

FAYETTEVILLE CITY COUNCIL

REGULAR MEETING

FEBRUARY 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

Kyle Sonnenberg, Assistant City Manager

Stanley Victrum, Assistant City Manager

Karen M. McDonald, City Attorney

Lisa Smith, Chief Financial Officer

Jimmy Teal, Planning Director

Craig Hampton, Special Projects Director

Doug Hewett, Management Services Director

Victor Sharpe, Community Development Director

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

Greg Casion, Stormwater Services Manager

Candice White, City Clerk

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Chaplain Archie Cox, retired Chaplain of the Fayetteville Fire Department, followed by the Pledge of Allegiance to the American Flag.

ANNOUNCEMENTS AND RECOGNITION:

Proclamation of Appreciation (Black History Month)

In honor of Black History Month, Mayor Pro Tem Massey presented a Proclamation of Appreciation to all former African-American leaders in absentia who served the citizens of Fayetteville, North Carolina as elected officials. Proclamations of Appreciation will be forwarded to elected officials or their surviving families.

1. APPROVAL OF AGENDA

Mr. Dale E. Iman, City Manager, requested that consideration of a sign permit to welcome delegates from Saint Avold, France, Fayetteville's sister city, be added to the agenda.

MOTION: Council Member Gonzalez moved to approve the agenda to include the addition of a sign permit to Item 2.K.

SECOND: Council Member Evans

VOTE: UNANIMOUS (10-0)

2. CONSENT:

Council Member Worthy requested Item 2.C.2. be pulled for discussion.

Council Member Evans requested Item 2.E. be pulled for discussion.

MOTION: Mayor Pro Tem Massey moved to approve the consent agenda with the exception of Item 2.C.2. and Item 2.E.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

The following items were approved:

A. Approve minutes

1. Council Work Session held on February 5, 2007.

2. Regular Council meeting held on February 12, 2007.

B. Accept Official Results of the February 6, 2007 Special Election from the Cumberland County Board of Elections.

C. Approve the following financial matters:

1. Budget Ordinance Amendment 2007-14 (Fire Vehicle Replacement).

This budget ordinance amendment will increase the appropriation for the Fire Department by \$23,500 to fund replacement of a vehicle that was declared a total loss as a result of a motor vehicle accident for which the City was not at fault. A \$14,827 reimbursement from the insurance company of the at-fault driver and a fund balance appropriation of \$8,673 provide the funding for this amendment.

2. Pulled for discussion at the request of Council Member Worthy.

3. Authorize the Mayor to execute a contract with Cherry, Bekaert & Holland to audit accounts for Fiscal Year 2006-2007.

4. Resolution of the City Council of the City of Fayetteville accepting the report of unpaid taxes and directing advertisement of tax liens.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE ACCEPTING THE REPORT OF UNPAID TAXES AND DIRECTING THE ADVERTISEMENT OF THE TAX LIENS. RESOLUTION NO. R2007-011

5. PWC Budget Ordinance Amendment #1.

During their meeting of February 14, 2007 the Public Works Commission adopted Amendment #1 Budget Ordinance for Fiscal Year 2006-2007. The overall budget amount for PWC remains at \$238,685,120 for Fiscal Year 2006-2007. The Budget Amendment reflects a change in the Electric Fund that reduces the City Transfer by \$154,060 based on the Black & Decker agreement. (This three-way agreement has PWC forgiving the penalty associated with canceling the utility contract in exchange for Black & Decker filing a petition to annex the property where the Black & Decker Plant is located. PWC would receive a portion of the property taxes over the next eight (8) years to help reimburse the amount of the penalty that was forgiven.) The reduction in expenditures will increase the Retained Earnings by the same amount. The Budget Amendment also amends the Water and Sanitary Sewer Fund to add a transfer to the City for 50% (\$554,850) of the debt service that was included in the Appropriation to Annexation Fund (offsetting adjustment). This change to the Water and Sanitary Sewer Fund is the result of the City and PWC signing the Sewer Extension Funding Policy Annexation Phase V Project Number 1 Agreement.

D. Approve the rezoning from R15 residential district to P1 professional district or to a more restrictive zoning classification for property located at 4811 Rosehill Road. Containing 2.00 acres more or less and being the property of George Buie, III as evidenced by deed recorded in Deed Book 3044, Page 259, Cumberland County Registry. Case No. P07-01F.

E. Pulled for discussion at the request of Council Member Evans.

F. Approve the rezoning from P2 professional district to C3 commercial district or to a more restrictive zoning classification for property located on the western side of Carol Street. Containing .34 acres more or less and being the property of Sarah Bullard as evidenced by deed recorded in Deed Book 799, Page 587, Cumberland County Registry. Case No. P07-04F.

G. Approve the rezoning from C1 commercial district to C3 commercial district or to a more restrictive zoning classification for property located at 331 South Eastern Boulevard. Containing .32 acres more or less and being the property of Paris and Potter Partnership as evidenced by deed recorded in Deed Book 3046, Page 731, Cumberland County Registry. Case No. P07-05F.

H. Approve the rezoning from PND planned neighborhood district to C1P commercial district or to a more restrictive zoning classification for property located on the southeast corner of Raeford Road and Gillis Hill Road. Containing 48 acres more or less and being the property of Dan Barker as evidenced by deed recorded in Deed Book 4055, Page 882, Cumberland County Registry. Case No. P07-06F.

- I. **Approve Cape Fear Valley Hospital's request for new signage at their main campus on Owen Drive.**
- J. **Approve sign permit for the Fayetteville Area Dogwood Exchange Club annual barbecue plate sale on Friday, April 6th at 2900 Village Drive.**
- K. **Approve sign permit for the Fayetteville Fire Department semi-annual "Change your Clock - Change your Battery" campaign. Signs will be posted at all city fire stations from Monday, March 5th to Monday, March 12th promoting this campaign.**
- L. **Cancel March 12, 2007 Council Meeting due to National League of Cities Conference in Washington, DC.**

2.C.2.Award of contract for purchase of Police Vehicles

The FY 2006-2007 City budget provided for the replacement of 130 police vehicles. Bids were solicited and opened January 11, 2007 for the purchase of 127 police cars, to include Ford Crown Victorias, Dodge Chargers and Chevrolet Impalas. Pricing was received for the purchase of the cars only and for the purchase of the cars completely upfitted with all necessary equipment, with the exception of radios. Three (3) vehicles, one (1) truck and two (2) vans, have already been purchased. Based on the bids received, staff recommends that the City purchase 77 marked Ford Crown Victoria police cars, completely upfitted, from Lafayette Ford, Fayetteville, North Carolina, at a total cost of \$2,390,160. The price submitted by Lafayette Ford will result in a savings of \$21,329 over state contract price. Staff also recommends that the City reject all bids for the Dodge Chargers and Chevrolet Impalas. The remaining cars will be purchased off state contract and the City will contract directly with the vendor to have the vehicles upfitted.

Council Member Worthy inquired as to why the recommendation was for some vehicles to be purchased based on bids received and others to be purchased off state contract. Mrs. Lisa Smith, Chief Operating Officer, responded the best price for the purchase of Crown Victorias came from the City's bid process and the best price for the purchase of Chevrolet Impalas came off the state contract price. Mrs. Smith stated her understanding is state contract prices go through a bid process.

MOTION: Council Member Worthy moved to approve the award of contract for purchase of police vehicles.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

2.E.Approve the rezoning from R5 residential district to C3 commercial district or to a more restrictive zoning classification for property located at 1000 Ramsey Street.

Containing .49 acres more or less and being the property of the Fayetteville Metropolitan Housing Authority as evidenced by deeds recorded in Deed Books 7120, 7029 & 5212, Pages 647, 521 & 576, Cumberland County Registry. Case No. P07-03F.

Council Member Evans referenced a letter sent to a property owner in the area of 1000 Ramsey Street that stated the City Council had set a discussion for Case No. P07-03F at this meeting. Council Member Evans stated Case No. P07-03F was on the consent agenda and would not have been discussed had he not pulled it. Council Member Evans suggested that future letters be reworded so as not to be misleading.

MOTION: Council Member Evans moved to set a public hearing for Case No. P07-03F.

SECOND: Council Member Gonzalez

Discussion ensued regarding the content of rezoning notification letters and the need for revisions to better clarify the process.

Council Member Gonzalez suggested Council also revisit the intent of their regular agenda briefing meetings held on the Thursday preceding the second Council meeting each month to determine whether individuals involved with rezoning cases will be permitted to speak.

VOTE: PASSED by a vote of 6 in favor to 4 in opposition (Council Members Bates, Haire, Williams and Worthy)

Mrs. McDonald clarified the public hearing for Case No. P07-03F would be held on Monday, March 26, 2007.

3. PUBLIC HEARINGS:

A. Consider the rezoning from C1P commercial district to C3 commercial district or to a more restrictive zoning classification for property located at 1509 Skibo Road. Containing 2.92 acres more or less and being the property of Eighty-Four Lumber Company as evidenced by deed recorded in Deed Book 5128, Page 691, Cumberland County Registry. Case No. P06-93F.

Mr. Jimmy Teal, Planning Director, presented this item. 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 is interested in acquiring the property for use as a body shop and C3 commercial zoning is necessary in order to operate a body shop at that location. Mr. Teal stated the Zoning Commission recommended approval of the C3 commercial zoning and at their January 22, 2007 meeting, Council set a public hearing to consider the request.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:30 p.m.

Mr. Neil Yarborough, 115 East Russell Street, Fayetteville, NC, appeared in favor and referenced zoning principals that emphasize compatibility of uses. Mr. Yarborough stated the two-square mile area around Cross Creek Mall has been designated as heavy commercial in the land use plan and his client's rezoning request is compatible with other commercial uses in the area.

Iman Eronomy Mohammed, 2700 Murchison Road, Fayetteville, NC, appeared in opposition and spoke to the development of the Cross Creek Mall area. Mr. Mohammed stated approval should not be granted just for the sake of approval but should be pro-business. Mr. Mohammed stated any situations involving the misuse of human beings or their resources should be explored.

Mr. Neil Yarborough, 115 East Russell Street, Fayetteville, NC, appeared in rebuttal and stated his clients are equal opportunity employers, have an active role in the community and want the opportunity to use their property to its fullest potential in a manner compatible with land use regulations, plans and adjoining uses in the area.

There was no one further to speak and the public hearing closed at 7:50 p.m.

MOTION: Council Member Haire moved to approve the rezoning to C3 as requested by the applicant.

SECOND: Council Member Kirby

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

B. Consider the rezoning from R5 residential district to C3 commercial district or to a more restrictive zoning classification for property located on the eastern side of Hillsboro Street. Containing .73 acres more or less and being the property of Joseph Canady and Wesley Meredith as evidenced by deed recorded in Deed Book 7088, Page 503, Cumberland County Registry. Case No. P07-02F.

Mr. Jimmy Teal, Planning Director, presented this item. 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 has requested commercial zoning for the property. Mr. Teal stated the Zoning Commission recommends denial.

MOTION: Council Member Williams moved to excuse Council Member Meredith from the vote.

SECOND: Council Member Gonzalez

VOTE: UNANIMOUS (9-0)

Mr. Teal responded to questions posed by Council Members regarding the opposition to the rezoning in 2003, what constitutes a blighted area and encroachment.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:55 p.m.

Mr. Wesley Meredith, 113 Great Oaks, Fayetteville, NC, appeared in favor and provided a presentation depicting commercial properties in the surrounding area, vacant lots, abandoned homes and fifty-two properties that received letters regarding the rezoning. Mr. Meredith stated no one appeared in opposition to the rezoning at the public hearing before the Zoning Commission and he had a petition signed by 60% of the neighbors in favor of the rezoning. Mr. Meredith further stated the city's Inspection Department indicated the abandoned homes were being investigated and would likely come before Council for demolition. Mr. Meredith noted the houses on Frank Street without electric power since 2000 and stated the train track makes the property unsuitable for residential purposes.

Mr. Joseph S. Canady, 1580 John McMillan Road, Hope Mills, NC, appeared in favor, concurred with Mr. Meredith's statements and asked that his time be reserved for rebuttal.

Ms. Tryphina Wiseman, 431 Cumberland Street, Fayetteville, NC, appeared in opposition and stated the proposed use for the property is not compatible with current uses. Ms. Wiseman stated many of the petition signatures came from property owners that will not be affected by the proposed use. Ms. Wiseman further stated the proposed use would create a safe haven for drug use and sale.

Mr. Anthony Watts, 144 Aloha Drive, Fayetteville, NC, appeared in opposition and expressed concern for tenants in the area who are not in favor of the proposed use. Mr. Watts stated the area has improved since 2003 and the proposed use would provide a place for people to hide from police.

Mr. Leon Walke, 2025 Wildcat Drive, Fayetteville, NC, appeared in opposition and spoke on behalf of St. Luke Church and the proactive efforts of the church to improve the area. Mr. Walke stated the majority of the vacant lots are a result of the church having torn down structures in order to improve the properties. Mr. Walke stated the proposed rezoning and use will deter the efforts of the church and will also pose a hardship with its plans for a \$700,000.00 expansion.

Mr. Wesley Meredith, 113 Great Oaks, Fayetteville, NC, appeared in rebuttal and stated he understood the concern about crime in the area because according to the Police Department, 2,661 calls were placed during the last year. Mr. Meredith stated he and the opponents have engaged in dialogue and he was aware of their feelings regarding the rezoning.

There was no one further to speak and the public hearing closed at 8:15 p.m.

Mr. Meredith responded to further questions posed by Council Members. Council Member Worthy stated the train tracks and M2 zoning have been present in the area for thirty years and families have resided there during that time.

MOTION: Council Member Evans moved to deny the rezoning request.

SECOND: Council Member Bates

Council Member Haire asked about the availability of community development resources for the area. Mr. Victor Sharpe, Community Development Director, responded that neighborhoods throughout the city, both inside and outside the target area, could apply for housing rehabilitation programs.

VOTE: PASSED by a vote of 6 in favor to 3 opposed (Council Member Chavonne, Haire and Gonzalez)

The regular session recessed at 8:40 p.m.

The regular session reconvened at 8:50 p.m.

C. Consider the rezoning from R5 residential district to P4 professional district or to a more restrictive zoning classification for property located on the southeast corner of Arsenal Avenue and Highland Avenue. Containing .17 acres more or less and being the property of Ira Neil Grant as evidenced by deed recorded in Deed Book 7398, Page 466, Cumberland County Registry. Case No. P07-08F.

Mr. Jimmy Teal, Planning Director, presented this item. 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 utilize the property for office use. Mr. Teal stated the Zoning Commission recommends denial based on the 2010 Land Use Plan for the area, surrounding residential uses and the concern of the neighborhood about the

loss of residential uses in the area.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:54 p.m.

Mr. Neil Grant, 1852 Morganton Road, Fayetteville, NC, appeared in favor and stated the property is located at a busy intersection on the corner of Arsenal Avenue and Highland Avenue and is a transitional piece of property. Mr. Grant stated surrounding properties are professional use, business use, vacant lots, a church and a parking lot. Mr. Grant stated he purchased the house to renovate it for use as his real estate office and does not view his plans as a hindrance to the neighborhood.

Ms. Patricia Eddy, 221 Broadfoot Avenue, Fayetteville, NC, appeared in opposition and spoke to good neighbors and the support they have given each other throughout the years. Ms. Eddy stated she did not object to Mr. Grant having his real estate office on the property as long as he and his family lived there; otherwise, it would become victim to the domino effect.

Mrs. Katherine L. Whaley, 1107 Arsenal Avenue, Fayetteville, NC, appeared in opposition and stated the residential neighborhood fears the domino effect. Ms. Whaley stated she has lived on Arsenal Avenue for thirty-five years, raised four children and fenced in the yard to safeguard her children. Ms. Whaley spoke to the love and sweat equity that revitalized the old residences on Arsenal Avenue and stated the city cannot afford to lose such pockets of domestic history.

Mr. Neil Grant, 1852 Morganton Road, Fayetteville, NC, appeared in rebuttal and stated in reality there are a lot of boarded up residences on Broadfoot and Arsenal Avenues. Mr. Grant stated he would not have considered putting his real estate office on the property had it not been for the nearby law offices, museum and new office park.

Mrs. Katherine L. Whaley, 1107 Arsenal Avenue, Fayetteville, NC, appeared in rebuttal and stated the residential properties in the Arsenal Avenue community will provide affordable housing for families associated with BRAC and put them within walking distance to churches, a museum, a small business district and a park.

There was no one further to speak and the public hearing closed at 9:15 p.m.

MOTION: Council Member Gonzalez moved to follow the Zoning Commission's recommendation and deny the request.

SECOND: Council Member Bates

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

D. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated non-contiguous annexation by Floyd Properties (Located on the southern side of Clinton Road & west of Locks Creek Church Road)

Mr. Jimmy Teal, Planning Director, presented this item. Mr. Teal stated the owner is developing a residential development with a potential of 241 housing units on Old Clinton Highway east of Interstate 95 approximately two miles from the city limit line and is requesting PWC service for his development. Mr. Teal stated City Council policy is that property within three miles of the city limit line shall petition for annexation in order to receive PWC services. Mr. Teal stated there were initial concerns about the city's ability to provide timely emergency services but the Vander Fire Department's location and response capability is within the required timeframe for the provision of emergency services. Mr. Teal stated the recommendation is to adopt the annexation ordinance to annex the subject property.

This is the advertised public hearing set for this date and time. There was no one present to speak in favor or against and the public hearing opened and closed at 9:20 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA (FLOYD PROPERTY-SOUTHERN SIDE OF CLINTON ROAD)

ANNEXATION ORDINANCE NO. 2007-02-500

MOTION: Council Member Worthy moved to accept the recommendation to adopt the annexation ordinance for the subject property.

SECOND: Council Member Haire

In response to a question posed by Council Member Bates, Mr. Teal outlined deed requirements for properties transferred under annexation agreements and stated the properties would be covered by stormwater studies whether inside or outside the municipal area.

VOTE: UNANIMOUS (10-0)

E. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated contiguous annexation by 84 Lumber Company. (Located on the southern side of Belt Boulevard)

Mr. Jimmy Teal, Planning Director, presented this item. Mr. Teal stated 84 Lumber Company is relocating its business on a site contiguous to the city and requesting PWC service. Mr. Teal stated City Council policy requires a petition for annexation in order to receive PWC services. Mr. Teal stated the recommendation is to approve the annexation petition.

This is the advertised public hearing set for this date and time. There was no one present to speak in favor or against and the public hearing opened and closed at 9:25 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA (84-LUMBER COMPANY – SOUTHERN SIDE OF BELT BOULEVARD) ANNEXATION ORDINANCE NO. 2007-02-501

MOTION: Council Member Haire moved to adopt the annexation ordinance with an effective date of February 26, 2007.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (10-0)

F. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated contiguous annexation by Cedar Creek, LLC. (Located on the eastern side of Cedar Creek Road and south of Sloan Avenue)

Mr. Jimmy Teal, Planning Director, presented this item. Mr. Teal stated Cedar Creek Partners owns 49.45 acres contiguous to the city on which they plan to develop a mixed-use development. Mr. Teal stated they are requesting PWC service and are required by City Council policy to petition for annexation. Mr. Teal stated city departments have reviewed the proposed annexation and have indicated they can serve the property within their existing budgets. Mr. Teal further stated there is a mixed-use zoning district scheduled for adoption in April and by delaying the effective date of annexation to April 30, 2007, City Council will be able to designate mixed-use zoning for the property within the required sixty days following the effective date of annexation. Mr. Teal stated the owner agreed with the timetable.

Mayor Chavonne asked if the provision of city services to the area and profitability from the annexation had been reviewed. Mr. Teal responded in the affirmative.

This is the advertised public hearing set for this date and time. There was no one present to speak in favor or against and the public hearing opened and closed at 9:27 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA (CEDAR CREEK PARTNERS, LLC – EASTERN SIDE OF CEDAR CREEK ROAD, SOUTH OF SLOAN AVENUE) ANNEXATION ORDINANCE NO. 2007-02-502

MOTION: Council Member Bates moved to adopt the annexation ordinance with an effective date of April 30, 2007.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

G. Consider an amendment to the Fayetteville Code of Ordinances, Section 30, Zoning, to provide a procedure where an existing non-conforming billboard may be upgraded in exchange for removing an existing billboard.

Mr. Jimmy Teal, Planning Director, presented this item. Mr. Teal stated Lamar Advertising Company approached the city in 2006 regarding a proposal to remove some billboards in the downtown area in exchange for upgrading some non-conforming billboards in other parts of the city. Mr. Teal stated the initial proposal included upgrading two non-conforming billboards for every one billboard removed. The City Council referred the request to the Planning Commission who reviewed the proposal and favored a one-for-one billboard proposal. Mr. Teal further stated

Lamar Advertising Company had concerns about standard size of billboards and the Planning Commission agreed to make the ordinance flexible to address those concerns. Mr. Teal stated the Planning Commission felt billboards throughout the city should be considered for removal and not limited to the downtown area.

Council Member Haire asked how upgrades to billboards would impact existing commercial structures around them. Mr. Teal responded upgrades to non-conforming billboards would go before the Planning Commission for a public hearing and subsequent recommendation before coming to the City Council.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:29 p.m.

Mr. Bob Bates, 2605 West Broad Street, Elizabethtown, NC, appeared in favor and stated the city adopted an ordinance in the mid 1990's that basically made all existing billboards nonconforming and allowed billboard companies to maintain their billboards but not remodel them to keep up with national trends and meet the needs of their advertisers. Mr. Bates stated he appealed to the city about a year ago with an exchange program that would allow him to upgrade two non-conforming billboards in exchange for removing one existing billboard and through compromise, an agreement was reached for a face-for-face exchange. Mr. Bates stated this would produce a net loss of billboards throughout the city and the remaining billboards would look better.

There was no one further to speak and the public hearing closed at 9:32 p.m.

Council Member Williams asked Mr. Bates if his original proposal would result in more conforming billboards. Mr. Bates responded the exchange program would not make the upgraded billboards conforming but would make them modernized legal non-conforming billboards.

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. ORDINANCE NO. S2007-012

MOTION: Council Member Kirby moved to accept Planning staff's recommendation and approve the proposed ordinance.

SECOND: Council Member Evans

Council Member Williams spoke in support of the original proposal to upgrade two non-conforming billboards in exchange for removing one existing billboard. Mr. Bates stated the better incentive lies in the upgrade of two non-conforming billboards in exchange for removing one existing billboard. Mr. Iman stated if Council's goal is to reduce the number of billboards, the face-for-face exchange would do it more effectively.

FRIENDLY AMENDMENT:

Council Member Gonzalez moved to review the policy and a report of actual results in one year.

Council Members Kirby and Evans accepted the friendly amendment.

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

4. Consideration of amendments to the 2006-2007 Community Development Annual Action Plan to include additional Performance Measurements as required by the Department of Housing and Urban Development.

Mr. Victor Sharpe, Community Development Director, presented this item. Mr. Sharpe stated HUD has developed an outcome performance measurement system for the grant programs it administers such as the Community Development Block Grant and HOME Investment Partnership Grant as a result of recent attacks on the programs. Mr. Sharpe stated the implementation of the outcome performance measurement system will enable HUD to collect information on the outcomes of activities funded with formula grant assistance. Mr. Sharpe stated the proposed outcome performance measurement system has three overarching objectives: (1) Creating Suitable Living Environments, (2) Providing Decent Affordable Housing,

and (3) Creating Economic Opportunities. Mr. Sharpe recommended approval of the amendment to the Action Plan.

MOTION: Council Member Gonzalez moved to approve the amendment to Action Plan.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (10-0)

5. Consideration of the following financial matters related to the EE Miller Recreation Center and Buhmann Drive Fire Station (Fire Station 15):

Mr. Craig Hampton, Special Projects Director, presented this item on behalf of Mrs. Lisa Smith, Chief Financial Officer. Mr. Hampton stated the resolutions directing the filing of an application with the Local Government Commission and scheduling a public hearing are necessary steps to obtain financing for the EE Miller Recreation Center and the Buhmann Drive Fire Station.

Mr. Hampton stated the \$2,415,000 project ordinance amendment for Fire Station 15 will establish the budget for building construction, water and sewer improvements on the property, furniture, fixtures and equipment and provide a 10% construction allowances budget. Mr. Hampton further stated Council is being asked to authorize award of a construction contract for Fire Station #15 located at Cliffdale Road and Buhmann Drive

A. Adopt "Resolution directing the filing of an application for approval by Local Government Commission of Installment Financing Agreement to finance construction and equipping of EE Miller Recreation Center and Buhmann Drive Fire Station (Fire Station 15)"

RESOLUTION DIRECTING THE FILING OF AN APPLICATION FOR APPROVAL BY THE LOCAL GOVERNMENT COMMISSION OF AN INSTALLMENT FINANCING AGREEMENT TO FINANCE THE CONSTRUCTION AND EQUIPPING OF THE EE MILLER RECREATION CENTER AND BUHMANN DRIVE FIRE STATION (FIRE STATION 15). RESOLUTION NO. R2007-012

MOTION: Council Member Worthy moved to adopt the resolution.

SECOND: Council Member Gonzalez

VOTE: UNANIMOUS (10-0)

B. Adopt "Resolution calling for a public hearing concerning the financing of the construction and equipping of EE Miller Recreation Center and Buhmann Drive Fire Station (Fire Station 15)"

RESOLUTION CALLING FOR A PUBLIC HEARING CONCERNING THE FINANCING OF THE CONSTRUCTION AND EQUIPPING OF THE EE MILLER RECREATION CENTER AND BUHMANN DRIVE FIRE STATION (FIRE STATION 15). RESOLUTION NO. R2007-013

MOTION: Council Member Worthy moved to adopt the resolution.

SECOND: Council Member Gonzalez

VOTE: UNANIMOUS (10-0)

C. Adopt Capital Project Ordinance Amendment 2007-13.

D. Approve award of construction contract.

MOTION: Council Member Worthy moved to adopt Capital Project Ordinance Amendment 2007-13 and approve the award of the construction contract.

SECOND: Council Member Kirby

VOTE: UNANIMOUS (10-0)

6. Consider authorizing City Manager to execute Lease Agreement for Hillsboro Street property to Tiffany Pines Community Outreach Center.

Mr. Kyle Sonnenberg, Assistant City Manager, presented this item and stated an agreement has been reached on the lease terms but not on a rental rate. Mr. Sonnenberg explained the City Council has an established rental rate policy on renting space to non-profits that charges an additional 3% of the leased property value. Mr. Sonnenberg stated Mr. Mathis is requesting a \$1.00 per year rental rate.

Mayor Chavonne asked if the city had existing lease agreements with a zero rental rate. Mr. Sonnenberg responded he was not aware of any except for the Arts Council who provide a

service that the city would otherwise have to provide. Council Member Worthy referenced other non-profits with rental rates of \$1.00 per year.

MOTION: Council Member Evans moved to authorize the City Manager to execute a lease for the rental rate of \$1.00 per year.

FRIENDLY AMENDMENT:

Council Member Williams moved that the City have the same utility agreement with Tiffany Pines Community Outreach Center as it does with the Arts Council.

Council members Evans and Worthy did not accept the friendly amendment.

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

7. Discussion of request for Planning staff review of Buffer Ordinance as it relates to buffers between existing commercial and residential properties.

Council Member Haire stated there is currently no buffer ordinance to provide privacy between existing commercial and residential properties and asked that the matter be sent to staff for review and recommendation.

MOTION: Council Member Haire moved to have Planning staff review the buffer ordinance as it relates to buffers between existing commercial and residential properties.

SECOND: Mayor Pro Tem Massey

FRIENDLY AMENDMENT:

Council Member Bates moved to include buffers between professional and residential properties.

Council Members Haire and Massey accepted the friendly amendment.

Mr. Iman stated he consulted with Planning staff in anticipation of this item and their expectation was that it would take six months before this type of buffer ordinance could be fully enacted. Council Member Worthy noted the need for a buffer for businesses that expand their operations and stated this should also be included.

SECOND FRIENDLY AMENDMENT:

Council Member Haire moved to continue discussion at the first available work session.

VOTE: UNANIMOUS (10-0)

8. Discussion of a resolution of intent regarding the voting authority of Mayor under the new proposed structure

MOTION: Council Member Worthy moved to set a public hearing to discuss a resolution of intent regarding the voting authority of the Mayor under the new proposed structure.

SECOND: Council Member Gonzalez

Mrs. McDonald asked if the proposal was to hold a public hearing in order to gauge support and if the support was there, adopt a resolution of intent. Council Member Worthy responded his intent was to gather information to make an intelligent decision. Mrs. McDonald provided a flow-chart to demonstrate the statutory process which included adoption of a resolution of intent, a public hearing and then adoption of the ordinance. Mrs. McDonald stated following the public hearing, Council could take no action or adopt a resolution of intent. Mrs. McDonald further stated Council could adopt an ordinance, make it contingent upon a referendum or 5,000 citizens could come forward and require a referendum.

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

Consensus of Council was to hold the public hearing on Monday, March 26, 2007.

**9. BOARDS AND COMMISSIONS:
APPOINTMENTS**

PUBLIC ARTS COMMISSION - 3 vacancies – 3 nominations made – 3 appointments needed

Museum of Art Member:

Ms. Virginia Oliver was appointed by acclamation.

Arts Council Members:

Ms. Socorro Hernandez-Hinek and Mr. Mariano Santillan were appointed by acclamation.

10. Consider Closed Session for consultation with Attorney and discussion of litigation in the matter of Skillman v. City of Fayetteville.

MOTION: Council Member Gonzalez moved to go into closed session for consultation with Attorney and discussion of litigation regarding Skillman v. City of Fayetteville.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

The regular session recessed at 10:10 p.m.

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

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

The regular session reconvened at 10:30 p.m.

MOTION: Council Member Evans moved to direct the City Attorney to settle the case of Skillman v. City of Fayetteville.

SECOND: Council Member Worthy

VOTE: UNANIMOUS (10-0)

MOTION: Council Member Worthy moved to adjourn the meeting.

SECOND: Council Member Evans

VOTE: UNANIMOUS (10-0)

THERE WERE NO INFORMATION ITEMS.