

FAYETTEVILLE CITY COUNCIL

MINUTES

NOVEMBER 26, 2007

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); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Lois A. Kirby (District 5); Paul Williams (District 6); Curtis Worthy (District 7); Juanita Gonzalez (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Stanley Victrum, Assistant City Manager

Kyle Sonnenberg, Assistant City Manager

Doug Hewett, Assistant City Manager

Karen M. McDonald, City Attorney

Lisa Smith, Chief Financial Officer

B.E.(Benny)Nichols, Fire/Emergency Management Chief

Jimmy Teal, Planning Director

Karen Milton, Assistant Planning Director

Kyle Garner, Planner

Bobby B. Teague, Engineering and Infrastructure Director

Diane Wheatley, Cumberland County Board of Commissioners

Candice H. White, City Clerk

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Youth Pastor Gary Norwood, New Life Bible Church, followed by the Pledge of Allegiance to the American Flag.

ANNOUNCEMENTS AND RECOGNITIONS

Council Member Haire recognized members of the Delta Sigma Theta Sorority, Inc. from Fayetteville State University.

Outgoing Council Members Curtis Worthy, Juanita Gonzalez, Lois Kirby and Paul Williams were recognized for their accomplishments and years of dedicated service. Service pins and keys to the City were presented to the Council Members. Closing comments followed.

1. APPROVAL OF AGENDA

Council Member Evans requested discussion regarding the actions of the City Manager and Mayor with regard to the October 25, 2007 accident added to the agenda.

MOTION: Council Member Evans moved to add discussion of the Mayor and City Manager as it relates to behavior surrounding the traffic accident of October 25, 2007.

SECOND: Council Member Worthy

Council Member Meredith spoke to the process used by Council Members to place items on an agenda prior to a meeting. Comments and discussion followed. Karen M. McDonald clarified City Council policy requires a three-fourths vote in the affirmative to add an item to the agenda. In response to a question posed by Council Member Worthy, Mrs. McDonald advised there were no rules that would preclude the Mayor from voting to add an item to the agenda.

VOTE: FAILED by a vote of 6 in favor (Council Members Williams, Haire, Gonzalez, Kirby, Evans and Worthy) to 4 in opposition (Council Members Chavonne, Bates, Massey and Meredith)

MOTION: Council Member Williams moved to approve the agenda as presented.

SECOND: Council Member Bates

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

2. CONSENT:

Council Member Worthy requested Item 2.J. pulled for discussion. Council Member Gonzalez requested Item 2.G. pulled for discussion.

MOTION: Council Member Worthy moved to approve the consent agenda with the exception of Items 2.J. and 2.G.

SECOND: Council Member Gonzalez

VOTE: UNANIMOUS (10-0)

A. Approve Minutes:

1. **Dinner and Discussion of Agenda Items Meeting held on November 13, 2007**

B. Approve the Following Capital Project Ordinance Closeouts:

1. **Capital Project Ordinance Closeout 2008-13 (Westover Recreation Center Design)**

2. **Capital Project Ordinance Closeout 2008-14 (Person Street Streetscape - Phase II)**

3. **Capital Project Ordinance Closeout 2008-15 (Transfer of Safelight Revenues to General Fund for the Cumberland County School Agreement)**

4. **Capital Project Ordinance Closeout 2008-16 (Infrastructure Improvements for Previous Phases of Annexation)**

5. **Capital Project Ordinance Closeout 2008-17 (Decorative Lighting System for Lock's Creek Bridge)**

Annually, the City closes out several projects that have been completed in previous fiscal years and that are no longer active. The projects referenced above have been completed and the revenues and expenditures related to these projects have been audited. The backup materials in the agenda detail the budget and actual revenues and expenditures for the projects.

C. Approve the Following Special Revenue Project Ordinance Closeouts:

1. **Special Revenue Project Ordinance Closeout 2008-2 (FY2006 Juvenile Restitution Grant)**

2. **Special Revenue Project Ordinance Closeout 2008-3 (Cumberland County Gang Prevention Partnership)**

3. **Special Revenue Project Ordinance Closeout 2008-4 (2004 Community Prosecution and Project Safe Neighborhoods Grant)**

4. **Special Revenue Project Ordinance Closeout 2008-5 (Homeland Security Grant)**

5. **Special Revenue Project Ordinance Closeout 2008-6 (2004 Local Law Enforcement Block Grant)**

6. **Special Revenue Project Ordinance Closeout 2008-7 (2006 Gangs Across the Carolinas Grant)**

Annually, the City closes out several projects that have been completed in previous fiscal years and that are no longer active. The projects referenced above have been completed and the revenues and expenditures related to these projects have been audited. The backup materials in the agenda detail the budget and actual revenues and expenditures for the projects.

D. Approve Tax Refunds Greater Than \$100

NAME	BILL NO.	YEAR	BASIS	CITY REFUND
Roofing Co., Inc.	3788389	2006	Corrected Assessment	\$4
Mary Alma, m D. and Judy McKeithan	1923638	2006	Clerical Correction	\$2,3
Image Wear, Inc.	8947454	2005-2006	Corrected Assessment	\$6
				\$3,4

E. Adopt Resolution of the City Council of the City of Fayetteville, North Carolina Declaring the Intention of Said City to Reimburse Itself from the Proceeds of One or More Tax-exempt Financings for Certain Expenditures Made and To Be Made in Connection with the Acquisition of Equipment and Vehicles for the Solid Waste Department

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA DECLARING THE INTENTION OF SAID CITY TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND TO BE MADE IN CONNECTION WITH THE ACQUISITION OF EQUIPMENT AND VEHICLES FOR THE SOLID WASTE DEPARTMENT. RESOLUTION NO. R2007-060

F. Adopt Resolution Declaring Property Surplus

RESOLUTION DECLARING PROPERTY EXCESS TO CITY'S NEEDS AND QUITCLAIMING CITY TITLE IN THE PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2007-061

G. Pulled at the request of Council Member Gonzalez.

H. Accept Official Results for the November 6, 2007 Municipal Election for Cumberland County

CUMBERLAND COUNTY

NOVEMBER 13, 2007

NORTH CAROLINA

CANDIDATES VOTES RECEIVED FOR CITY COUNCIL

FAYETTEVILLE MAYOR

Tony Chavonne 11,385

Write-In 744

DISTRICT 1

Keith A. Bates, Sr. 964

Write-In 18

DISTRICT 2

Charles E. Evans 820

Write-In 23

DISTRICT 3

Robert A. Massey, Jr. 1,052

Write-In 52

DISTRICT 4

D.J. Haire 1,099

Greta Hawthorne 290

Write-In 4

DISTRICT 5

Larry Clubine 1,204

Bobby Hurst 1,552

Write-In 10

DISTRICT 6

Bill Crisp 1,091

Richard D. Evans 554

Write-In 8

DISTRICT 7

Valencia Applewhite 835

Curtis Worthy 537

Write-In 2

DISTRICT 8

Juanita Gonzalez 568

Ted Mohn 634

Write-In 2

DISTRICT 9

Linda Devore 1,181

Wesley Meredith 1,377

Write-In 16

The County Board of Elections for said county, having opened, canvassed, and judicially determined the original returns of the election in the precincts in this county, held as above stated, do hereby certify that the above is a true abstract thereof, and contains the number of legal ballots cast in each precinct for each office named, the name of each person voted for, their party affiliation, and the number of votes cast for each person for the office named.

CUMBERLAND COUNTY BOARD OF ELECTIONS

I. Adopt Resolution Pursuant to N.C.G.S. 160A-31 Setting December 17, 2007 as the Date for a Public Hearing for a Petition-Initiated Contiguous Annexation Area (Cottages on Ramsey – Located on the Western Side of Ramsey Street, Between Andrews and McCloskey Roads)

A RESOLUTION FIXING A DATE FOR A PUBLIC HEARING FOR A PETITION-INITIATED CONTIGUOUS ANNEXATION AREA PURSUANT TO NCGS 160A-31. RESOLUTION NO. R2007-062

J. Pulled at the request of Council Member Worthy.

K. Adopt a Resolution of the City Council of the City of Fayetteville Supporting an Application for a Preserve America Grant for a Comprehensive Wayfinding Plan and Implementation Program

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE SUPPORTING AN APPLICATION FOR A PRESERVE AMERICA GRANT FOR A COMPREHENSIVE WAYFINDING PLAN AND IMPLEMENTATION PROGRAM. RESOLUTION NO. R2007-063

L. Approve Bid Recommendation - Purchase of Underground Primary Power Cable

Bids were received as follows:

HD Supply Utilities (Wake Forest, NC)	\$212,700.00
WESCO (Raleigh, NC)	\$224,700.00
Stuart C. Irby (Rocky Mount, NC)	\$227,800.00
Shealy Electric (Greenville, SC)	\$235,000.00

M. Adopt Resolution Making Certain Findings and Determinations, Authorizing the Filing of an Application with the Local Government Commission, Requesting the Local Government Commission to Sell Bonds at a Private Sale and Approving the Financing Team All in Connection with the Issuance of Revenue Bonds by the City

RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS, AUTHORIZING THE FILING OF AN APPLICATION WITH THE LOCAL GOVERNMENT COMMISSION, REQUESTING THE LOCAL GOVERNMENT COMMISSION TO SELL BONDS AT A PRIVATE SALE AND APPROVING THE FINANCING TEAM ALL IN CONNECTION WITH THE ISSUANCE OF REVENUE BONDS BY THE CITY. RESOLUTION NO. R2007-064

N. The following property is found to contribute to blight in the neighborhood. After notice to the owners and their failure to repair or demolish the property themselves, this action authorizes the City to demolish the property and place a lien against the property for the cost of that action.

1. 1120 Chesterfield Drive (PIN 0427-92-5220); Geraldine Myers, Heirs c/o Laura Drake
AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY. ORDINANCE NO. NS2007-054

2.G. Accept an Offer to Purchase Two Vacant Lots on Vanstory Street

Council Member Gonzalez expressed concern that the offer to purchase was only 70% of the tax value. Mrs. McDonald advised acceptance of offers to purchase have varied in the past from 60% to 100% of tax value for private citizens and less for nonprofits wanting to build low to moderate income housing.

MOTION: Council Member Gonzalez moved to decline the offer to purchase two vacant lots on Vanstory Street.

The motion died due to lack of a second.

MOTION: Council Member Bates moved to approve the offer to purchase two vacant lots on Vanstory Street.

SECOND: Council Member Williams

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

2.J. Approve the rezoning from R6 residential district to C1 commercial district or to a more restrictive zoning classification for property located west of Strickland Bridge Road and south of Graham Road. Containing 2.00 acres more or less and being the property of Rodger and Letha Pierce. Case Number P07-70F.

Council Member Worthy requested a public hearing so citizens could have an opportunity to express their concerns before City Council. Council Member Gonzalez concurred.

Council Member Williams offered comments in opposition to setting a public hearing.

MOTION: Council Member Worthy moved to set a public hearing on December 17, 2007.

SECOND: Council Member Gonzalez

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

3. PUBLIC HEARINGS

A. Consider an application by Crawford Design Company for a Special Use Permit to allow automobile off-street parking for uses not allowed in the R6 residential district for property located at 2718 and 2722 Arlington Avenue. Containing .688 acres more or less and being the property of N&B Company, LLC. Case Number P07-63F.

Mr. Garner, Planner, 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. Garner stated a previous rezoning request was denied and the applicant now seeks a Special Use Permit for commercial parking. Mr. Garner stated the Zoning Commission recommends denial of the Special Use Permit. Mr. Garner responded to questions and provided further clarification as requested by Council.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:50 p.m.

David R. Nimocks, III, 2709 Breezewood Avenue, Fayetteville, NC 28303 appeared in favor and provided an overview of the Terminex business and the need for additional parking due to growth and expansion.

Del Crawford, 914 Hay Street, Fayetteville, NC 28301 of Crawford Design Co. appeared in favor and stated there would be no evidence of a parking lot on Arlington Avenue because of the landscape, buffers and ingress/egress from Breezewood Avenue.

Lois Condlin, 2711 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and expressed concern that the lights installed in the parking lot would shine in her windows and backyard.

Mildred S. Sibbett, 2707 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and expressed concern about the cutting of trees because they provide a buffer for noise and lights.

Tom Smith, 2710 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and expressed concern that the cutting of trees and installation of a parking lot would negatively impact the neighborhood.

Tony Morgan, 2719 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and expressed concern about being able to hear employees while they are outside taking their work breaks.

Steve Crumbley, 2731 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and expressed concern that the quietness of the neighborhood would be lost.

Lisa Hasttaller, 2706 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and expressed concern that the otherwise quiet and peaceful street could be headed for a downward spiral.

Scott S. Tope, 2727 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and stated expanding businesses can relocate to other areas that won't negatively impact residential neighborhoods.

William B. Kirby, Jr., 2723 Arlington Avenue, Fayetteville, NC 28303 appeared in opposition and expressed concern that special use permits circumvent the city's zoning policies and stated parking lots do not belong in residential neighborhoods.

Mayor Chavonne asked if there was interest in further discussion between the opponents and proponents.

There was no interest expressed and the public hearing closed at 8:15 p.m.

MOTION: Council Member Bates moved to deny the Special Use Permit as recommended by the Zoning Commission.

SECOND: Council Member Worthy

Council Member Williams thanked Terminex for its contributions to the community. Council Member Gonzalez spoke to residents protecting their neighborhoods and asked why the applicant requested a Special Use Permit. Mr. Garner responded current zoning ordinances allow requests for Special Use Permits.

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

B. Consider the rezoning from P3 professional district to R5 residential district\conditional zoning to allow 68 residential condominiums for property located at 5583 Morganton Road. Containing 2.77 acres more or less and being the property of William Maxwell. Case Number P07-68F.

Mr. Garner asked to reserve his presentation since the applicant had officially withdrawn the rezoning request. Consensus was to set aside the presentation and move forward with the publicized public hearing.

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

The public hearing opened at 8:25 p.m.

No one appeared in favor.

Ed Blanchard, Jr., 5444 Summer Duck Road, Fayetteville, NC 28304 appeared in opposition and made a presentation regarding his concerns for the protection of wetlands in the McFayden Lake area.

There was no one further to speak and the public hearing closed at 8:42 p.m.

MOTION: Council Member Bates moved to deny the rezoning based on the request from the applicant.

SECOND: Council Member Kirby

Council Member Gonzalez spoke in favor of suspending further construction in the area. Dale E. Iman, City Manager, explained there are no current projects for McFayden Lake and additional stormwater ordinance improvements are forthcoming. Council Member Worthy noted the Department of Energy and Natural Resources (DENR) takes care of wetland areas.

VOTE: UNANIMOUS (10-0)

C. Consider an application by Moorman Kizer and Reitzel for a Special Use Permit for mini-storage warehouses in a C1P commercial district for property located at 2618 Legion Road. Containing 2.02 acres more or less and being the property of Rorie Investments, Inc. Case Number P07-71F.

Mr. Garner 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. Garner stated the owner of the property wishes to add additional storage units to the Mini-Maxi Storage facility, an existing mini-storage business on Legion Road. Mr. Garner stated the Zoning Commission recommends approval of the Special Use Permit with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:50 p.m.

Jimmy Kizer, Moorman Kizer and Reitzel Engineers, 115 Broadfoot Avenue, Fayetteville, NC 28303 appeared in favor and stated the owner wishes to add additional storage and climate

control units to an already existing mini-storage business.

No one appeared in opposition and the public hearing closed at 8:51 p.m.

MOTION: Council Member Gonzalez moved to approve the Special Use Permit with conditions as outlined.

SECOND: Council Member Kirby

FRIENDLY AMENDMENT: Council Member Bates moved to approve the Special Use Permit with conditions as outlined and an additional condition that exterior lights face inward away from homes.

Council Member Gonzalez accepted the friendly amendment.

VOTE: UNANIMOUS (10-0)

4. BOARDS AND COMMISSIONS

APPOINTMENTS

FAIR HOUSING BOARD – 3 vacancies – 3 nominations made– 0 nominations needed

Jose Antonio Coker, Theodore Debose and Karl Vaughn were appointed to a second term by acclamation.

NOMINATIONS

WRECKER REVIEW BOARD– 1 vacancy (1 disinterested person who is not a licensee, wrecker owner or operator, or a City employee to serve as Chairman) – 0 nominations made – 1 nomination needed

No nominations were made.

Council Member Gonzalez noted concerns expressed about the Wrecker Review Board. Mr. Iman stated a report is forthcoming.

FAYETTEVILLE REDEVELOPMENT COMMISSION – 1 vacancy due to resignation of term to expire in December 2008 – 0 nominations made – 1 nomination needed

Carlos Swinger was nominated for a fill-in term by Council Member Haire.

NOMINATIONS – Second Week

FAYETTEVILLE REDEVELOPMENT COMMISSION – 1 vacancy – 0 nominations made – 1 nomination needed

Dineen Moore was nominated for a first term by Council Member Worthy.

FAYETTEVILLE ZONING COMMISSION – 1 alternate vacancy – 1 nomination made – 0 nomination needed

No nominations were made.

PERSONNEL REVIEW BOARD – 3 vacancies – 0 nominations made – 3 nominations needed

Carolyn McLaurin was nominated for a second term by Council Member Gonzales.

James M. Carter was nominated for a second term by Council Member Kirby.

INFORMATION – No Action Required

PUBLIC ARTS COMMISSION - 3 vacancies due to terms expiring February 2008 (2 Museum of Art vacancies– 1 Arts Council vacancy)

Mayor Chavonne and Council Member Evans presented a proclamation to John W. Smith, Jr., Wes Cookman, Sandy Cookman and Barbara Spigner proclaiming Monday, November 26, 2007, to be Positive Impact and Rising to the Challenge Rally Day.

INFORMATION ITEMS:

1. Report of tax refunds less than \$100.

NAMEYEARBASISCITY REFUND

PARKER, GRACE M.	2006	Clerical Correction	\$10.32
PARKER, GRACE M.	2006	Clerical Correction	\$13.76
TOTAL			<u>\$24.08</u>

There being no further business, the meeting adjourned at 9:00 p.m.