

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
AUGUST 27, 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:

Theodore Voorhees, City Manager  
Kristoff Bauer, Assistant City Manager  
Karen M. McDonald, City Attorney  
Brian Meyer, Assistant City Attorney  
Dana Clemons, Assistant City Attorney  
Lisa Smith, Chief Financial Officer  
Bradley Whited, Airport Director  
Katherine Bryant, Interim Police Chief  
Dwayne Campbell, Chief Information Officer  
Randy Hume, Transit Director  
Rusty Thompson, Engineering and Infrastructure Director  
Scott Shuford, Development Services Director  
Victor Sharpe, Community Development Director  
Karen Hilton, Planning and Zoning Manager  
Craig Harmon, Planner II  
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 Reginald Johnston, Senior Pastor of My Father's House Christian Church.

**3.0 PLEDGE OF ALLEGIANCE**

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

**RECOGNITION/ANNOUNCEMENTS**

Council Member Hurst announced the "Fayetteville Beautiful" clean-up was scheduled for September 8, 2012, at Linear Park beginning at 8:00 a.m. and would last approximately two hours.

Council Member Davy announced a "Grandparents Day" celebration was scheduled for September 8, 2012, from 12:00 noon to 5:30 p.m. at the Christina Smith Park.

Council Member Haire announced the City of Fayetteville partnered with the Fayetteville Branch of the N.A.A.C.P. and other community advocacy groups on a community education series designed to restore mutual trust between the Fayetteville Police Department and the community through education. He stated the public was invited to the second meeting to be held on August 30, 2012, at the Kingdom Impact Global Ministries located at 2503 Murchison Road in Fayetteville from 6:30 to 7:30 p.m.

Council Member Haire announced Kingdom Impact Global Ministries Church would be holding a "Community Day" on September 9, 2012, at 10:00 a.m. and everyone was invited.

Mayor Chavonne announced the Finance Department was honored with a Certificate of Achievement for Excellence in Financial Reporting Award from the Government Finance Officers Association of the United States and Canada. He stated it was the sixth year that the Department had been recognized for its comprehensive annual financial report. Mayor Pro Tem Arp presented the award to Ms. Lisa Smith, Chief Financial Officer. Mayor Chavonne stated

the Council was very proud of Ms. Smith and her team.

#### **4.0 APPROVAL OF AGENDA**

**MOTION:** Mayor Pro Tem Arp moved to approve the agenda.

**SECOND:** Council member Bates

**VOTE:** UNANIMOUS (10-0)

#### **5.0 CONSENT**

**MOTION:** Council Member Fowler moved to approve the consent agenda with the exception of Item 5.7 which was pulled for a separate vote.

**SECOND:** Council Member Massey

**VOTE:** UNANIMOUS (10-0)

#### **5.1 Approve State Grant Amendment and Capital Project Ordinance Amendment 2013-16 (Tree Clearing for Runways 10 & 4).**

The State Grant Amendment provided \$29,357.00 additional State dollars towards the removal of obstructions from Runways 4 and 10. The Capital Project Amendment appropriated additional state funds of \$29,357.00 and an associated local match of \$3,262.00. The Airport Operating Fund provided the local match and the revised budget for the project was \$282,619.00.

#### **5.2 Approval of Transit route and schedule changes.**

The recommended changes included:

- 1.Split Route 15 creating a more direct route between Cross Creek Mall and the Cape Fear Valley Medical Center and a new route serving Hollywood Heights and parts of Cliffdale Road. This also eliminated the awkward transfer arrangement that existed at Cliffdale and Bunce Roads.
- 2.Combining Routes 16 & 17 into a single route with two buses resulting in new service along Reilly Road between Morganton and Cliffdale Roads as well as an hourly connection with Fort Bragg's on-post shuttle via the Yadkin gate.
- 3.Modifying Route 8 to use Campbell Street instead of Russell Street between Gillespie Street and Old Wilmington Road to better serve the Hope VI developments.

#### **5.3 Community Development - Approval of acquisition of property located at 205 Deep Creek Road.**

#### **5.4 Community Development - Approval of acquisition of property located at 922 Ellis Street.**

#### **5.5 Budget Ordinance Amendment 2013-1 (General Fund).**

The amendment appropriated \$75,866.00 for expenditures associated with the 250th Anniversary Celebration in the current fiscal year by appropriating \$57,266.00 from fund balance and \$18,600.00 in projected revenues from the sale of the commemorative coins.

#### **5.6 Budget Ordinance Amendment 2013-2 (General Fund) and Capital Project Ordinance Amendment 2013-15 (Municipal Agreements).**

The amendments appropriated \$78,016.00 to the Engineering & Infrastructure Department budget for a municipal agreement with the North Carolina Department of Transportation for the construction of sidewalks along Legion Road. The source of funds for the amendments was an appropriation of \$78,016.00 from General Fund fund balance.

#### **5.7 Pulled for discussion by Council Member Fowler.**

#### **5.8 Capital Project Ordinance 2013-15 (2012 Justice Assistance Grant Program).**

The FY 2012-2013 Justice Assistance Grant (JAG), totaling \$174,633.00, was awarded to the Fayetteville Police Department and the Cumberland County Sheriff's Office in July. The ordinance appropriated the City's share of \$120,053.00 for the JAG program.

#### **5.9 Capital Project Ordinance Amendment 2013-17 (Linear Park).**

The Amendment appropriated an additional \$170,081.00 for the Linear Park project.

#### **5.10 Capital Project Ordinance Amendment 2013-18 (FY 2007 Transit Capital Grant).**

The amendment appropriated an additional \$206.00 for the FY 07 Transit Capital Grant.

#### **5.11 Approval of a Municipal Agreement with NCDOT for median construction and pedestrian improvements on Grove Street from Green Street to the Cape Fear River**

**Bridge and Eastern Boulevard from Grove Street to Person Street.**

**5.12 Approval of speed limit recommendation for speed limit along Lake Valley Drive from Skibo Road to Yadkin Road.**

**CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE [SR 3499 (LAKE VALLEY EXTENSION) – CAR (45 MPH) AND TRUCK (45 MPH)]. ORDINANCE NO. NS2012-030.**

**5.13 Approval of no parking ordinance on Kienast Drive.**

**AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES AND TRAFFIC, OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES [Traffic Schedule No. 11 – Parking prohibited]. ORDINANCE NO. NS2012-031.**

**5.14 Approval of stop sign ordinances.**

**AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES AND TRAFFIC, OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES [Traffic Schedule No. 6 – Stop Intersections]. ORDINANCE NO. NS2012-032.**

**5.15 Approval of yield sign ordinance.**

**AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES AND TRAFFIC, OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES [Traffic Schedule No. 14 – Yield Right-of-Way]. ORDINANCE NO. NS2012-033.**

**5.16 Approval of a municipal agreement with NCDOT for maintenance of the computerized traffic signal system.**

**5.17 Municipal Agreement with NCDOT for sidewalk improvements to Legion Road from Elk Road to Owen Drive.**

**5.18 Phase V, Area 6 & 7 - Proposed assessment revision.**

**5.19 Special Revenue Fund Project Ordinance 2013-3 (Gangs Across the Carolinas 2012).**

The ordinance appropriated \$53,299.00 for the Gangs Across the Carolinas Training Conference for fiscal year 2012-2013.

**5.20 Special Revenue Project Fund Ordinance 2013-4 (2012 Gang Partnership Program).**

The ordinance appropriated \$48,196.00 for the Gang Partnership Program for fiscal year 2012-2013.

**5.21 Special Revenue Fund Project Ordinance Amendment 2013-1 (CDBG Program) and Special Revenue Fund Project Ordinance Amendment 2013-2 (HOME Program).**

**5.7 Budget Ordinance Amendment 2013-3 (General Fund), Capital Project Ordinance 2013-16 (FY 12 Transit Capital Grant), and Special Revenue Fund Project Ordinance 2013-5 (FY 12 Transit Planning Grant).**

This item was pulled by Council Member Fowler for a separate vote.

**VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members Bates, Crisp, and Fowler)**

## **6.0 PUBLIC HEARINGS**

**6.1 Case No. P12-38F. Request for a Special Use Permit for heavy auto repair on property zoned Community Commercial and Limited Commercial located at 4429 Murchison Road. Containing 6.5 acres more or less and being the property of Weaver Commercial Properties.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He explained the property was currently used as a light auto repair business; i.e., tires, oil and battery changes, lubes, and tune ups. He further explained the owner had requested a Special Use Permit (SUP) to expand their operations to include heavy auto repair. He stated there was no site plan as part of the SUP application since this was an existing business. He stated a condition of the SUP was that the property would meet the minimum requirements of the UDO, such as parking and landscaping. He advised the Zoning Commission and staff recommended approval based on (1) the front third of the property being currently zoned CC for heavy commercial, (2) the property's current use being auto repair, (3) a car lot and other commercial uses surrounding the property, and (4) the SUP allowing additional

conditions being placed on the property if necessary. He further advised the Zoning Commission and staff recommended approval of the SUP as presented by staff based upon a finding that all of the following standards were met:

- 1.The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- 2.The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- 3.The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- 4.The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- 5.The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- 6.The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- 7.The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- 8.The special use complies with all other relevant City, State, and Federal laws and regulations.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Aneudy Garcia, representing the property owners, 4429 Murchison Road, Fayetteville, NC 28311, appeared in favor.

There being no one further to speak, the public hearing was closed.

Council Member Haire expressed concerns regarding the amount of visibility of automobiles in a state of disrepair. Mr. Garcia explained that all vehicles that necessitated an over-night stay would be parked in the back of the property, which was fenced in and not visible from the road. A discussion period ensued.

**MOTION: Council Member Haire moved to approve the Special Use Permit for the property as presented by staff, based on the submitted site plan and upon a finding that all of the 8 standards were met and that the following two additional conditions were met: (1) Additional buffering (street-scape as required by the UDO) and (2) no vehicles to be parked overnight at the front of the building.**

**SECOND: Council Member Massey**

**VOTE: UNANIMOUS (10-0)**

**6.2 Case No. P12-39F. Request for a Special Use Permit for heavy auto repair on property zoned Community Commercial located at 5130 Raeford Road. Containing 2.66 acres more or less and being the property of DPGP Investments, LLC.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He explained general auto repair was allowed by right in CC, but heavy repairs, including body work, painting, engine and transmission repairs, would require a SUP. He further stated during the Zoning Commission meeting there were concerns regarding access to the back of the property along Morris Drive, a private road. He further stated the main concern was the use of the road for wrecker access, especially on the weekends. He advised conditions of the SUP suggested by the Zoning Commission were (1) the property meeting the minimum requirements of the Development Code, such as parking and landscaping; (2) a Type D buffer along Morris Street; (3) 12-inch trees and 36-inch high shrubs with a 10-foot buffer; (4) the chain-link fence remaining; (5) joining the street maintenance association; (6) the hours of operation being 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to 3:00 p.m. Saturdays; and (7) bringing Moore Street up to City standards to the property entrance. He further advised the Zoning Commission and staff recommended approval of the SUP as presented by staff based upon a finding that all of the following standards were met:

- 1.The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;

- 2.The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- 3.The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- 4.The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- 5.The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- 6.The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- 7.The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- 8.The special use complies with all other relevant City, State, and Federal laws and regulations.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Don Price, 5202 Raeford Road, Fayetteville, NC 28302, business owner, appeared in favor and stated he was present to address any concerns or questions.

Mr. Chris Pusey, 409 Chicago Drive, Fayetteville, NC 28306, appeared in favor and stated he would waive his time to Mr. Lail.

Mr. Ben Lail, Engineer for the property owners, 409 Chicago Drive, Fayetteville, NC 28306, appeared in favor and stated he was present to answer any questions.

There being no one further to speak, the public hearing was closed.

Mayor Chavonne inquired of Mr. Price if he had any issues with the hours of operation that were included as part of the conditions. Mr. Price responded at this time he would not want to change his hours of operation. He further stated he was aware of businesses that operated until 9:00 p.m.

Mayor Pro Tem Arp stated that many auto body repair shops were overwhelmed after the recent hail damage and Saturdays were good for most people to have repairs done, and if the business closed at 3:00 p.m. it would be confining.

A discussion period ensued regarding wrecker businesses delivering vehicles late at night via the back gate entrance of the property. Mr. Lail stated he was not aware of any complaints from residents in the area objecting to late night deliveries.

Further discussion ensued on whether the hours of operation also applied to include the delivery of vehicles to the property. Ms. Karen McDonald, City Attorney, stated the issue had not been brought up during the Zoning Commission meeting.

Council Member Crisp inquired who had imposed the 3:00 p.m. condition. Mr. Harmon responded it was only a suggestion.

Council Member Crisp further inquired if it was possible to have after-hour deliveries made to the front of the building rather than using the back private road. Mr. Price confirmed that was possible.

**MOTION: Mayor Pro Tem Arp moved to approve the Special Use Permit for the property as presented by staff, based on the submitted site plan and upon a finding that all of the 8 findings and 7 conditions were met, and with additional hours of operation from 7:00 a.m. to 6:00 p.m. Monday to Friday and then 7:00 a.m. to 5:00 p.m. on Saturdays and then bring Morris Street up to City standards for the property entrance.**

**SECOND: Council Member Fowler**

Council Member Applewhite inquired why the motion contained additional hours of operation when the business owner had not requested additional hours. Mayor Pro Tem Arp responded it was a convenience for the owner in case in the future he wanted to extend his hours of operation and would not have to return to the Council to request a special use permit.

Ms. McDonald stated that staff requested the motion state the hours of operation as it related to the dropping off of vehicles.

**AMENDED MOTION: Mayor Pro Tem Arp moved to approve the Special Use Permit for the property as presented by staff, based on the submitted site plan and upon a finding**

that all of the 8 findings and 7 conditions were met, hours of operation from 7:00 a.m. to 6:00 p.m. Monday to Friday and 7:00 a.m. to 5:00 p.m. on Saturday, and all drop off vehicles to be delivered to the front of the building after business hours.

**SECOND: Council Member Davy**

**VOTE: FAILED by a vote of 5 in favor to 5 in opposition (Council Members Applewhite, Crisp, Bates, Fowler, and Hurst)**

**MOTION: Council Member Bates moved to approve the Special Use Permit for the property as presented by staff, based on the submitted site plan and upon 8 findings and 7 conditions were met, and hours of operation from 7:00 a.m. to 6:00 p.m. Monday to Friday and then 7:00 a.m. to 3:00 p.m. on Saturdays and all drop off vehicles to be delivered to the front of the building after business hours.**

**SECOND: Council Member Haire**

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

**6.3 Case No. P12-40F. Request for a Special Use Permit for a Mini-Storage Warehouse in a Community Commercial district on property located at 372 N. Reilly Road. Containing 0.83 acres more or less and being the property of American Flag Reilly Road LLC.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He explained the building on the property was used for retail space currently and mini-storage warehousing would require an SUP in the CC district. He advised conditions of the SUP suggested by the Zoning Commission were (1) the property meeting the minimum requirements of the UDO, such as parking and landscaping; and (2) being consistent with reviewed site plan and Technical Review Committee conditions of approval. He further advised the Zoning Commission and staff recommended approval of the SUP as presented by staff based upon a finding that all of the following standards were met:

- 1.The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
  - 2.The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
  - 3.The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
  - 4.The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands, conditioned upon site plan and meeting transitional standards;
  - 5.The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
  - 6.The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
  - 7.The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
  - 8.The special use complies with all other relevant City, State, and Federal laws and regulations.
- This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. David Matthews, surveyor representing the property owner, 115 Broadfoot Avenue, Fayetteville, NC 28305.

There being no one further to speak, the public hearing was closed.

**MOTION: Council Member Fowler moved to approve the Special Use Permit for the property as presented by staff, based on the submitted site plan and upon a finding that all of the 8 findings were met.**

**SECOND: Council Member Bates**

**VOTE: UNANIMOUS (10-0)**

**6.4 Case No. P12-41F. Request for a Special Use Permit for a Mini-Storage Warehouse in a Community Commercial district on property located at the southeast corner of Santa Fe**

**and Jacks Ford Drives. Containing 3.01 acres more or less and being the property of Storage Kings LLC.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He explained the mini-storage warehousing would require a SUP in the CC district and the City's Land Use Plan was calling for heavy commercial on the property. He advised conditions of the SUP suggested by the Zoning Commission were (1) the property meeting the minimum requirements of the UDO, such as parking and landscaping; and (2) being consistent with the site plan and TRC conditions of approval. He further advised the Zoning Commission and staff recommended approval of the SUP based on (1) the property currently being zoned CC for heavy commercial; (2) a large mini-storage complex being to the southwest on Jacks Ford Drive; and (3) the SUP allowing for additional conditions to be placed on the property and upon a finding that all of the following standards were met:

- 1.The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
- 2.The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- 3.The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- 4.The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- 5.The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- 6.The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- 7.The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- 8.The special use complies with all other relevant City, State, and Federal laws and regulations.

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

Mr. David Matthews, surveyor representing the property owner, 115 Broadfoot Avenue, Fayetteville, NC 28305, appeared in favor and provided a handout to the Council.

Ms. Avis Weatherspoon, 1986 Christopher Way, Fayetteville, NC 28303, appeared in opposition and stated she and fellow residents did not want to see another storage facility in their neighborhood.

Ms. Kenorsha Gorden, 1978 Christopher Way, Fayetteville, NC 28303, appeared in opposition and stated approval of the mini-storage business would increase traffic in the neighborhood. There being no one further to speak, the public hearing was closed.

Council Member Haire inquired if there could be an additional condition to provide for additional trees (tree scapes). Mr. Matthews responded some trees would have to be removed to provide for the construction of the facility and sidewalks, but the builder/developer would only remove trees that were absolutely necessary to complete the project.

Mr. Theodore Voorhees, City Manager, stated the tree reserve area was not a part of the packet and Council could require an additional condition to include the exhibit.

Council Member Haire inquired of Ms. Weatherspoon if additional trees were required, would that make a difference. Ms. Weatherspoon stated it would not and the residents did not want another storage facility in close proximity to their neighborhood.

**MOTION: Council Member Haire moved to deny the Special Use Permit.**

**SECOND: Council Member Applewhite**

**VOTE: FAILED by a vote of 4 in favor to 6 in opposition (Council Members Hurst, Fowler, Massey, Chavonne, Davy, and Arp)**

**MOTION: Mayor Pro Tem Arp moved to approve the Special Use Permit for the property and Supplemental Exhibit 1, Erosion-Stormwater Plan 5-16-12.dwg, Model 8/27/12 4:13:15 (highlighted yellow area), and to specify the facility to be restricted to storage use only;**

**no musical activities allowed.**

**SECOND: Council Member Hurst**

**VOTE: PASSED by a vote of 6 in favor and 4 in opposition (Council Members Applewhite, Haire, Bates, and Crisp)**

**6.5 Case No. P12-42F. Request for a Special Use Permit for a Mini-Storage Warehouse on property zoned Community Commercial located at 1303 Clinton Road. Containing 5.55 acres more or less and being the property of Pyramid Rehearsal Studio, Inc.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He explained the building on the property appeared to be completely within the 100-year flood elevation which meant the building would only be renovated up to 50 percent of the existing building's value. He stated the current structure was built prior to the City enacting its flood damage prevention rules which call for all buildings to have a finished flood elevation 2 feet above that of the 100-year flood elevation. He explained mini-storage warehousing would require an SUP in the CC district. He advised conditions of the SUP included the property meeting the minimum requirements of the UDO, such as the mini-storage warehouse standards, parking and landscaping. He further advised the Zoning Commission and staff recommended denial of the proposed SUP using the existing building based on (1) the existing building not meeting the current flood damage prevention rules, (2) the Land Use Plan calling for conservation in the flood plain area, (3) the Hazard Mitigation Plan calling for the mitigation of existing buildings in the flood plain that do not meet the City's flood damage prevention rules, (4) the 2030 Plan calling for the preservation of flood prone areas as conservation areas, and (5) the SUP allowing for additional conditions to be placed on the property. He further advised the Zoning Commission and staff recommended denial of the SUP as presented by staff based upon a finding that all of the following standards could not be met:

- 1.The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards;
  - 2.The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
  - 3.The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
  - 4.The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
  - 5.The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
  - 6.The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
  - 7.The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
  - 8.The special use complies with all other relevant City, State, and Federal laws and regulations.
- This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. David Edwards, 1905 Colon Mintz Road, Leland, NC 28451, appeared in favor and stated there was a need for this type of storage facility. He stated the space was normally used to store musical instruments rather than to play music. He stated he was a certified contractor but was not a qualified surveyor.

Council Member Haire clarified that the requestor was seeking the storage of musical instruments only and the facility would not be used for playing music.

Council Member Davy inquired what the applicant would need to do to meet all the requirements. Mr. Harmon responded he would have to comply with the UDO. He explained the flood damage prevention ordinance required that the finished floor elevation would have to be two feet above the flood plain for any new building built in the flood plain to prevent flood damage.



Council Member Davy inquired if this would be considered a new building as the owner was intending to upfit the building. Mr. Harmon replied that as long as the owner stayed under 50 percent of the value of the property for the renovation costs, he would not have to come into compliance with the flood damage prevention ordinance.

Council Member Applewhite inquired if the property owner had to pay a higher rate of insurance for operating in a flood zone. She raised concerns that clients conducting business at the proposed facility may not be aware of the flood plain issue. Mr. Edwards responded the flood plain issue would be addressed in the lease agreement/contract with the clients.

Mr. Voorhees stated they were prohibited from allowing new construction in areas like this. He stated if they allowed that, then they run afoul of the FEMA flood plain program and could jeopardize the City's participation City-wide in the flood and maintenance insurance program and certainly would not want to do that. He stated in this case it was an existing structure.

Mr. Harmon stated the improvements were based on the tax value of the property and the improvements were monitored through the building permits requested. He further stated he did not know the value of the property.

Further discussion ensued.

Ms. McDonald stated after conferring with Mr. Voorhees and Mr. Shuford, staff would like to request Council consider tabling the item to allow staff time to research and answer their questions.

Council Member Davy inquired if the City approved permits in the flood plain. Mr. Harmon responded that the City had approved permits in the flood plain, but they had to be above the two feet requirement.

Council Member Bates inquired on the tax value of the property for the next time the item was discussed. Mr. Voorhees stated in addition, staff would provide an explanation of how the flood plain ordinance would operate for the next meeting, and would provide further information regarding liabilities.

There being no one further to speak, the public hearing was closed.

**MOTION: Council Member Davy moved to table the item and re-address at the September 24, 2012, City Council regular meeting.**

**SECOND: Mayor Pro Tem Arp**

**VOTE: UNANIMOUS (10-0)**

## **7.0 OTHER ITEMS OF BUSINESS**

### **7.1 Revision of City Council Policy No. 110.1, Membership and Attendance of boards and commissions.**

Council Member Hurst presented this item and stated on June 18, 2012, the City Clerk's office facilitated a training session for the boards and commissions liaisons. He stated the purpose of the meeting was to review the appointment process, new literature, liaison responsibilities, current vacancies, revisions to the schedule of appointments, and discuss improvements to the overall process. He stated the meeting went well and the information was appreciatively received. He stated during the meeting, the issue of the boards and commissions attendance policy was raised. He stated the consensus of the liaisons attending the meeting was that the current attendance policy was problematic and too restrictive. He stated examples were given where a member may have missed two regular meetings in a year, which would technically calculate to an attendance record of 50 percent, but may have attended other subcommittee meetings, special meetings or events for which there was no consideration given. He stated the liaisons requested the Appointment Committee review City Council Policy No. 110.1 and consider amending it to provide clarity. He stated the recommended policy revision was as follows:

It shall be the policy of the City Council to allow an individual to serve on only one board or commission at a time. Pursuant to City Code § 2-35(c), an appointee shall attend at least 75 percent of regularly scheduled meetings, special meetings, and other activities of the board or commission, such as special events and subcommittee meetings where applicable, on an annual basis from the date of their appointment and if that does not comply with such attendance, or

fails to attend three (3) consecutive regularly scheduled meetings, then the appointee shall be automatically removed and not be appointed to any City board or commission within two years of their removal date. Cancelled meetings shall count as an attended meeting. The City Clerk shall notify the appointee and report to the City Council by letters if an appointee has been removed pursuant to this provision.

Council Member Hurst stated at the July 31, 2012, Appointment Committee meeting, the Appointment Committee unanimously voted to approve the revisions to the boards and commissions attendance policy.

Council Member Applewhite inquired if telephone conference calls were part of the discussion. Council Member Hurst responded they were not.

Council Member Crisp stated we do not want to fire good people.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE II, ADMINISTRATION, SECTION 2-35, APPOINTMENTS TO BE CITY RESIDENTS; REMOVAL, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2012-015.**

**MOTION: Council Member Hurst moved to approve.**

**SECOND: Council Member Crisp**

**VOTE: UNANIMOUS (10-0)**

**7.2 Presentation of Appointment Committee recommendations for boards and commissions appointments.**

Council Member Hurst stated the following was the list of board and commission recommended appointments.

<u>Applicants</u>	<u>Term</u>
<u>Airport Commission</u>	
Dawn Gibson (Second term - Travel Agent)	Sept 2012-March 2015
Ralph P. Hamilton (First Term)	Sept 2012-March 2015
Donald Murray Warren (First Term)	Sept 2012-March 2015
R. B. Goforth (First Term)	Sept 2012-March 2015
<u>Animal Services/County Board</u>	
Daniel Montoya (Fill-in)	Sept 2012-June 2014
Reba Axtell (Fill-in)	Sept 2012-June 2014
<u>Appearance Commission</u>	
Kevin Hight (First Term)	Sept 2012-Sept 2014
<u>Board of Adjustment</u>	
Wick Smith (First Term)	Sept 2012-Sept 2014
Bill Jenkins (First Term)	Sept 2012-Sept 2014
William Love (First Term - Alternate)	Sept 2012-Sept 2014
George Turner (First Term – Alternate)	Sept 2012-Sept 2014
Charles Astrike (First Term)	Sept 2012-Sept 2014
<u>Board of Appeals on Dwellings and Buildings</u>	
Edward Wells (First Term)	Sept 2012-March 2015
Ronald Adams (First Term)	Sept 2012-March 2015
Maxine McNeill (Second Term)	Sept 2012-March 2015
<u>Ethics Commission</u>	
Joseph W. Levister, Jr. (University/College)	Sept 2012-March 2014
<u>Finance Corporation</u>	
William Brooks (terms unregulated)	Sept 2012-Sept 2013
Keith Love (terms unregulated)	Sept 2012-Sept 2013
<u>Historic Resources Commission</u>	
Christopher Frank (First Term - Architect)	March 2012-March 2014
Robert W. Cooper (Fill-in)	Sept 2012-March 2014
<u>Human Relations Commission</u>	
Lynn Thomas (First Term previous fill-in)	Sept 2012-Sept 2014

Judy Swanson (First Term previous fill-in)	Sept 2012-Sept 2014
Tanya Stanley (First Term previous fill-in)	Sept 2012-Sept 2014
Kathy Waddell (First Term previous fill-in)	Sept 2012-Sept 2014
Bruce Lee (Second Term)	Sept 2012-Sept 2014
Crystal Moore-McNair (First Term)	Sept 2012-Sept 2014
Alberta Lampkins (First Term)	Sept 2012-Sept 2014
Theresa Trainer (First Term)	Sept 2012-Sept 2014
<u>Linear Park, Inc</u>	
James Bowser (Fourth Term)	Sept 2012-March 2014
Harry Shaw (Fourth Term)	Sept 2012-March 2014
Larry Bruce Norris (Fourth Term)	Sept 2012-March 2014
<u>Metropolitan Housing Authority</u>	
Joyce Tucker (Fourth Term)	Sept 2012- Sept 2014
<u>Parks and Recreation</u>	
Harvey Jenkins (First Term)	Sept 2012- Sept 2014
Joyce Malone (First Term)	Sept 2012- Sept 2014
<u>Planning Commission</u>	
William J. Fiden (First Term)	Sept 2012- Sept 2014
Bill Watt (Second Term)	Sept 2012- Sept 2014
Larnie McClung (First Term)	Sept 2012- Sept 2014
Ngozi Kamalu (First Term)	Sept 2012- Sept 2014
Neiman Young (First Term Alternate)	Sept 2012- Sept 2014
Hector Ray (First Term)	Sept 2012- Sept 2014
<u>Public Arts Commission</u>	
Noreda Hess (Fill-in)	Sept 2012-March 2014
Junita Pilgrim (Fill-in)	Sept 2012-March 2014
Virginia Oliver (Second Term)	Sept 2012-March 2014
<u>Public Works Commission</u>	
Michael Lallier (Third Term)	Sept 2012- Sept 2016
<u>Redevelopment Commission</u>	
Monica Luongo (Fill-in)	Sept 2012- March 2015
<u>Residential Rental Property Review Board</u>	
Stella Mullen (First Term Appointed by Mayor)	Sept 2012- March 2015
Thomas Neal(Fill-in Appointed by City Manager)	Sept 2012- March 2013
Chester Oehme Jr.(First Term Appointed by Mayor)	Sept 2012- March 2014
Lisa H. Brown (First Term)	Sept 2012- March 2015
Lawrence Frawley (First Term)	Sept 2012- March 2014
Faye Watson (Fill-in)	Sept 2012- March 2013
Yvette Hamilton Sanders (First Term)	Sept 2012- March 2014
<u>Senior Citizens Advisory Board</u>	
Pamela Wade (Fill-in)	Sept 2012- Sept 2013
Kevin Mciver (Fill-in)	Sept 2012- Sept 2013
<u>Stormwater Advisory Board</u>	
Patricia Vaughan (Second Term)	Sept 2012- Sept 2014
Kiki Rupert (First Term)	Sept 2012- Sept 2014
<u>Transit –Fayetteville Advisory Commission on Transit (FACT)</u>	
Michael Rutan (Second Term FAMPO)	Sept 2012- March 2015
Sharon Collins (Second Term ADA)	Sept 2012- March 2015
Willie Mintz (First Term Bus Rider)	Sept 2012- March 2015
<u>Zoning Commission</u>	
Colleen Astrike (First Term –Alternate)	Sept 2012- Sept 2014
Jack Cox (First Term)	Sept 2012- Sept 2014
O.C. Holloway (First Term – Alternate)	Sept 2012- Sept 2014

**MOTION: Council Member Hurst moved to approve the recommended appointments.**

**SECOND: Council Member Crisp**

**VOTE: UNANIMOUS (10-0)**

**7.3 Uninhabitable structures demolition recommendation.**

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

**202 Circle Court**

Mr. Shuford stated the structure was a vacant 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 December 2006. He further noted within the past 24 months there had been no calls for 911 service and six code violations with pending assessments of \$2,218.76 for lot cleanings. He advised the low bid for demolition of the structure was \$1,600.00.

**303 Cochran**

Mr. Shuford stated the structure was a vacant 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 the utilities were disconnected in November 2007. He further noted within the past 24 months there had been two calls for 911 service and ten code violations with pending assessments of \$4,683.65 for lot cleanings and demolition. He advised the low bid for demolition of the structure was \$1,997.00.

**1801 Torrey**

Mr. Shuford stated the structure was a vacant residential home that was inspected and condemned as a blighted structure. He stated the owner attended the hearing and a subsequent hearing was held in which an order was issued to repair or demolish the structure within 90 days. He noted to date there were no repairs to the structure and the utilities were disconnected in February 2007. He further noted within the past 24 months there had been eight calls for 911 service and one code violation with no pending assessments. He advised the low bid for demolition of the structure was \$1,600.00.

Council Member Haire inquired why some of the properties slated for demolition were not boarded up. Mr. Shuford responded that boarding property was optional and there was no ordinance to mandate such action.

**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 (202 CIRCLE COURT, PIN 0438-79-3083). ORDINANCE NO. NS2012-027.**

**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 (303 COCHRAN AVENUE, PIN 0438-78-8106). ORDINANCE NO. NS2012-028.**

**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 (1801 TORREY DRIVE, PIN 0428-73-8011). ORDINANCE NO. NS2012-029.**

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

**SECOND: Council Member Fowler**

**VOTE: UNANIMOUS (10-0)**

**7.4 Boarded Houses**

Mr. Scott Shuford, Development Services Director, presented this item and stated at the August 7, 2012, City Council work session, staff presented a variety of options for addressing concerns raised by Council members regarding long-term boarding of residential structures. He stated Council provided direction to staff to develop an ordinance that would establish a three-year maximum time period for boarding houses and that would provide an avenue of appeal to obtain extension of the time period in the event of extenuating circumstances. He stated the legal staff had drafted an ordinance that addressed those issues, allowing appeals of the boarding limitation to ultimately be addressed by the Board of Appeals on Buildings and Dwellings. He stated the ordinance would also establish a no-cost registration requirement for property owners seeking to board houses in order to provide staff with the ability to monitor the properties, to understand the property owners' motivations behind boarding the properties, and to offer an opportunity for dialog early in the process so that all parties had the same expectations.

**ORDINANCE AMENDING CHAPTER 14, HOUSING, DWELLINGS AND BUILDINGS, BY CREATING A NEW ARTICLE VI, REGULATION OF BOARDED UP RESIDENTIAL STRUCTURES. ORDINANCE NO. S2012-017.**

**MOTION: Council Member Haire moved to approve the boarded houses ordinance.**

**SECOND: Council Member Crisp**

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Fowler and Bates)**

**8.0 ADMINISTRATIVE REPORTS**

**8.1 Monthly statement of taxes for July 2012.**

2011 Taxes.....	\$117,485.55
2011 Vehicle.....	249,902.87
2011 Taxes Revit.....	106.35
2011 Vehicle Revit.....	264.70
2011 FVT.....	28,497.62
2011 Transit.....	28,497.63
2011 Storm Water.....	4,375.58
2011 Fay Storm Water.....	8,750.94
2011 Fay Recycle Fee.....	11,853.51
2011 Annex.....	0.00
2011 Taxes.....	76,205.51
2011 Vehicle.....	143,160.44
2011 Taxes Revit.....	261.27
2011 Vehicle Revit.....	85.35
2011 FVT.....	18,863.44
2011 Transit.....	18,863.48
2011 Storm Water.....	2,839.82
2011 Fay Storm Water.....	5,679.67
2011 Fay Recycle Fee.....	4,752.14
2011 Annex.....	0.00
2010 Taxes.....	5,763.41
2010 Vehicle .....	3,869.85
2010 Taxes Revit.....	0.00
2010 Vehicle Revit.....	0.00
2010 FVT.....	831.10
2010 Transit.....	831.07
2010 Storm Water.....	197.88
2010 Fay Storm Water.....	395.76
2010 Fay Recycle Fee.....	494.00

2010 Annex.....	0.00
2009 Taxes.....	2,692.27
2009 Vehicle .....	1,288.89
2009 Taxes Revit.....	0.00
2009 Vehicle Revit.....	0.00
2009 FVT.....	308.19
2009 Transit.....	308.20
2009 Storm Water.....	76.19
2009 Fay Storm Water.....	152.38
2009 Fay Recycle.....	241.25
2009 Annex.....	0.00
2008 and Prior Taxes.....	1,389.91
2008 and Prior Vehicle.....	2,112.29
2008 and Prior Taxes Revit.....	0.00
2008 and Prior Vehicle Revit.....	0.00
2008 and Prior FVT.....	436.70
2008 and Prior Transit.....	105.00
2008 and Prior Storm Water.....	143.63
2008 and Prior Fay Storm Water.....	96.00
2008 and Prior Fay Recycle.....	168.00
2008 and Prior Annex.....	152.64
Interest.....	14,733.28
Revit Interest.....	17.84
Storm Water Interest.....	290.60
Fay Storm Water Interest.....	482.38
Annex Interest.....	63.75
Fay Recycle Interest.....	496.31
Fay Transit Interest.....	988.43
Total Tax and Interest.....	\$759,573.07

## 9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:43 p.m.