

FAYETTEVILLE CITY COUNCIL

MINUTES

JUNE 25, 2007

7:00 P.M.

CITY HALL COUNCIL CHAMBER

Present: Mayor Pro Tem Robert A. Massey, Jr. (District 3)

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Darrell J. Haire (District 4); Lois A. Kirby (District 5); Paul Williams (District 6); Juanita Gonzalez (District 8)

Absent: Mayor Anthony G. Chavonne; Council Members Curtis Worthy (District 7); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Stanley Victrum, Assistant City Manager

Kyle Sonnenberg, Assistant City Manager

Karen M. McDonald, City Attorney

Jeff Brown, City Engineer

Lisa Smith, Chief Financial Officer

Jerry Dietzen, Solid Waste Manager

Victor Sharpe, Community Development Director

Dwight Miller, PWC Chief Financial Officer

Joe Glass, PWC Water/Sewer Engineer Manager

Kenny Horne, PWC Purchasing Manager

Candice H. White, City Clerk

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Rev. Arnold Coley, Chaplain of the Fayetteville Police Department, Fayetteville, NC, followed by the Pledge of Allegiance to the American Flag led by Boy Scout Troop 771 from McPherson Presbyterian Church, Fayetteville, NC.

RECOGNITIONS AND ANNOUNCEMENTS

Council Member Gonzalez announced the last Town Hall meeting of the year would be held on Monday, July 30, 2007 at Cliffdale Recreation Center, 6404 Cliffdale Road. She stated the Informational Fair would begin at 6:30 p.m. and the Open Forum would begin at 7:00 p.m.

Mayor Pro Tem Massey announced scouts of Boy Scout Troop 771 were working towards their citizenship badges and were attending the Council meeting as a part of that effort.

1. APPROVAL OF AGENDA

Council Member Gonzalez requested that the letter received from the U.S. Justice Department regarding the six/three plan be added as Item 3. with subsequent items renumbered accordingly.

MOTION: Council Member Gonzalez moved to approve the agenda with the addition of the letter received from the U.S. Justice Department as Item 3. with subsequent items renumbered accordingly.

SECOND: Council Member Evans

VOTE: UNANIMOUS (7-0)

2. CONSENT:

Council Member Williams requested that Item 2.P. be pulled for discussion. Council Member Gonzalez requested that Item 2.N. be pulled for discussion.

MOTION: Council Member Kirby moved to approve the consent agenda with the exception of Items 2.P. and 2.N.

SECOND: Council Member Gonzalez

VOTE: UNANIMOUS (7-0)

A. Approve minutes:

1. Special Meeting held on May 24, 2007

2. Regular Meeting held on May 29, 2007

3. Special Meeting held on May 31, 2007

B. Special Revenue Project Ordinance Closeout 2007-6 (Trolley Feasibility Study)

The proposed project was funded by a grant from the North Carolina Department of Transportation and a local match from the Chamber of Commerce. This action will close the Trolley Feasibility Study project.

C. Special Revenue Project Ordinance Closeout 2007-7 (FY2005 Juvenile Restitution Grant)

Special Revenue Project Ordinance Closeout 2007-8 (Aggressive Driving Program)

Special Revenue Project Ordinance Closeout 2007-9 (Cyber Crimes Grant)

Special Revenue Project Ordinance Closeout 2007-10 (Gangs Across the Carolinas Grant)

Project ordinance closeouts 2007-7 through 2007-10 will close several police grant projects that have been completed and, where applicable, the Grantor has issued letters approving the closure of these grants. All revenues and expenditures for these projects have been audited.

D. Special Revenue Project Ordinance Amendment 2007-2 (FY2007 Juvenile Restitution Program)

The project change authorized is to Special Revenue Project Ordinance 2007-2. The FY2007 Juvenile Restitution grant included funding for a program aide position; however, due to the vacancy of this position, the personnel budget for this line item has been reduced by \$2,638.

E. Capital Project Ordinance 2007-7 (Appropriation of Lumbee River Electric Membership Corporation (LREMC) Territorial Agreement Revenues for Phase V Water and Sewer Projects)

This capital project ordinance will appropriate \$3,574,709 toward the City's share of costs for the water and/or sewer projects in the Phase V annexation area, consistent with the sewer funding agreement approved by City Council in June 2006. Revenues from the LREMC territorial agreement (\$3,449,709) and associated investment income (\$125,000) will fund this project ordinance.

F. Capital Project Ordinance Amendment 2007-14 (Safelight Funds Project Ordinance)

From FY2000 through FY2007, the City maintained a Safelight program to reduce traffic violations and accidents. The program generated significant red light violation fines during its existence. Due to a court decision in May 2006, the City expects to remit certain proceeds from the Safelight Program to the Cumberland County School System. A portion of the remaining Safelight proceeds currently resides in a capital project fund. This amendment will transfer those funds back to the General Fund for the purpose of remitting them at some future date to the Cumberland County School System. No payments will be remitted until the City Council has approved an interlocal agreement with the school system.

G. Capital Project Ordinance Amendment 2007-15 (Appropriation of Investment Income for Annexation Street Improvements)

This amendment appropriates investment income, generated from bond proceeds, in the amount of \$89,000 for street improvements associated with the extension of sewer infrastructure in the Phase 4B annexation area as well as related bond administration expenses. This amendment will provide funds, together with other City funds, to pay for the City's remaining share of the Phase 4B annexation infrastructure costs consistent with the Council-approved funding agreement.

H. Budget Ordinance Amendment 2007-19 (Various Financial Matters)

This budget ordinance amendment will increase appropriations for vehicle maintenance expenditures by \$540,204 in the General Fund and by \$42,213 across the Stormwater, Airport and Warranty Vehicle Lease funds to pay the City's prorated share of expenditures in the PWC Fleet Maintenance Internal Service Fund that have not been recovered through billings to PWC and City departments over fiscal years 2006 and 2007.

Additionally, this amendment will increase the General Fund budget by \$1,444,339, and redirect \$168,000 of existing budget, to accommodate the \$1,612,339 proposed agreement with Cumberland County Schools for Safelight proceeds. No Safelight proceeds will be remitted until the City Council has approved an interlocal agreement with the school system.

This amendment will also appropriate \$143,240 in the General Fund to cover a portion of the City's remaining share of the Phase 4B annexation infrastructure costs consistent with the Council-approved funding agreement; increase the budgeted amount for street light costs by \$150,000; and increase interfund transfers from the Electric Fund by \$337,667 for electric sales and streetlights, consistent with the budget amendment proposed by PWC.

I. Addition of New Subdivision Streets to the City of Fayetteville System of Streets

J. Resolution Confirming Non-Inclusion of a Portion of Willis Street on Street Plan
RESOLUTION CONFIRMING NON-INCLUSION OF A PORTION OF WILLIS STREET IN THE CITY OF FAYETTEVILLE STREET PLAN. R2007-032

K. Resolution Requesting NCDOT to transfer that portion of Morganton Road (extension) in LaGrange Subdivision to the City of Fayetteville for Maintenance
RESOLUTION REQUESTING THE TRANSFER OF A PORTION OF SR 1404, MORGANTON ROAD, TO THE CITY OF FAYETTEVILLE FOR MAINTENANCE. R2007-033

L. Consideration of a Resolution to make application to the State for the Urban Progress Zone designation.

RESOLUTION IN SUPPORT OF AN URBAN PROGRESS ZONE. R2007-034

M. Approve the initial zoning to MUD Mixed Use District\Conditional Zoning or to a more restrictive zoning classification for property located on the eastern side of Cedar Creek Road, south of Sloan Avenue. Containing 49.95 acres more or less and being the property of Cedar Creek Partners, LLC and annexed by the City of Fayetteville effective April 30, 2007. Case No. P07-17F.

N. Pulled at the request of Council Member Gonzalez.

O. Approve the rezoning from R10 Residential District to P2 Professional District or to a more restrictive zoning classification for property located at 2013 Hope Mills Road. Containing .23 acres more or less and being the property of Brian Forde. Case No. P07-39F.

P. Pulled at the request of Council Member Williams.

Q. Approve Bid Recommendation for Annexation Phase V, Project 1, Section 2C-LaGrange, Section 2

R. Approve Budget Amendments for Fiscal Year 2007

2.N. Approve the rezoning from C1 Commercial District to R6 Residential District or to a more restrictive zoning classification for property located at 1039 Southern Avenue. Containing .76 acres more or less and being the property of Larry Malloy. Case No. P07-36F.

Council Member Gonzalez stated she would like to request a public hearing on the case because of concerns expressed about whether the structure would pass inspection and thereby meet the minimum housing codes for use as a residential property. Discussion ensued as to whether a public hearing would be the appropriate venue in which to address the concerns.

MOTION: Council Member Gonzalez moved to set a public hearing for Case No. P07-36F.

SECOND: Council Member Kirby

VOTE: PASSED by a vote of 6 in favor to 1 in opposition (Council Member Williams).

2.P. Proposed Technical Changes to City Council Policies 160.1(2)(a) and 160.2(3)(e)

Council Member Williams stated he objected to the approval of City Council policy number 160.2(3)(e) because the increase in sidewalk fees from \$5 to \$10 per linear foot would serve as a disincentive for the future installation of sidewalks within established residential neighborhoods.

MOTION: Council Member Williams moved to accept the change to policy 160.0(2)(a) as recommended and take no action on policy 160.2(3)(e).

Karen M. McDonald, City Attorney, advised that the fee increases had been approved as part of the budget that was adopted by the City Council at the June 11, 2007 meeting. Mrs. McDonald further advised that the technical amendments were being submitted to ensure that the policies were consistent with the budget action.

Motion died due to lack of a second.

MOTION: Council Member Gonzalez moved to approve the proposed technical changes to City Council policies 160.1(2)(a) and 160.2(3)(e).

SECOND: Council Member Bates

Council Member Williams spoke in favor of encouraging sidewalk installation in neighborhoods.

VOTE: PASSED by a vote of 6 in favor to 1 in opposition (Council Member Williams)

Mrs. McDonald clarified the budget would not be effective until June 30, 2007 and assessments appearing under Item 4.C. would not be affected by the increase.

3. Letter from U.S. Department of Justice Regarding the Six/Three Plan

Mrs. McDonald reported a letter had been received from the U.S. Justice Department objecting to the six/three plan. Mrs. McDonald stated the objection was based principally on the inclusion of the three at-large seats. Mrs. McDonald further stated the analysis of the U.S. Justice Department was the prospect of African-American voters electing a candidate to one of the at-large seats was not as good as election to a district seat and therefore the six/three plan was retrogressive.

MOTION: Council Member Gonzalez moved to receive the letter as a part of the record.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (7-0)

4. PUBLIC HEARINGS:

A. Consider an application by Annette Kennedy for a Special Use Permit as provided for by the City of Fayetteville Code of Ordinances, Article IV, Section 30-107(24) to allow a daycare in an R10 Residential District for property located at 6822 Baldoon Drive. Containing .29 acres more or less and being the property of Hung and Hua Jimg Tu. Case No. P07-30F.

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 wishes to operate a daycare at this location. Mr. Teal further stated the Zoning Commission recommends approval with conditions. Mr. Teal responded to questions posed by Council Members regarding fencing around the proposed play area, letters sent to surrounding property owners and whether anyone appeared in opposition at the Public Hearing held before the Zoning Commission.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:43 p.m.

Annette Kennedy, 1029 Pine Knoll Drive, Apt. 103, Spring Lake, NC appeared in favor and stated the location on Baldoon Drive was selected because it was highly visible and situated to serve Ft. Bragg.

No one appeared in opposition and the public hearing closed at 7:46 p.m.

Council Member Williams posed questions regarding ingress and egress to the daycare. Ms. Kennedy spoke to expansion of the driveway so as not to require backing onto the right-of-way.

MOTION: Council Member Gonzalez moved to deny the application for a Special Use Permit.

SECOND: Council Member Kirby

Council Members offered comments in favor and in opposition to locating daycares in residential neighborhoods.

VOTE: PASSED by a vote of 4 in favor (Council Member Evans, Kirby, Bates and Gonzalez) to 3 in opposition (Council Members Massey, Williams and Haire)

B. Consider an amendment to the Fayetteville Code of Ordinances, Zoning, Article VIII, Advertising and Sign Regulations, Section 30-262(g) adding a provision allowing one-sided non-conforming billboards to be upgraded to two-sided billboards as part of the billboard transfer process.

Mr. Teal explained that currently, one-sided non-conforming billboards may not be upgraded to two-sided billboards as part of the billboard transfer ordinance. Mr. Teal stated adoption of this amendment allows this upgrade as an option. Mr. Teal further stated the Planning Commission recommends approval of the amendment.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:00 p.m.

Lloyd Johnson, Lamar Advertising, PO Box 1837, Elizabethtown, NC appeared in favor and stated Lamar Advertising would appreciate Council's support of the amendment.

No one appeared in opposition and the public hearing closed at 8:02 p.m.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ZONING, ARTICLE VIII, ADVERTISING AND SIGN REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. S2007-030

MOTION: Council Member Haire moved to approve the amendment to Chapter 30, Zoning, Article VIII, Advertising and Sign Regulations, of the Code of Ordinances of the City of Fayetteville.

SECOND: Council Member Williams

VOTE: UNANIMOUS (7-0)

C. Public Hearing on Assessment Rolls on Soil Streets that have been Paved

Jeff Brown, City Engineer, provided background information leading up to the public hearing and presented pictures before and after paving of the soil streets. Mr. Brown responded to questions posed by Council Member Williams.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:07 p.m.

No one appeared in favor.

Dennis Melvin, 221 Central Drive, Fayetteville, NC appeared in opposition and asked if there was aide available for financing the assessment costs.

James M. Lyles, 359 Tucson Drive, Fayetteville, NC appeared in opposition and stated Scarborough Street was a public street and paving costs should be assessed from taxpayer funds and not placed on the shoulders of individuals owning property on the street.

Randolph McKoy, 7265 Old Fayetteville, Garland, NC appeared in opposition and stated he lost frontage from his property, was still being accessed for the frontage he lost and thought taxpayer funds should cover the paving costs.

The public hearing closed at 8:15 p.m.

Council Members inquired about financial assistance for the assessments. Mr. Dale E. Iman, City Manager, responded grants up to \$1,000 are available for eligible property owners through the Community Development Department and payment plans for those who do not qualify for grants are also available. Council Member Evans posed further questions regarding the grants and payment plans.

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS (ALFRED STREET [FROM CAMPBELL AVENUE TO VANSTORY STREET]). R2007-035

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING

ASSESSMENTS (BROADFOOT AVENUE [FROM SIMPSON STREET TO MORGAN

STREET])). R2007-036

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS

(ROOSEVELT STREET [FROM WILMA STREET TO DEAD END])). R2007-037

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS

(SCARBOROUGH STREET [FROM OLD WILMINGTON ROAD TO “C” STREET])). R2007-038

MOTION: Council Member Williams moved to adopt the resolutions confirming the assessment rolls.

SECOND: Council Member Haire

VOTE: PASSED by a vote of 6 in favor to 1 in opposition (Council Member Evans)

5. Report from Recycling Taskforce

Karl Legatski, Fayetteville Recycling Task Force Chair, summarized the report’s findings and recommendations based on research and discussions of the Task Force over a six-week period. Mr. Legatski recognized individuals participating on and involved with the Fayetteville Recycling Task Force.

MOTION: Council Member Bates moved to receive the report and recommendations.

SECOND: Council Member Haire

VOTE: UNANIMOUS (7-0)

In response to a question posed by Council Member Gonzalez, Mr. Iman stated the next step would be to put out a Request for Proposal (RFP) to match the program as designed in order to determine whether to operate the recycling program in-house or through a private sector vendor.

Council Member Williams expressed concerns regarding the landfill in the downtown area.

6. Consider a request from Lamar Advertising to upgrade a legal non-conforming billboard at the intersection of Raeford Road and Faison Avenue and upgrade a second legal non-conforming billboard on All-American Freeway north of Yadkin Road in exchange for removing a two-sided billboard on Hillsboro Street near the Rowan Street Bridge.

Mr. Teal summarized the billboard upgrade request by Lamar Advertising and clarified that the option for approval would be to allow the process to go forward on the All-American Freeway and delay action on Faison Avenue.

MOTION: Council Member Haire moved to approve the upgrade for the All-American Freeway billboard and delay action on the Raeford Road/Faison Avenue billboard until Lamar Advertising proceeds through the process for a two-sided billboard at Raeford Road/Faison Avenue.

SECOND: Council Member Gonzalez

VOTE: UNANIMOUS (7-0)

7. Update regarding the Progress Eastover Committee Request to Incorporate the Town of Eastover, NC

Mrs. McDonald reported the Joint Commission on Municipal Incorporations had met earlier in the day and although the report was unfavorable in that Eastover did not meet the 40% developed requirement, the motion went forward to support the incorporation which was due largely to the City of Fayetteville’s endorsement. Mrs. McDonald stated the bill would now proceed to the House floor for consideration.

MOTION: Council Member Haire moved to receive the update as information.

SECOND: Council Member Bates

VOTE: UNANIMOUS (7-0)

8. BOARDS AND COMMISSIONS:

NOMINATIONS – First Week

JOINT CITY AND COUNTY APPEARANCE COMMISSION – 2 vacancies – 2 nominations needed – 0 nominations made

Julie Donahue was nominated for a first term by Council Member Gonzalez.

FAYETTEVILLE-CUMBERLAND PARKS AND RECREATION ADVISORY COMMISSION – 3 vacancies – 3 nominations needed – 0 nominations made

Hank Debnam, Dorothy Fielder and Alan S. Campbell were nominated for a second term by Council Member Haire.

Warren R. Jackson was nominated for a first term by Council Member Kirby.

Christina Sessoms Smith was nominated for a first term by Council Member Evans.

FAYETTEVILLE CITY PLANNING COMMISSION– 4 vacancies – 4 nominations needed – 0 nominations made

Charles H. Astrike was nominated for a first term by Council Member Gonzalez.

Marshall Faircloth was nominated for a first term by Council Member Kirby.

Ted W. Mohn was nominated for a first term by Council Member Bates.

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

John C. Barrington and Ronda Beattie were nominated for a second term by Council Member Evans.

FAYETTEVILLE CITY ZONING COMMISSION– 2 vacancies – 2 nominations needed – 0 nominations made

Glenda Harris was nominated for a first term by Council Member Haire.

Mikele Haywood was nominated for a first term by Council Member Kirby.

THERE WERE NO INFORMATION ITEMS.

There being no further business, the meeting adjourned at 8:45 p.m.