

**FAYETTEVILLE CITY COUNCIL
SPECIAL MEETING MINUTES
COUNCIL CHAMBER
OCTOBER 24, 2016
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Katherine K. Jensen (District 1); Kirk deViere (District 2); H. Mitchell Colvin, Jr. (District 3); Chalmers McDougald (District 4); Robert T. Hurst, Jr. (District 5); William J. L. Crisp (District 6); Larry O. Wright, Sr. (District 7); Theodore Mohn (District 8); James W. Arp (District 9)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Jay Reinstein, Assistant City Manager
Anthony Kelly, Interim Police Chief
Jerry Dietzen, Environmental Services Director
Rebecca Rogers-Carter, Strategic Performance Analytics Director
Scott Shuford, Planning and Code Enforcement Director
Anthony Wade, Human Relations Director
Kevin Arata, Corporate Communications Director
Rob Stone, Engineering and Infrastructure Director
Cheryl Spivey, Chief Financial Officer
Michael Martin, Fire Marshall
Jim Palenick, Economic and Business Development Director
Craig Harmon, Senior Planner
Mark Brown, PWC Customer Relations Director
Jennifer Ayre, Senior Administrative Assistant
Jane Starling, Deputy City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Robertson called the meeting to order.

2.0 INVOCATION

The invocation was offered by Pastor Erica Griffin, Living Stones Worship Center.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Mayor Robertson.

4.0 ANNOUNCEMENTS AND RECOGNITIONS

Mr. Douglas Hewett, City Manager, presented Mr. Jerry Dietzen, Environmental Services Director, with a shadow box containing the City Coin and an inscription to recognize Mr. Dietzen's retirement from the City of Fayetteville after 35 years of dedication and loyalty to the City. Mayor Robertson stated the City is in a better place because of Mr. Dietzen.

Council Member Hurst presented a Certificate of Excellence to Mr. Aaron Bartlett in recognition of being awarded Eagle Scout.

Mr. Jay Reinstein, Assistant City Manager, announced the City of Fayetteville has been recognized with a Certificate of Excellence in Performance Management from the International City/County Management Association (ICMA). Of the 52 jurisdictions honored overall, Fayetteville is among only 34 jurisdictions receiving the Certificate of Excellence; the highest level awarded for excellence in reporting

and analyzing data and fostering the development of a data-driven culture. The City of Fayetteville is one of only two cities in North Carolina to receive this award. The ICMA's recognition validates the City's efforts to lead the nation in performance measurement, continuous improvement, and community engagement. The Office of Strategy and Performance Analytics has successfully developed and launched the City's first ever quality and performance measurement program. The City Manager's Office would also like to thank the Goal Champions for their leadership and support: Chief Major, Mr. Jim Palenick, Mr. Rob Stone, Ms. Kelly Blazey, Mr. Dwayne Campbell, and Mr. Kevin Arata for their support and leadership.

Ms. Rebecca Rogers-Carter, Strategic Performance Analytics Director, stated it is an honor to be recognized by the ICMA for our performance management program. While we work hard to ensure the integrity of the program, it is our engagement with residents and the support of the City Council, leadership, and performance staff that ensures success. It was only through the efforts of the entire team that this award was possible. She recognized and thanked Mr. Chris McMillan, the Senior Performance Analyst, for his leadership and personal dedication to the program and the Data Analytics Team members who are the data go to people for the City and the inspiration for innovation.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Wright moved to approve the agenda with the removal of Items 6.14, 9.03, and 9.04 and adding Item 9.05 for a closed session for economic development and personnel matters.

SECOND: Mayor Pro Tem Colvin

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

6.0 CONSENT AGENDA

MOTION: Council Member Crisp moved to approve the revised consent agenda.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

6.01 Approval of Meeting Minutes:

August 22, 2016 - Regular

September 21, 2016 - Agenda Briefing

September 26, 2016 - Special

6.02 Budget Ordinance Amendment 2017-5 [Transfer Local Small Disadvantaged Business Enterprise (LSDBE) function from Economic and Business Development Department to Purchasing Division of Finance Department]

Budget Ordinance Amendment 2017-5 will transfer \$170,821.00 of funding for LSDBE from the Community Investment Portfolio (Economic and Business Development Department) to the Support Services and Administration Portfolio (Purchasing Division of the Finance Department.)

6.03 Budget Ordinance Amendment 2017-4 (General Fund - Consolidated 911 Center Professional Services Agreement)

Budget Ordinance Amendment 2017-4 will appropriate \$110,000.00 to support \$103,921.00 for a professional services contract with Mission Critical Partners (MCP) to assist with developing a strategic plan to consolidate the City's and County's public safety answering points (PSAPs) into a single county-wide PSAP that would serve most public safety agencies throughout Cumberland County. Funding for the contract expenditures will be shared between the City and County, with the City's half being provided by a General Fund fund balance appropriation.

6.04 Capital Project Ordinance 2017-17 (FY 16 Homeland Security Grant for a Mobile Command Workstation for the Fire Department)

Capital Project Ordinance 2017-17 will appropriate a \$12,329.00 grant from the U.S. Department of Homeland Security, passed through the North Carolina Department of Public Safety, North Carolina Emergency Management, for the purchase of a mobile command workstation for the Fire Department. There is no local funding match required for the grant.

6.05 Capital Project Ordinance 2017-15 [FY 16 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for the purchase and installation of public safety surveillance cameras and supplies for outreach programs]

Capital Project Ordinance 2017-15 will appropriate \$108,795.00 of federal funds, awarded by the U.S. Department of Justice, for the FY 16 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. No local match is required. The grant provides \$102,677.00 for 15 additional public safety surveillance cameras and system software upgrades and \$6,118.00 for crime prevention supplies.

6.06 Capital Project Ordinance 2017-16 (United States Department of Agriculture Forest Service Grant for Tree Inventory Project - Phase 3)

Capital Project Ordinance 2017-16 will appropriate \$30,191.00 for the City of Fayetteville's Tree Inventory Project - Phase 3. This project will be funded by a \$15,000.00 federal grant from the United States Department of Agriculture (USDA) Forest Service awarded by the North Carolina Department of Agriculture and Consumer Services, North Carolina Forest Service; a \$1,100.00 local cash match provided by a General Fund transfer; and a \$14,091.00 local match provided by in-kind services.

6.07 Budget Ordinance Amendment 2017-6 (City Contribution for Greater Fayetteville United's Social Capital Survey Project)

Budget Ordinance Amendment 2017-6 will appropriate \$12,460.00 from fund balance in the General Fund to provide a contribution to Greater Fayetteville United's social capital survey project. Cumberland Community Foundation is awarding a \$20,000.00 grant for this project and the additional funding is required to move forward with the planned survey project.

6.08 Special Revenue Fund Project Ordinance 2017-5 (FY 16 National Sexual Assault Kit Initiative (SAKI) Grant from the U.S. Department of Justice for the funding of the Fayetteville Police Department Cold Case Sexual Assault Unit's Project Karma Enhancement)

Special Revenue Fund Project Ordinance 2017-5 will appropriate \$793,372.00 of federal funds awarded by the U.S. Department of Justice (DOJ) under its FY 16 National Sexual Assault Kit Initiative (SAKI) grant program for the Fayetteville Police Department Cold Case Sexual Assault Unit's Justice for Victims: Project Karma Enhancement. No local match is required.

6.09 Award a contract for the purchase of four 2017 Ram 1500 quad Cab 4x2 pickups to Performance CDJR, Clinton, North Carolina, the most responsive and responsible bidder, in the amount of \$90,896.00.

On September 1, 2016, the following bids were received:

Performance CDJR, Clinton, NC	\$90,896.00
Lafayette Ford, Fayetteville, NC	\$98,498.00

6.10 Purchase Street Sweeper through National Joint Powers Alliance (NJPA) for Cooperative Purchasing

The FY 17 budget includes funding to purchase a street sweeper (\$152,700.00) and a 2017 dualized freightliner m2 cab/chassis (\$78,000.00). In the year 2012, the Fayetteville Engineering and Infrastructure Department, through PWC, began purchasing street sweeper apparatus through a contract with the National Joint Powers Alliance (NJPA) and its cooperative purchasing program as permitted through N.C.G.S § 143-129(E) (3). The NJPA is a cooperative purchasing agency that has competitively bid contracts with various manufacturers of street sweeper apparatus. The contract automatically renews annually each fiscal year.

6.11 Approval of Municipal Certificates for Speed Limits on Murchison Road

NCDOT is revising ordinances along Murchison Road due to the recent closure of Bragg Boulevard and the re-routing of NC 24/87 along NC 295 and Murchison Road. This is an administrative change and the speed limits along these roadways will remain the same as what is currently posted. NCDOT is requesting City Council's concurrence with these administrative changes.

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1070985. [NC 210 Between 0.28 mile north of US 401 and 0.084 mile north of SR 1437 (Shaw Road)] Ordinance No. NS 2016-029

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1062409 [NC 201 Between 0.28 mile north of US 401 and 0.79 mile north of SR 1437] Ordinance No. NS2016-030

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1010442 [NC 87 Between Murchison Road (NC 87-210) from US 401 Bypass to the northern corporate limit, approximately 0.07 mile north of Shaw Road (SR 1437)] Ordinance No. NS 2016-031

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1070986 [NC 24 Between 0.365 mile north of Randolph Street and NC 295 (north interchange)] Ordinance No. NS 2016-032

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1062409 [NC 210 Between 0.28 mile north of US 401 and 0.79 mile north of SR 1437] Ordinance No. NS 2016-033

6.12 Approval of resolution to apply for a NCDOT Bicycle Planning Grant

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO APPLY FOR A NCDOT BICYCLE PLANNING GRANT. RESOLUTION NO. 2016-067

6.13 NCDOT Urban State Match Application

RESOLUTION AUTHORIZING THE CITY OF FAYETTEVILLE TO APPLY FOR URBAN STATE MATCH PROGRAM FUNDING AND TO ENTER INTO AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION. RESOLUTION NO. 2016-068

6.14 NCDOT Urban Advanced Technology Grant Application

This item was removed from the agenda by Council Member Wright per a staff request.

6.15 Central Patrol District - Tenant Improvement Cost Payment Authorization

The Council authorized a lease for the commercial building at 3811 Sycamore Dairy Road for a new Central Patrol District office on June 27, 2016. That lease established a maximum price for Tenant Improvements of \$32,500.00. The building owner who provided the estimate included in the lease and performed the work has submitted an invoice requesting payment of \$5,055.00 in reimbursement exceeding this maximum due to unforeseen conditions discovered during the renovation process. Council is being asked to authorize this payment which is, in essence, and amendment to the executed lease.

6.16 Prince Charles Master Development Agreement and Memorandum of Understanding with PCH Extension

Authorizing the City Manager to negotiate and prepare a Master Development Agreement with PCH based on direction provided in closed session and to execute an extension of the existing Memorandum of Understanding with PCH through January 31, 2017.

7.0 PUBLIC FORUM

Mr. Charles Mathews, 3618 Tindall Court, Fayetteville, NC, provided potential solutions to prevent flooding in the City.

Ms. Karla Collard, 1820 Geiberger Drive, Fayetteville, NC, expressed concerns regarding 18 years of harassment from one of her neighbors.

Mr. Melvin Kravitz, 1808 Camden Road, Fayetteville, NC, expressed concerns regarding citizens exposing their underwear and using foul language on City buses.

Mr. Joe Riddle, 125 Great Oaks, Fayetteville, NC, expressed concerns regarding Item 9.03, incentives for Spring Hill Suites, and Item 9.04, incentives for Freedom Town Center. Mr. Riddle also stated his family would also like to make a donation to the flood victims and would like Council to provide a recommendation of which organization to donate to.

Ms. Bridget Smith-Osborn, 5731 Aftonshire Drive, Fayetteville, NC, stated she is suffering economic disaster due to the eight housing units she owns in the Creeks Edge neighborhood that were severely damaged during Hurricane Matthew.

8.0 PUBLIC HEARINGS

8.01 Transit Service Changes

Mr. Randy Hume, Transit Director, presented this item with the aid of a PowerPoint presentation and stated on June 5, 2016, Fort Bragg eliminated all of its on-post shuttle routes operating before 10:00 a.m. This included the two routes that provided connections to FAST Route #50, Fort Bragg Express. Although the route has not performed to expectations, the lack of any transfer options to take customers to their desired destination causes this route to have minimal utility. Route #50 is currently only carrying one to two people to post each day. FAST staff had proposed to modify Route #50 to circulate to more locations on post, including Womack Army Medical Center, but this proposal has been rejected at this time. FACT recommends the service be discontinued. Further, FACT reviewed options to reallocate the budget and vehicle resources now applied to Route #50 and recommends an addition to Route #17 which serves the western part of Fayetteville. Route #17 currently operates from the Raeford Road/Cliffdale Road area to 71st School Road/Reilly Road (CookOut) and to Bonanza Drive/Santa Fe Drive. With the proposed change, Route #17 would be extended to Cross Creek Mall and operate with a 45-minute versus 60-minute frequency for five trips each

weekday morning and five trips each weekday afternoon. This would eliminate the need to transfer to get to and from the mall during these hours providing a faster and more convenient trip. If approved by Council, staff proposes to introduce the revised Route #17 when other route changes are made for the new Transit Center. Transit policies require the City to provide an opportunity for public comment prior to eliminating Route #50. A public hearing notice was published in the Fayetteville Observer on October 10, 2016. In addition, notices were placed at the FAST transfer center, on buses, and on the FAST website beginning September 26, 2016. Staff has also ridden the effected routes to seek comments from those that may be most affected by the proposed changes. Staff hopes an opportunity to better serve Fort Bragg will occur in the future, but it does not appear this will happen any time soon. FAST will continue to operate its Route #19 which currently serves the South PX and will eventually serve the Mini-Mall on Reilly Road once the outer loop construction at the Yadkin Gate is completed.

This is the advertised public hearing set for this date and time, the public hearing was opened.

Mr. Melvin Kravitz, 1808 Camden Road, Fayetteville, NC, appeared in favor and stated this is a good economic move.

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

MOTION: Council Member Crisp moved to discontinue Route 50 to Fort Bragg express and add the articulated changes to Route 17.
SECOND: Mayor Pro Tem Colvin
VOTE: UNANIMOUS (10-0)

8.02 P16-27F. The issuing of a Special Use Permit in the CC Community Commercial District for a transfer station to be located at 4817 and 4825 Murchison Road, and being the property of Larry and Ethel Edwards.

Mr. Craig Harmon, Senior Planner, presented this item and stated Reliable Tank Line Fayetteville Terminal wishes to build a parking and fueling area for tanker trucks. During the first year of operation, around six trucks would be stationed there. That number could increase as their sales increase. The business will be open 24 hours a day seven days a week and will employ around seven people. Clients will not typically visit the facility. The trucks would provide local fuel distribution throughout Southeast North Carolina and Northeast South Carolina. The owner states that this location is crucial due to its proximity to the Motiva Terminal at Shaw Mill and Murchison Roads and proximity to Interstate 295. Adjacent to this property to the north is a construction company. Most of the remaining part of the site is surrounded by single-family residential. Any new development must meet all requirements of the City's Unified Development Ordinance, including type D buffers anywhere the property borders residential. The site is just under a half mile from the fueling station they will use. Mr. Harmon stated the Special Use Permit must meet the following findings of fact:

1. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;

4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
7. The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
8. The special use complies with all other relevant City, State, and Federal laws and regulations.

Mayor Pro Tem Colvin asked if tanks will be in the ground for storing the gas. Mr. Harmon confirmed the tanks will be in the ground.

Council Member McDougald asked to see an aerial view of the area, and expressed concerns for the close proximity to a mobile home park, and asked if there will be a turn lane. Mr. Harmon stated he was not aware of NCDOT requiring a turn lane. Council Member McDougald stated he is also concerned about the increase in traffic on Murchison Road.

Council Member Crisp asked if tankers will be parked on the site. Mr. Harmon replied the tankers will be parked on the site. Council Member Crisp stated he has safety concerns regarding empty tankers as well as the tankers containing fuel.

This is the advertised public hearing set for this date and time, the public hearing was opened.

Mr. Del Crawford, 116 N. Cool Spring Street, Fayetteville, NC, appeared in favor and stated he is representing Crawford Design Center, landscaping, architectural and engineering design for the owner. Mr. Crawford provided a handout to the Mayor and City Council showing the existing development in the vicinity of the subject site.

Council Member McDougald stated he was concerned over safety issues and asked if there is sufficient room for tankers to make right turns. Mr. Crawford said the driveways are wide enough to accommodate the turns.

Mayor Pro Tem Colvin stated there has been an increase in traffic volume on Murchison Road after Wal-Mart opened.

Council Member Crisp expressed concerns regarding contamination from potential fuel leaks; this is a safety hazard for this neighborhood.

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

Council Member McDougald stated he would like to hear from the property owner. Ms. Karen McDonald, City Attorney, stated if Council is so inclined, the Mayor could open the public hearing again.

This is the advertised public hearing set for this date and time, the public hearing was opened.

Mr. Kyle Armantrout, 1021 Cross Gate Road, Winston-Salem, NC, appeared in favor.

Council Member McDougald asked what Mr. Armantrout's company might do to address safety regarding environmental (potential fuel leaks) and traffic issues.

Mr. Armantrout stated the facility will be about 75 feet away from the right-of-way and will be enclosed by fencing; the trucks will be off the road. Our trucks are usually only used for about three years.

Mayor Pro Tem Colvin asked where the trucks are currently parked. Mr. Armantrout stated they are in the downtown area, and we would like to invest in the community and locate on Murchison Road.

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

MOTION: Council Member McDougald moved to approve with the Special Use Permit (SUP) to locate a transfer station in a Community Commercial Zoning District, as presented by staff, with three conditions listed by staff to include a fourth and fifth one, based on the standards of the City's development code. And that the application is inconsistent/consistent with applicable plans because (1) the development is located in a heavy commercial district, (2) this use complies with the findings, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. On the condition that they meet extra requirements to (4) obtain a DOT driveway permit and (5) address environmental and safety issues, and to include the eight findings of fact. This SUP shall become effective ten days after its approval by the City Council, which is October 20, 2016. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Hurst

Mayor Pro Tem Colvin stated he respectfully disagrees with Council Member McDougald; we have been given outdated traffic count figures, we have had several developments on Murchison Road that have considerably increased the traffic count, we have had the closure of Bragg Boulevard and the opening of I-295. In addition, he stated he does not believe this item meets section six of the eight findings of fact which states the special use maintains safe ingress and egress onto the site and safe road conditions around the site.

VOTE: FAILED by a vote of 3 in favor to 7 in opposition (Council Members Colvin, Jensen, deViere, Arp, Wright, Mohn and Crisp)

8.03 P16-28F. The issuing of a Special Use Permit in the DT Downtown District for a bar to be located at 105 Donaldson Street, and being the property of Peterkin & Associates Inc.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the owners of 105 Donaldson Street are proposing a bar/lounge to hold approximately 50 people. The site plan, which is part of the application, indicates that the ground floor would be only used for the bar area. The hours of operation would be Thursday through Saturday from 7:00 p.m. to 12:00 a.m. The business will also employ four people. This property is located in the Downtown Historic District. The proposed use would be 170 feet from a school and 444 feet from a church. The City Code was amended in April to allow a reduction in the separation distance for bars in the Downtown zoning district. Staff was directed by the City Council to study the downtown area and come up with a set of standards for locating bars in the DT District. City staff is currently working on finalizing those recommendations. Prior to applying for this Special Use Permit (SUP), the business owner built a wooden deck and bar on the roof of this building without any permits

from the City. The owner then hosted an open house on the roof with a full bar as can be seen in the photos and flyer. All of these actions were in violation of various City codes.

Mr. Harmon stated the SUP must meet the following findings of fact:

1. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
7. The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
8. The special use complies with all other relevant City, State, and Federal laws and regulations.

Mr. Michael Martin, Battalion Chief Fire Marshall, stated on July 23, 2016, a fire inspection was made the day of the open house party at the property, due to complaints that the Fire Department had received regarding unpermitted renovations. We found the property to be in violation of the primary fire district statutes; one violation was the combustible materials used to construct the unpermitted roof top bar/lounge.

This is the advertised public hearing set for this date and time, the public hearing was opened.

Mr. Duncan Hubbard, 302 West Park, Fayetteville, NC, appeared in opposition on behalf of Neil Lindsey who owns several properties in the downtown area, and stated a bar located in this area would be detrimental to the neighborhood.

Ms. Malanda Gibb, 302 Worth Street, Fayetteville, NC, appeared in opposition and stated she is a residential and commercial property manager for many properties in the downtown area and asked the Council to deny the request for a Special Use Permit.

Mr. Hank Parfitt, 112 Hay Street, Fayetteville, NC, appeared in opposition and expressed the importance of preserving the integrity of the neighborhood, and asked the Council to support the findings of the Zoning Commission and deny the request for a Special Use Permit.

Mr. Bruce Arnold, 227 Hay Street, Fayetteville, NC, appeared in opposition and stated he and his wife own seven properties in the downtown area and own two businesses in downtown, and stated the proposed bar is not a good fit for the downtown area; it is a detriment to downtown.

Mr. Stephen Wheeler, 2509 S. Edgewater Drive, Fayetteville, NC, stated he owns five parcels that are either adjacent or abut the property, this will not be a good neighbor and have held events since the Zoning Commission denied their permit, and asked Council to deny the request for a Special Use Permit; this is not what we want in the downtown area.

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

MOTION: Council Member deViere moved to deny the Special Use Permit (SUP) to locate a bar in the downtown zoning district, as presented by staff, based on the standards of the City's development code; and that the application is not with the applicable plans because (2) this use does not comply with the findings listed and (3) the proposed permit is not in the public interest because the proposed SUP does not fit with the character of the area. The special use does not avoid significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; as well as current and previous fire code violations by the owner.

SECOND: Council Member Arp

VOTE: UNANIMOUS (10-0)

9.0 OTHER ITEMS OF BUSINESS

9.01 Stadium Design Architect Selection - Capital Project Ordinance No. 2017-18

Mr. Kristoff Bauer, Deputy City Manager, presented this item and stated the Council has taken several steps along the path of constructing a minor league baseball stadium and entertainment venue including the execution of a Memorandum of Understanding ("MOU") with the Astros, and the approval of a financing plan for stadium construction. The City is in the final stages of negotiating a lease with the Astros which, consistent with the approved MOU, will require the stadium to be completed in advance of the 2019 baseball season. The target date for substantial completion is in January of that year. Staff issued the RFQ on September 21, 2016, and reduced the normal response time from the standard 30 to 45 days, to a short 15-day period. Four responses were received on October 12, 2016, and the initial review occurred on October 14, 2016. The two top firms were interviewed on October 20, 2016, by the selection committee consisting of staff, Jason Freier (Hardball Capital), David Land (Astros), and Council Members Colvin and Wright. For a project of this scope and complexity, an 18-month construction schedule is aggressive. If the contract for the design team is executed on November 1, 2016, then the design team will have eight months to complete the final design, final construction documents, regulatory review, and support construction bidding. This is very aggressive given the need to coordinate this project design with private development and respond to Council and community interest in the design of this important facility. Staff has worked to compress the selection process as much as reasonable in order to reserve as much time as possible for the design and construction process. State law requires that architects be selected based on a qualifications-based selection criterial. Price cannot be discussed until a preferred firm has been selected. Once selected, price information can be requested and negotiations can begin. The second firm can only be contacted and price information requested if negotiations with the first firm are unsuccessful. It is not permissible to go back to the first firm once price information is requested from the second firm. The selection committee will provide their recommendation to the Council at the meeting. The initial fee proposal may be available from the recommended firm by that time, but final negotiations will not take place until after Council's review. North Carolina law requires that design professionals be hired using a qualifications-based selection process that does not include consideration of price. As a result, no price information has been

provided at this time. The selected design team will be asked for a scope of work proposal including price and the City will negotiate based on that submission. If those negotiations are unsuccessful, the City can go to the second highest rated firm and request a fee proposal. For this reason, the contract price is not known at this time. Capital Project Ordinance No. 2017-18 appropriates \$3,000,000.00 from future installment financing proceeds consistent with the adopted financial plan, for initial design related expenses including the proposed service contract with the recommended design team. This amount is recommended based upon estimates provided in the feasibility analysis and experience with other complex capital projects.

MOTION: Mayor Pro Tem Colvin moved to approve the recommended design team as presented by staff and approve Capital Project Ordinance No. 2017-18 for allocation of \$3,000,000.00 soft costs for the project.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

9.02 Substantial Amendment to the 2016-2017 Annual Action Plan for Disaster Recovery

Mr. Victor Sharpe, Community Development Director, presented this item and stated on October 18, 2016, the Community Development Department briefed City Council on options of using CDBG, HOME, and the General Fund for disaster recovery activities. This action will require a Substantial Amendment to the City's Community Development Annual Action Plan for the Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) funds. A Substantial Amendment involves reprogramming the HUD grant funds for a different purpose. HUD allows grantees the option of reprogramming its Community Development Block Grant (CDBG) and Home Investment Partnership Grant (HOME) funds for disaster recovery activities. There is an opportunity to request HUD to waive certain regulatory and statutory program requirements to increase the City's ability to use available funds for disaster recovery. The Community Development Department staff will further discuss all applicable waivers needed. If a waiver or suspension is needed, the request would be made through our Community Planning and Development Director in Greensboro and it would include a well-documented justification citing good cause for such action (why it is necessary for disaster relief/recovery). CPD will reach out to grantees and will work closely with them to ensure a smooth and expedited process. The Substantial Amendment being proposed will reprogram funding identified for disaster recovery activities to meet unmet housing repair needs as a result of damage caused by flooding from Hurricane Matthew. Unmet needs shall be defined as those housing repair needs after application and assistance provided by the Federal Emergency Management Agency (FEMA) and any privately owned insurances. Therefore staff's recommendation will be the creation of a Disaster Recovery Housing Repair Grant Program. This program would provide grants for housing repairs up to \$10,000.00 per unit.

Council Member Wright stated it seems like property owners are left hanging, what can we do for owners (not owner-occupied), we need to put something in place for business owners that did not have flood insurance and do not qualify for FEMA. If we do not, we could be left with a lot of blight across the City.

Mayor Pro Tem Colvin stated the FEMA representatives have said their number one objective is to achieve a safe and sanitary environment; not necessarily to restore to pre-flood standard. He asked what the turnaround time was for this item. Mr. Sharpe responded he would like to bring the item back as a public hearing at the November 28, 2016, regular meeting.

Council Member Crisp stated he has eight families displaced in his district, how can we help, we need to find a way. Mr. Sharpe

responded the City is working with HUD and the funding Council makes available for this task.

Council Member McDougald stated these are profit making businesses and perhaps a loan fund could be set up, and we need to be mindful to check if applicants have already received some kind of funding from another organization. Mr. Sharpe responded that HUD and FEMA do run these types of checks on what assistance applicants may have already received.

Council Member deViere asked who will administer and oversee this program. Mr. Sharpe responded he would administer the program along with his department staff.

Council Member Arp stated he understands we will use the criteria as established by HUD, of the \$900,000.00 we have the ability to impact about 90 homes.

Council Member Mohn stated we have a little more flexibility with the \$258,000.00 funding. Mr. Sharpe stated all programs will be on a first-come, first-served basis.

MOTION: Mayor Pro Tem Colvin moved to accept the recommendation with the development of a Substantial Amendment to the 2016-2017 Annual Action Plan for emergency disaster recovery activities to be presented at the November 28, 2016, regular City Council meeting.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

9.03 Request from Developers of Proposed Spring Hill Suites Hotel for Final Action on Tabled Request for Property Tax Grant - Back Economic Development Incentive Item removed during agenda approval

This item was removed from the agenda by Council Member Wright per staff request.

9.04 Request from Developers of Proposed Freedom Town Center Retail Development for Final Action on Tabled Request for Economic Development Incentives pursuant to the Construction of Elements of Dedicated Public Infrastructure Needed to Serve the Development. Item removed during agenda approval

This item was removed from the agenda by Council Member Wright per staff request.

9.05 Closed Session

MOTION: Council Member Arp moved to go into closed session for discussion of an economic development matter and a personnel matter.

SECOND: Council Member deViere

VOTE: UNANIMOUS (10-0)

The regular session recessed at 9:40 p.m. The regular session reconvened at 10:30 p.m.

MOTION: Council Member Mohn moved to go into open session.

SECOND: Council Member Arp

VOTE: UNANIMOUS (10-0)

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:30 p.m.