

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
MARCH 23, 2020
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Shakeyla Ingram (District 2); Tisha S. Waddell (District 3) (via telephone); D. J. Haire (District 4) (via telephone); Johnny Dawkins (District 5); Chris Davis (District 6); Larry O. Wright, Sr. (District 7) (via telephone); Courtney Banks-McLaughlin (District 8); Yvonne Kinston (District 9)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Telly Whitfield, Assistant City Manager
Angel Wright-Lanier, Assistant City Manager
Kevin Arata, Corporate Communications Director
Jay Toland, Chief Financial Officer
Taurus Freeman, Planning and Zoning Manager
Jennifer Baptist, Senior Planner
Craig Harmon, Senior Planner
Pamela Megill, City Clerk
Jennifer Ayre, Deputy City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order.

2.0 INVOCATION

The invocation was offered by Council Member Davis.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Mayor and City Council.

4.0 ANNOUNCEMENTS AND RECOGNITION

Mr. Kevin Arata, Corporate Communications Director, provided an overview of the avenues of communication the City is now using to include live streaming.

Mayor Pro Tem Jensen provided an overview of the "Bear Hunt" program taking place in several neighborhoods around the City.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Ingram moved to approve the agenda with the addition of Item 6.011, Resolution Authorizing the City Manager to make Operational Decisions based on the COVID-19 Response, and Item 6.012, City of Fayetteville's support of the Fayetteville Public Works Commission's (FPWC's) Letter of Intent to assume ownership of the three Cape Fear River Locks and Dams located in Bladen County, North Carolina, and to remove Item 7.05, P20-07F Request for a Special Use Permit to allow a duplex to be located in a Single-Family 10 (SF-10) zoning district, located at 440 McPhee Drive and call for continuance of this item at the April 14, 2020, regular City Council meeting.

SECOND: Council Member Kinston

VOTE: UNANIMOUS (10-0)

6.0 CONSENT AGENDA

MOTION: Council Member Ingram moved to approve the consent agenda with the exception of Items 6.03, 6.011, and 6.012 for presentations and separate votes.
SECOND: Council Member Davis
VOTE: UNANIMOUS (10-0)

6.01 P20-04F. Conditional Rezoning of a property from a split zoning of Single-Family Residential 6 (SF-6) and Neighborhood Commercial (NC) to Community Commercial/Conditional Zoning (CC/CZ), located at 409 Mayview Street (Tax Map No. 0436-16-8813), containing 0.34± acres and being the property of Simmons Masonry, Inc., represented by James Simmons.

6.02 P20-08F. Rezoning of three properties from Mixed Residential 5 (MR-5) to Office and Institutional (OI), located on Weiss Avenue (Tax Map Nos. 0427-90-3386, 0427-90-4461, and 0427-90-3332), totaling 1.35± acres and being the properties of Billy G. Tharpe, Troy McDuffie and Rendric Nicholson, represented by Billy G. Tharp.

6.03 Pulled for presentation and separate vote.

6.04 Adoption of Capital Project Ordinance 2020-26 for Hurricane Florence Repairs at the Fayetteville Regional Airport

Capital Project Ordinance 2020-26 will appropriate \$225,350.00 for two repair projects caused by damage from Hurricane Florence. The City has been working with the Federal Emergency Management Agency (FEMA) to request federal assistance for these projects and FEMA has approved Project Worksheet 1255 in the amount of \$116,379.06, with 75 percent (\$87,284.00) being federally funded and 25 percent (\$29,095.00) being funded by the North Carolina Department of Public Safety (NCDPS). The Airport estimates the total cost of the projects to be \$225,350.00. The remainder of the funding for the project appropriation is proposed to be provided by funds transferred from the Airport Operating Fund (\$108,971.00).

6.05 Adoption of Special Revenue Fund Project Ordinance 2020-14 and Award of Contract for Cross Creek Bank Stabilization at Lamon Street (Hurricane Florence Repair)

Adoption of SRO 2020-14 and authorizing the City Manager to execute the contract for Cross Creek Cemetery River Bank Stabilization to the lowest, responsive, responsible bidder, Fred Smith Company of Raleigh, NC, in the total amount of \$7,621,441.50 and appropriate \$2,299,288.30 for the additional services and contingency that may be required to complete the project.

6.06 Bid Recommendation - Maiden Lane Sanitary Sewer and Water Relocation - Phase II project to ES&J Enterprises, Inc., Autryville, NC, the recommended lowest responsive, responsible bidder in the total amount of \$1,734,425.00.

Bids were received on February 20, 2020, as follows:

ES&J Enterprises, Inc., Autryville, NC	\$1,734,425.00
T.A. Loving Company, Goldsboro, NC	\$2,200,500.00

6.07 Bid Recommendation - LED Luminaires and LED Brackets. The recommended lowest responsive, responsible bidders are Anixter International, Inc., Wake Forest, NC, and Wesco Distribution, Inc., Clayton, NC, the lowest responsive responsible bidders in the total amount of \$163,925.00 and \$113,015.00, respectively.

Bids were received on February 18, 2020, as follows:

LED Luminaires

Anixter International, Inc., Wake Forest, NC \$163,925.00
Wesco Distribution, Inc., Clayton, NC \$165,000.00

Luminaire Brackets

Wesco Distribution, Inc., Clayton, NC \$113,015.00
Anixter International, Inc., Wake Forest, NC \$113,729.00
Shealy Electrical, Greenville, NC \$213,325.00

6.08 Rescind Demolition Ordinance

227 S. Windsor Drive

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
RESCINDING DEMOLITION ORDINANCE NO. NS2019-016. RESOLUTION NO.
R2020-014**

6.09 Uninhabitable Structures Demolition Recommendations

302 Pennsylvania Avenue - District 4

**AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA
REQUIRING THE 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. PIN
0438-31-9178. ORDINANCE NO. NS2020-008**

6.010 Approval of Citywide Comprehensive Bicycle Plan

Stantec Consultants was selected to develop the Citywide Comprehensive Bicycle Plan, Bike Fayetteville. A presentation detailed the approach and recommendations from the final draft of the plan. NCDOT has reviewed the plan and their final comments have been incorporated into this final draft plan in which staff is seeking approval by City Council.

6.03 Approval of Memorandum of Agreement (MOA) with Fort Bragg for Use of Federal Property on McArthur Road

This item was pulled for presentation and separate vote.

Mr. Kristoff Bauer, Deputy City Manager, presented this item and stated the Parks & Recreation Bond Referendum, passed by voters in March 2016, included the construction of a Sports Field Complex. Council provided direction to pursue three separate locations for improvements to the City's inventory of sport fields--McArthur Road, Fields Road, and the Jordan Soccer Complex. Moving forward with the McArthur Road location requires approval from the Department of Defense. The next step in acquiring that approval is the execution of a MOA regarding the eventual development and operation of that site. Staff is seeking Council authorization to execute the MOA. That MOA will then form the basis for a long-term lease request.

Discussion ensued.

MOTION: Council Member Dawkins moved to authorize the City Manager to execute the Memorandum of Agreement (MOA) with Fort Bragg for Use of Federal Property on McArthur Road.

SECOND: Mayor Pro Tem Jensen

VOTE: PASSED by a vote of 6 in favor to 4 in opposition (Ingram, Waddell, Banks-McLaughlin, Kinston)

6.011 A Resolution of the City Council of the City Of Fayetteville Authorizing the City Manager to Make Operational Decisions

Ms. Karen McDonald, City Attorney, presented this item and stated a State of Emergency Declaration for the City limits of the City of

Fayetteville was executed and imposed on the 17th day of March, 2020, in response to the pandemic of the novel coronavirus known as COVID-19. By statute the City Manager is the Chief Administrator and is responsible for the day-to-day operational decisions of the City. Based on the public health emergency posed by COVID-19, the Council may authorize the City Manager to waive transit fees, restrict or close recreation centers and other public buildings, and waive fees for COVID-19 response, which are subject to revision and rescission.

Discussion ensued.

MOTION: Council Member Dawkins moved to adopt the Resolution subject to the revisions and rescission.
SECOND: Council Member Wright
VOTE: UNANIMOUS (10-0)

6.012 Request for a Letter of Support to the Public Works Commission pertaining to Cape Fear River Locks and Dams

Mr. Mark Brown, Customer Relations Director, PWC, presented this item and stated the United States Corps of Engineers (USACE) has determined the Locks and Dams project along the Cape Fear River no longer serves its authorized purpose. Session Law 2008-136 states that the State "may accept" projects, subject to all three being "properly refurbished", and with fish passage at all three locks. Water supply intakes will be impacted if Locks and Dams are no longer maintained. Locks and Dams 1, 2, and 3 provide opportunities for fish passage, and the area provides recreation opportunities to the region. USACE needs a State or local sponsor to transfer ownership of the property. PWC is requesting a letter of support from the City to support FPWC's Letter of Intent to assume ownership of the three Cape Fear River Locks and Dams and adjacent real estate parcels. The City of Fayetteville further supports the passage of special legislation to convey either all three Cape Fear Locks and Dams or only William O. Huske Dam and associated real estate parcels.

Discussion ensued.

MOTION: Council Member Davis moved to approve a Letter of Support to the Public Works Commission Letter of Intent to assume ownership of the three Cape Fear River Locks and Dams and adjacent real estate.
SECOND: Council Member Haire
VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Waddell)

7.0 PUBLIC HEARINGS

7.01 Phase 5 Annexation Area 24 Section A - Public Hearing on the Preliminary Assessment Resolution

Mr. Mark Brown, Customer Relations Director, PWC, presented this item and stated City Council approved the Preliminary Assessment Resolution at their meeting on February 10, 2020, for Area 24 Section A of the Phase 5 Annexation. The Resolution set the date of the public hearing for March 16, 2020, to hear public comment. The item was continued to the March 23, 2020, City Council meeting. A notice was published in The Fayetteville Observer on March 3, 2020, and copies of the Preliminary Assessment Resolution were mailed on February 28, 2020, informing the property owners of the public hearing date. After the public hearing, the next step in the process is to approve the Resolution Directing Project be Undertaken.

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 Dawkins moved to approve.
SECOND: Council Member Banks-McLaughlin

VOTE: UNANIMOUS (10-0)

7.02 Phase 5 Annexation Area 24 Section BC - Public Hearing on the Preliminary Assessment Resolution

Mr. Mark Brown, Customer Relations Director, PWC, presented this item and stated City Council approved the Preliminary Assessment Resolution at their meeting on February 24, 2020, for Area 24 Section BC of the Phase 5 Annexation. The Resolution set the date of the public hearing for March 16, 2020, to hear public comment. A notice was published in The Fayetteville Observer on March 11, 2020, and copies of the Preliminary Assessment Resolution were mailed on March 6, 2020, informing the property owners of the public hearing date. After the public hearing, the next step in the process is to approve the Resolution Directing Project be Undertaken.

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 Banks-McLaughlin moved to approve.
SECOND: Council Member Kinston
VOTE: UNANIMOUS (10-0)

7.03 P20-05F. Request for a Special Use Permit to allow warehouse distribution to be located in a Community Commercial (CC) zoning district, located at 2016 Sapona Road (Tax Map No. 0446-78-5201), containing 0.91± acre and being the property of Strickland's Portion Pak Inc.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the property in question is currently developed and zoned for commercial uses. The owners of this property are seeking a Special Use Permit (SUP) to allow them to expand their distribution business. On February 11, 2020, the Zoning Commission heard the request, and recommended approval by a vote of 5 to 0.

According to the applicant, Stricklands Portion Pak is a food distribution business that supplies food and related products to restaurants, schools, healthcare facilities, and daycares throughout the region. Stricklands is not a processor or packer, only a distributor. They have been conducting business at the subject location since 1960. Currently, they are looking to expand their current distribution operation by adding an additional freezer, which is approximately 40 x 60 feet. Strickland's currently has 18 employees; however, this proposed addition would increase the structure's capacity and allow for an expanded workforce. Currently, the business serves approximately 350 customers per week. Adding this freezer space will give them an opportunity to increase their customer base as well.

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

Mr. Marshall Spain, 2014, Sapona Road, Fayetteville, NC 28312, appeared in favor and stated he is the owner of the business, and requested Council approve the application for a Special Use Permit.

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

Discussion ensued.

The SUP must meet the following findings of facts:

- (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 districts(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.
- (8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

MOTION: Council Member Ingram moved to approve the Special Use Permit (SUP) to allow warehouse distribution within the Community Commercial (CC) District to operate on the subject property as depicted on the site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Community Commercial (CC) 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. The application for a SUP does meet all 8 findings of fact.

If approved, this Special Use Permit shall become effective ten days after its approval by the City Council, which is April 2, 2020. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Dawkins

VOTE: UNANIMOUS (10-0)

7.04 P20-06F. The request is to issue a Special Use Permit for the existing Sunbelt Rentals site as well as allow the expansion of the site to include a repair shop with a wash bay, zoned as Community Commercial Zoning District (CC), located at 318 Eastern Boulevard and 442 Eastern Boulevard (Tax Map Nos. 0437-90-7639 and 0437-90-7308), totaling 5.031± acres and being the properties of Monomoy Properties NC, LLC., represented by Scott Brown of 4D Site Solutions, Inc.

Ms. Jennifer Baptist, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated this property is the current site of Sunbelt Rentals, which primarily provides tools and equipment rentals for commercial, residential, industrial, and municipal needs. The owners of this property are seeking to bring the current site into compliance with the Unified Development Ordinance as well as expand the current operations of the facility by constructing a 60' x 60' repair shop with a wash bay. On February 11, 2020, the Zoning Commission voted unanimously (4 to 0) to recommend approval of the Special Use Permit.

Sunbelt Rentals has been in operation at the 318 Eastern Boulevard site since the 1990s. When the site was developed, it was developed according to the standards of the City of Fayetteville's Ordinance in effect at the time. With the adoption of the Unified Development Ordinance in 2013, the heavy equipment sales, rental or storage use was identified in the Use Table as a use requiring the issuance of a Special Use Permit in the Community Commercial (CC) zoning district. Hence, this site having a legal, non-conforming use in the CC zoning district. The use continues to operate as it existed prior to the adoption of the UDO. The applicant has submitted this Special Use Permit application requesting two actions. First, the applicant is seeking to bring the current building site, 318 Eastern Boulevard, into compliance with the UDO by obtaining a Special Use Permit; thus, removing the existing nonconforming status of the property. This action would not only legitimize the use, it would also allow the use to redevelop in the event of a substantial loss. Secondly, the applicant is requesting a SUP to expand business operations onto a portion 442 Eastern Boulevard. The applicant is interested in constructing a 60' x 60' repair shop and wash bay on a two-acre portion of the 4.647± acres site. This expansion will allow the applicant to repair, service, and clean equipment rented through the business. The shop will be accessed from within the existing site and not accessible to the general public. To prevent public access, a new six-foot chain link fence will be erected to block access from Eastern Boulevard and will continue along the new property line to the south and the west. Since this use is an accessory use to the main heavy equipment sales, rental or storage use, the two-acre portion of the 442 Eastern Boulevard site that will be developed will have to be subdivided out of the parcel and combined with the current building site. This SUP will only apply to the two acres. If the applicant wishes to expand into the remaining 3.647± acres of the 442 Eastern Boulevard site, another SUP application will need to be submitted and approved.

The SUP must meet the following findings of facts:

- (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 districts(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.
- (8) The Special use complies with all other relevant City, State, and Federal laws and regulations.

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

Mr. Scott Brown, 409 Chicago Drive, Fayetteville, NC, appeared in favor and stated he is the applicant on behalf of the owner and requested Council approve the application for a Special Use Permit.

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

Discussion ensued.

MOTION: Council Member Ingram moved to approve the Special Use Permit (SUP) to allow an existing nonconforming use to conform to the current Unified Development Ordinance standards and allow the business to expand onto a portion of an adjoining site as depicted on the site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Community 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. The application for a SUP does meet all 8 findings of fact.

If approved, this Special Use Permit shall become effective ten days after its approval by the City Council, which is April 2, 2020. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Kinston

VOTE: UNANIMOUS (10-0)

7.05 P20-07F. Request for a Special Use Permit to allow a duplex to be located in a Single-Family 10 (SF-10) zoning district, located at 440 McPhee Drive (Tax Map No. 0427-33-9125), containing 0.38± acre and being the property of Patrick Gibney, Sandymount Properties

Please Note: This item will be continued to the April 14, 2020, regular City Council meeting.

8.0 ADJOURNMENT

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