

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JUNE 25, 2012
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Wade Fowler (District 8); James W. Arp, Jr. (District 9)

Others Present:

Kristoff Bauer, Interim City Manager
Brad Whited, Interim Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Rusty Thompson, Engineering & Infrastructure Director
Scott Shuford, Development Services Director
Victor Sharpe, Community Development Director
Randy Hume, Transit Director
Karen Hilton, Planning and Zoning Manager
Bruce Daws, Historic Properties Manager
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Reverend Danny McDonald, Worship Pastor of the Arran Lake Baptist Church.

3.0 PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS

Mr. Bruce Daws, Historic Properties Manager, announced the forthcoming events to celebrate Fayetteville's 250th anniversary in collaboration with the Arts Council and Dogwood Festival. He stated the three key components of the celebration would be celebrate, educate, and commemorate. He stated they would launch the celebration July 1, 2012, with the opening of the North Carolina Symphony in the Festival Park and the gates would open at 5:00 p.m. He stated the Mayor would be presenting a proclamation opening the 250th celebration.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Applewhite moved to approve the agenda with the addition of a closed session with the City Attorney to discuss litigation in the matters of *Jarryd Rauhoff v. City of Fayetteville*, *City of Fayetteville v. Jacqueline and Dale Pfendler*; and *Darwin Johnson, et al. v. City of Fayetteville, et al.*

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

5.0 CONSENT

MOTION: Council Member Crisp moved to approve the consent agenda.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (10-0)

5.1 Community Development - Approval of a second amendment to Memorandum of Understanding with Fayetteville State University for the demolition and transfer of the Washington Drive Junior High School.

5.2 Community Development - Approval of relocation provisions for properties acquired in the Hope VI Business Park Development.

5.3 Capital Project Ordinance Amendment 2012-22 (Land and Related Design/Engineering Costs for the Transit Multi-Modal Center).

The amendment increased the budget for the Multi-Modal Transportation Center land acquisition project by \$38,375.00.

5.4 Capital Project Ordinance Amendment 2012-23 (Transportation Municipal Agreements).

The Amendment removed \$5,000.00 in Federal Highway Administration funds that were budgeted as part of a Municipal Agreement with the North Carolina Department of Transportation that had subsequently been deleted.

5.5 Capital Project Ordinance Closeout 2012-9 and Special Revenue Fund Project Ordinance Closeouts 2012-6 through 2012-7.

Annually the City closes out several projects that were completed in previous fiscal years and no longer active. The FY 2010 Street Resurfacing and FY 2010 Juvenile Restitution Program projects and the 2010 Gangs Across the Carolinas Training Conference were completed in a previous fiscal year and the revenues and expenditures related to the project were audited.

5.6 Case No. P12-37F. Rezoning from CC Community Commercial to DT Downtown District located at 301 Bragg Boulevard. Containing 5.2 acres more or less and being the property of the City of Fayetteville.

5.7 Approve FAA Reimbursable Agreement and Capital Project Ordinance #2012-10 for the FAA Resident Engineer and Project Engineer during FAY's Runway 04 Safety Area Project and Taxiway "A" Extension.

5.8 Amendments to agreements between the City of Fayetteville and the Public Works Commission.

Council approved Amendment #3 to "Agreement Between the City of Fayetteville and the Public Works Commission of the City of Fayetteville Establishing a Formal Agreement to Fund the Construction of Water and Sanitary Sewer Systems in the Annexed Area Referred to as Phase V" and Amendment #2 to "Agreement Between the City of Fayetteville and the Public Works Commission of the City of Fayetteville Establishing a Formal Operating Transfer".

5.9 Bid Award - Morganton Road 16" ductile iron water main improvements awarded to R. F. Shinn Contractor, Inc., Concord, NC, in the amount of \$674,960.00.

Bids were received as follows:

R. F. Shinn Contractor, Inc. (Concord, NC).....	\$674,960.00
T. A. Loving (Goldsboro, NC).....	\$693,000.00
Colt Contracting (Clinton, NC).....	\$783,609.00
Sandy's Hauling and Backhoe Service (Roseboro, NC).....	\$853,696.25
State Utility Contractors (Monroe, NC).....	\$937,735.00
Sandhills Contractors, Inc. (Sanford, NC).....	\$941,538.50
Utilities Plus (Linden, NC).....	\$994,236.11

5.10 Tentative award of contract for clearwell rehabilitation and chemical feed systems improvements for P.O. Hoffer and Glenville Lake Water Treatment Facilities, Contract No. 11, WIF #1665, to T. A. Loving, Goldsboro, NC, lowest responsive, responsible bidder, in the amount of \$4,607,000.00, and adopt resolution of tentative award.

Bids were received as follows:

T. A. Loving (Goldsboro, NC).....	\$4,607,000.00
State Utility Contractors (Monroe, NC).....	\$5,168,000.00
Haren Construction (Etowah, TN).....	\$5,219,000.00

RESOLUTION OF TENTATIVE AWARD. CLEARWELL REHABILITATION AND CHEMICAL FEED SYSTEM IMPROVEMENTS FOR P.O. HOFFER AND GLENVILLE LAKE WATER TREATMENT FACILITIES, CONTRACT NO. 11, WIF #1665. RESOLUTION NO. R2012-023.

5.11 Special Revenue Fund Project Ordinances 2013-1 and 2013-2 (FY 2012-2013 CDBG and HOME Program Budgets).

The ordinances appropriated \$63,770.00 for the FY 2012-2013 Community Development Block Grant Program and \$21,417.00 for the FY 2012-2013 HOME Investment Partnership Program.

6.0 PUBLIC HEARINGS

6.1 Text amendment request by Dr. Alfred J. Bost, Jr., representing Koala Daycare Center, to amend City Code Section 30-4.C.3(a)(1), Child Care Centers (nonresidential), to delete the separation requirement for child care centers [from bars, nightclubs or cocktail lounges].

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item. She stated the applicant was requesting the text amendment in an effort to reopen a daycare center that, after being closed over a year, could not reopen because it was within 500 feet of an existing bar.

She stated the current use-specific standards reflected amendments adopted in late 2007 and in 2009. She stated both amendments were requested by City Council because of concerns regarding use compatibility associated with the proximity of child care centers and bars, nightclubs, and certain other places of entertainment as well as growing concentrations in residential areas. She stated the applicant's specific request was for "a modification/amendment to the separation requirements for child care centers regardless of location". She stated this could be broadly interpreted to include no separation from adult entertainment as well as bars or cocktail lounges, but even applying the request only to separation from bars, nightclubs, or cocktail lounges, the least change needed to meet the needs of the applicant, would have a much more sweeping, City-wide impact than a similar change in the Downtown zoning district. She stated the text amendments were to be evaluated based on the seven criteria shown on the staff report. She stated the staff and Commission agreed that the request failed to meet the following criteria as numbered in the report:

- 4) Whether and the extent to which the proposed amendment addresses a demonstrated community need;
- 5) Whether and the extent to which the proposed amendment is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and would ensure efficient development within the City; and
- 6) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

Ms. Hilton advised the staff and Planning Commission recommended denial of the requested text amendment.

This is the advertised public hearing set for this date and time. The public hearing was opened. Dr. Alfred Bost, Jr., 314 Covery Square, Fayetteville, NC, appeared in favor and stated he was a co-owner of Koala Day Care Centers Inc., and was appearing to address the center located at 1090 Pamalee Drive. He stated he was objecting to ordinance 30-4CA-1 and said he believed it was up to parents to decide whether they want their children to attend a certain facility or not. There being no one further to speak the public hearing was closed.

MOTION: Council Member Bates moved to deny the text amendment request.

SECOND: Council Member Haire

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

6.2 Text amendment request by American Towers LLC to amend City Code Section 30-4.C.3(i)(4), freestanding towers, to allow required separation and setback standards to be considered during the special use permit process and waived or reduced by City Council upon finding good cause.

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

MOTION: Mayor Chavonne moved to continue this public hearing to the July 9, 2012, City Council meeting.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

7.0 OTHER ITEMS OF BUSINESS

7.1 Uninhabitable Structures Demolition Recommendation

Mr. Scott Shuford, Development Services Director, presented this item with the aid of a power point presentation and multiple photographs of the properties. He stated staff recommended adoption of the ordinances authorizing demolition of the structures. He reviewed the following

demolition recommendations:

603 Carthage Drive

Mr. Shuford stated the structure was a residential home that was inspected and condemned as a dangerous structure. He further stated the owner had not appeared at the hearing and therefore an order to repair or demolish the structure within 60 days was issued. He noted to date there were no repairs to the structure and there was no record of utilities. He further noted within the past 24 months there had been 0 calls for 911 service and one code violations with no pending assessments. He advised the low bid for demolition of the structure was \$2,400.00.

1607 Coley Drive

Mr. Shuford stated the structure was a residential home that was inspected and condemned as a blighted structure. He further stated the owner had not appeared at the hearing and therefore an order to repair or demolish the structure within 60 days was issued. He noted to date there were no repairs to the structure and the utilities were disconnected in March 2012. He further noted within the past 24 months there had been 5 calls for 911 service and four code violations with pending assessments of \$899.75. He advised the low bid for demolition of the structure was \$1,700.00.

912 Weiss Avenue

Mr. Swanson stated the structure was a residential home that was inspected and condemned as a blighted structure. He further stated the owner had not appeared at the hearing and therefore an order to repair or demolish the structure within 60 days was issued. He noted to date there were no repairs to the structure and the utilities were disconnected in July 2002. He further noted within the past 24 months there had been 3 calls for 911 service and 7r code violations with no pending assessments. He advised the low bid for demolition of the structure was \$1,700.00.

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 (603 CARTHAGE DRIVE). ORDINANCE NO. NS2012-024.

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 (1607 COLEY DRIVE). ORDINANCE NO. NS2012-025.

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 (912 WEISS AVENUE). ORDINANCE NO. NS2012-026.

MOTION: Council Member Haire moved to approve the demolitions by adopting the ordinances.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

8.0 ADMINISTRATIVE REPORTS

8.1 Monthly statement of taxes for May 2012.

2011 Taxes.....	\$333,203.52
2011 Vehicle.....	404,643.80
2011 Taxes Revit.....	1,572.08
2011 Vehicle Revit.....	439.42
2011 FVT.....	45,375.59
2011 Transit.....	45,375.64
2011 Storm Water.....	8,268.35
2011 Fay Storm Water.....	16,536.73

2011 Fay Recycle Fee.....	15,133.74
2011 Annex.....	0.00
2010 Taxes.....	10,597.64
2010 Vehicle.....	6,096.43
2010 Taxes Revit.....	0.00
2010 Vehicle Revit.....	0.52
2010 FVT.....	1,441.44
2010 Transit.....	1,441.44
2010 Storm Water.....	164.51
2010 Fay Storm Water.....	329.01
2010 Fay Recycle Fee.....	558.93
2010 Annex.....	0.00
2009 Taxes.....	3,523.57
2009 Vehicle	1,267.20
2009 Taxes Revit.....	0.00
2009 Vehicle Revit.....	0.00
2009 FVT.....	399.80
2009 Transit.....	399.82
2009 Storm Water.....	60.00
2009 Fay Storm Water.....	120.00
2009 Fay Recycle Fee.....	190.00
2009 Annex.....	0.00
2008 Taxes.....	320.46
2008 Vehicle	822.34
2008 Taxes Revit.....	0.00
2008 Vehicle Revit.....	0.00
2008 FVT.....	222.68
2008 Transit.....	153.13
2008 Storm Water.....	70.05
2008 Fay Storm Water.....	24.00
2008 Fay Recycle.....	42.00
2008 Annex.....	0.00
2007 and Prior Taxes.....	321.70
2007 and Prior Vehicle.....	1,895.99
2007 and Prior Taxes Revit.....	0.00
2007 and Prior Vehicle Revit.....	0.00
2007 and Prior FVT.....	380.44
2007 and Prior Storm Water.....	108.55
2007 and Prior Fay Storm Water.....	1.10
2007 and Prior Annex.....	30.76
Interest.....	28,556.62
Revit Interest.....	70.81
Storm Water Interest.....	526.56
Fay Storm Water Interest.....	893.91
Annex Interest.....	0.41
Fay Recycle Interest.....	887.29
Fay Transit Interest.....	1,209.40
Total Tax and Interest.....	\$933,677.37

MOTION: Council Member Bates moved to go into closed session with the City Attorney to discuss litigation in the matters of *Jarryd Rauhoff v. City of Fayetteville*, *City of Fayetteville v. Jacqueline and Dale Pfendler*; and *Darwin Johnson, et al. v. City of Fayetteville, et al.*

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

The regular session recessed at 7:45 p.m. The regular session reconvened at 8:00 p.m.

MOTION: Council Member Fowler moved to go into open session.

SECOND: Council Member Applewhite

VOTE: UNANIMOUS (10-0)

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:05 p.m.