

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER**

APRIL 26, 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); 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
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Janet Smith, Assistant City Attorney
Craig Hampton, Special Projects Director
Rob Anderson, Development Services Director
Karen Hilton, Planning & Zoning Division Manager
Craig Harmon, Planner II
Marsha Bryant, Planner II
J. D. Pone, Fayetteville-Cumberland Parks and Recreation Advisory
Commission Chairperson
Jackie Tuckey, Public Information Officer
Rita Perry, City Clerk
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 Reverend Garfield Warren of College Heights Presbyterian Church.

3.0 PLEDGE OF ALLEGIANCE

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag.

4.0 APPROVAL OF AGENDA

MOTION: Mayor Chavonne moved to approve the agenda with the removal and deferral of Public Hearing Item 7.6 to May 10, 2010.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

5.0 ANNOUNCEMENTS AND RECOGNITIONS

Mayor Pro Tem Haire announced the Foxfire community would be holding a scholarship fundraiser fish fry on Saturday, May 1, 2010, at 12:00 noon on Foxfire Road.

Council Member Davy announced the Cross Creek Community Watch would hold a Community Day on May 1, 2010, at 9:00 a.m. She also announced that a Job Fair for "Section 3" job applicants (Hope VI) would be held on April 29, 2010, at 6:00 p.m.

The oath of office was administered to Council Member Robert A. Massey, Jr. (District 3), by The Honorable District Court Judge Ed Pone.

6.0 CONSENT

MOTION: Council Member Meredith moved to approve the consent agenda.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

6.1 City Attorney - Request for legal representation in the matter of *David Houp v. City of Fayetteville Police Department, et al.*

6.2 Community Development - Approve 2010-2015 Consolidated Plan and 2010-2011 Annual Action Plan.

6.3 Development Services (Planning & Zoning Division) - Case No. P10-07F. The rezoning of the property located at 6402 Yadkin Road from P2 Professional district to C1 Commercial District. David J. and Pamela Harsant, owners.

6.4 Development Services (Planning & Zoning Division) - Case No. P10-08F. The rezoning of the property located at 2601 Lone Pine Drive from R15 Residential District to R6 Residential District. Carolina Conference Association of Seventh-Day Adventist, owners.

6.5 Development Services (Planning & Zoning Division) - Case No. P10-09F. The rezoning of the property located at 1036, 1040, 1042, 1044 Bragg Boulevard from R5 Residential and C1 and C3 Commercial Districts to C3 Commercial District. Ron and Sharon Mathews, owners.

7.0 PUBLIC HEARINGS

7.1 Development Services (Planning & Zoning Division) – Appeal of denial by Zoning Commission on Case No. P10-10F. The rezoning of the property located at 6303 Denver Drive from R6 Residential District to C1A Commercial District. B & M of Bingham, Inc., owners.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon 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 explained that C1A zoning was designed for neighborhood commercial uses, pedestrian oriented, and served mainly the immediate adjacent residential uses. He stated there was currently a convenience store approximately two blocks from the property and a newly approved C1A zone approximately a half mile from the property where a grocery store along with additional commercial space had been proposed. He stated the size of the property was 92 x 185 feet and from previous examples throughout the City, it would be very difficult to sustain commercial or professional activity on a property this size. He stated the property was completely surrounded by residential and explained spot zoning was not illegal in North Carolina, but, if permitted, must have a reasonable basis for the rezoning and it was staff's opinion that there was no reasonable basis for the rezoning. He stated the Zoning Commission and staff recommended denial based on the (1) 2010 Land Use Plan calling for medium density residential (which the current R6 already is), (2) all of the surrounding properties being residential (medium and low density), (3) rezoning to a commercial use for the property would constitute spot zoning, and (4) the property being only 92 x 185 feet which would make it difficult to support commercial activity.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:16 p.m.

Mr. Biju George, applicant, 5604 Shady Pine Court, Hope Mills, NC 28348, appeared in favor and explained his reason for the rezoning request.

Mr. Bobby Bell, 1412 Delmar Street, Fayetteville, NC 28344, appeared in opposition and expressed concerns regarding the close proximity of the proposed commercial zoning to the neighborhood.

Mr. Jeong-Mo Yan, adjacent property owner, 1506 Bingham Drive, Fayetteville, NC 28344, appeared in opposition and expressed noise concerns.

There being no one further to speak, the public hearing closed at 7:20 p.m.

MOTION: Council Member Crisp moved to deny the rezoning.

SECOND: Mayor Pro Tem Haire

VOTE: UNANIMOUS (10-0)

7.2 Development Services (Planning & Zoning Division) - Case No. P10-11F. The issuing of a Special Use Permit for the expansion of a medical office on property located at 1811 and 1815 Fort Bragg Road. Alpha Omega Holdings, LLC, owners.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon 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 Zoning Commission recommended approval based on the site plan and with the caveat that the owner/developer would meet with City staff to develop a design

more appropriate for the neighborhood; however, contrary to staff recommendation, the owner of the property was committed to a flat-roof design and requested that the case go forward to City Council. He informed Council that this case was for a Special Use Permit; therefore, conditions could be placed on the property in order for the development to be more compatible with the surrounding neighborhood.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:24 p.m.

Mr. Chalmers McCombs, project developer, 2905 Bromwich Court, Fayetteville, NC 28306, appeared in favor.

Mr. David Lisle, project architect, 614 Market Street, Wilmington, NC 28401, appeared in favor.

Dr. Babatunde A. Ojo, MD, applicant, 3332 Jura Drive, Fayetteville, NC 28313, appeared in favor.

There being no one further to speak, the public hearing closed at 7:34 p.m.

Council Member Crisp requested clarification regarding the vegetation. Mr. Harmon informed Council the architectural design showed existing trees, not proposed vegetation.

Mayor Pro Tem Haire requested Dr. Ojo to elaborate on the one-stop concept discussed in his earlier presentation. Dr. Ojo explained the proposed facility would offer services such as x-rays and blood work, which would eliminate patients having to travel to various locations thereby helping elderly patients with limited mobility.

MOTION: Council Member Hurst moved to approve the Special Use Permit with conditions and the word "should" changed to "shall" in the planting schedule conditions.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

7.3 Development Services (Planning & Zoning Division) - Public hearing for voluntary Petition Requesting Annexation - Avis Budget Car Wash at 3261 Doc Bennett Road.

Ms. Marsha Bryant, Planner II, provided a summary of this item. She stated the facility currently received water service from PWC and the property owners were requesting sewer service and submitted the required Petition Requesting Annexation. She explained the property was zoned commercial in the County and on April 13, 2010, the Fayetteville Zoning Commission recommended to initially zone the property C1 Commercial District.

Council Member Bates questioned whether the applicant would be required to meet City Code standards in the event of renovations. Ms. Bryant stated not by annexation only should 50 percent improvement of the property value occur.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing opened and closed at 7:39 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA (AVIS BUDGET CAR WASH – LOCATED AT 3261 DOC BENNETT ROAD). ANNEXATION ORDINANCE NO. 2010-04-514.

MOTION: Council Member Bates moved to approve and adopt the ordinance for annexation with an effective date of April 26, 2010.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

7.4 Development Services (Planning & Zoning Division) – Public hearing for voluntary Petition Requesting Annexation – Watkins Property at 1645 McArthur Road.

Ms. Marsha Bryant, Planner II, provided a summary of this item. She stated the subject property had water service from PWC in the past but the service was disconnected several years ago and the property owners requested that PWC water service be reconnected to the site and submitted the required Petition Requesting Annexation. She explained the property was zoned commercial in the County and on April 13, 2010, the Fayetteville Zoning Commission recommended to initially zone the property to C1 Commercial District.

Council Member Bates requested clarification on the present zoning. Ms. Bryant clarified C1P was compatible to C1 in the City.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing opened and closed at 7:42 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA (WATKINS PROPERTY – LOCATED AT 1645 MCARTHUR ROAD).

MOTION: Council Member Bates moved to approve and adopt the ordinance for annexation with an effective date of April 26, 2010.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

7.5 Development Services (Planning & Zoning Division) - Consider an amendment to City Code Chapter 30, Zoning, to set standards and guidelines for child care facilities considered as a special use in a residential zoning district.

Ms. Karen Hilton, Planning & Zoning Division Manager, provided an overview of the revised ordinance standards and guidelines for considering child care facilities proposed within a residential zoning district.

Mayor Pro Tem Haire requested clarification on the grace period where one facility would close and another would reopen at the same location. Ms. Hilton stated should another facility open in the same location, they would be considered a legal nonconformity and would be limited to a 12-month period to be established.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing opened and closed at 7:58 p.m.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ZONING, ARTICLE III, GENERAL PROVISIONS, AND ARTICLE IV, DISTRICT USE REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2010-005.

MOTION: Mayor Pro Tem Haire moved to approve the amendment.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

7.6 Development Services (Planning & Zoning Division) - An amendment to City Code Chapter 30, Zoning, to allow fencing in certain side yard areas subject to allowed materials and height standards.

This item was removed from the agenda and deferred to the May 10, 2010, City Council meeting.

7.7 Special Projects - Multi-Modal Transportation Center public hearing.

Mr. Doug Hewett, Assistant City Manager, presented this item. Mr. Hewett informed Council that the public hearing was required (1) as part of the National Environmental Policy Act (NEPA), (2) to secure construction funding, and (3) to be consistent with City Council's commitment to openness. He stated the public hearing would cover the environmental assessment completed on the 2.55-acre block bounded by Robeson, Russell, Winslow, and Franklin Streets (Cintas). He then proceeded to provide the following background information:

History of Project

- In November 1999, the Multi-Modal Center project was established in the local Transportation Improvement Plan.
- In 2001, the project was established in the City's five-year Capital Improvement Plan.
- Funding from FTA began in 2004 along with beginning of site selection process.
- In 2006, additional funding was received from FAMPO and City Council held a meeting with the Downtown Alliance on the Multi-Modal Center being located "near the train station".
- Current site targeted for redevelopment - Hope VI.

History of Site Selection

- 2007:
 - o Gantt Hubberman Architects (GHA) were selected to assist with site selection and conceptual preliminary designs.
 - o Two committees were established to guide selection as follows:

§ Technical Advisory – City, NCDOT, FAMPO, CCBC, Rail Advocate

§ Citizens Advisory – FHA, FSU, FTCC, Downtown Alliance, Fayetteville Business and Professional League, ASOM, CCBC, FAYCE, FAMPO, seven citizens, and FAST customers

· 2008:

o GHA made first presentation to City Council of six potential sites for the Multi-Modal Center.

o While Amtrak site was identified as a top site, the City Council asked for a more rigorous review of the remaining sites due to operational concerns about the trains per day that could impact FAST operations for some 280 plus trips to/from the Multi-Modal Center.

o Council visited all sites and selected Cintas site as the preferred location for the Multi-Modal Center.

Benefits of Cintas Site

· Approximately 400 feet from existing Amtrak station.

· On the best side of the tracks for minimal impact of FAST by trains on main and spur rail lines.

· Majority of the property under NC DENR controlled environmental cleanup and monitoring from former dry cleaner operations on the site. City best positioned to ensure long-term compliance and assist with controlled redevelopment of entire project area.

Cintas Site

· When selected more than 50 percent of the block was for sale, with an additional 30 percent of the block owned by an interested seller.

· One parcel was sold privately.

· Staff contacted buyer before closing to make buyer aware of the City's plans and offered to assist with other site selection.

Open Process

· Information provided on website – www.ridefast.net.

· Stakeholders invited to participate in process.

· Presentations to stakeholders and interested parties.

· Extensive coverage locally.

· Environmental assessment distributed to state clearinghouse.

· Public comment on environmental assessment and public hearing.

Environmental Assessment

· Would ensure local concerns and/or environmental impacts of proposed project were known and mitigated.

· The following local concerns to-date were raised:

o Noise - no impact.

o Air Quality - no impact, improvement through use of hybrids, adjustments to route mileage.

o Traffic - no impact, separate traffic study performed.

o Public Involvement - open process.

o Long-term Productivity - good fit for site and need.

· All concerns addressed in environmental assessment along with 21 other elements:

Land Use and Zoning

Farmland

Social/Economic

Environmental Justice

Relocation

Pedestrians/Bicyclists

Air Quality

Noise

Water Quality

Wetlands & Floodplains

Wild & Scenic Rivers

Coastal Barrier and Coastal Impacts

Endangered Species

Historic/Archeological

Parkland – Section 4(f)

Hazardous Waste

Visual Impacts

Energy

Construction

Traffic

Routes and Buses

Public Involvement/Review

Site Local Short-Term Uses and Long-Term Productivity

- Environmental assessment executive summary states that “. . . this environmental assessment report supports a Finding of No Significant Impact (FONSI) to the human environment”.
- The environmental assessment goes on to state that “The MMTC will centralize and improve the FAST by allowing for the expansion of routes to serve new riders and better serve existing riders. The MMTC will be complimentary to the existing Amtrak station which is located within one city block of the preferred site. The centralized location will improve accessibility to healthcare facilities, pedestrian activity centers and nearby businesses”.

Local Concerns Not Addressed by Environmental Assessment

Concerns	Response
Maintenance	City facility with commitment by Council and staff to be an asset for downtown and community
Security	Adjacent to FPD and design will incorporate CPTED, on-site staff – not Greyhound/Trailways
Highest & Best Use	\$15 million facility, complementary to Amtrak operations and provides for redevelopment of contaminated block for public use, and continues City’s desire for comprehensive transit services

Mr. Hewett stated the next steps would be that (1) the comments made tonight or to the project manager via public comment procedures would be recorded and forwarded to the FTA along with the City’s response to be used in completing the final environmental assessment report, and (2) the FTA would then review and issue a FONSI for the City to proceed with property acquisition from which FTA grant funding would follow.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:20 p.m.

	NAME/ADDRESS	COMMENT SUMMARY
1	Breden Blackwell 1201 Haymount Court Fayetteville, NC 28305	Appeared on behalf of Cape Fear Valley Hospital System and stated the hospital was not in opposition to the Multi-Modal Center; however, it was in opposition to the location and provided a handout. (Exhibit A – 7 Pages)
2	Neil Grant 1852 Morganton Road Fayetteville, NC 28305	Appeared in opposition and inquired whether the Multi-Modal Center would be consistent with other downtown facilities (i.e., Airborne and Special Operations Museum and Medical Arts Building). He stated he owns two parcels adjacent to the site.

3	Joel Smith 611 W. Russell Street Fayetteville, NC 28301	Stated he was concerned about the location not being large enough and that a City consultant had recommended another site for \$350,000.00.
4	Jason Childers 2707 Huntington Road Fayetteville, NC 28303	Stated he was not in opposition to the Multi-Modal Center, however, it should not be put in an already developed area. He suggested Council consider site #1 or the West Rowan Street site.
5	Kelly Smith 282 St. Johns Wood Fayetteville, NC 28303	Stated she came tonight to hear from Breeden Blackwell and thought she could yield her time to him.
6	Neill Lindsay 531 W. Russell Street Fayetteville, NC 28301	Stated he was a life-long resident and hoped Council would listen to the speakers. He further stated the site would need expansion. He stated that safety would also need to be considered. He stated other areas would allow for a freer traffic flow.
7	Tina Loving 632 Cicada Street Fayetteville, NC 28306	Stated she works downtown across from the proposed site and that she approves of transportation for the public, however, she disapproved of the site. She expressed concerns regarding the safety of crossing the street.
8	David Nimocks, Jr. 201 Stedman Street Fayetteville, NC 28305	Stated the City was buying a contaminated lot, would incur a liability, and would have to dig deeply to address the contamination.
9	Dale Pfendler 135 Robeson Street Fayetteville, NC 28301	Stated the site was too small with no parking for the site. He stated that numerous businesses would be affected and it would be too congested.
10	Jacqueline Pfendler 135 Robeson Street Fayetteville, NC 28301	Clarified she was the property owner. She stated that 80 percent of the remodeling was finished prior to response by the City. She requested the City follow the paid consultant's advice.

11	Garris Neil Yarborough 115 E. Russell Street Fayetteville, NC 28301	Stated if the site was not adjacent to Amtrak it would be just a bus stop. He stated it was not the consultants preferred site and an active business would be condemned for retail. He inquired where the City would get the million dollars with the budget crisis and expressed concern regarding the discouraging entrepreneurship.
12	Charles Evans 926 Fleetwood Drive Fayetteville, NC 28305	Stated he was in agreement with the location and that the environmental assessment summary stated there was no significant impact. He stated the Multi-Modal Center would be a centralized location which would improve transit services and would be complimentary to the existing Amtrak station.
13	Jerry McGee 514 Julia Street Fayetteville, NC 28301	Stated he approved of the Multi-Modal Center. He expressed sympathy to the businesses in close proximity to the proposed site and stated change was the beginning of something new and different and with change would come some opposition.
14	Curtis Stobie PO Box 2127 Fayetteville, NC 28302	Stated the paid consultant had suggested another site and that pedestrians would have to cross streets, which would be dangerous. He questioned why the City was using eminent domain for existing business.
15	Wendy Michener 223 Hillside Avenue Fayetteville, NC 28301	She stated she was glad the City was doing a "bus station" like this one and informed Council she was a former bus user of the bus system but it was not reliable. She expressed concerns regarding the use of architects outside of Fayetteville and North Carolina and stated the City should hire locally.

There being no one further to speak, the public hearing closed at 8:55 p.m.

Environmental Assessment Report Public Hearing – No Action

8.0 OTHER ITEMS OF BUSINESS

8.1 Parks and Recreation - Naming of Festival Park Bridge in honor of Carmen Renee Burks.

Mr. J. D. Pone, Fayetteville-Cumberland Parks and Recreation Advisory Commission Chairperson, presented this request. He stated the Fayetteville-Cumberland Parks and

Recreation Advisory Commission recommended the naming of Festival Park Bridge after former employee Carmen Renee Burks who was a dedicated employee of the City for nearly 18 years and was very instrumental in the development and success of the Park until she passed away on March 4, 2010. He requested Council to proceed with a public hearing as dictated by City Council Policy No. 155-04, Naming of City Properties in Honor of Individuals.

MOTION: Mayor Pro Tem Haire moved to waive the public hearing request and approve the naming of the bridge.

SECOND: Council Member Crisp

Council Member Mohn expressed concern that waiving the public hearing would exclude family members or friends desiring to speak regarding Ms. Burks.

SUBSTITUTE MOTION:

Council Member Mohn moved to approve and set a public hearing for May 24, 2010.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

8.2 Appointment Committee (Council Member Hurst): Presentation of recommendations for Board/Commission appointments.

MOTION: Council Member Hurst moved to approve the Appointment Committee recommendations for board/commission appointments.

SECOND: Council Member Massey

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

9.0 ADMINISTRATIVE REPORTS

9.1 Finance - Tax refunds of less than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Turpin, David, T/A	2008	Clerical Error	<u>\$87.50</u>
Dave's Tires & Auto Svc			
TOTAL			<u>\$87.50</u>

9.2 City Clerk - Monthly statement of taxes for March 2010 from Cumberland County Tax Administrator

2009 Taxes.....	\$1,221,188.36
2009 Vehicle Taxes.....	368,836.39
2009 Revit.....	6,771.16
2009 Vehicle Revit.....	71.58
2009 FVT.....	48,872.22
2009 Transit Tax.....	48,872.28
2009 Storm Water.....	44,748.29
2009 Fay Storm Water.....	89,496.65
2009 Recycle Fee.....	72,104.28
2008 Annex.....	20.57
2008 Taxes.....	6,701.22
2008 Vehicle Taxes.....	70,687.73
2008 Revit.....	0.00
2008 Vehicle Revit.....	0.00
2008 FVT.....	9,799.42
2008 Transit Tax.....	9,235.07
2008 Storm Water.....	270.98
2008 Recycle.....	404.18
2008 Fay Storm Water.....	230.97
2008 Annex.....	0.00
2007 Taxes.....	1,103.70
2007 Vehicle Taxes.....	4,784.51
2007 Revit.....	0.00
2007 Vehicle Revit.....	6.71

2007 FVT.....	1016.64
2007 Storm Water.....	89.92
2007 Fay Storm Water.....	77.04
2007 Annex.....	0.00
2006 Taxes.....	727.15
2006 Vehicle Taxes.....	1,521.62
2006 Revit.....	0.00
2006 Vehicle Revit.....	0.00
2006 FVT.....	396.69
2006 Storm Water.....	23.32
2006 Annex.....	411.89
2005 and Prior Taxes.....	835.88
2005 and Prior Vehicle Taxes.....	4,293.51
2005 and Prior Revit.....	0.00
2005 and Prior Vehicle Revit.....	9.62
2005 and Prior FVT.....	1,067.52
2005 and Prior Storm Water.....	1.70
Interest.....	57,302.60
Interest (Revit).....	214.95
Interest (Storm Water).....	1,246.49
Interest (Fay Storm Water).....	2,423.88
Interest (Annex).....	65.21
Interest (Fay Recycling).....	1,977.46
Total Collections.....	2,077,909.36

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:09 p.m.