.**

**SECOND: Council Member Bates**

**VOTE: UNANIMOUS (9-0)**

Mayor Chavonne advised the next two cases would be quasi-judicial hearings. All speakers were sworn in.

**8.3 Case No. P10-33F. Special Use Permit to allow a nursing home in an R6 Residential District on property located at**

**523 Country Club Drive containing 8.66 acres. Noah and Gail Duncan, owner.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and provided overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the purpose of the rezoning was for the expansion of an existing nursing home to create more private rooms. He stated the bed count, number of clients, and staff would remain the same. He stated this was a quasi-judicial hearing and would require findings be made based on the recommendations of staff and the Zoning Commission. He stated the Zoning Commission recommended approval based on the following: (1) the use would fit the character of the neighborhood; (2) the use would not be detrimental to the surrounding area; and (3) be built to the specifications of the site plan.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Bill Daniel, representing applicant, 1150 SE Maynard Road, Suite 260, Cary, NC 27511, appeared in favor and reiterated they were not expanding the number of beds but were expanding the facility. He stated the expansion would allow them to enhance the offerings to the community in the form of additional private rooms.

There being no one further to speak, the public hearing was closed.

**MOTION: Council Member Massey moved to approve the Special Use Permit for the property located at 523 Country Club**

**Drive for the necessary expansion including the findings of fact.**

**SECOND: Council Member Meredith**

**VOTE: UNANIMOUS (9-0)**

**8.4 Case No. P10-36F. Special Use Permit to allow the location of a wireless telecommunications tower on property**

**located at 1624 Ireland Drive containing 2.0 acres. Cumberland County, owner.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and provided overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. Mr. Harmon stated the Zoning Commission recommended approval based on the following: (1) that all requirements of the Zoning Ordinance be met regarding the site of communication towers; (2) the use would fit the character of the neighborhood; (3) the use would not be detrimental to the surrounding area; and (4) be built to the specifications of the site plan. He stated staff recommended the following conditions for approval in addition to the submitted site plan: (1) prior to issuing a building permit, there would be written confirmation that there was an agreement with one or more providers to use the tower once built; (2) the Special Use Permit would become null and void if a building permit was not issued after two years from the date of approval of the request; and (3) that the specific details of the City Code [Section 30-107(17)] will be adhered to on the approval of the communication tower.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Thomas Johnson, 201 Shannon Oaks Circle, Cary, NC 27511, appeared in favor and stated they concurred with the conditions recommended by staff. He provided information on the location and specifications of the tower.

Mr. Dave Lacava, Raleigh, NC, appeared in favor and presented a power point explaining the different levels of coverage by usage and the need for the site.

Mr. Graham Herring, 8052 Grey Oak Drive, Raleigh, NC 27615, appeared in favor and provided information on the impact the tower would have on the surrounding area. He advised his findings were the tower would not create any adverse influence or decrease the value of the surrounding properties.

There being no one further to speak, the public hearing was closed.

A question and answer period ensued regarding the usage in the area, the signal strength, whether co-location would occur with other companies, and the fall zone. Mr. Johnson responded in the affirmative on the co-location and provided explanations on usage, signal, and the fall zone.

Concerns were expressed with the tower being on school property in regard to the fall zone. Mr. Johnson explained the standards and setback for the fall zone and the design of the tower.

**MOTION:** Council Member Hurst moved to approve the Special Use Permit with the conditions provided in addition to the conditions in Section 30-107.

**SECOND:** Council Member Bates

**VOTE:** PASSED by a vote of 5 in favor (Council Members Bates, Hurst, Chavonne, Massey, and Mohn) to 4 in opposition (Council Members Davy, Meredith, Applewhite, and Haire)

## **9.0 OTHER ITEMS OF BUSINESS**

**9.1 Request for waivers from the City standards (sidewalks, curb and gutter, and right-of-way width) for property within the City of Fayetteville MIA, Baywood Point, located on the southwest corner of Highway 24 and Baywood Road.**

Council Member Meredith requested to be recused from this item.

**MOTION:** Council Member Mohn moved that Council Member Meredith be recused from discussion and voting on Item 9.1.

**SECOND:** Council Member Bates

**VOTE:** UNANIMOUS (9-0)

Ms. Karen Hilton, Planning & Zoning Division Manager, presented this item. Ms. Hilton showed the site profile, vicinity maps, and photos. She stated the developer had submitted a plan to the County Planning Department for Baywood Point Subdivision and indicated this would be the final phase of Baywood Point. She stated the developer wanted to construct the final phase of the subdivision to the same standards as the existing subdivision. She stated the existing subdivision was platted prior to the Municipal Influence Area (MIA) agreement and contained no sidewalks or curbs and gutters. She stated the developer was requesting waiver of the sidewalks, curb and gutter requirement, and the minimum width of the streets. She stated staff's recommendation was approval of the waivers for curb and gutter and for sidewalks and disapproval of the waiver for a reduced right-of-way for the streets.

A discussion period ensued regarding the purpose of the MIA.

**MOTION:** Council Member Bates moved to deny the request for waivers from City standards the sidewalks, curb and gutter, and right-of-way width for property within the City of Fayetteville MIA, Baywood Point located on the southwest corner of Highway 24 and Baywood Road.

**SECOND:** Council Member Massey

Ms. Janet Smith, Assistant City Attorney, inquired if Council Member Bates had reasons for his motion. Council Member Bates responded that the purpose of the MIA was to ensure if an area was annexed it would not have to be retrofitted.

**VOTE:** FAILED by a vote of 4 in favor (Council Members Bates, Haire, Massey, and Mohn) to 4 in opposition (Council Members Applewhite, Hurst, Chavonne, and Davy)

**MOTION:** Council Member Mohn moved to approve the waivers for curb and gutter and sidewalks and disapprove the waiver of the 45-foot right-of-way and instead require the 50-foot right-of-way requirements based on the findings of fact.

**SECOND:** Council Member Applewhite

**VOTE:** PASSED by a vote of 6 in favor to 2 in opposition (Council Members Bates and Massey)

**9.2 closed session to discuss an economic development matter.**

**MOTION:** Council Member Bates moved to go into closed session to discuss an economic development matter.

**SECOND:** Council Member Hurst

**VOTE:** UNANIMOUS (9-0)

The regular session recessed for the closed session and the regular session reconvened after the closed session.

#### **10.0 ADJOURNMENT**

There being no further business, the meeting adjourned.