

**FAYETTEVILLE CITY COUNCIL
AGENDA
REGULAR MEETING
MARCH 9, 2009
7:00 P.M.**

VISION STATEMENT

**The City of Fayetteville
is a GREAT PLACE TO LIVE with
a choice of DESIRABLE NEIGHBORHOODS,
LEISURE OPPORTUNITIES FOR ALL,
and BEAUTY BY DESIGN.**

**Our City has a VIBRANT DOWNTOWN,
the CAPE FEAR RIVER to ENJOY, and
a STRONG LOCAL ECONOMY.**

**Our City is a PARTNERSHIP of CITIZENS
with a DIVERSE CULTURE and RICH HERITAGE,
creating a SUSTAINABLE COMMUNITY.**

**FAYETTEVILLE CITY COUNCIL
AGENDA
MARCH 9, 2009
7:00 P.M.
CITY HALL COUNCIL CHAMBER**

INVOCATION

PLEDGE OF ALLEGIANCE

ITEM 1. APPROVAL OF AGENDA

ITEM 2. PUBLIC FORUM:

A. Announcements and Recognition

B. Comment Period

The public forum is designed to invite citizen input and discussion. The public forum is held on the second Monday of every month and shall be the first item of business after the Approval of the Agenda. The public forum shall last no longer than 15 minutes. The Mayor shall have the discretion to extend the public forum up to 30 minutes. Each speaker shall have up to two (2) minutes to speak. Anyone desiring to speak may sign up in advance with the City Clerk located on the Second Floor, City Hall, 433 Hay Street, Fayetteville, N.C., by FAX at (910) 433-1980, or by e-mail at cityclerk@ci.fay.nc.us. If speakers provide the subject matter ahead of the meeting, the City staff can ensure that appropriate information is available at the meeting. This information, however, is not required.

ITEM 3. CONSENT:

A. Approve Minutes:

- 1. Appointment Committee Meeting Held on
January 5, 2009
PAGE: 10**
- 2. City Council Meeting Held on February 9, 2009
PAGE: 12**
- 3. Agenda Briefing Held on February 18, 2009
PAGE: 18**

The page numbers on this outline refer to the agenda packet of complete information for each item. This complete packet is available to you at the City web page, www.cityoffayetteville.org

**B. Special Revenue Fund Project Ordinance 2009-8
(Military Business Park Development)**

Community Development has received an additional federal grant from the US Department of HUD to assist with the development of the infrastructure for a business park. The proposed park is adjacent to Fort Bragg and consists of approximately 250 acres. This grant does not require any matching funds.

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**C. Capital Project Fund Ordinance Amendment 2009-13
(Center City Industrial Park Street Improvement
Project/Various Street Improvements)**

The project has been completed and approximately \$328,057 remains in this fund. This amendment will reduce the appropriation of investment income by \$7,381 consistent with the actual investment income realized in this fund. The amendment will also reduce the appropriation for project expenditures by \$335,438 and authorize the transfer of the remaining \$328,057 to other capital project funds. The amendment will allow this fund to be closed out in fiscal year 2010 and is consistent with the recommended capital improvement plan.

PAGE: 22

**D. Capital Project Fund Ordinance Amendment 2009-14
(Phase 4A and 4B Annexation Area Infrastructure
Improvements/Various Street Improvements)**

This amendment will appropriate an additional \$7,000 in investment income resulting from the investment of bond proceeds and a \$79,546 transfer from another capital project fund (See Capital Project Ordinance Amendment 2009-13 above) to cover remaining project expenditures. This amendment will also expand the purpose of this ordinance to include payment of associated bond principal that is due in June 2009. The amendment will allow this fund to be closed out in fiscal year 2010 and is consistent with the recommended capital improvement plan.

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**E. Capital Project Fund Ordinance Amendment 2009-15
(Series 2005 Bond Issue for Various Infrastructure
Improvements/Land Acquisition/FSU Fire Station)**

This amendment will appropriate an additional \$185,801 in investment income resulting from the investment of bond proceeds and allocate those funds to street and sidewalk improvements (\$142,266), drainage system improvements (\$17,858), land acquisition (\$10,401) and the fire station (\$15,539). These funds will be used for eligible project expenditures and associated bond principal payments for the fire station, land acquisition and drainage improvement bonds. The amendment is consistent with the recommended capital improvement plan.

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**F. Capital Project Fund Ordinance Amendment 2009-16
(Central Business District Brick Paver and Sidewalk
Maintenance)**

The source of funding for this project ordinance amendment is a \$50,000 transfer from the Central Business Tax District fund. These funds were initially budgeted in a prior year but were not spent awaiting completion of electrical upgrades in the area. The project budget will be used for the repair and replacement of existing brick sidewalks along Hay Street and other streets in the downtown area.

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**G. Adopt a Resolution Levying a Tax on Gross Receipts
Derived From the Retail Short-Term Lease or Rental of
Heavy Equipment**

In August 2008, a state law was approved (Session Law 2008-144) to remove certain heavy equipment from the property tax base and provide a means for replacing the lost local revenue through a gross receipts tax. Prior to the enactment of this legislation, local governments had the authority to levy property taxes on heavy equipment. This law repeals that authority with regard to heavy equipment on which a gross receipts tax may be imposed. The law authorizes municipalities to levy a gross receipts tax of eight-tenths percent (0.8%) on the gross receipts from the retail short-term lease or rental of heavy equipment. If approved, the resolution and the gross receipts tax will be effective July 1, 2009.

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H. Adopt the Recommended Fiscal Year 2010-2014 Capital Improvement Plan (CIP)

The recommended CIP was presented to Council at the February 2, 2009 work session. This CIP differs from the initial recommended plan due to an increase in the estimated cost of the Airport Paid Parking Lot Rehabilitation Project (cost increased from \$1 million to \$1.6 million based upon architect/engineer estimates). The plan includes funding \$116,116,698 in infrastructure, public safety, transportation, parks and recreation and other projects over the next five years.

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I. Capital Project Fund Ordinance Amendment 2009-17 (2009 Soil Streets Paving Project)

This amendment will appropriate \$500,000 for the 2009 soil streets paving project approved by Council on November 24, 2008. The source of funds for this amendment is anticipated installment financing proceeds to be secured during FY2009.

PAGE: 43

J. Bid Award – Janitorial Supplies Contract

Award a one-year contract in the amount of \$120,712.43 for the purchase and delivery of miscellaneous janitorial supplies to Phoenix JS Inc., Fayetteville, North Carolina. City staff currently maintains an inventory of these supplies and desires to discontinue that practice in favor of contracting with a company to furnish and deliver the products to individual City departments and facilities. Staff anticipates that the City will realize a significant cost savings by not warehousing and maintaining these items. Formal bids were received February 5, 2009. The low bidder is recommended.

PAGE: 45

K. Consider Adoption of Resolution and Order to File and Publish a Preliminary Assessment Resolution for the Extension of its Sanitary Sewer Collection System and Where Not Currently Available by City or Others, Its Water Distribution System in All or a Portion of the Streets within Areas 6 and 7 of the Phase 5 Annexation.

After adoption of the Preliminary Assessment Resolution, PWC will publish the required notice and mail copies of the resolution to the affected property owners prior to the public hearing. The resolution contains the date and time for the public hearing regarding this issue, which is April 13, 2009.

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L. Authorize the City Manager to Execute a One-year Agricultural Lease of Approximately 18 Acres of Land

The City owns 50 acres more or less on Fields Road, parcel is identified by Tax PIN 0445-97-3707. The parcel contains 18 acres of cleared land while the remaining 32 acres is wooded. Justin Smith has requested a one-year agricultural lease of the cleared 18 acres. The Parks and Recreation and Fire Departments agree to the lease.

PAGE: 50

M. Resolution Requesting NCDOT to Transfer Portion of Paxton Drive and Lowell Harris Road to the City

Approval of a Resolution requesting NCDOT to transfer a portion of Paxton Drive (SR 2667) and Lowell Harris Road (SR 2749) to the City of Fayetteville system of streets.

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N. Consider Technical Amendments to Chapter 17 of the City Code

On June 9, 2008, City Council adopted a fee schedule with an effective date of July 1, 2008, which included an increase in the civil penalty for noise ordinance violations to \$200.00. Although the effective date for the fee increase was July 1, 2008, Section 17-18 of the City Code was not amended to reflect this increase. This amendment will effectuate Council's approved increase in the fee schedule.

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O. Approve Sign Permit for the India Festival To Be Held at the Crown Center on Saturday, March 21st

Approximately 50 signs will be placed in various locations throughout the community from March 11th through March 22nd. The sign ordinance provides temporary signage for festivals and special events.

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ITEM 4. PRESENTATION OF PROPERTY REVALUATION PROCESS

At the request of Councilmember Mohn, the Cumberland County Tax Administrator will provide an overview of the 2009 property revaluation process.

PRESENTED BY: Aaron Donaldson, Cumberland County Tax Administrator

RECOMMENDED ACTION: Presentation only. No action required.

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ITEM 5. DOWNTOWN PARKING PROPOSED REVISIONS

Council is asked to consider revisions to the ordinances and fees that pertain to downtown parking as recommended in the downtown parking study report prepared by MAB / Walker Parking Consultants and previously discussed at the March 2, 2009 Council work session. Council is also asked to consider a new contract with McLaurin Parking based on the revised ordinances.

PRESENTED BY: Rusty Thompson, City Traffic Engineer

RECOMMENDED ACTION: Adopt the proposed parking ordinance and fee revisions and authorize the City Manager to sign a new contract with McLaurin Parking Company to manage parking in downtown Fayetteville.

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ITEM 6. CONSIDER AWARD OF REMAINDER OF AE CONTRACT FOR NC STATE VETERANS PARK

Consideration is requested for award of the remainder of the A/E contract for Phase 1 of the Veterans Park. Pursuant to Council instructions, staff conducted a master plan validation and detailed scoping process with the recommended design team. This recommendation is the result of those meetings and process.

PRESENTED BY: Craig Hampton, Special Project Director

RECOMMENDED ACTION: Authorize the City Manager to negotiate and execute contracts necessary to secure the A/E work in a combined amount not to exceed \$1,700,000.

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ITEM 7. REQUEST FOR WAIVER OF QUALIFICATION BASED SELECTION PROCESS FOR A/E SERVICES FOR FFD STATION #19-ANDREWS ROAD AND AUTHORIZE CITY MANAGER TO NEGOTIATE AND EXECUTE CONTRACT NECESSARY TO HAVE PROJECT "SHOVEL READY" FOR STIMULUS FUNDING

Council is being asked to exempt this project from the typical QBS process so that design and bidding can take place in time for the project to be eligible for the 1st round of stimulus funding. Council is also asked to authorize the City Manager to execute and negotiate contract necessary to have the project ready. The Manager will report total contract amounts back to City Council.

PRESENTED BY: Craig Hampton, Special Project Director

RECOMMENDED ACTION: Authorize the waiver of the requirement for QBS for the project Fire Station #19-Andrews Road and authorize the City Manager to negotiate and execute design contracts necessary to have the project ready for the available funding from the Economic Stimulus Package. Manager to report final fee amounts to City Council.

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ITEM 8. CITY OF FAYETTEVILLE BOARDS AND COMMISSIONS

A. Presentation of Appointment Committee Recommendations for Appointment

PRESENTED BY: Council Member Hurst, Appointment Committee Chair

RECOMMENDED ACTION: Approve Appointment Committee recommendations for appointments to various boards and commissions as indicated in red on the attachment with the exception of appointments listed for the Linear Park Corporation.

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B. Consideration of Linear Park Corporation Terms

PRESENTED BY: Council Member Hurst, Appointment Committee Chair

RECOMMENDED ACTION: Consider waiving term limit rules for the Linear Park Corporation and appointing the members as indicated in red on the attachment.

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**C. Consideration of Public Work Commission (PWC) Terms
PRESENTED BY: Council Member Meredith**

RECOMMENDED ACTION: Consider modifying term limits for the PWC as referenced in the attached letter from Steven K. Blanchard, PWC CEO/General Manager.

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POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 and 7:00 p.m.

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES

SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM

Individuals who have not made a written request to speak on a non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

COUNCIL MEETING WILL BE AIRED

**MARCH 9, 2009 - 7:00 PM
COMMUNITY CHANNEL 7**

COUNCIL MEETING WILL BE RE-AIRED

**MARCH 11, 2009 - 10:00 PM
COMMUNITY CHANNEL 7**

Notice Under the Americans with Disabilities Act (ADA): The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Anyone who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in the City program, service, or activity, should contact the office of Ron McElrath, Acting ADA Coordinator, at rmcelrath@ci.fay.nc.us, 910-433-1605 or 910-433-1696, or the City Clerk at cwhite@ci.fay.nc.us, or 910-433-1989, as soon as possible but no later than 48 hours before the scheduled event.

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FAYETTEVILLE CITY COUNCIL
APPOINTMENT COMMITTEE MINUTES
JANUARY 5, 2009
4:00 P.M.
ST. AVOLD CONFERENCE ROOM

Present: Mayor Anthony G. Chavonne

Council Members Bobby Hurst, Chair (District 5);
Valencia A. Applewhite (District 7); Wesley A. Meredith
(District 9)

Council Members Keith A. Bates, Sr. (District 1);
William J. L. Crisp (District 6)

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Craig Hampton, Special Projects Manager
Candice H. White, City Clerk

Council Member Hurst called the meeting to order at 4:00 p.m.

1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.
SECOND: Council Member Applewhite
VOTE: UNANIMOUS (4-0)

2. APPROVAL OF MINUTES FROM DECEMBER 15, 2008 MEETING

Council Member Hurst requested a correction to Item 2. of the December 15, 2008 meeting minutes to state Design Review Committee members could serve on one other City Council appointed board or commission and Content Committee members could serve only on the Content Committee.

MOTION: Council Member Meredith moved to approve the December 15, 2008 minutes to include the correction as stated.
SECOND: Council Member Applewhite
VOTE: UNANIMOUS (4-0)

3. CONSIDER RECOMMENDATIONS FOR APPOINTMENTS TO NC VETERANS PARK COMMITTEES

Council Member Hurst called attention to the sixty-five applications submitted for consideration of appointment to the NC Veterans Park Content Committee and provided a table reflecting a breakdown of applicants for the five local veteran vacancies and the four at-large vacancies. Council Member Hurst called for review and discussion of the applications.

Following deliberation of the five local veteran vacancies, consensus was to nominate Raymond Barbeau as the local Army veteran; Peter G. Singletary as the local Air Force veteran; Vicki K. Teachey as the local Navy veteran; Timothy M. Dunn as the Local Marine Corp veteran; and Drew R. Wojtank as the local Coast Guard veteran.

Deliberation continued regarding the four at-large vacancies. Council Member Hurst noted that Council Member Bates had submitted an application for consideration and consensus was to nominate Council Member Bates as the City Council Representative to the Content Committee.

Following continued discussion, consensus was for Council Member Hurst to contact applicant Joseph Royo to determine his deployment status and to expand the number of at-large positions from four to five because of the number of qualified and interested applicants. Consensus was to nominate Clyde V. Vaughan; Dr. James C. White; Bobby Washington; Nicole E. Gleich; and Joseph Royo for the at-large

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positions. Nomination of Mr. Royo was made pending information on his deployment status.

Council Member Hurst indicated the next step would be to place the nominations on the January 12, 2009 City Council agenda for consideration and vote by the full City Council. Staff were directed to follow up and report back at the January 12, 2009 meeting on the organizational vacancies for the NC Veterans Park Design Review and Content Committees. Staff were also directed to send out letters to both appointees and to non-appointees following the City Council appointments at the January 12, 2009 meeting.

4. OTHER BUSINESS

Mayor Chavonne referenced the appointment process and recommended that City Council board and commissions appointments and trainings be timed to better coincide with the Council's strategic planning retreat and adoption of the annual strategic plan.

Council Member Hurst recommended expansion of the Zoning Commission. Doug Hewett, Assistant City Manager, spoke to discussions held by staff related to combining the three land use boards.

Mayor Chavonne requested that consideration be given to conducting evaluations or interviews as a part of the Public Works Commission applicant review process. Mayor Chavonne also requested that the board and commission application be revised to include leadership trainings in which applicants had participated. Discussion ensued regarding membership numbers for the various boards and commissions and possible alternatives.

Consensus was for staff to report back to the Appointment Committee on the issues as discussed at their February 2009 meeting.

5. ADJOURNMENT

There being no further business, the meeting adjourned at 4:45 p.m.

Respectfully submitted,

CANDICE H. WHITE
City Clerk

ANTHONY G. CHAVONNE
Mayor

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**FAYETTEVILLE CITY COUNCIL
MINUTES
FEBRUARY 9, 2009
7:00 P.M.
CITY HALL COUNCIL CHAMBER**

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Darrell J. Haire (District 4); Bobby Hurst (District 5); Council Member William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Absent: Robert A. Massey, Jr. (District 3)

Others Present: Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Karyn Brunson, Assistant City Attorney
Lisa Smith, Chief Financial Officer
Rob Anderson, Chief Development Officer
B. E. (Benny) Nichols, Fire/Emergency Management Chief
Ben Major, Assistant Fire Chief
Mike Hill, Battalion Commander
Victor Sharpe, Community Development Director
Bobby Teague, Engineering and Infrastructure Director
Ron Macaluso, Transit Director
Jerry Dietzen, Solid Waste Management Director
Michael Gibson, Fayetteville-Cumberland Parks and Recreation Director
Craig Hampton, Special Projects Manager
Gloria Wrench, PWC Purchasing Manager
Doug Peters, Fayetteville-Cumberland Chamber of Commerce President
Jackie Tuckey, Communications Manager/Public Information Officer
Candice H. White, City Clerk
Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Colonel Joel Cocklin, Ft. Bragg Installation Chaplain, followed by the Pledge of Allegiance to the American Flag.

1. APPROVAL OF AGENDA

Council Member Crisp requested modification of the agenda to add a sign permit request as Item 6. and to move the Closed Session to Item 7.

MOTION: Council Member Crisp moved to modify the agenda to add a sign permit request as Item 6. and to move the Closed Session to Item 7.

SECOND: Council Member Bates

VOTE: UNANIMOUS (9-0)

2. PUBLIC FORUM:

A. Announcements and Recognition

Mayor Chavonne and Council Member Haire, on behalf of the City Council and City of Fayetteville, recognized the E. E. Smith girl's basketball team, winners of the M. J. Soffe-Intensity Holiday Classic.

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Mayor Chavonne and Council Member Applewhite, on behalf of the City Council and City of Fayetteville, presented a proclamation to the Fayetteville-Cumberland Human Relations Commission and proclaimed the month of February 2009 to be Human Relations Month.

Mayor Chavonne and Council Member Bates, on behalf of the City Council and City of Fayetteville, presented a proclamation to Jackie Blue of the local multiple sclerosis group and proclaimed March 2-8, 2009 to be Multiple Sclerosis Awareness Week.

Ft. Bragg Brigadier General Raymond Palumbo presented a print titled "No Safe Haven" to the City of Fayetteville and thanked Fayetteville for serving as a safe haven for the military and their families. A video followed depicting a ceremony at Ft. Bragg to recognize civilian organizations working to foster community military relations followed.

B. Comment Period

Mayor Chavonne opened the public comment period.

John Malzone, 1176 Greenbriar Drive, Vass, NC 28394 stated he had owned and operated businesses in Fayetteville for the past forty-one years and asked that consideration be given to allowing taxpayers to serve on the City's boards and commissions.

Jose I. Cardona, 233 Addison Street, Fayetteville, NC 28314 expressed concern for traffic and litter in Fayetteville and stated the Lundy Building would be the best site for the Fayetteville Museum of Art.

Gwen York, 5703 Cypress Road, Fayetteville, NC 28304 spoke to issues related to domestic violence.

Mark Ledger, 430 Lionshead Road, Fayetteville, NC 28311 spoke regarding the use of a task force or other comprehensive coordinated force as a strategy to combat crime.

Andre L. Walker, 1653 Inverness Drive, Fayetteville, NC 28304 stated he had received a citation for parking his commercial vehicle at his residence and asked that consideration be given to amending the City's ordinance.

3. CONSENT:

Council Member Mohn requested Item 3.D. pulled.

Council Member Applewhite requested Item 3.F. pulled.

MOTION: Council Member Bates moved to approve the consent agenda with the exception of Item 3.D. and Item 3.F.
SECOND: Council Member Meredith
VOTE: UNANIMOUS (9-0)

The following items were approved:

A. Approve Minutes:

1. Agenda Briefing Held on January 21, 2009

B. Approve Tax Refunds Greater Than \$100

C. FY 2008-2009 Electric, Water/Sanitary Sewer and Fleet Maintenance Internal Service Fund Budget Amendment #2

The Public Works Commission, during their meeting of January 28, 2009 adopted Budget Ordinance Amendment #2 for Fiscal Year 2008-2009 for the Electric, Water/Sanitary Sewer and Fleet Maintenance Service Fund.

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Budget Amendment #2 has a zero overall effect to the total Electric Fund and Water/Sewer Fund Budget, some capital projects were deferred and some were added, the net results will provide funding to offset increasing operating expenses. The City expects to purchase additional fuel from PWC (\$750,000) and Medical Benefits are exceeding the budget (\$90,000), therefore the Fleet Maintenance Internal Service Fund Budget needs to be increased by \$840,000, for a proposed Fleet Maintenance Internal Service Funds Budget of \$6,523,110.

D. Pulled at the request of Council Member Mohn.

E. **Bid Award - Purchase of approximately 4000 dry tons of Liquid Ferric Sulfate through October 31, 2009 (with the option to extend contract for additional period(s) upon the agreement of both parties).**

Award bid for purchase of approximately 4000 dry tons of Liquid Ferric Sulfate through October 31, 2009 (with the option to extend contract for additional period(s) upon the agreement of both parties) to Kemira Water Solutions, Inc., Lawrence, KS in the total amount of \$994,680.00.

F. Pulled at the request of Council Member Applewhite.

G. **Approve Changes to Meeting Times and Places for Fayetteville Boards, Commissions and Committees**

3.D. Project Fund Amendments

The Public Works Commission, during their meeting of January 28, 2009 approved Budget Amendment #1 for the Rim Road Water Main Capital Project Fund and the Ft. Bragg Interim Water Service Project Fund.

The Rim Road Water Main Capital Project Fund has cleared all expenses related to the project. The project fund has funds remaining and as outlined in the agreement with the City, the remaining balance (\$126,374) is to be evenly disbursed to the City and PWC General Funds.

The Ft. Bragg Interim Water Service Project Fund is being revised for projected revenues and expenditures related to the interim operations of the Ft. Bragg Water Treatment Plant and pass through capital construction expenditures until the interim service requirements have expired. The total projected budget is \$21,840,234. PWC is the lead contractor and point of contact for potable water to Ft. Bragg.

Council Member Mohn asked Council to consider splitting the City's portion of the remaining balance with property owners in the Rim Road area.

MOTION: Council Member moved when the funds are disbursed between PWC and the City of Fayetteville, one-half of the \$63,000 goes back to citizens of the Rim Road area and one-half goes to the City of Fayetteville.

SECOND: Council Member Bates

A brief discussion followed.

VOTE: FAILED by a vote of 3 in favor (Council Members Bates, Crisp and Mohn) to 6 in opposition (Council Members Chavonne, Evans, Hurst, Meredith, Haire and Applewhite)

MOTION: Council Member Haire moved to approve Item 3.D.

SECOND: Council Member Meredith

VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Bates)

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3.F. Bid Award - Purchase of 2009 Police Vehicles

Award contracts for purchase as follows: twelve (12) 2009 Crown Victoria Police Cars from Lafayette Ford, Fayetteville, NC, in the amount of \$358,295.68; twenty (20) 2009 Chevrolet Impala Police Cars from Bobby Murray Chevrolet, Raleigh, NC, in the amount of \$480,860.00; five (5) marked 2009 Dodge Charger Police Cars from Ilderton Dodge Chrysler Jeep, High Point, NC, in the amount of \$141,032.00; and five (5) un-marked Dodge Charger Police Cars from Ilderton Dodge Chrysler Jeep, High Point, NC, in the amount of \$134,085.20.

At the request of Council Member Applewhite, Dale E. Iman, City Manager, provided additional information regarding the purchase of police vehicles. Gloria Wrench, PWC Purchasing Manager, briefed Council on the bid process involved with the vehicle purchases.

MOTION: Council Member Applewhite moved to approve Item 3.F.
SECOND: Council Member Bates
VOTE: UNANIMOUS (9-0)

4. PUBLIC HEARINGS

- A. Consider extending the sixty-day moratorium an additional sixty days beginning February 9, 2009 on the acceptance, processing, or granting of applications, and any other operation of Section 30-262(g) of the Fayetteville Code, entitled nonconforming signs-transfer during amortization.**

Jimmy Teal, Planning Director, stated a moratorium was placed on the billboard transfer process in April 2008 for sixty days to resolve issues regarding the billboard transfer ordinance. Mr. Teal explained the moratorium had been extended since April 2008 and additional time was needed. Mr. Teal stated recommendation was for an additional sixty-day extension beginning February 9, 2009. Karyn Brunson, Assistant City Attorney, advised litigation was ongoing.

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 7:45 p.m.

MOTION: Council Member Bates moved to approve.
SECOND: Council Member Crisp
VOTE: UNANIMOUS (9-0)

- B. Consider Economic Development Incentive Agreement with Goodyear Tire and Rubber Company**

Mr. Iman stated North Carolina state law requires that a public hearing be held on economic development incentive agreements of this nature. Mr. Iman reviewed the history of the conceptual agreement with Goodyear Tire and Rubber and introduced Doug Peters, Fayetteville-Cumberland Chamber of Commerce President. Mr. Peters recognized Richard Evans, Goodyear Public Relations, and Tim Frosell, Fayetteville Goodyear Plant Manager, and recapped the nature of the incentive package and commitment from Goodyear. Mr. Peters shared details of a study conducted of Goodyear's impact on Fayetteville and stated the Fayetteville-Cumberland Chamber of Commerce supported the City's passing of the incentive package. Mr. Peters responded to questions.

Mr. Frosell responded to additional questions regarding the plant's modernization project, staffing levels and succession plans.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:08 p.m.

No one appeared in favor.

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Jose I. Cardona, 233 Addison Street, Fayetteville, NC appeared in opposition and questioned Goodyear's need for economic incentives.

There was no one further to speak and the public hearing closed at 8:13 p.m.

MOTION: Council Member Bates moved to direct staff, City Attorney and City Manager to approve finalization and execution.

SECOND: Council Member Evans

VOTE: UNANIMOUS (9-0)

5. CONSIDER STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT

Benny Nichols, Fire/Emergency Management Chief, recognized Ben Major, Assistant Fire Chief, and Mike Hill, Battalion Commander, for their efforts on the SAFER grant. Chief Nichols provided an overview of the SAFER grant. Chief Nichols reviewed plans for fire station #19 in northern Fayetteville and additional staffing in eastern Fayetteville. Chief Nichols responded to questions.

MOTION: Council Member Mohn moved to accept the SAFER grant if awarded and identify strategies to provide matching funds.

SECOND: Council Member Applewhite

VOTE: UNANIMOUS (9-0)

6. SIGN PERMIT REQUEST

Doug Hewett, Assistant City Manager, explained the sign permit request and responded to questions.

MOTION: Council Member Evans moved to approve the presenting of the banners downtown at Huske Hardware for the raffle that they have for the Duke and North Carolina basketball game.

SECOND: Council Member Haire

VOTE: PASSED by a vote of 7 in favor to 2 in opposition (Council Members Crisp and Bates)

7. CLOSED SESSION

MOTION: Mayor Chavonne moved to go into closed session for consultation with attorney and discussion of a personnel matter.

SECOND: Council Member Applewhite

VOTE: UNANIMOUS (9-0)

The regular session recessed at 8:38 p.m.

MOTION: Council Member Evans moved to reconvene in open session.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

The regular session reconvened at 9:18 p.m.

MOTION: Council Member Bates moved to approve the releasing of the June 23, 2008 closed session minutes from the Fayetteville City Council.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (9-0)

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

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Respectfully submitted,

CANDICE H. WHITE
City Clerk

ANTHONY G. CHAVONNE
Mayor

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**FAYETTEVILLE CITY COUNCIL
AGENDA BRIEFING MINUTES
FEBRUARY 18, 2009
4:00 P.M.
LAFAYETTE ROOM**

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Robert A. Massey, Jr. (District 3); Bobby Hurst (District 5); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Absent: Council Members Charles E. Evans (District 2); Darrell J. Haire (District 4); William J. L. Crisp (District 6)

Others Present: Doug Hewett, Assistant City Manager
Karen McDonald, City Attorney
Rob Anderson, Chief Development Officer
Jimmy Teal, Planning Director
Karen Hilton, Assistant Planning Director
Craig Harmon, Planner
Press

Staff provided overviews of the following items scheduled for the February 23, 2009 City Council meeting:

Approve an application by Chris Manning to amend a previously approved R6 residential district/CZ conditional zoning case to allow the flexibility of the multifamily residential units to be condominiums and/or apartments for an area located on Rosehill Road at the end of Grafton Avenue and behind Haymount Presbyterian Church. Containing 28.2 acres more or less and being the property of Green Valley South, LLC. Case Number P09-02F

Jimmy Teal, Planning Director, 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. Mr. Teal explained the history and the request to amend the previously approved conditional zoning case. Council asked questions as to options. Mr. Teal explained options were to approve the conditions or set a public hearing. Council Members posed questions regarding the availability of data related to crime statistics for apartment rentals versus condominiums. Council also requested clarification of applicable stormwater regulations.

Consider the rezoning from R5A residential district and C1P commercial district to M2 industrial district or to a more restrictive zoning classification for property located between Louise Street and Raeferd Road. Containing 8.87 acres more or less and being the property of Edward and Raymonde Schantz. Case Number P09-01F

Rob Anderson, Chief Development Officer, gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Anderson pointed out that the Zoning Commission's decision differed from the decision of planning staff. Karen M. McDonald, City Attorney, reminded Council that the Zoning Commission makes a recommendation and Council had the ultimate decision. Council Member Applewhite inquired regarding permitted uses under M2 industrial district and C1P commercial district.

Consider the rezoning from P3 professional district to CD conservation district for property located on the southeast corner of Morganton Road and Loch Haven Drive. Containing 4.25 acres more or less and being the property of William Maxwell, Sr., Harold Stutts and Edens LLC. Case Number P09-03F

Mr. Teal 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. Mr. Teal stated the applicant in the case was not the property owners, but the McFadyen Lake Owners Association. Mr.

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ITEM 3.A.3.

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Teal further stated Ed Blanchard, President of the McFadyen Lake Owners Association, appealed the decision of the Zoning Commission. Mr. Teal advised the Zoning Commission recommended denial of the rezoning to CD conservation district. Mr. Teal further advised Planning staff recommended approval of the CD Conservation District for the floodway for environmental protection, leaving the remainder of the property P3 Professional District. Mr. Teal also explained a protest petition had been filed and would take eight to approve.

Consider the rezoning from PND plan neighborhood district to CD conservation district for property located in the area of Bahama Loop, Offing Drive, Georgetown Circle and Water Edge Drive. Containing 12.11 acres more or less and being the property of SABE, LLC and 3340 Investments, LLC. Case Number P09-04F

Mr. Teal 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. Mr. Teal stated the applicant in this case was not the property owners, but the McFadyen Lake Owners Association. Mrs. Hilton further stated Ed Blanchard, President of the McFadyen Lake Owners Association, appealed the decision of the Zoning Commission. Mr. Teal advised the Zoning Commission recommended denial of the rezoning to CD conservation district. Mr. Teal further advised Planning staff recommended approval of the CD Conservation District for the floodway for environmental protection land, leaving the remainder of the property PND Planned Neighborhood District. Mr. Teal explained a protest petition had been filed in this case.

Consider the rezoning from R5 residential district to P4 professional district or to a more restrictive zoning classification for property located at 1101, 1103 and 1111 Arsenal Avenue. Containing .51 acres more or less and being the property of Stevie Ammons, Robert Brandenburg and Neil Grant. Case Number P09-05F

Mr. Teal 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. Mr. Teal stated the applicants wish to have the option of using their property for professional uses. Mr. Teal explained 1111 Arsenal Avenue previously requested rezoning and stated P4 permits professional uses and required the property to remain residential in appearance. Mr. Teal advised the Zoning Commission recommended approval of the rezoning request to P4 professional district. Mr. Teal further advised Planning staff recommended denial of the rezoning request based on rezoning these properties to professional would change the 1100 block of Arsenal Avenue from a residential setting to a professional setting and there were existing vacant office spaces in the vicinity. Mr. Teal explained a protest petition had been filed in this case.

Consider an application by Columbus Thurmond for a Special Use Permit to allow a daycare center in an R6 residential district for property located at 5007 Redwood Drive. Containing .26 acres more or less and being the property of Columbus Thurmond. Case Number P09-06F

Mr. Teal advised the applicant had requested a continuation. Mrs. McDonald explained the decision should be based on testimony presented at the hearing and thus Council should consider the request.

There being no further business, the meeting adjourned at 4:50 p.m.

Respectfully submitted,

KAREN M. MCDONALD
City Attorney

ANTHONY G. CHAVONNE
Mayor

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CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa Smith, Chief Financial Officer *LS*
Date: March 9, 2009
Re: Special Revenue Project Ordinance 2009-8 (Military Business Park)

THE QUESTION: Special Revenue Project Ordinance 2009-8 will appropriate a total of \$147,000 for the development of the Military Business Park.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1: Greater Tax Base Diversity – Strong Local Economy

Objective 3: Retain and grow current Businesses and Jobs

Objective 5: Attracting more military-based industries

BACKGROUND:

- ☐ Community Development has received a federal grant from the U.S. Department of Housing and Urban Development (HUD) to assist with the development of the infrastructure for a business park.
- ☐ The grant will be used for planning, design and construction of the Military Business Park.
- ☐ The proposed park is adjacent to Fort Bragg, and consists of approximately 250 acres. This project will increase military opportunities for North Carolina companies.
- ☐ The grant does not require matching funds.

ISSUES: None

OPTIONS:

- 1) Adopt the ordinance.
- 2) Do not adopt the ordinance.

RECOMMENDATIONS: Adopt Special Revenue Project Ordinance 2009-8.

SPECIAL REVENUE FUND PROJECT ORDINANCE
ORD 2009-8

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby adopted:

Section 1. The authorized project is the funding for the development of the Military Business Park

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

Federal Grant - HUD	<u>\$ 147,000</u>
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Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 147,000</u>
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Section 5. Copies of this special revenue project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of March, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa Smith, Chief Financial Officer 
Date: March 9, 2009
Re: Capital Project Ordinance Amendment 2009-13 (Center City Industrial Park Street Improvement Project/Various Street Improvements)

THE QUESTION: This amendment will reduce the appropriation of investment income by \$7,381, reduce the appropriation for project expenditures by \$335,438 and authorize the transfer of the remaining \$328,057 to other capital project funds.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4, Objective 1 – More Efficient City Government – Investing in the City's infrastructure, facilities and equipment.

BACKGROUND:

- This project has been completed and approximately \$328,057 remains in this fund.
- This amendment will result in several actions to facilitate the closure of this project, specifically:
 - reduce the appropriation of investment income by \$7,381 consistent with the actual investment income realized in this fund,
 - reduce the appropriation for project expenditures by \$335,438,
 - authorize the transfer of the remaining \$328,057 to other capital project funds.
- The amendment will allow this fund to be closed out in fiscal year 2010 and is consistent with the recommended capital improvement plan.

ISSUES:

None

OPTIONS:

- 1) Adopt the amendment.
- 2) Do not adopt the amendment.

RECOMMENDATIONS: Adopt Capital Project Ordinance Amendment 2009-13.

CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2009-13 (CPO 2001-2)

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1. The project change authorized is to Capital Project Ordinance 2001-2 adopted October 23, 2000, as amended, for the funding of street construction and associated drainage improvements.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

	<u>Listed As</u>	<u>Amendment</u>	<u>Revised</u>
Investment Income	\$ 215,696	\$ (7,381)	\$ 208,315
Proceeds of Bonds	2,400,000	-	2,400,000
Transportation Fund Transfer	500,000	-	500,000
Owners Contributions	10,000	-	10,000
	<u>\$ 3,125,696</u>	<u>\$ (7,381)</u>	<u>\$ 3,118,315</u>


Section 4. The following amounts are appropriated for the project:

Project Expenditures	\$ 3,125,696	\$ (335,438)	\$ 2,790,258
Transfer to Fund 58 (Series 2002 GO BOND Fund)	-	79,546	79,546
Transfer to Fund 46 (Transportation Fund)	-	248,511	248,511
	<u>\$ 3,125,696</u>	<u>\$ (7,381)</u>	<u>\$ 3,118,315</u>

Section 5. Copies of this capital project ordinance amendment shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of March, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa Smith, Chief Financial Officer 
Date: March 9, 2009
Re: Capital Project Ordinance Amendment 2009-14 (Phase 4A and 4B Annexation Area Infrastructure Improvements/Various Street Improvements)

THE QUESTION: This amendment will appropriate an additional \$7,000 in investment income and a \$79,546 transfer from another capital project fund to cover remaining project expenditures. The amendment will also permit the City to make related bond principal payments from the remaining proceeds in this fund.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4, Objective 1 – More Efficient City Government – Investing in the City's infrastructure, facilities and equipment.

BACKGROUND:

- ❑ This amendment will appropriate an additional \$7,000 in investment income resulting from the investment of bond proceeds
- ❑ This amendment will also appropriate a \$79,546 transfer from another capital project fund to cover certain project expenditures related to the 4A and 4B annexation area infrastructure improvements. The expenditures resulted from an annexation funding agreement with PWC.
- ❑ This amendment will also expand the purpose of this ordinance to include a transfer to PWC for an associated bond principal payment that is due in June 2009.
- ❑ These actions will allow this fund to be closed out in fiscal year 2010 and is consistent with the recommended capital improvement plan.

ISSUES:

None

OPTIONS:

- 1) Adopt the amendment.
- 2) Do not adopt the amendment.

RECOMMENDATIONS: Adopt Capital Project Ordinance Amendment 2009-14.

CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2009-14 (CPO 2001-3)

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1. The project change authorized is to Capital Project Ordinance 2001-3, adopted March 5, 2001 as amended, for the funding of infrastructure improvements, related bond administration costs associated with the Phase 4A and 4B annexation areas, miscellaneous street resurfacing projects, and to transfer funds to PWC for associated bond principal payments.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

	Budget	Amendment	Revised
Investment Income	\$ 228,781	\$ 7,000	\$ 235,781
Proceeds of Bonds	3,644,293	-	3,644,293
Transfer from Transportation Fund	1,100,000	-	1,100,000
Transfer from Bond Fund 57	-	79,546	79,546
	<u>\$ 4,973,074</u>	<u>\$ 86,546</u>	<u>\$ 5,059,620</u>

Section 4. The following amounts are appropriated for the project:

Project Expenditures and Transfers to PWC	<u>\$ 4,973,074</u>	<u>\$ 86,546</u>	<u>\$ 5,059,620</u>
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Section 5. Copies of this capital project ordinance amendment shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of March, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

From: Lisa Smith, Chief Financial Officer

Date: March 9, 2009

Re: Capital Project Ordinance Amendment 2009-15 (Series 2005 Bond Issue for Various Infrastructure Improvements/Land Acquisition/FSU Fire Station)

THE QUESTION: This amendment will appropriate an additional \$185,801 in investment income and allocate those funds to purposes authorized in the adopted bond order and will also allow related bond principal payments to be paid from any remaining funds after the projects are completed.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4, Objective 1 – More Efficient City Government – Investing in the City's infrastructure, facilities and equipment.

BACKGROUND:

- This amendment will appropriate an additional \$185,801 in investment income resulting from the investment of bond proceeds and allocate those funds to project expenditures and/or related bond principal payments for street and sidewalk improvements (\$142,266), drainage system improvements (\$17,858), land acquisition (\$10,401) and the fire station (\$15,539).
- The amendment is consistent with the recommended capital improvement plan.

ISSUES:

None

OPTIONS:

- 1) Adopt the amendment.
- 2) Do not adopt the amendment.

RECOMMENDATIONS: Adopt Capital Project Ordinance Amendment 2009-15.

CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2009-15 (CPO 2005-2)

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1. The project change authorized is to Capital Project Ordinance 2005-2, adopted September 27, 2004, as amended, for the funding of Street and Sidewalk Improvements, Drainage Improvements, Park Land Acquisition, the Fayetteville State University Fire Station and Training Facility Project, and associated bond principal payments.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

	Listed As	Amendment	Revised
Bond Proceeds	\$ 8,450,000	\$ -	\$ 8,450,000
General Fund Transfer	210,000	-	210,000
Investment Income	260,000	185,801	445,801
Total Revenues	<u>\$ 8,920,000</u>	<u>\$ 185,801</u>	<u>\$ 9,105,801</u>

Section 4. The following amounts are appropriated for the project:


Bond Administration	\$ 54,739	\$ (263)	\$ 54,476
Street and Sidewalk Improvements	3,642,170	142,266	3,784,436
Drainage Improvements	627,169	17,858	645,027
Park Land Acquisition	1,019,852	10,401	1,030,253
FSU Fire Station	3,576,070	15,539	3,591,609
Total Expenditures	<u>\$ 8,920,000</u>	<u>\$ 185,801</u>	<u>\$ 9,105,801</u>

Section 5. Copies of this capital project ordinance amendment shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of March, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

From: Lisa Smith, Chief Financial Officer 

Date: March 9, 2009

Re: Capital Project Ordinance Amendment 2009-16 (Central Business District Brick Paver and Sidewalk Maintenance)

THE QUESTION: This project ordinance amendment will appropriate an additional \$50,000 for the Central Business District brick paver and sidewalk maintenance project.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4, Objective 1 – More Efficient City Government – Investing in the City's infrastructure, facilities and equipment.

BACKGROUND:

- The source of funding for this project ordinance amendment is a \$50,000 transfer from the Central Business Tax District fund.
- These funds were initially budgeted in a prior year but were not spent awaiting completion of electrical upgrades in the area.
- The project budget will be used for the repair and replacement of existing brick sidewalks along Hay Street and other streets in the downtown area.

ISSUES:

None

OPTIONS:

- 1) Adopt Capital Project Ordinance Amendment 2009-16.
- 2) Do not adopt Capital Project Ordinance Amendment 2009-16.

RECOMMENDATIONS: Adopt Capital Project Ordinance Amendment 2009-16.

CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2009-16 (CPO 2009-10)

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1. The project change authorized is to Capital Project Ordinance 2009-10, adopted June 9, 2008, as amended, for the funding of Central Business District brick paver and sidewalk maintenance and repairs.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

	Listed As	Amendment	Revised
Central Business District Fund Transfer	<u>\$ 50,000</u>	<u>\$ 50,000</u>	<u>\$ 100,000</u>


Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 50,000</u>	<u>\$ 50,000</u>	<u>\$ 100,000</u>
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Section 5. Copies of this capital project ordinance amendment shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of March, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa T. Smith, Chief Financial Officer 
Date: March 9, 2009
Re: Resolution Levying a Tax on Gross Receipts Derived from Retail Short-term Lease or Rental of Heavy Equipment

THE QUESTION: Does City Council wish to collect a gross receipts tax on the short-term rental/lease of heavy equipment since this rental/lease equipment will no longer be included in the property tax base?

RELATIONSHIP TO STRATEGIC PLAN:

Mission: City government is financially sound and provides a full range of quality municipal services.

BACKGROUND:

- ☐ In August 2008, a state law was approved (Session Law 2008-144) to remove certain heavy equipment from the property tax base and provide a means for replacing the lost local revenue through a gross receipts tax.
- ☐ Prior to the enactment of this legislation, local governments had the authority to levy property taxes on heavy equipment. This law repeals that authority with regard to heavy equipment on which a gross receipts tax may be imposed.
- ☐ Heavy equipment is defined as earthmoving, construction or industrial equipment that is mobile, weighs at least 1,500 pounds, is self-propelled and not designed to be driven on the highway. Industrial lift equipment, industrial material handling equipment and industrial electrical generation equipment are also considered heavy equipment.
- ☐ The law authorizes municipalities to levy a gross receipts tax of eight-tenths percent (0.8%) on the gross receipts from the retail short-term lease or rental of heavy equipment.
- ☐ If approved, the resolution and the gross receipts tax will be effective July 1, 2009.

ISSUES: None

OPTIONS:

- ☐ Adopt the resolution.
- ☐ Do not adopt the resolution.

RECOMMENDATIONS: Adopt the resolution and collect the heavy equipment gross receipts tax in lieu of property tax.

RESOLUTION LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM RETAIL
SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT

WHEREAS, the North Carolina General Assembly has ratified Senate Bill 1852, which has been designated as Session Law 2008-144 [the "Act"]; and,

WHEREAS, the Act repealed the property tax on certain heavy equipment leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost tax revenue through enactment of a local tax on gross receipts derived from the retail short-term lease or rental of that heavy equipment; and,

WHEREAS, the Act assigns certain duties to the Finance Officer of a city related to the collection and enforcement of the local tax on gross receipts derived from the retail short-term lease or rental of heavy equipment; and,

WHEREAS, the City of Fayetteville has appointed the Cumberland County Tax Collector as the Tax Collector for the City of Fayetteville for the purpose of collecting ad valorem taxes, certain fees and other taxes such as the local tax on gross receipts derived from the retail short-term lease or rental of vehicles; and,

WHEREAS, the City Council of the City of Fayetteville intends to authorize the Tax Collector to collect and enforce, for and in behalf of the Finance Officer, the local tax on gross receipts derived from the retail short-term lease or rental of heavy equipment, and to remit those taxes collected to the Finance Officer.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Fayetteville, North Carolina that:

Section 1. Definitions. In addition to the common meaning of words, the following definitions shall be applicable herein:

(a) "Customer" shall mean any person that leases or rents heavy equipment on a short-term lease or rental basis.

(b) "Finance Officer" shall refer to that individual appointed pursuant to G.S. § 159-24 to serve as finance officer for the City of Fayetteville and any other person authorized to carry out the duties and functions of such individual.

(c) "General Statutes" shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

(d) "Gross receipts" shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return

filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

(e) “Heavy equipment” shall mean earthmoving, construction, or industrial equipment that is mobile, weighs at least 1,500 pounds, and is either:

- (i) A self-propelled vehicle that is not designed to be driven on a highway; or
- (ii) Industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or a similar piece of industrial equipment.

The term includes an attachment for heavy equipment, regardless of the weight of the attachment. [G.S. § 160A-215.2(a)(1)]

(f) “Lease or rental” shall mean a transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term does not include any of the following:

- (i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.
- (ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100.00) or one percent (1%) of the total required payments.
- (iii) The providing of tangible property along with an operator for a fixed or indeterminate period of time if the operator is necessary for the equipment to perform as designed. For the purpose of this paragraph, an operator must do more than maintain, inspect, or set up the tangible personal property.

[G.S. § 105-164.3(17)]

(g) “Long-term lease or rental” shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days. [G.S. § 105-187.1(3)]

(h) “Person” shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

(i) “Short-term lease or rental” shall mean any lease or rental that is not a long-term lease or rental. [G.S. § 160A-215.2(a)(2) and [G.S. § 105-187.1(7)]

(j) “Tax Collector” shall mean the Cumberland County Tax Collector as authorized pursuant to that certain Interlocal Agreement between the City of Fayetteville and the County of Cumberland, dated June 12, 1978, as amended, or any other person authorized to carry out the duties and functions of such an individual.

(k) “Taxpayer” means any person liable for the taxes imposed by this Resolution.

Section 2. Levy of Tax. A tax is hereby imposed and levied in an amount equal to eight-tenths percent (0.8%) of the gross receipts derived from the short-term lease or rental of heavy equipment at retail. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211. [G.S. § 160A-215.2(b)]

Section 3. Collection of the Tax. Every person whose principal business is the short-term lease or rental of heavy equipment at retail shall collect at the time of the lease or rental, or at the time of the payment of the consideration therefor, the tax herein levied. A person is not considered to be in the short-term lease or rental business if the majority of the person’s lease and rental gross receipts are derived from leases and rentals to a person who is a related person as defined under G.S. §105-163.010. The tax so collected shall be placed in a segregated account, and thereafter remitted to the Tax Collector in accordance with the provisions of this Resolution. The taxpayer shall include a provision in each retail short-term lease or rental agreement, or other documentation evidencing the transaction, stating that the percentage amount enacted by this Resolution of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer’s records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the City of Fayetteville. The taxpayer shall be liable for the collection thereof and for its payment to the Tax Collector and the taxpayer’s failure to charge or to collect said tax from the customer shall not affect such liability. [G.S. § 160A-215.2(b)]

Section 4. Report and Payment of Tax. Taxes levied under this Resolution are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector. A return must be signed by the taxpayer or the taxpayer’s agent. Returns of taxpayers are due to the Tax Collector for each calendar quarter on or before the last day of the month following the end of the quarter in which the tax accrues. As provided in G.S. § 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith. [G.S. § 160A-215.2(c)]

Section 5. Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Resolution. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Tax Collector or the Tax Collector's duly authorized agent.

Section 6. Tax Collector to Provide Forms. The Tax Collector shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the City of Fayetteville forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

Section 7. Situs. Gross receipts from the short-term lease or rental of heavy equipment are subject to the tax imposed by this Resolution if the place of business from which the heavy equipment is delivered is located within the municipal boundaries of the City of Fayetteville. [G.S. § 160A-215.2(b)]

Section 8. Penalties and Remedies. The provisions with respect to penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes shall be applicable in like manner to the tax authorized to be levied and collected under this Resolution, to the extent that the same are not inconsistent with the provisions hereof. The Finance Officer may exercise any power the Secretary of Revenue may exercise in imposing these penalties and remedies and may instruct the Tax Collector to so act in the Finance Officer's behalf. [G.S. § 160A-215.2(d)]

Section 9. Severability. If any section, clause, or provision of this Resolution shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

Section 10. Authority. This Resolution is enacted pursuant to the provisions of G.S. § 160A-215.2.

Section 11. Effective Date. This Resolution and the taxes thereby levied and imposed shall become effective July 1, 2009.

Adopted this the 9th day of March, 2009.

Mayor

ATTEST:

City Clerk

Approved as to Form:

City Attorney

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa T. Smith, Chief Financial Officer *LS*
Date: March 9, 2009
Re: Adoption of the Fiscal Year 2010-2014 Capital Improvement Plan (CIP)

THE QUESTION: Staff requests Council to adopt the recommended Fiscal year 2010-2014 Capital Improvement Plan.

RELATIONSHIP TO STRATEGIC PLAN:

Mission: The City has well designed and well maintained infrastructure and facilities. The City Government is financially sound and provides a full range of quality municipal services...

BACKGROUND:

- ❑ The CIP consists of infrastructure, facility, maintenance and technology projects with an individual cost of \$50,000 or greater.
- ❑ The following process was used to develop the recommended CIP:
 - Updated the adopted 2009-2013 CIP with current estimated costs, funding sources and timelines
 - Added other project needs identified by departments
 - Developed a funding plan for priority projects based on available resources
- ❑ The recommended CIP differs from the CIP presented at the February 2, 2009 work session due to an increase in project cost estimates for the Airport Paid Parking Lot Rehabilitation (from \$1.0 M to \$1.6 million based upon updated architect and civil engineer estimates)
- ❑ The two documents attached summarize the recommended CIP:
 - The project list reflecting funding for each fiscal year from FY2010 through FY2014 (See document with yellow header)
 - The project list reflecting proposed source of funds, for example, funding provided by the General Fund or federal and state grants. (See document with green header)

ISSUES: Does the recommended capital improvement plan meet the Council's interests?

OPTIONS:

- ❑ Adopt the recommended capital improvement plan as proposed.
- ❑ Modify the recommended capital improvement plan.

RECOMMENDATIONS: Adopt the Fiscal Year 2010-2014 Capital Improvement Plan as recommended.

**City of Fayetteville Recommended Capital Improvement Plan
FY 2010 - 2014**

Project	Project Funding By Fiscal Year							Total Project Funding
	Prior Fiscal Yrs	Current Fiscal Yr	FY2010	FY2011	FY2012	FY2013	FY2014+	
Facility and Equipment Projects								
Amtrak	672,345	571,155	-	-	-	-	-	1,243,500
Backup System Upgrade	-	90,705	-	-	-	-	-	90,705
Building Maintenance Projects		50,000	100,775	52,000	53,000	54,000	55,000	364,775
Computer Replacement Plan	-	670,729	288,975	310,050	310,050	310,050	310,050	2,199,904
Council Chamber Technology Improvements	7,500	205,788	-	-	-	-	-	213,288
Demolition of City Buildings	-	62,758	-	-	-	-	-	62,758
Grove Street Exterior Renovations (GF Portion)	-	50,000	-	-	-	-	-	50,000
Integrated Cashiering and Payment Management	-	117,840	106,180	-	-	-	-	224,020
Parking Lot Maintenance	-	50,000	51,000	52,000	53,000	54,000	57,000	317,000
Storage Area Network	-	55,000	-	-	-	-	-	55,000
Texfi Site Acquisition	-	84,376			-	-	-	84,376
Truck Wash Station*	-	57,130	-	-	-	-	-	57,130
Total - Facility and Equipment Projects	679,845	2,065,481	546,930	414,050	416,050	418,050	422,050	4,962,456
Infrastructure Projects								
CBD Railway	-	250,000	580,000	700,000	2,417,500	2,657,500	2,855,000	9,460,000
Downtown Brick Sidewalk Repair	-	100,000	50,000	-	-	-	-	150,000
Downtown Streetscape	-	307,888	200,000	200,000	-	-		707,888
Drainage Improvements (2/3 Bond Project)	541,162	86,007	-	-	-	-	-	627,169
Drainage Improvements (Stormwater Fund)	40,720	3,949,457	4,000,000	4,500,000	4,500,000	4,500,000	4,500,000	25,990,177
Gateways	208,992	-	41,008	-	-	-	-	250,000
Louise Street Bridge	-	250,000	500,000	-	-	-	-	750,000
Person Street Streetscape	121	340,000	85,000	146,000	-	-	-	571,121
Phase V Sewer Contributions	2,673,390	2,149,500	646,760	662,415	1,022,547	1,403,282	1,805,672	10,363,566
Dam Project	-	466,950	-	-	-	-	-	466,950
Russell Street Sidewalk	-	-	400,000	-	-	-	-	400,000
Sidewalk Plan	22,820	818,412	152,000	154,000	156,000	158,000	110,000	1,571,232
Soil Street Construction	-	560,740	275,860	703,034	-	-	-	1,539,634
Soil Street Paving (2/3 Bond Project)	857,760	163,113	-	-	-	-	-	1,020,873
Street Resurfacing	2,176,254	4,273,239	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	23,949,493
Street Resurfacing - Cape Seal	481,902	225,596	-	-	-	-	-	707,498
Total - Infrastructure Projects	7,003,121	13,940,902	10,430,628	10,565,449	11,596,047	12,218,782	12,770,672	78,525,601
Parks & Recreation Projects								
Arts in Public Places*	-	56,872	-	-	-	-	-	56,872
Cape Fear River Front Park	1,162,712	3,612	-	-	-	-	-	1,166,324
Cape Fear River Trail, Phase II	-	242,500	2,338,000	-	-	-	-	2,580,500
Freedom Park	422,054	50,121	30,000	-	-	-	-	502,175

* Currently on budget deferral for economic uncertainty

2/25/2009

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**City of Fayetteville Recommended Capital Improvement Plan
FY 2010 - 2014**

Project	Project Funding By Fiscal Year							Total Project Funding
	Prior Fiscal Yrs	Current Fiscal Yr	FY2010	FY2011	FY2012	FY2013	FY2014+	
Linear Park	1,307,245	92,755	186,341	186,341	186,341	745,366	800,644	3,505,033
Martin Luther King Park	50,000	-	-	-	-	-	500,000	550,000
NC State Veterans Park (Parts 1&2)	1,840,871	2,100,000	10,500,000	1,000,000	1,559,129	-	-	17,000,000
Playground Improvements*	-	150,000	153,000	156,000	159,000	162,000	165,000	945,000
Skateboard Facility*	-	205,224	-	-	-	-	-	205,224
Transportation Museum	3,105,343	308,931	-	-	-	-	-	3,414,274
Western Area Neighborhood Park	-	550,000	250,000	-	-	-	-	800,000
Total Parks & Recreation Projects	7,888,225	3,760,015	13,457,341	1,342,341	1,904,470	907,366	1,465,644	30,725,402
Public Safety Projects								
800 MHz Radio System - Upgrade Current Site to Digital	-	-	-	2,800,000	-	-	-	2,800,000
Computer-Aided Dispatch System Replacement	-	-	1,632,800	-	-	-	-	1,632,800
Digital Radio Upgrade - Mobiles and Portables	-	-	3,915,212	-	-	-	-	3,915,212
Fire Hydrant Installation	-	88,000	-	-	-	-	-	88,000
Fire Station 12 Renovations*	-	125,000	-	-	-	-	-	125,000
Fire Station 19 - North Farmer's Road Area	-	60,000	-	2,914,600	-	-	-	2,974,600
Fire Tower Replacement	-	500,000	-	-	-	-	-	500,000
FireHouse Technology Upgrade incl. MDT's	-	-	340,000	-	-	-	-	340,000
Police Server Upgrades	-	180,000	-	28,000	-	-	-	208,000
Records Management System Replacement	-	-	1,768,000	-	-	-	-	1,768,000
Total - Public Safety Projects	-	953,000	7,656,012	5,742,600	-	-	-	14,351,612
Other Projects								
300 Block of Hay Street Redevelopment	1,723,996	133,479	-	-	-	-	-	1,857,475
Hope VI (City Share)	-	3,598,722	351,229	1,906,955	499,099	169,995	-	6,526,000
Military Business Park	-	666,750	-	-	-	-	-	666,750
Wayfinding Signage	-	125,000	175,586	-	-	-	-	300,586
Total - Other Projects	1,723,996	4,523,951	526,815	1,906,955	499,099	169,995	-	9,350,811
Transit Projects								
Bus Shelters	400,871	15,129	-	-	100,000	-	100,000	616,000
Fixed Route Transit Vehicle Locator System	-	-	419,012	-	-	-	-	419,012
Paratransit Vehicle Locator System	-	120,000	450,000	-	-	-	-	570,000
Transit Facility, Admin and Maint Shop Renovations	-	370,000	-	-	-	-	-	370,000
Transit Multimodal Center (Consulting and Site Selection)	73,877	726,123	-	-	-	-	-	800,000
Transit Pass Vending Automation	-	-	100,000	-	-	-	-	100,000
Transit Refueling Station Renovations	-	-	120,000	-	-	-	-	120,000
Transit Signage Updates	23,362	59,691	-	-	-	-	-	83,053
Transit Software & Hardware Upgrades	-	-	-	500,000	-	-	-	500,000
Transit Surveillance & Security Equipment	317,946	57,257	70,000	-	-	-	-	445,203
Total - Transit Projects	816,056	1,348,200	1,159,012	500,000	100,000	-	100,000	4,023,268

* Currently on budget deferral for economic uncertainty

2/25/2009

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**City of Fayetteville Recommended Capital Improvement Plan
FY 2010 - 2014**

Project	Project Funding By Fiscal Year							Total Project Funding
	Prior Fiscal Yrs	Current Fiscal Yr	FY2010	FY2011	FY2012	FY2013	FY2014+	
Airport Projects								
Air Carrier Asphalt Mill & Overlay	-	80,000	749,210	-	-	-	-	829,210
Airline Concrete Slabs & Joints	-	-	-	85,000	980,000	-	-	1,065,000
Airport Improvement Projects-AIP 32	389,426	319,494	-	-	-	-	-	708,920
Alpha Taxiway Extension	-	100,000	850,000	-	-	-	-	950,000
ARFF Rehabilitation	-	1,697,419	-	-	-	-	-	1,697,419
Fire Training Facility Renovation-AIP 31	1,176,323	73,931	-	-	-	-	-	1,250,254
Jet Bridge to Replace Fixed Bridge at Gate B4	-	-	-	475,000	-	-	-	475,000
Land Purchase in RW 4 RPZ	-	-	-	-	-	-	1,684,211	1,684,211
Paid Parking Lot Rehabilitation	-	473,100	1,103,900	-	-	-	-	1,577,000
Runway 4/22 Paved Shoulders	-	-	-	-	-	120,000	1,800,000	1,920,000
Runway 4/22 Rehabilitation	-	1,792,883	5,378,650	-	-	-	-	7,171,533
Storm Water Improvement Project	227,751	33,363	100,000	-	-	-	-	361,114
Taxiway A Overlay, Shoulders & Lights	-	195,000	3,000,000	-	-	-	-	3,195,000
Terminal Renovation Phase IV	-	-	-	223,000	2,230,000	-	-	2,453,000
Upgrade Electrical Vault/Emergency Generator - AIP 33	-	2,182,031	-	-	-	-	-	2,182,031
West General Aviation Ramp Rehabilitation	13,424	344,378	101,369	-	-	-	-	459,171
Total - Airport Projects	1,806,924	7,291,599	11,283,129	783,000	3,210,000	120,000	3,484,211	27,978,863
Grand Total - Funded Projects	19,918,167	33,883,148	45,059,867	21,254,395	17,725,666	13,834,193	18,242,577	169,918,013

* Currently on budget deferral for economic uncertainty

2/25/2009

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**City of Fayetteville Recommended Capital Improvement Plan
FY 2010 - 2014**

Project Funding By Source of Funds

Project	Total Project Funding	Existing Funding	General Fund / Debt Mgmt Plan	Federal or State Funds	Other Sources	Other Funding Source
Facility and Equipment Projects						
Amtrak	1,243,500	748,500	-	495,000	-	
Backup System Upgrade	90,705	90,705	-	-	-	
Building Maintenance Projects	364,775	99,775	265,000	-	-	
Computer Replacement Plan	2,199,904	670,729	1,529,175	-	-	
Council Chamber Technology Improvements	213,288	213,288	-	-	-	
Demolition of City Buildings	62,758	62,758	-	-	-	
Grove Street Exterior Renovations (GF Portion)	50,000	50,000	-	-	-	
Integrated Cashiering and Payment Management	224,020	224,020	-	-	-	
Parking Lot Maintenance	317,000	50,000	267,000	-	-	
Storage Area Network	55,000	55,000	-	-	-	
Texfi Site Acquisition	84,376	84,376	-	-	-	
Truck Wash Station*	57,130	57,130	-	-	-	
Total - Facility and Equipment Projects	4,962,456	2,406,281	2,061,175	495,000	-	
Infrastructure Projects						
CBD Railway	9,460,000	9,460,000	-	-	-	
Downtown Brick Sidewalk Repair	150,000	100,000	-	-	50,000	CBTD Funding
Downtown Streetscape	707,888	707,888	-	-	-	
Drainage Improvements (2/3 Bond Project)	627,169	627,169	-	-	-	
Drainage Improvements (Stormwater Fund)	25,990,177	3,949,457	-	-	22,040,720	City Stormwater Improvement Fund
Gateways	250,000	250,000	-	-	-	
Louise Street Bridge	750,000	150,000	-	600,000	-	
Person Street Streetscape	571,121	571,121	-	-	-	
Phase V Sewer Contributions	10,363,566	4,822,890	5,540,676	-	-	
Dam Project	466,950	48,000	-	-	418,950	City Dam Revolving Loan Fund
Russell Street Sidewalk	400,000	400,000	-	-	-	
Sidewalk Plan	1,571,232	404,232	730,000	437,000	-	
Soil Street Construction	1,539,634	123,390	1,416,244	-	-	
Soil Street Paving (2/3 Bond Project)	1,020,873	1,020,873	-	-	-	
Street Resurfacing	23,949,493	6,449,493	17,500,000	-	-	
Street Resurfacing - Cape Seal	707,498	707,498	-	-	-	
Total - Infrastructure Projects	78,525,601	29,792,011	25,186,920	1,037,000	22,509,670	
Parks & Recreation Projects						
Arts in Public Places*	56,872	56,872	-	-	-	
Cape Fear River Front Park	1,166,324	1,166,324	-	-	-	
Cape Fear River Trail, Phase II	2,580,500	1,280,500	-	1,300,000	-	
Freedom Park	502,175	472,175	-	-	30,000	Private Donations

* Currently on budget deferral for economic uncertainty

2/25/2009

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**City of Fayetteville Recommended Capital Improvement Plan
FY 2010 - 2014**

Project Funding By Source of Funds

Project	Total Project Funding	Existing Funding	General Fund / Debt Mgmt Plan	Federal or State Funds	Other Sources	Other Funding Source
Linear Park	3,505,033	1,400,000	-	-	2,105,033	Private Donations
Martin Luther King Park	550,000	50,000	-	-	500,000	Private Donations
NC State Veterans Park (Parts 1&2)	17,000,000	17,000,000	-	-	-	Note: \$7.35 M state funding subject to budget avail.
Playground Improvements*	945,000	150,000	795,000	-	-	
Skateboard Facility*	205,224	205,224	-	-	-	
Transportation Museum	3,414,274	3,414,274	-	-	-	
Western Area Neighborhood Park	800,000	800,000	-	-	-	
Total Parks & Recreation Projects	30,725,402	25,995,369	795,000	1,300,000	2,635,033	
Public Safety Projects						
800 MHz Radio System - Upgrade Current Site to Digital	2,800,000	-	2,800,000	-	-	
Computer-Aided Dispatch System Replacement	1,632,800	-	1,632,800	-	-	
Digital Radio Upgrade - Mobiles and Portables	3,915,212	-	3,915,212	-	-	
Fire Hydrant Installation	88,000	88,000	-	-	-	
Fire Station 12 Renovations*	125,000	125,000	-	-	-	
Fire Station 19 - North Farmer's Road Area	2,974,600	60,000	2,914,600	-	-	
Fire Tower Replacement	500,000	100,000	-	400,000	-	
FireHouse Technology Upgrade incl. MDT's	340,000	-	340,000	-	-	
Police Server Upgrades	208,000	208,000	-	-	-	
Records Management System Replacement	1,768,000	-	1,768,000	-	-	
Total - Public Safety Projects	14,351,612	581,000	13,370,612	400,000	-	
Other Projects						
300 Block of Hay Street Redevelopment	1,857,475	1,857,475	-	-	-	
Hope VI (City Share)	6,526,000	2,250,000	4,276,000	-	-	
Military Business Park	666,750	666,750	-	-	-	
Wayfinding Signage	300,586	300,586	-	-	-	
Total - Other Projects	9,350,811	5,074,811	4,276,000	-	-	
Transit Projects						
Bus Shelters	616,000	416,000	40,000	160,000	-	
Fixed Route Transit Vehicle Locator System	419,012	41,901	-	377,111	-	
Paratransit Vehicle Locator System	570,000	120,000	45,000	405,000	-	
Transit Facility, Admin and Maint Shop Renovations	370,000	370,000	-	-	-	
Transit Multimodal Center (Consulting and Site Selection)	800,000	800,000	-	-	-	
Transit Pass Vending Automation	100,000	-	10,000	90,000	-	
Transit Refueling Station Renovations	120,000	-	24,000	96,000	-	
Transit Signage Updates	83,053	83,053	-	-	-	
Transit Software & Hardware Upgrades	500,000	-	50,000	450,000	-	
Transit Surveillance & Security Equipment	445,203	375,203	14,000	56,000	-	
Total - Transit Projects	4,023,268	2,206,157	183,000	1,634,111	-	

* Currently on budget deferral for economic uncertainty

2/25/2009

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**City of Fayetteville Recommended Capital Improvement Plan
FY 2010 - 2014**

Project Funding By Source of Funds

Project	Total Project Funding	Existing Funding	General Fund / Debt Mgmt Plan	Federal or State Funds	Other Sources	Other Funding Source
Airport Projects						
Air Carrier Asphalt Mill & Overlay	829,210	-	-	787,750	41,460	Airport Fund Balance
Airline Concrete Slabs & Joints	1,065,000	-	-	1,011,750	53,250	Airport Fund Balance
Airport Improvement Projects-AIP 32	708,920	708,920	-	-	-	
Alpha Taxiway Extension	950,000	-	-	902,500	47,500	Airport Fund Balance
ARFF Rehabilitation	1,697,419	1,697,419	-	-	-	
Fire Training Facility Renovation-AIP 31	1,250,254	1,250,254	-	-	-	
Jet Bridge to Replace Fixed Bridge at Gate B4	475,000	-	-	-	475,000	Airport Passenger Facility Fees
Land Purchase in RW 4 RPZ	1,684,211	-	-	1,600,000	84,211	Airport Fund Balance
Paid Parking Lot Rehabilitation	1,577,000	1,577,000	-	-	-	
Runway 4/22 Paved Shoulders	1,920,000	-	-	1,824,000	96,000	Airport Fund Balance
Runway 4/22 Rehabilitation	7,171,533	7,171,533	-	-	-	
Storm Water Improvement Project	361,114	361,114	-	-	-	
Taxiway A Overlay, Shoulders & Lights	3,195,000	-	-	3,035,250	159,750	Airport Fund Balance
Terminal Renovation Phase IV	2,453,000	-	-	2,330,350	122,650	Airport Fund Balance
Upgrade Electrical Vault/Emergency Generator - AIP 33	2,182,031	2,182,031	-	-	-	
West General Aviation Ramp Rehabilitation	459,171	459,171	-	-	-	
Total - Airport Projects	27,978,863	15,407,442	-	11,491,600	1,079,821	
Grand Total - Funded Projects	169,918,013	81,463,071	45,872,707	16,357,711	26,224,524	

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa Smith, Chief Financial Officer 
Date: March 9, 2009
Re: Capital Project Ordinance Amendment 2009-17 (2009 Soil Streets Paving Project)

THE QUESTION: This capital project ordinance amendment will appropriate \$500,000 for the 2009 soil streets paving project approved by Council on November 24, 2008. The source of funds for this amendment is anticipated installment financing proceeds to be secured during FY2009.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4, Objective 1 – More Efficient City Government – Investing in the City's infrastructure, facilities and equipment.

BACKGROUND:

- ❑ The original project ordinance was established at \$600,000 for the 2008 soil streets paving project approved by City Council.
- ❑ On November 24, 2008, City Council approved the 2009 soil streets paving project list as follows:
 - **Stella Street** (from Weisiger Street to the dead end)
 - **Mclver Street** (from Italy Street to Silk Lane)
 - **Silk Lane** (from Mclver Street to the northwestern line of pin # 0437-22-0285 and 18 feet northwest of the common line of pin #'s 0437-22-2411 & 0437-22-1464)
 - **Williston Drive** (from Ramsey Street to North Street)
 - **S. Kenleigh Drive** (from Raeford Road to the end of street)
- ❑ This amendment will appropriate \$500,000 for the 2009 soil streets paving project list as approved by Council.
- ❑ If this amendment is approved, the total amended project budget will be \$1,100,000.
- ❑ Consistent with the capital improvement plan, staff proposes to fund this project with the proceeds from a future installment financing contract.

ISSUES: None

OPTIONS:

- 1) Adopt the capital project ordinance amendment and proceed with the 2009 soil street paving project.
- 2) Do not adopt the capital project ordinance amendment and do not proceed with the 2009 soil street paving project.

RECOMMENDATIONS: Adopt the capital project ordinance amendment.

CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2009-17 (CPO 2009-13)

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1. The project change authorized is to Capital Project Ordinance 2009-13, adopted August 11, 2008, as amended, for the paving of various soil streets and related ancillary costs.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

	Listed As	Amendment	Revised
Proceeds from Future Installment Financing Proceeds	<u>\$ 600,000</u>	<u>\$ 500,000</u>	<u>\$ 1,100,000</u>

Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 600,000</u>	<u>\$ 500,000</u>	<u>\$ 1,100,000</u>
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Section 5. Copies of this capital project ordinance amendment shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 9th day of March, 2009.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Gloria Wrench, Purchasing Manager
Date: March 9, 2009
Re: Award One-Year Contract for the Purchase and Delivery of Miscellaneous Janitorial Supplies

THE QUESTION: Staff requests approval to award a one-year contract (with the option to renew for additional one-year periods) for the purchase and delivery of miscellaneous janitorial supplies.

RELATIONSHIP TO STRATEGIC PLAN: More Efficient City Government – Cost Effective Service Delivery.

BACKGROUND: Currently, the City maintains an inventory of miscellaneous janitorial supplies used by City staff and facilities. Recognizing that these supplies are readily available from vendors throughout the City and surrounding areas, City staff recommends that the City discontinue maintaining an inventory of these items and enter into a contract with a vendor for the purchase and delivery of these supplies on an as needed, department by department basis. Staff anticipates that the City will realize a significant cost savings by not having to warehouse and maintain this inventory. The vendor will be required to deliver the requested supplies to individual City departments and facilities within 48 hours of request. Quantities in the bid were estimated based on prior year history and were not guaranteed. The City may purchase more or less than the estimated quantities without penalty.

Formal bids were received February 5, 2009 as follows:

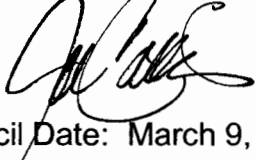
Phoenix JS Inc., Fayetteville, NC	\$120,712.43
A-1 Supply Company, Fayetteville, NC	\$121,236.00
Image Supply Co., Inc., Lumberton, NC	\$125,783.84
Cape Fear Janitorial Supply, Fayetteville, NC	\$151,577.33

ISSUES: No outstanding issues.

OPTIONS: (1) Award contract according to staff recommendation. (2) Not award contract.

RECOMMENDATIONS: Award a one-year contract (with the option to renew for additional one-year periods) for the purchase and delivery of miscellaneous janitorial supplies to the low bidder, Phoenix JS Inc., Fayetteville, NC, in the amount of \$120,712.43.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Joe Callis, Business Planning Manager 
Date: February 25, 2009 (Scheduled City Council Date: March 9, 2009)
Re: Phase 5 Annexation Areas 6 and 7

BACKGROUND:

The next step in the process of providing utility services to Areas 6 and 7 of the Phase 5 Annexation area requires adoption of the Preliminary Assessment Resolution by City Council. I am enclosing the original Preliminary Assessment Resolution for all streets within Areas 6 and 7 where we anticipate utilities being installed and for which property owners may be assessed a portion of the utility installation cost.

After adoption of the Preliminary Assessment Resolution, PWC will publish the required notice and mail copies of the Resolution to the affected property owners prior to the public hearing. You will note the Resolution contains the date and time for the public hearing regarding this issue which is April 13, 2009.

ISSUES:

OPTION:

RECOMMENDATIONS:

Authorize the attached Preliminary Assessment Resolution and hold the public hearing on April 13, 2009.

RESOLUTION NUMBER _____

RESOLUTION AND ORDER TO FILE AND PUBLISH A PRELIMINARY ASSESSMENT RESOLUTION FOR THE EXTENSION OF ITS SANITARY SEWER COLLECTION SYSTEM AND WHERE NOT CURRENTLY AVAILABLE BY CITY OR OTHERS, ITS WATER DISTRIBUTION SYSTEM IN ALL OR A PORTION OF THE STREETS WITHIN AREAS 6 AND 7 OF THE PHASE 5 ANNEXATION LISTED ON EXHIBIT "A".

WHEREAS, The City Council of the City of Fayetteville has determined that it may be in the best interest of the City to extend its water distribution and sanitary sewer collection systems and that in order to provide such an extension, it would be necessary to assess part of the cost thereof upon the real property abutting thereon:

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Fayetteville, North Carolina:

1. That it is intended that the water and sanitary sewer system of the City of Fayetteville shall be extended by constructing a sanitary sewer collection system and, where necessary, a water distribution system over, along and to the following property under and by virtue of Chapter 160A, Article 10 of the General Statutes of North Carolina and the procedure therein established.
2. That an assessment upon the property receiving benefit of the sanitary sewer extension in the amount of \$5,000 be hereafter assessed for what is described as single family residential parcels requiring one sewer service lateral with remaining property being assessed at an equal rate of \$55.56 per foot of road frontage but not less than ninety (90) feet plus actual cost for service laterals as may be installed for the benefit of the non single family residential parcels. If and where water service is installed for the benefit of properties that do not currently have water service by the City of Fayetteville or other water provider an assessment not to exceed 100% of the total cost of said water extension be hereafter assessed upon the property receiving the benefit of the water extension where required. Such assessment shall be on a per lot basis for all typical single family residential parcels with the remaining property being assessed at an equal rate per foot of road frontage but not less than ninety (90) feet.

3. That the assessment herein provided for shall be payable in cash or if any property owner shall so elect and give notice of that fact to the City Council by and through its Public Works Commission in accordance with Chapter 160A, Sections 232 and 233 of the General Statutes of North Carolina, he shall have the option and privilege of paying the assessment over a term of ten (10) equal annual installments, said installments to bear interest at a rate not to exceed eight percent per annum.
4. That a public hearing on all matters covered by this Resolution shall be held on the 13th day of April, 2009, at the College Lakes Recreation Center located at 4945 Rosehill Road, Fayetteville, North Carolina, 28311 at 7:00 p.m.

This the ____th day of _____, 2009.

CITY OF FAYETTEVILLE

Anthony Chavonne, Mayor

Candice H. White, City Clerk

The following City Council members voted for passage of the above Resolution:

The following City Council members voted against the above Resolution:

EXHIBIT "A"

Construction Area 6

Street Names	From Intersection	To Intersection
Audrey Court	Brewster Drive eastwardly	Street end
Brewster Drive	South of Audrey Court northwardly	Decatur Drive
Brewster Place	Brewster Drive eastwardly	Street end
Buckhead Drive	Deerwood Drive southwardly	Street end
Carrollburg Drive	Decatur Drive eastwardly	Decatur Drive
Channing Drive	Carrollburg Drive southwardly	Street end
Cliffbourne Drive	Ingleside Drive eastwardly	Decatur Drive
Crabapple Circle	Jennings Lane northwardly	Street end
Decatur Drive	Fletcher Avenue northwardly	Carrollburg Drive
Decatur Place	Decatur Drive southwardly	Street end
Deerwood Drive	Channing Drive westwardly	Street end
Faraday Place	Carrollburg Drive westwardly	Street end
Fawn Drive	Deerwood Drive southwardly	Street end
Fletcher Avenue	West end of street	East end of street
Greenbriar Drive	Deerwood Drive southwardly	Street end
Hamburg Drive	Ramona Drive westwardly	Street end
Ingleside Drive	Cliffbourne Drive northwardly	Street end
Jennings Lane	Ramona Drive westwardly	Street end
Overbrook Drive	Ingleside Drive eastwardly	Decatur Drive
Ramona Drive	Brewster Drive eastwardly	Jennings Lane
Sable Drive	Brewster Drive eastwardly	Ramona Drive

Construction Area 7

Street Names	From Intersection	To Intersection
Avalon Drive	Godfrey Drive eastwardly	Godfrey Drive
Dandridge Drive	N Reilly Road eastwardly	Filyaw Rd.
Dumont Place	Godfrey Drive westwardly	Street end
Fairvale Drive	N. Reilly Road eastwardly	Street end
Freeport Road	Dandridge Drive eastwardly	Windy Hill Circle
Godfrey Drive	Paxton Drive northwardly	Roundtree Drive
Osprey Place	Avalon Drive northwardly	Street end
Paxton Drive	A point east of N Reilly Road eastwardly	Godfrey Drive
Quimby Court	Godfrey Drive southwardly	Street end
Redfield Court	Dandridge Drive westwardly	Street end
N Reilly Road	Along the east side from Paxton northwardly	Filyaw Road
Roundtree Drive	Killeen Road northwardly	Ashwood Circle
Squire Lane	South of Fairvale Drive northwardly	Street end
Standish Court	Roundtree westwardly	Street end
Wakefield Drive	Godfrey Drive northwardly	North of Dandridge Drive
Wendell Place	Godfrey Drive southwardly	Street end
Yardley Court	Dandridge Drive westwardly	Street end

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
Through: Karen M. McDonald, City Attorney *KM*
From: Cindy Preas, Real Estate Manager *CP*
Date: March 9, 2009
Re: Approve One-Year Lease for City-Owned Parcel

THE QUESTION: How to respond to a request from Justin Smith to lease a portion of an unused City-owned parcel for agricultural use.

RELATIONSHIP TO STRATEGIC PLAN: More Efficient City Government - Cost Effective Services Delivery

BACKGROUND: The City owns a 50-acre parcel of land on Fields Road, more particularly identified as Tax PIN 0445-97-3707. This parcel contains approximately 18 acres of cleared land, with the remaining 32 acres undeveloped and wooded. Justin Smith requests a one-year agricultural lease of the cleared 18 acres. Mr. Smith plans to harvest cotton or soybeans on this parcel. He is offering a lease rate of \$900.00 per year (\$50.00 per acre) for the cleared portion of this tract. Other significant information to note on this parcel are as follows:

- Parcel was purchased March 15, 1999 for use as a future park and/or fire station site.
- The City has no current plans to develop this parcel.
- City staff is tasked with mowing and maintaining the 18 acres of cleared land. Lease of this land will alleviate the City's need to clean and maintain the property during the lease period.
- The Parks and Recreation Director and the City's Fire Chief agree to the one-year lease.

ISSUES: None

OPTIONS:

- Authorize the lease.
- Decline the lease.

RECOMMENDATIONS: Authorize the City Manager to enter into a one-year lease with Justin Smith beginning March 10, 2009, with a yearly rental of \$900.00 and further authorize him to do any and all things necessary to implement the lease consistent with City Council's authorization.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager

Thru: Jeffrey Powell, Assistant City Manager

From: Jeffery P. Brown, City Engineer

Date: March 9, 2009

Re: Resolution Requesting NCDOT to Transfer Portion of Paxton Drive and Lowell Harris Road to the City

THE QUESTION:

- Approval of a Resolution requesting NCDOT to transfer a portion of Paxton Drive (SR 2667) and Lowell Harris Road (SR 2749) to the City of Fayetteville system of streets.

RELATIONSHIP TO STRATEGIC PLAN:

- Cost Effective Service Delivery
- Investing in City's Future Infrastructure and Facilities

BACKGROUND:

- Paxton Drive and Lowell Harris Road are NCDOT maintained streets within the Phase V annexation area. These streets were overlooked in the original transfer of streets from DOT to the City in 2005. Paxton Drive is divided by North Reilly Road. The west portion of Paxton Drive has already been transferred to the City from NCDOT for maintenance.

ISSUES:

- The state will transfer the portion of Paxton Drive and Lowell Harris Road to the City after receiving a resolution from the City requesting it.
- Converting these streets to City streets makes activities, such as sewer installation and storm drain maintenance, much simpler.

OPTIONS:

- Approve the attached Resolution requesting the transfer of a portion of Paxton Drive and Lowell Harris Road to the City for maintenance.
- Choose not to request the transfer.

RECOMMENDATIONS:

- Approve the attached Resolution requesting the transfer of a portion of Paxton Drive (SR 2667) and Lowell Harris Road (SR 2749) to the City for maintenance.

Resolution Requesting the Transfer of a Portion of Paxton Drive (SR 2667) and Lowell Harris Road to the City of Fayetteville for Maintenance

WHEREAS, The City of Fayetteville on September 8, 2003 passed resolution R2003-075 to annex Area 5 which is identified by annexation number 2003-11-463 and became effective September 30, 2005.

AND WHEREAS, Paxton Drive and Lowell Harris Road are currently maintained by the North Carolina Department of Transportation and can be transferred to the City of Fayetteville for maintenance.

AND WHEREAS, it is the desire of both the City of Fayetteville and the North Carolina Department of Transportation that maintenance of the streets listed below be transferred to the City of Fayetteville.

DELETIONS FROM THE STATE HIGHWAY SYSTEM

NAME	ROAD	TERMINI	LENGTH
Paxton Drive	SR 2667	N. Reilly Rd to Godfrey Drive	0.19 mi
Lowell Harris Road	SR 2749	Cliffdale Road to End Maintenance	0.43 mi

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, THAT:

The City of Fayetteville requests the transfer of a portion of Paxton Drive (SR 2667) between North Reilly Road and Godfrey Drive and Lowell Harris Road (SR 2749) from Cliffdale Road to end of maintenance, from the North Carolina Department of Transportation to the City of Fayetteville at the earliest possible date.

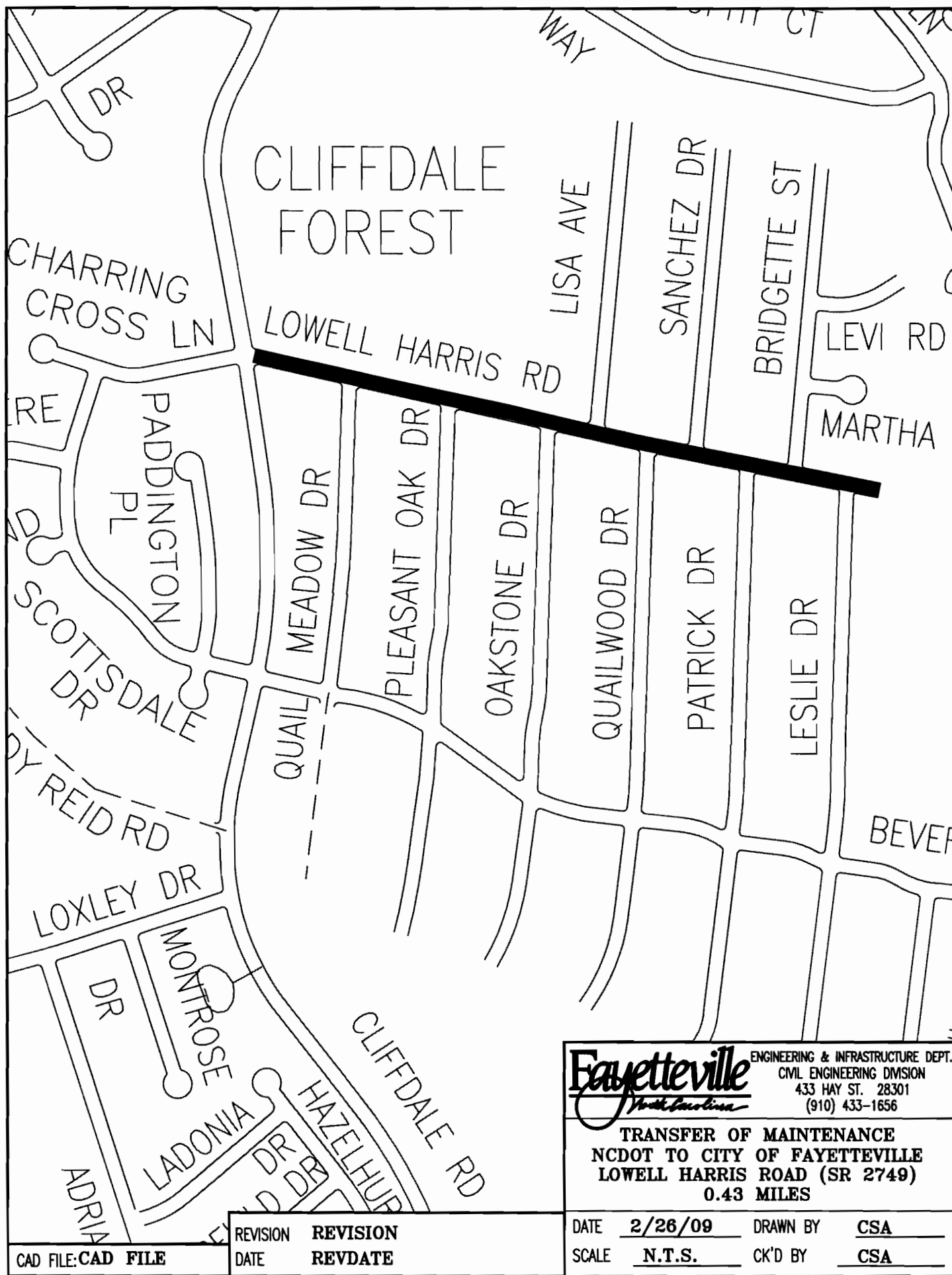
ADOPTED this the _____ day of _____, 2009, by the City Council of Fayetteville, North Carolina.

CITY OF FAYETTEVILLE

ANTHONY G. CHAVONNE, Mayor

ATTEST:

CANDICE H. WHITE, City Clerk



Fayetteville ENGINEERING & INFRASTRUCTURE DEPT.
CIVIL ENGINEERING DIVISION
433 HAY ST. 28301
(910) 433-1656

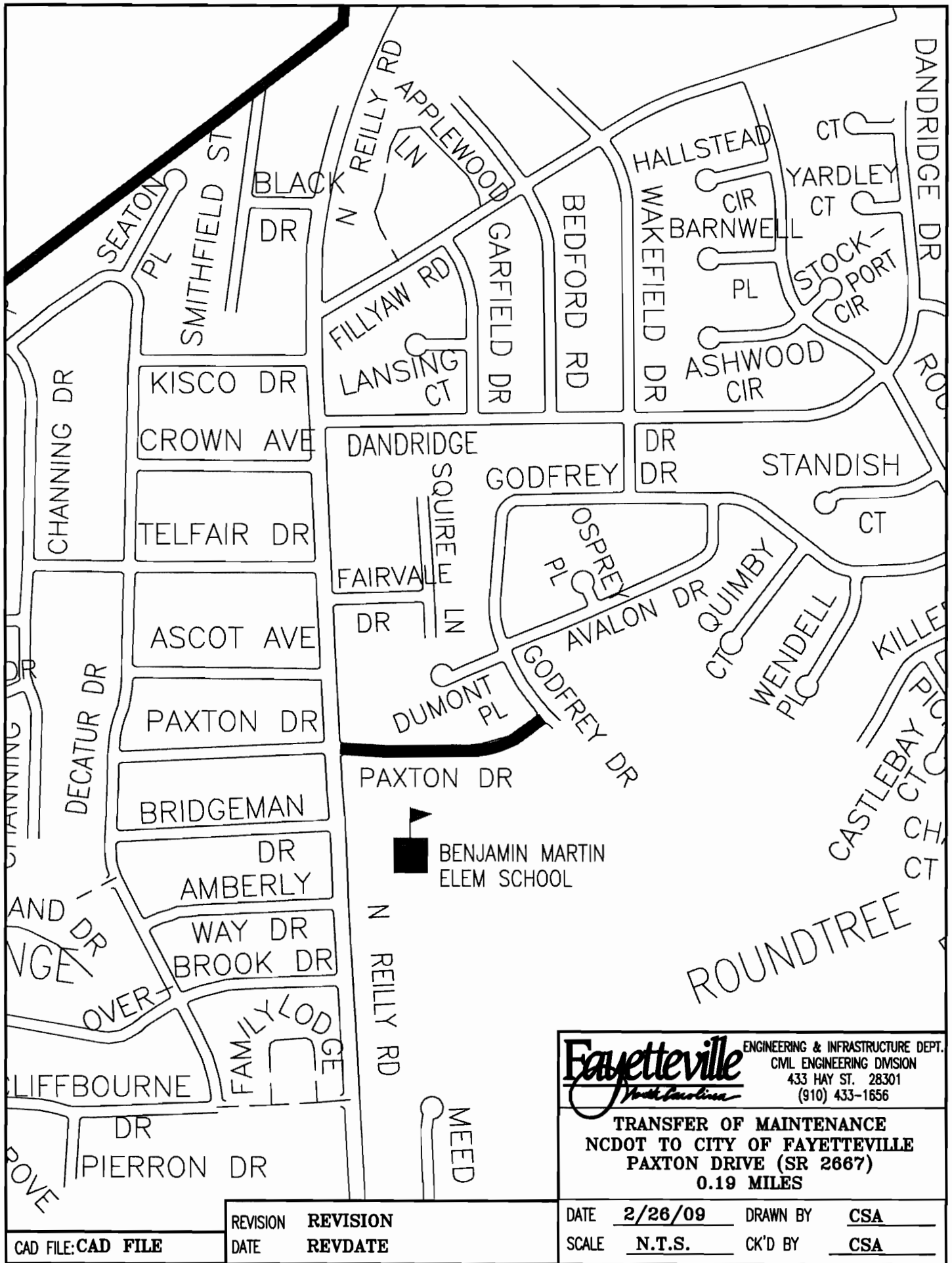
**TRANSFER OF MAINTENANCE
NCDOT TO CITY OF FAYETTEVILLE
LOWELL HARRIS ROAD (SR 2749)
0.43 MILES**

DATE	2/26/09	DRAWN BY	CSA
SCALE	N.T.S.	CK'D BY	CSA

REVISION	REVISION
DATE	REVDATE

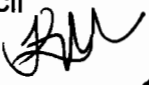

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CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
Through: Karen M. McDonald, City Attorney 
From: Karyn M. Brunson, Assistant City Attorney 
Date: March 9, 2009
Re: Consider Technical Amendments to Chapter 17 of the City Code

THE QUESTION: Whether to provide a technical amendment to Chapter 17 of the City Code to make the fee for noise ordinance violations consistent with the fee schedule.

RELATIONSHIP TO STRATEGIC PLAN: More Efficient City Government - Cost Effective Services Delivery

BACKGROUND: On June 9, 2008, City Council adopted a fee schedule with an effective date of July 1, 2008, which included an increase in the civil penalty for noise ordinance violations to \$200.00. Although the effective date for the fee increase was July 1, 2008, Section 17-18 of the City Code was not amended to reflect this increase. Attached is the ordinance amendment to effectuate Council's approved increase in the fee schedule.

ISSUES: None.

OPTIONS:

- Adopt the amendments.
- Decline to adopt the amendments.

RECOMMENDATIONS: Staff recommends that Council adopt the attached ordinance amendment and direct staff to format the amendment consistent with Section 1-6 of the City Code.

Please note the following is not the entire Chapter. The only section being revised is Section 17-18.

Chapter 17

OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 17-18. Penalties for violation of sections 17-7 through 17-16.

(a) Any person violating any provision of sections 17-7 through 17-16 shall be subject to a civil penalty in ~~the~~ an amount of ~~\$100.00~~ in accordance with the fee schedule as adopted by city council for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues. Any subsequent violation within a 12-month period of a first violation after the enactment of this section shall subject the violator to a civil penalty of ~~\$150.00~~ in accordance with the fee schedule as adopted by city council for each subsequent violation. For purposes of determining subsequent violations within a 12-month period, the date of the first violation from and after the enactment of this section shall be the anniversary date from which a new 12-month period shall begin.

(b) Any person found to be in violation of any provision of sections 17-7 through 17-16 shall be issued a citation which shall, among other things: (i) state upon its face the amount of the civil penalty and that it shall be paid within 72 hours from and after such violations; (ii) notify such offender that failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus the cost of the action to be taxed in the court; and (iii) further provide that the penalty may be paid at the cashier's window on the ~~second~~ first floor of City Hall, 433 Hay Street, Fayetteville, North Carolina 28301.

(c) If the penalty prescribed in subsection (a) of this section is not paid within 72 hours, the city may initiate a civil action in the nature of a debt and recover the civil penalty and the cost of the action.

CITY COUNCIL ACTION MEMO

To: Rob Anderson, Chief Development Officer

From: Jimmy Teal, Planning Director

Date: March 9, 2009

Re: Sign Permit – India Festival

THE QUESTION: Approval of Sign Permit

RELATIONSHIP TO STRATEGIC PLAN: Partnership of Citizens

BACKGROUND:

The Sign Ordinance contains a provision allowing special signs for festivals and major events for the purpose of giving directions and information to include temporary on-premises and off-premises signs. These signs are subject to a special permit granted by City Council.

The South Eastern North Carolina Asian Indian Association is holding their 5th annual India Festival on Saturday, March 21st. They are requesting approval of placing small signs in various locations in the community from Wednesday, March 11^h through Sunday, March 22nd announcing this event.

ISSUES:

The City Council has routinely approved similar requests.

OPTIONS:

1. Grant the sign permit as requested.
2. Deny the request.

RECOMMENDATION:

Option 1 – Grant the permit.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
From: Lisa T. Smith, Chief Financial Officer *LTS*
Date: March 9, 2009
Re: Overview of the 2009 Property Revaluation Process

THE QUESTION: Is there an opportunity to further educate the public about the 2009 property revaluation process?

RELATIONSHIP TO STRATEGIC PLAN:

Principle H: Partnership of Citizens – means civic awareness and informed citizenry

BACKGROUND:

- ☐ At Councilmember Mohn's request, Mr. Aaron Donaldson, the Cumberland County Tax Administrator, will provide an overview of the 2009 property revaluation process at the March 9 meeting.
- ☐ The purpose of the revaluation process is to assess the market value of property as of January 1, 2009.
- ☐ By state law, counties are required to complete a revaluation process at least once every eight years.
- ☐ Cumberland County's last revaluation process was completed in 2003.

ISSUES: None

OPTIONS:

- ☐ Not applicable.

RECOMMENDATIONS: Information item only. No action required.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
Thru: Jeffrey Powell, Assistant City Manager
From: Bobby B. Teague, Director of Engineering & Infrastructure
Date: March 9, 2009
Re: Downtown Parking Proposed Revisions

THE QUESTION:

- Council is asked to consider revisions to the ordinances and fees that pertain to downtown parking as recommended in the downtown parking study report prepared by MAB / Walker Parking Consultants and previously discussed at the March Council work session. Council is also asked to consider a new contract with McLaurin Parking Company based on the revised ordinances.

RELATIONSHIP TO STRATEGIC PLAN:

- Downtown parking report and action

BACKGROUND:

- A downtown parking study was completed in 2008 by MAB/Walker Parking Consultants
- Recommendations from the parking study include:
 - All off-street parking spaces to be either leased spaces or hourly/daily pay spaces
 - On-street parking to become paid parking once they achieve 85% occupancy
 - Enact booting/towing of certain vehicles with overdue fines
 - Request proposals for a new downtown parking management contract
- Amendments to the parking ordinances as recommended are proposed and a copy is attached
- Pay parking fees are proposed to be \$0.50 per hour and \$4.00 per day in off-street lots and \$0.75 per hour for on-street locations
- A team including members of staff and the Downtown Parking Committee solicited proposals and selected McLaurin Parking for a new downtown parking management contract
- The proposed contract is for five years with the first year cost being \$279,609 including payment for pay stations

ISSUES:

- Free parking will no longer be the norm in downtown Fayetteville
- Booting/towing is proposed to enhance the collection of fines

OPTIONS:

- Adopt the proposed amendments to the parking ordinances, set the pay parking fees as proposed, and authorize the City Manager to execute a new contract with McLaurin Parking Company.
- Modify and approve the above
- Do not approve parking changes

RECOMMENDATION:

- Adopt the proposed amendments to Chapter 16, Articles X & XI, of the Code of Ordinances of the City of Fayetteville
- Set pay parking fees at \$0.50 per hour and \$4.00 per day for off-street lots and \$0.75 per hour for on-street locations downtown
- Authorize the City Manager to execute a new contract with McLaurin Parking Company.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
AMENDING VARIOUS SECTIONS OF CHAPTER 16, MOTOR VEHICLES AND
TRAFFIC, ARTICLE X, PARKING, AND ARTICLE XI, ABANDONED, JUNKED, AND
NUISANCE VEHICLES, OF THE CODE OF ORDINANCES OF THE CITY OF
FAYETTEVILLE**

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Section 16-313, Parking Zones, is amended to read as follows:

- (a) Traffic Schedule No. 13, referenced in section 16-61, is hereby designated as "downtown district parking zones." All streets designated in Schedule No. 13, are hereby designated as 1, 2 or 3 hour parking zones established in the Schedule
- (b) Unless otherwise specified, the provisions of sections 16-313 through 16-317 shall apply only to parking in the downtown district parking zones (Schedule No. 13) between the hours of 9:00 a.m. and 6:00 p.m.

Section 2. Section 16-315, Free one-hour and two-hour parking spaces, is amended as follows:

- (1) The title of the section is amended to read "Free one-hour, two-hour, and three-hour parking spaces."
- (2) Subsections a-c are inserted as follows:
 - (a) The areas of municipal off-street parking facilities owned or leased by the city and designated for use by the public as parking facilities and streets and portions of streets described in the Schedule of Traffic Regulations shall constitute the limited time parking zones within the city. The fact that a limited time notice or sign is in place at any point within the city shall be prima facie evidence that the locality thereof is within a limited time parking zone. The term "limited time parking zone" shall mean and include any restricted street, or section of street, or off-street parking facility such as a lot, or other facility owned or leased by the city and designated for use by the public as parking facilities, upon which limited time parking signs or notices are installed and in operation.
 - (b) Parking spaces may be leased within limited time parking zones. When the spaces are properly marked with "leased parking only" signs, the time limits imposed in the limited time parking zones shall not apply to those spaces leased.
 - (c) On-street parking may be converted from limited time parking to pay parking once the occupancy for on street spaces has consistently reached the 85% threshold as determined by the Traffic Engineer and approved by the City Manager.

Section 3. Section 16-316, Miscellaneous prohibitions on parking or standing any vehicle, is amended by deleting subsection (4).

Section 4. Section 16-317, Signs to be posted by city traffic engineer, is amended by deleting subsection (b).

Section 5. Section 16-318, Off-street parking lots, hours and days of operation, shall be amended by deleting subsection (1).

Section 6. Section 16-319, Fees, is amended to read as follows:

(a) Pay Parking: The fee for on and off street pay parking shall be in accordance with the fee schedule as approved by the City Council. The lots and streets listed under Schedule 5 of the Traffic Schedule shall be pay parking.

(b) Lease Parking: The fee for on and off street lease parking shall be in accordance with the fee schedule as approved by the City Council.

Section 7. Section 16-321, Overtime and illegal parking, subsection (b) is amended to read as follows: "The penalty for a violation of this section shall be listed in the Fee schedule as adopted by council."

Section 8. Section 16-323, City Plaza parking lots, subsection (f) is amended to read as follows: "The penalty for a violation of this section shall be listed in the Fee schedule as adopted by council."

Section 9. Section 16-325, Winslow Street and Franklin Street lot/city employee parking lot, subsection (e) is amended to read as follows: "The penalty for a violation of this section shall be listed in the Fee schedule as adopted by council."

Section 10. Section 16-326, Robert C. Williams Business Center parking lots, is deleted in its entirety and reserved for future use.

Section 11. New Sections 16-327 through 16-332 are inserted as follows:

Section 16-327, Immobilization and impoundment of certain vehicles.

*Cross reference(s)--Police-initiated tow service operations, § et seq.

The finance director or designee(s) may authorize to be immobilized by the use of wheel locks or may tow and impound any vehicle which is illegally parked, and for which there are \$ 250 or more outstanding, unpaid and overdue parking tickets issued by the city which tickets have remained unpaid for a period of ninety (90) days.

Section 16-328, Procedure to immobilize/impound of certain vehicles by Parking Contractor.

(a) If a wheel lock is attached to a vehicle, a notice shall be affixed to the windshield or any part of the vehicle so as to be readily visible. The notice shall warn that the vehicle has been immobilized and that any attempt to move the vehicle may result in damage thereto. The city or its designee shall not be responsible for any damage to an immobilized, illegally parked vehicle resulting from unauthorized attempts to free or move the vehicle. An immobilization fee of fifty dollars (\$50.00) shall be charged for the removal of the wheel lock. The notice shall also state the total amount of civil penalties due for the overdue, unpaid parking tickets, and the fifty-dollar immobilization fee to be charged. The

notice shall also list the address and telephone number of the city and or parking contractor offices to be contacted to pay the charges and to have the wheel lock removed.

(b) If the civil penalties due and the immobilization fee of fifty dollars (\$50.00) as provided hereinabove are not paid within twenty-four (24) hours of the attachment of the wheel lock, such vehicle may be towed and impounded at the direction of the finance director or designee(s) to any impound lot permitted to tow vehicles. In addition to the civil penalties for the overdue and unpaid parking tickets, and the administrative fee for placement and removal of the wheel lock, the tow operator may charge additional fees in accordance with City Code for towing and storage of the vehicle. Once a vehicle has been impounded, the finance director or designee(s) shall mail or cause to be mailed a notice of impoundment to the registered owner of the vehicle and lien holder, if any are known, to the address or addresses reported to the city by the North Carolina Department of Motor Vehicles.

Section 16-329, Release of immobilized/impounded vehicles.

Upon payment of all civil penalties to the Parking Contractor for unpaid and overdue parking tickets and all other applicable charges authorized by this section including immobilization, towing and storage fees, the vehicle shall be released from impound to the owner or any other person entitled to claim possession of the vehicle by the Parking Contractor or his designee.

Section 16-330, Disposal of impounded vehicles.

If a vehicle has been towed, and remains impounded in excess of thirty (30) days, it may be disposed of in accordance with the provisions of the city Code relating to the disposition of junked or abandoned vehicles.

Section 16-331, Appeal of immobilization.

(a) The registered owner or person entitled to possession of any vehicle which has been immobilized or impounded pursuant to this article may submit a written request for a hearing to the city manager or designee by mail within seven (7) days from the receipt of the notice provided for in Section 16-328(b) above. If a request for a hearing is not made within the allotted time, the right to a hearing shall have been waived. If a hearing is requested, such hearing shall be commenced within seven (7) days of receipt by the city manager or designee of the request for such hearing. Thereafter, an informal hearing will be conducted by the city manager or designee at a time and place designated by the city manager or designee.

(b) For the purpose of determining whether an illegally parked vehicle has \$ 250 or more overdue parking tickets which have remained unpaid for a period of ninety (90) days, it shall be sufficient if the license plate number of the illegally parked vehicle and the license plate number of the vehicle appearing on the tickets are the same.

Section 16-332, Unauthorized removal/destruction of immobilized unit.

It shall be unlawful for any unauthorized person, firm or corporation to remove from any vehicle a wheel lock placed thereon pursuant to this article or to remove from impound any vehicle placed therein pursuant to this article without all civil penalties and applicable charges having first been paid.

Section 12. Section 16-358, Exceptions to prior notice requirement, is amended by inserting the following at the end of subsection (1):

- g. Vehicle parked in violation of a state statute or a city ordinance, except the city ordinance against overtime parking.

Section 13. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

Adopted this _____ day of _____, 2009.

CITY OF FAYETTEVILLE

ANTHONY G. CHAVONNE, Mayor

ATTEST:

CANDICE H. WHITE, City Clerk

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
Thru: Jeffrey Powell, Assistant City Manager
From: Craig Hampton, Special Projects Director
Date: March 09, 2009
Re: Recommendation for Award for A/E Services - NC State Veterans Park

THE QUESTION:

Council is being asked to authorize the city manager to negotiate and execute amendments to an existing contract for all architectural and engineering services necessary to construct the North Carolina State Veterans Park.

RELATIONSHIP TO STRATEGIC PLAN:

Meets all concepts of the Vision 2023 statement. Meets objectives of *Goal 1 - Greater Tax Base Diversity - Strong Local Economy*; *Goal 2 - More Attractive City - Clean & Beautiful*; *Goal 3 - Growing City, Livable Neighborhoods - A Great Place to live*; *Goal 5 - Greater Community Unity - Pride in Fayetteville*; *Goal 6 - Revitalized Downtown - A community Focal Point*.

BACKGROUND:

- In June 2006 the City of Fayetteville received a grant from the state of North Carolina in the amount of \$2.3 Million. This funding was specifically to be used to obtain various parcels needed to assemble land for the location of the NC State Veterans Park in downtown Fayetteville. The city spent the next year obtaining properties and conducting demolitions in anticipation of the project.
- In August 2007 the approved use of the funding was expanded to include "Tasks and expenditures associated with concept development, preliminary design, surveying, design development, construction documents and construction services".
- In September 2007 the city contracted with Vandewalle & Associates for professional services to create master park concept plans, redevelopment concept plans and opportunity analysis, and an implementation strategy for the theme and concept of the park. For almost the next year Vandewalle conducted a series of meetings, interviews with stakeholders and city staff and developed the overall master plan and concept of the park.
- In February 2008 Vandewalle made a series of presentations to city council at which time the master concept plan was approved.
- In May 2008 a bill (SB1611) was submitted for \$15 Million to construct the park.
- In June 2008 a presentation was made to members of the general assembly who unanimously endorsed the master plan and concept.
- In October 2008 the city received the 1st check for one - half of the \$14.7 Million appropriation. In January 2009 the city received an additional \$3.9MM. The remainder of the grant is to be received prior to the end of June 2009.
- In July 2008 the city issued a Request for Qualifications (RFQ) to interested A/E firms to submit for services to create final design and construction documents for the park.
- In Late September 2008 the city received 14 submittals for this work. Five (5) firms were short - listed for interviews and all interviews were held during the latter part of October.

- On December 08, 2008 city staff recommended the team headed by Urban Resource Group, (Raleigh, NC). URG is a division of Kimley - Horne & Associates, Inc (Raleigh, NC). The URG team also consists of architectural firms Carol R. Johnson Associates (Knoxville, TN) & Clearscapes, PA (Raleigh, NC), and engineering firms McKim & Creed (Fayetteville, NC), Fleming & Associates (Fayetteville, NC) and S&ME (Fayetteville, NC). The city selection team consisted of the city engineer, the special projects director, the engineering and infrastructure director, the assistant planning director, and the parks and recreation director.
- On December 08, 2008 City Council authorized the City Manager to proceed with the master plan validation and scoping process and to report back to council regarding the refinement of tasks and responsibilities to be performed by URG & Team and Vandewalle & Associates. City staff and the aforementioned consultants meet during the 1st week of January to conduct the process. The same group met again on February 5, 2009 to refine the scope and conducted a briefing to the recently formed Content Committee. Since that time the city and consultants have been in negotiations over final tasks and responsibilities. This action for consideration contains the recommendation for award of a contract through phase 1 of the project. A revised project schedule and map of the project area have previously been provided.
- This recommendation is to authorize the city manager to conduct final negotiations and execute documents necessary to authorize the remainder of the work in an amount not to exceed \$1,700,000. The amount represent estimates for all services and expenses necessary for public and committee meetings, design, submittal and obtainment of various permits, other environmental testing and reports required, conceptual, developmental, and construction drawings and plans for the park, visitors center, trails, parking lot improvements, water features, landscape areas, construction managements services and all other work necessary to complete the project through phase 1. It is expected that the city will issue at least 4 separate bid packages over the next year. The recommended contract includes an amount of \$50,000 for limited participation by Vandewalle & Associates as a sub-consultant to URG for creative design services related to the Thematic programming, design development, construction documents, and exhibit design and fabrication. City staff and the team from URG again submits a unanimously recommendation for the participation of Vandewalle during the aforementioned phases of the project due to their involvement during the initial phases of the project.

ISSUES:

- Establishment of the members of the Design Review Committee and the Content Review Committee is complete and meetings will begin in April 2009. Membership & participation of those committees is critical to the success of the programming of the park. Some of the members of the aforementioned committees may also serve on the NC SVP Management Board who will provide guidance on the operations and use of the park after completion.
- The contract established by this action is for phase 1 of the park with some coordination services related to Phase 2 specifically as it related to coordination with NC DOT. Phase 2 of the park must be coordinated with the construction of the new bridge on Rowan Street.

OPTIONS:

- Authorize the City Manager to negotiate and execute contracts necessary to secure the A/E work in a combined amount not to exceed \$1, 700,000.
- Do not authorize the City Manager and provide guidance to staff on how to proceed.

RECOMMENDATIONS:

- Authorize the City Manager to negotiate and execute contracts necessary to secure the A/E work in a combined amount not to exceed \$1,700,000.

CITY COUNCIL ACTION MEMO

To: Dale Iman, City Manager
Thru: Jeffrey Powell, Assistant City Manager *3/14/09*
From: Craig Hampton, Special Projects Director
CC: Benjamin Nichols, Fire Chief
Date: March 09, 2009
Re: Waive Requirement for QBS Selection Process & Recommendation for Award for A/E Services – Fire Station #19

THE QUESTION:

Council is being asked to authorize a waiver of the Qualification Based Process (QBS) for selection of architectural, engineering, and surveying services and to authorize the city manager to negotiate and execute contracts for all architectural, engineering & surveying services necessary to construct the proposed Fire Station #19 on Andrews Road.

RELATIONSHIP TO STRATEGIC PLAN:

Meets all concepts of the Vision 2023 statement. Meets objectives of Goal 2 - More Attractive City - Clean & Beautiful; Goal 3 - Growing City, Livable Neighborhoods - A Great Place to live; Goal 5 - Greater Community Unity - Pride in Fayetteville;

BACKGROUND:

- This project is part of the 2009 Economic Stimulus Project package as developed by the City of Fayetteville. The funding sources for these type projects are the same as those just used to obtain a grant for funding 24 additional fire fighters. City staff believes this project has an excellent chance of receiving funding and asked for this action so that we will be ready and able to receive and use the funding in the limited time allowed.
- In most cases of procuring A/E services the city follows the format prescribed in the North Carolina General Statutes 143-64.31 whereby we announce that we are seeking qualification packages, firms submit those packages, the city conducts interviews and makes recommendations of award based on the submittal and interviews, usually to the most qualified firm. This process is referred to as a Qualification Based Selection (QBS) process.
- North Carolina General Statute 143-64.32 allows a project to be exempted from this process if the governing body approves and states the reasons for the exemption. In this project city staff is recommending that we use the same Architectural firm (Stewart Cooper Newell, Gastonia, NC) that we used for FFD Station #14 and FFD Station #15 for three basic reasons;
 1. To save time on the design process. By using the existing design of FFD Station #15 and repeating this design for the new site the only modifications needed will be for the site conditions. Typically QBS processes can take 3-4 months, and a resulting new design of a station can take 6-9 months or more. We should be ready with construction documents for this site within two months or less.
 2. To be ready for the grant funding when awarded. Bidding the project contingent on receipt of the funding will allow the project to be "shovel ready" as will be required by the grant conditions. Occupancy of the station could be obtained in 14 months or less.
 3. To save funds on the design cost. Based on the experiences of FFD#14 & #15, the recommended firm has proven their ability to design and manage construction of fire stations in minimal time periods, and with excellent quality, due to their availability of

proto-type fire stations that have been previously designed for other clients and their extensive work in construction management of station. Choosing a design of an existing station and using local firms for the civil engineering should result in a fee reduction in the range of 3-4% less than we would pay for a complete new design. The current estimate for such services is 10% of the total \$2.5MM project budget.

ISSUES:

- It is expected that a local civil engineering firm will be used for this project for site work, landscape plan, water and sewer connections. Local firm will also conduct all geotechnical & material testing.
- There will be yet-unknown conditions imposed as part of the grant acceptance. Examples include, but are not limited to, requiring prevailing wages be paid (Davis-Bacon Provision), Buy American Clauses for Steel Purchases, MBE, WBE, DBE participation goals, etc.
- If LEED design accreditations are required as part of the grant acceptance the design and building costs will increase by minor amounts. The higher the rating of the accreditation, the higher the initial cost of construction, and resulting design services.

OPTIONS:

- Authorize the waiver of the requirement for QBS for the project Fire Station #19-Andrews Road and authorize the City Manager to negotiate and execute design contracts necessary to have the project ready for the available funding from the Economic Stimulus Package. Manager to report final fee amounts to City Council.
- Do not authorize the City Manager and provide guidance to staff on how to proceed.

RECOMMENDATIONS:

- Authorize the waiver of the requirement for QBS for the project Fire Station #19-Andrews Road and authorize the City Manager to negotiate and execute design contracts necessary to have the project ready for the available funding from the Economic Stimulus Package. Manager to report final fee amounts to City Council.

Article 3D.

Procurement of Architectural, Engineering, and Surveying Services.

§ 143-64.31. Declaration of public policy.

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, surveying and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(a1) A resident firm providing architectural, engineering, surveying, or construction management at risk services shall be granted a preference over a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

(b) Public entities that contract with a construction manager at risk under this section shall report to the Secretary of Administration the following information on all projects where a construction manager at risk is utilized:

- (1) A detailed explanation of the reason why the particular construction manager at risk was selected.
- (2) The terms of the contract with the construction manager at risk.
- (3) A list of all other firms considered but not selected as the construction manager at risk and the amount of their proposed fees for services.
- (4) A report on the form of bidding utilized by the construction manager at risk on the project.

The Secretary of Administration shall adopt rules to implement the provisions of this subsection including the format and frequency of reporting. (1987, c. 102, s. 1; 1989, c. 230, s. 2; 2001-496, s. 1; 2006-210, s. 1.)

§ 143-64.32. Written exemption of particular contracts.

Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
- (b) Other particular projects exempted in the sole discretion of the Department of Transportation or the unit of local government, stating the reasons therefor and the circumstances attendant thereto. (1987, c. 102, s. 2.)

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
THRU: Doug Hewett, Assistant City Manager *DH*
FROM: Candice H. White, City Clerk *CW*
DATE: March 9, 2009
RE: Report and Recommendations from Appointment Committee

THE QUESTION:

Do the attached recommendations from the City Council's Appointment Committee meet the City Council's interests?

RELATIONSHIP TO STRATEGIC PLAN:

- Partnership of Citizens – Citizens Volunteering to help the City
- Greater Community Unity – Pride In Fayetteville

BACKGROUND:

The City Council on June 9, 2008 approved a plan to enhance the City's recruitment and selection processes for boards and commissions. To implement that plan, an Appointment Committee was created. Mayor Chavonne and Council Members Hurst (Chair), Applewhite and Meredith volunteered to serve on the Committee.

The Appointment Committee met on Monday, February 23, 2009 to review applications for appointment to boards and commissions. It is from that meeting that the Appointment Committee provides the attached recommendations for appointments to the City of Fayetteville boards and commissions. Consistent with the City Council's wishes, all applications received and reviewed by the Appointment Committee were made available to the entire City Council on Wednesday, February 18, 2009. The Appointment Committee's recommendations for appointment are indicated in red on the attachment.

Additionally, the Appointment Committee expressed interest in the reappointment of members to the Linear Park Corporation whose second term had expired, and because those members expressed interest in continued service, staff recommend that City Council waive their term limit rules for the Linear Park Corporation for the following reasons:

1. expertise of members with the project and funding
2. continuity needed for further fund raising and extension of park
3. the work of the corporation at sometime will be complete - once it connects up with the Cape Fear River Trail/Botanical Garden

Lastly, members of the Appointment Committee discussed term limits for the Public Works Commission (PWC). City Council policy 110.2(2) addresses the issue of term limits. As the PWC terms are specifically addressed in this policy, staff recommends a formal revision to this policy if Council so desires to extend the term limits for that body.

As these are three (3) distinct items, Council may wish to take separate action on each item.

RECOMMENDATIONS:

- A. Approve Appointment Committee recommendations for appointments to various boards and commissions as indicated in red on the attachment with the exception of appointments listed for the Linear Park Corporation.
- B. Consider waiving term limit rules for the Linear Park Corporation and appointing the members as indicated in red on the attachment.
- C. Consider modifying term limits for the PWC as referenced in the attached letter from Steven K. Blanchard, PWC CEO/General Manager.

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FH - Fair Housing
 HRC - Historic Resources Commission
 HR - Human Relations
 PR - Personnel Review
 RC - Redevelopment Com
 SC - JT Senior Citizens

SUBJECT – BOARDS AND COMMISSIONS Terms	Number 110.2	Revised 8-16-99	Effective Date 5-26-87	Page 1 of 1
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(1) It shall be the policy of the City Council of the City of Fayetteville that unless regulated by a general statute, ordinance, interlocal agreement, or other enabling legislation or charter, no appointment of the City Council to any board or commission shall be for a period greater than two consecutive years, and no appointees shall be permitted to serve more than two consecutive full terms without an interval of one year between appointments. Any current appointment as of the effective date of this policy, which upon completion will have been for a period of more than two years, shall be considered a full term for purposes of reappointment. Any appointee who shall have previously served a total of four years, whether by one or more appointments, shall not be eligible for reappointment without an intervening period of one year between appointments. Any appointment to fill an unexpired portion of a term after the effective date of this policy shall not be considered a full term unless the unexpired portion is for a period of more than two years.

(2) The foregoing policy shall not apply to an appointee while serving on a national board of directors of a group which the board or commission on which the appointee currently serves is a member, or members of the Public Works Commission who shall be eligible to serve two successive terms. Any appointment to fill an unexpired portion of a term on the Public Works Commission after the effective date of this policy shall not be considered a full term unless the unexpired portion is for a period of more than two years.

(3) This policy shall not apply to an individual who is appointed as an alternate to a board or commission, if that appointee does not get to participate in at least 50 percent of the meetings during the term of appointment.



WILSON A. LACY, COMMISSIONER
TERRI UNION, COMMISSIONER
LUIS J. OLIVERA, COMMISSIONER
MICHAEL G. LALLIER, COMMISSIONER
STEVEN K. BLANCHARD, CEO/GENERAL MANAGER

PUBLIC WORKS COMMISSION
OF THE CITY OF FAYETTEVILLE

955 OLD WILMINGTON RD
P.O. BOX 1089
FAYETTEVILLE, NORTH CAROLINA 28302 1089
TELEPHONE (910) 483-1401
WWW.FAYPWC.COM

ELECTRIC & WATER UTILITIES

March 4, 2009

MEMO TO: Councilman Wesley Meredith


FROM: Steven K. Blanchard, CEO/General Manager

SUBJECT: PWC Commissioner Term Limits

I previously sent a memo to the Mayor and City Council concerning the terms that a Commissioner may serve on the PWC Commission. I understand the issue may be considered again. As the Liaison to the Commission, I wanted to share the points in that memo and a few other points and ask that you share them with the Council.

Please consider the following:

1. For most of its 104 year existence, PWC Board members had no term limits. This allowed the knowledge and experience they gained to be retained on the Commission at the City Council's discretion during the reappointment process every four years.
2. While other Boards and Commissions are advisory to the City Council, the PWC Board has substantial fiduciary duties and responsibilities as defined in the City Charter. These duties are equivalent to having oversight for a large multi-million dollar company. The decisions and recommendations of the Commission have a tremendous impact on the Fayetteville community and the City itself.
3. There are over 2,000 municipal electric systems in the United States. PWC is the 37th largest municipal electric utility in the country. It is a necessity for PWC to be involved at the state and national level. The present term limits preclude most participation on state and national boards by PWC Commissioners because of their limited tenure compared to other candidates. (Robert Williams, who served 20 years as a Commissioner, was the last Commissioner appointed without limited terms. Mr. Williams was elected to the American Public Power Association [APPA] Board and Executive Committee only after having 12-15 years experience in the electric utility industry and with expectations that he would continue in the utility business while serving on the Board.)

BUILDING COMMUNITY CONNECTIONS SINCE 1905

AN EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

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MEMO TO: Councilman Meredith
March 4, 2009
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4. Laws, policies, regulations and procedures for the utility business are determined in large part at the state and national level. PWC must individually or through its trade organizations take an active part to protect the citizens of Fayetteville and the City's utility. While PWC staff can carry a lot of this load, it is extremely important for PWC Commissioners to be knowledgeable and active in these activities.
5. The utility business requires long term planning and many projects take years to plan and complete. Commissioners must make decisions that look beyond their current existing term limits but may not be around when the results of their decisions are implemented. Some examples include: (1) Permitting, design, engineering and construction for expanding a water plant, wastewater plant or generation facility which will take more than 5 years; (2) Power supply contracts take years to negotiate, are executed several years before they become effective and may last 10 to 20 years and (3) Phase V Annexation work is an agreement that covers 14 years of construction planning and over 40 years of financing strategy.
6. The utility industry is complicated and highly specialized. It takes a Commissioner several years to gain the knowledge and understanding necessary to make the long term decisions about operations, expansion and development of the systems.
7. A person must volunteer to serve on the Commission, must be nominated and elected by the City Council and be reappointed every 4 years to continue as a PWC Commissioner.

I ask you to request the Council to consider removing the term limits for PWC Commissioners so that the City does not arbitrarily lose an excellent PWC Commissioner due to term limits. The City Council still has the option to reappoint, or not reappoint, a Commissioner every four years. If the Council does not wish to allow unlimited re-appointment, expanding the allowable terms beyond two terms would be a great improvement in the present situation.

Please feel free to share this memo with the Mayor and City Council. Thank you for your assistance in having the City Council consider this request. I will be glad to assist you in any way I can.

cc: PWC Commissioners