

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
OCTOBER 28, 2013
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

Keith Bates (District 1)(via telephone); Kady-Ann Davy (District 2); Robert A. Massey, Jr. (District 3);; 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)

Absent: Council Member Darrell J. Haire (District 4)

Others Present:

Theodore Voorhees, City Manager
Kristoff Bauer, Deputy City Manager
Rochelle Small-Toney, Deputy City Manager
Karen McDonald, City Attorney
Harold Medlock, Police Chief
Rusty Thompson, Engineering and Infrastructure Director
Randy Hume, Transit Director
Jerry Dietzen, Environmental Services Director
Scott Shuford, Development Services Director
Lisa Smith, Chief Financial Officer
Karen Hilton, Planning and Zoning Manager
David Nash, Planner II
Craig Harmon, Planner II
Will Deaton, Planner II
Brian Meyer, Assistant City Attorney
Dwight Miller, PWC Chief Financial Officer
Kecia Parker, Real Estate Manager
Nathan Walls, Interim Public Information Officer
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 Pastor Allen McLauchlin of the New Life Bible Church.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Boy Scout Troop 747.

RECOGNITION

Mr. Bill Hurley introduced Ms. Jan Anderson and Ms. Cleve Davis of the Sister City Committee and introduced the three members of the Saint Avold delegation: Veronique Bour-Mas, Annette Sbaiz, and Pascal Flaus. They presented Mayor Chavonne with a piece of framed art work. Mayor Chavonne presented the delegation with City coins.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Hurst moved to approve the agenda with the following modifications: Item 7.7 defer until January 13, 2014, Item 7.11 defer until November 18, 2013, and Item 8.6 defer until November 18, 2013.

SECOND: Council Member Crisp

Council Member Fowler asked Council Member Hurst if would consider amending the motion to allow Item 7.11 to remain on this agenda. Council Member Hurst responded he would not.

VOTE: UNANIMOUS (9-0)

5.0 PUBLIC FORUM

Mr. Roosevelt Odom Jr. reminded all that this is Deaf Awareness Week. Mr. Odom would like Fayetteville to be named a "Deaf Friendly City" and expressed thanks for the closed captioning

of the City Council meetings. Mr. Odom concluded by saying he would like to see sign language interpreters at Cape Valley Hospital.

Ms. Cassandra Shipp, 902 Pridemore Court, Fayetteville, NC, stated concerns regarding a retainer wall the City installed in September 2012 on her property and stated she had not granted permission for the installation.

Ms. Harmony Sells, Fayetteville NC, stated concerns regarding hospital security and the judicial system.

Rev. Archie Barringer, 2771 Jenna Shane Drive, Fayetteville, NC, stated he is representing the "Friends of the Sandhills State Veterans Cemetery" and stated the organization is working to raise funds for much needed renovations at the cemetery, and requested financial support from the City of Fayetteville for this worthy cause

Council Member Bill Crisp, 3804 Sandchase Drive, Fayetteville, NC, stated his support of the Sandhills Veterans Park Cemetery and issued a call to arms to all to work together to raise the necessary funding for the much needed improvements at the cemetery.

Mr. Bill Agapion, 625 S. Elm Street, Greensboro, NC, stated he owns the property located at 2869 Owen Drive that has been condemned by the City. Mr. Agapion requested that only certain portions of the building be torn down, not the whole building.

Ms. Melanie Keefe, P.O. BOX 1109, Fayetteville, NC, stated she owns Parker Pawn and rents a unit at the 2869 Owen Drive property. Ms. Keefe requested the demolition not occur until ten days after her business vacates the building on August 1, 2014.

Mr. Gerald Pone, 2885 Owen Drive, Fayetteville, NC, stated he works along with 17 other employees at Parker Pawn located at 2869 Owen Drive property. Mr. Pone implored the City Council to refrain from demolishing the property until after Parker Pawn business has relocated so as not to jeopardize the income of the employees.

6.0 CONSENT

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

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0)

6.1 Ordinance of the City Council of the City of Fayetteville Amending Chapter 15, Licenses, Article I, in General, Section 15-16 of the Code of Ordinances of the City of Fayetteville, North Carolina (Solicitor's Permit)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 15, LICENSES, ARTICLE I, IN GENERAL, SECTION 15-16 OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2013-019

6.2 Budget Ordinance Amendment 2014-2 General Fund and Capital Project Ordinance Amendment 2014-20 for Murchison Road Redevelopment Area

The budget ordinance amendment and capital project ordinance amendment will provide \$500,000 in additional funding for the acquisition of land in the Murchison Road Catalyst Site 1 as presented at the October 7, 2013, City Council Work Session.

6.3 Award Contract for the Purchase of Four (4) Automated Side Loader Refuse Trucks

Award contract for the purchase of four (4) Mack/Labrie automated side loader refuse trucks to Transource, Inc., Raleigh, NC, in the amount of \$938,432.00.

6.4 Budget Ordinance Amendment 2014-3 - Carryover of Encumbered, Designated and Donated Funds from Fiscal Year 2013

This budget ordinance amendment will appropriate \$1,599,240 across several annually budgeted funds for outstanding purchase orders and contracts and \$1,032,009 in the General Fund for unspent donations and specific items for which funding was designated (assigned) at the close of fiscal year 2012-2013. Funding for these expenditures was included or available in the fiscal year 2012-2013 budget and is being appropriated from fund balance or net assets in the various funds. The General Fund will transfer \$30,786 to the Transit Fund and \$2,181 to the Environmental Services Fund to fund carryover encumbrances and designations in those funds.

6.5 Call for Special Meetings on Monday, November 18, 2013, @ 6 p.m. and 7 p.m., and cancel the Agenda Briefing Meeting scheduled for Wednesday, November 20, 2013

6.6 Capital Project Fund Ordinance 2014-13 (2013 Justice Assistance Grant)
The FY2013-2014 Justice Assistance Grant (JAG), totaling \$151,376, was awarded to the Fayetteville Police Department and the Cumberland County Sheriff's Office. This capital project ordinance appropriates \$102,873, representing the City's share of those funds, for the JAG Program.

6.7 Capital Project Ordinance Amendment 2014-21 (Freedom Memorial Park)
Cumberland Community Foundation, through its Freedom Memorial Park Fund, has contributed an additional \$56,764 for further development of the Freedom Memorial Park. This amendment will appropriate those funds to construct five black granite, free standing wall panels at an estimated cost of \$52,436 and the remaining \$4,328 will be used as needed within the park.

6.8 Capital Project Ordinance Amendment 2014-22 (FY12 Transit Capital Grant 514)
Capital Project Ordinance Amendment 2014-22 will reduce the appropriation in state grant funds by \$31,570 and increase the local match from the General Fund by \$46,369 for the FY12 Transit Capital Grant 514.

6.9 P13-30F. The initial zoning of property to SF-10 Single Family Residential zoning located on Burnside Place and being the property of SRW Builders Inc.

6.10 P13-32F. The rezoning of property from HI – Heavy Industrial to CC – Community Commercial or to a more restrictive district, for property located at 3126 Gillespie Street and being the property of Freedom Christian Academy

6.11 P13-38F. The initial zoning of property to HI – Heavy Industrial or to a more restrictive district located at 327 Jenkins Street and being the property of Froehling & Robertson Inc.

6.12 Certification of Results from the Cumberland County Board of Elections for the October 8, 2013, Municipal Primary Election for Mayor, City Council Districts 3, 6, 8, and 9
The Municipal Election results for the Fayetteville City Council were as follows:

Fayetteville Mayor	Votes
Kirk DeViere	2,468
Charles Ragan	119
Nat Robertson	3,809
Paul Williams	517
Val Applewhite	5,416

Fayetteville City Council District 3

Sister Audrey Ray	445
Al Woodall	174
Mitch Colvin	1,086

Fayetteville City Council District 6

Mary Ferguson	198
Gary Blackwell	124
Bill Crisp	827

Fayetteville City Council District 8

Jimmy Holland	81
Ted Mohn	474
Michael Pinkston	260

Fayetteville City Council District 9

Ronnie Peel	45
Charlotte Robinson	287
Sylvia Adamczyk	202
Jim Arp	726

6.13 Engineering & Infrastructure - Adopt a Resolution Declaring Real Property Owned Jointly with Cumberland County Surplus and Authorizing a Quitclaim of the City's Title to the County in Order to Expedite Sale of the Land by Cumberland County

RESOLUTION DECLARING PROPERTY EXCESS TO CITY'S NEEDS AND QUITCLAIMING CITY TITLE IN THE PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2013-054

6.14 Resolution to Set Public Hearing to Consider Closing an Unopened Portion of Wesley Avenue

A RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF AN UNOPENED PORTION OF WESLEY AVENUE. RESOLUTION NO. R2013-055

6.15 Approve Meeting Minutes:

September 18, 2013, Agenda Briefing

September 23, 2013, Discussion of Agenda Items

September 23, 2013, Regular Meeting

October 7, 2013, Work Session

6.16 Bid Recommendation - Water and Wastewater Chemicals

The City Council awarded bids for purchase of water/wastewater chemicals as follows:

1. Pencco, Inc., San Felipe, TX, low bidder in the amount of \$742,200.00 for purchase of approximately 6,000 tons of Ferric Sulfate Liquid.
2. JCI Jones Chemicals, Charlotte, NC, low bidder in the amount of \$525,600.00 for purchase of approximately 4,000 tons of 15% Sodium Hypochlorite.
3. Brenntag Mid-South, Inc., Durham, NC, low bidder in the amount of \$531,760.00 for purchase of approximately 2,300 tons of 50% Caustic Soda

6.17 Award of Bid for Purchase of Two Electrical Bus Breakers and Twelve Electrical Feeder Breakers to be used at the Cape Fear and Carver Falls Substations to Siemens Industry, Inc., Wendell NC in the total amount of \$400,238.00.

Siemens Industry, Inc., Wendell, NC	\$400,238.00
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ABB c/o Utility Service Agency, Wake Forest, NC	\$411,190.00
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6.18 Reimbursement Resolution for Vehicle and Equipment Financing

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA DECLARING THE INTENTION OF SAID CITY TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND TO BE MADE IN CONNECTION WITH THE PURCHASE OF VEHICLES AND EQUIPMENT FOR THE DEVELOPMENT SERVICES, ENGINEERING AND INFRASTRUCTURE, FIRE, POLICE AND PARKS, RECREATION AND MAINTENANCE DEPARTMENTS. RESOLUTION NO. R2013-056

6.19 Request for Legal Representation of City Employees 6.20 Resolution/Budget Amendments Related to Annexation Phase V – Areas 16 through 17

Authorize the City to provide legal representation for employees Steven Randall and James House.

6.20 Resolution/Budget Amendments Related to Annexation Phase V – Areas 16 through 17

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA ESTABLISHING AN ANNEXATION PHASE V – AREAS 16 THROUGH 17 CAPITAL PROJECT FUND.

RESOLUTION NO. R2013-057

6.21 Special Revenue Fund Project Ordinance Amendment 2014-3 (Appropriation of Federal Forfeiture and State Controlled Substance Tax Funds for Law Enforcement Purposes)

This amendment will appropriate \$609,060 in controlled substance tax revenues, federal forfeiture funds and associated investment income to increase resources for law enforcement purposes.

6.22 Resolutions Accepting State Revolving Loan Offer and Establishing a Capital Project Fund for the Sanitary Sewer Replacement Project on Person Street at the Lobster House
RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA TO ESTABLISH A 2014 PERSON STREET SANITARY SEWER REPLACEMENT STATE REVOLVING LOAN CAPITAL PROJECT FUND. RESOLUTION NO. R2013-058

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA TO ACCEPT A STATE LOAN OFFER UNDER THE NORTH CAROLINA WATER REVOLVING LOAN AND GRANT ACT OF 1987. RESOLUTION NO. R2013-059

6.23 Tax Refunds Greater Than \$100

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Fayetteville Gas Producers	2012	Corrected Assessment	\$147.82
WS CICC LLC Comfort Inn	2012	Corrected Assessment	<u>9,397.58</u>
Total			\$9,545.40

7.0 PUBLIC HEARINGS

7.1 P13-29F. The issuing of a Special Use Permit to allow for a columbarium to be located at 906 McPherson Church Road and being the property of Village Baptist Church

Mr. Craig Harmon, AICP, CZO, Planner II, presented this item with the aid of a PowerPoint presentation. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land use and zonings, and 2010 Land Use Plan. Mr. Harmon stated this project will be located on the campus of Village Baptist Church, at 906 McPherson Church Road. The church wishes to build a columbarium with a memorial area. The proposed columbarium would be able to house a maximum of 170 cremations or niches. When complete, the columbarium will be barely visible from McPherson Church Road. This project should have very little to no impact on the surrounding single family neighborhoods. On September 10, 2013 the Zoning Commission held a public hearing regarding this case. The Commission voted 4-0 to recommend approval of this SUP application.

He advised the Zoning Commission and staff recommended approval based on (1) minimal impact to the surrounding residences (2) this project meets the City's requirements for a columbarium (3) minimal visual impact from to all surrounding properties (4) there are no conflicts with any adopted policies or plans (5) conditioned on the general location and features shown on the submitted site plan, and (6) meets all required standards.

He further advised that the Zoning Commission and staff recommended approval as presented by staff and based on the request being able to meet the following findings:

- 1.The special use will comply 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. There being no one to speak, the public hearing was closed.

A brief discussion ensued.

MOTION: Council Member Hurst moved to approve the Special Use Permit as presented by staff upon a finding that all of the eight (8) standards are met.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (9-0)

7.2 Case # P13-33F. The rezoning of property from SF-10 – Single Family Residential to NC – Neighborhood Commercial District or to a more restrictive district located at the northwest corner of Stacy Weaver Drive and McArthur Road being the property McLean

Development Corporation (Appeal of a Zoning Commission Denial)

Mr. Craig Harmon, AICP, CZO, Planner II, presented this item with the aid of a PowerPoint presentation. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land use and zonings, and 2010 Land Use Plan. Mr. Harmon stated this proposed rezoning is located at the intersection of Rosehill, Stacy Weaver and McArthur Roads. Within the past year the owners asked for and were granted a right of way abandonment for the unopened portion of Farmview Drive that bisected this property. Currently the north side of McArthur Road is all zoned for single family development. The south side of McArthur Road, however, has both a library branch and a shopping center. The shopping center consists of a grocery store and several out parcels (two of which are currently undeveloped). A portion of the property in question does extend into the single family neighborhood to the north as well. On September 10, 2013, the Zoning Commission held a public hearing regarding this case. The Commission voted 3-1 to deny this rezoning application. The Zoning Commission and staff recommend denial of the proposed rezoning based on: (1) the Land Use Plan calls for office and residential uses on this property (2) undeveloped commercially zoned property at this intersection, NS (3) the property extends into an existing single family neighborhood.

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

Mr. Harry Shaw, 1225 Haymount Court, Fayetteville, NC, appeared in favor of the rezoning.

Ms. Karen Allen, 4220 Sussex Drive, Fayetteville, NC, appeared in opposition to the rezoning.

Mr. Carter Broadhurst, 450 Grayton Place, Fayetteville, NC, appeared in opposition to the rezoning.

Mr. Harvey Hill Burns, 544 Waterberry Drive, Fayetteville, NC, appeared in opposition to the rezoning.

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

MOTION: Council Member Bates moved to approve the rezoning to O and I (Office and Institutional).

SECOND: Council Member Massey

VOTE: PASSED by a vote of 8 in favor and 1 in opposition (Mayor Chavonne)

7.3 Public Hearing to Consider Request to Annex Property of Froehling & Robertson, Inc.

Mr. David Nash, AICP, Senior Planner, presented this item and stated Froehling & Robertson, Inc., has submitted a petition requesting annexation of their property located at 327 East Jenkins Street. This property is not contiguous to the City. This property consists of 1.93 acres, more or less. Froehling & Robertson is involved in environmental testing; it has been operating for some time within the area requested for annexation. It is considered to be an industrial use. On October 8, 2013, the Zoning Commission held its public hearing on the initial zoning of this area. This is the advertised public hearing set for this date and time. The public hearing was opened. There being no one to speak, the public hearing was closed.

AN ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. Property of Froehling & Robertson, Inc. – 337 East Jenkins Street – Includes 1 Tax Parcel (0436-33-7403) ANNEXATION ORDINANCE NO. 2013-10-547

MOTION: Mayor Pro Tem Arp moved to adopt the proposed ordinance annexing the area effective October 28, 2013, and establish the initial zoning consistent with the prior annexation action on the zoning case.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

7.4 Public Hearing to Consider Request to Annex Property of SRW Builders, Inc.-Part of Burnside Park

Mr. David Nash, AICP, Senior Planner presented this item and stated SRW Builders, Inc., proposes to build a new residential area to be known as Burnside Park. Burnside Park will be built on the northern side of the Kings Grant neighborhood, between a street named Burnside Place on the south and the new I-295 Outer Loop on the north. Burnside Park will consist of 13 lots; 11 lots are proposed for single-family development, the entire development will have 11

housing units. The land to be developed as Burnside Park is only partially within the City. The developer has requested annexation of the part of Burnside Park that is not inside the City. The City staff assumes that 4 single-family housing units will be built on the land requested for annexation. According to calculations by City staff, the land requested for annexation consists of about 1.91 acres. On October 8, the Zoning Commission held its public hearing on the initial zoning of this area.

This is the advertised public hearing set for this date and time. The public hearing was opened. There being no one to speak, the public hearing was closed.

AN ANNEXATION ORDINANCE TO EXEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. Property of SRW Builders, Inc. – Part of Burnside Park (Located on northern side of Burnside Place) Area Includes One Tax Parcel: PIN 0531-50-5381 ANNEXATION ORDINANCE NO. 2013-10-548

MOTION: Mayor Pro Tem Arp moved to adopt the proposed ordinance annexing the area effective October 28, 2013, and establish the initial zoning consistent with the prior action on the zoning case.

SECOND: Council Member Davy

VOTE: UNANIMOUS (9-0)

7.5 Adopt a Resolution and Order Closing a Portion of Turnpike Road

Ms. Kecia Parker, Real Estate Manager presented this item and stated a petition was received from a property owner adjoining an unopened portion of Turnpike Road requesting a portion of the street be permanently closed. NCGS§160A-299 gives authority and procedures for the City to close a city street or alley. The referenced street is currently not used as a public street or alley. There are utility easements in the portion requesting to be closed that will need to be reserved. Notice of Public Hearing has been published for four (4) consecutive weeks prior to this hearing. The Notice of Public Hearing has been posted on said property.

This is the advertised public hearing set for this date and time. The public hearing was opened. There being no one to speak, the public hearing was closed.

A RESOLUTION AND ORDER CLOSING AN UNOPENED PORTION OF TURNPIKE ROAD. RESOLUTION NO. R2013-060

MOTION: Council Member Davy moved to pass the resolution and order closing a portion of Turnpike Road while reserving the utility rights.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (9-0)

7.6 PWC - Phase 5 Annexation Public Hearing

Mr. Mark Brown, PWC Senior Customer Programs Officer, presented this item and stated the City Council approved the Resolution Declaring Cost, Ordering Preparation of Preliminary Assessment Roll, and Calling Public Hearing in their meeting on September 23, 2013. The Resolution set the date of the public hearing for Monday, October 28, 2013. The preliminary assessment notices were mailed to the property owners regarding the public hearing on October 1, 2013 and a notice was also published in the Fayetteville Observer on October 4, 2013. After the public hearing, the next step in the process is to approve the Resolution Confirming Assessment Roll and Levying Assessments. This item is currently scheduled for November 18, 2013. After the resolution is approved, the confirmed assessment roll will be delivered to the PWC tax collector who will mail the final assessment notices to the property owners on December 2, 2013, and publish a newspaper notice on December 9, 2013.

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

Ms. Helen Haynes, 6409 Rutherglen Drive, Fayetteville, NC, appeared in opposition.

Mr. Christopher Hogan, 6440 Rutherglen Drive, Fayetteville, NC, appeared in opposition.

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

This was a public hearing only. No official action was taken.

7.7 Code Amendment to Chapter 30 for miscellaneous corrections and adjustments (set 9)

This item was deferred until the January 13, 2014, City Council meeting.

7.8 Amend City Code Chapter 30 to incorporate definitions and standards to establish rules on when and where food trucks may operate within the City of Fayetteville as an accessory use in specified business districts.

Mr. Will Deaton, Planner II, presented this item and stated the purpose is to establish rules on when and where food trucks may operate within the City of Fayetteville on commercially zoned property. Currently, the City of Fayetteville Zoning Ordinance does not address food trucks. They are used at various times throughout the year at special events and other locations. Having no ordinance and/or regulations in place does not serve the City of Fayetteville and does not reflect the growing trend of food trucks over typical brick and mortar restaurant establishments. These uses generally require significantly less initial startup costs for an individual or corporation and provide alternative food sources where restaurants are not traditionally located. With the booming popularity of food trucks selling creative, cutting-edge cuisines, as well as a sagging economy, interest in street selling is perhaps greater than ever. Food trucks will be allowed as an accessory use in most business districts to include the commercial, downtown and industrial districts. The proposed standards will be in place to address spacing from traditional brick-and-mortar restaurants as well as separation from driveways, sidewalks, building entrances and residential zoning districts. The number of food trucks permitted per site will be based on current site acreage. Sites that are less than a 1/2 acre will only be allowed 1 food truck, sites from a 1/2 acre to 1 acre will be allowed two (2) food trucks, and sites greater than an acre will be allowed a maximum of three (3) as long as all other criteria are met. At the Planning Commission meeting there were a total of two (2) speakers and both spoke in support of the text amendment. A unanimous vote of approval was taken to allow food trucks as an accessory use in accordance with the attached ordinance.

This is the advertised public hearing set for this date and time. The public hearing was opened. Ms. Sylvia Ray, 230 Hay Street (CEED), Fayetteville, NC, appeared in favor of the ordinance amendment.

Mr. Michael Williams, 3500 Murchison Road, Fayetteville, NC, appeared in favor of the ordinance amendment.

Mr. Eric Nelson, 3699 McQueen Court, Fayetteville, NC, appeared in favor of the ordinance amendment.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE TO INCORPORATE DEFINITIONS AND STANDARDS TO ESTABLISH RULES ON WHEN AND WHERE FOOD TRUCKS MAY OPERATE WITHIN THE CITY OF FAYETTEVILLE AS AN ACCESSORY USE IN SPECIFIED BUSINESS DISTRICTS. ORDINANCE NO. S2013-020

MOTION: Mayor Pro Tem Arp moved to adopt the ordinance amendment as presented, to allow food trucks to operate in the City of Fayetteville as an accessory use in specified business districts.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (9-0)

7.9 Amendment to City Code Chapter 30 to clarify clear-cutting standards and provide options for mitigation of related violations

Mr. Scott Shuford presented this item and stated a clear-cutting permit is required for the removal of existing trees from an undeveloped lot or site that has not yet received site plan, subdivision plan or building permit approval. Individual single family residential lots are exempt. There are two aspects of the existing standards being addressed: (1) mitigation for removal without a permit, and (2) increased flexibility in review and granting of permits.

The Existing Standards: 1) Current mitigation standards require inch-for-inch replacement for tree removals undertaken on parcels where a clear-cutting permit was required but not obtained. Such mitigation is unrealistic and unworkable. 2) Additionally, discussions with a developer's advisory committee have highlighted the desire for increased flexibility in the standards utilized

for reviewing and granting clear-cutting permits. Currently, a thirty-foot buffer of existing trees is required to be maintained along all property lines and a fifty-foot buffer is required along all street frontages.

Proposed Standards: 1) Proposed mitigation standards require replacement derived from the total removal in caliper inches multiplied by twenty percent. Replanting or payment in lieu is required. Specimen trees and public trees are differentiated from other removals and incur a separate fee. 2) Proposed language related to the buffer requirement allows the required buffers to be eliminated if it is the intent of the applicant to submit development plans within a six month period. Should development plans not be submitted within the allotted period, the applicant is responsible for replanting of the buffers as identified in the text. The Planning Commission held a public hearing on this amendment on October 15, 2013. There were no speakers. The Commission recommended approval.

This is the advertised public hearing set for this date and time. The public hearing was opened. There being no one to speak, the public hearing was closed.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE TO CLARIFY AND PROVIDE OPTIONS FOR MITIGATION OF A VIOLATION OF THE TREE REMOVAL/CLEAR-CUTTING REGULATIONS. ORDINANCE NO. S2013-021

MOTION: Council Member Bates moved to adopt the ordinance amendment as presented, to revise standards for review of clear-cutting permits and include realistic enforceable mitigation for violations.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (9-0)

7.10 Amendment to City Code Chapter 30 to modify the requirements associated with mid-block connections and block lengths

Mr. Scott Shuford presented this item and stated in developing the block length and midblock connector standards that are currently in the UDO, city staff and the consultants were guided by a philosophy of pedestrian connectivity. Shorter block lengths are more pedestrian friendly than longer block lengths and provide greater pedestrian interest. They also improve emergency access and efficient delivery of public services and, in providing more options, they help ease congestion. The previous code allowed up to 1800 feet. Comparisons were made with standards established in other communities and with best practices. The maximum length generally was 500 – 800 feet, although Wilmington allows 1000' with through, connecting streets. The maximum for more urban areas or traditional neighborhoods is 350-500 feet. At 800 feet, Durham requires a public alley or pedestrian "mall." The initial draft for the new code established a block length maximum of 800 feet average, with a midblock connector when longer than 700 feet, and under certain conditions a longer length (up to 1,000 feet) could be approved. Through negotiation with the development community, a 1000 foot maximum block length was established with a mid-block connector required for anything over 800 feet, with similar administrative waiver options. This represented a compromise that appeared to be acceptable to all parties. The development community has become leery about using the mid-block connector option because of maintenance issues and impacts on the marketability of lots which adjoin the connectors. Consequently, they asked for the block length and mid-block connector issue to be reconsidered. Discussions between staff and the development community revolved around providing block length flexibility while preserving the goal of enhanced pedestrian connectivity. Ultimately, another compromise was reached, whereby individual blocks could be as long as 1200 feet, but the average block length would not exceed 800 feet; mid-block connectors continue to be required when a block exceeds 800 feet but would not be required when all lots are within 1,500 feet of common open space (thereby maintaining reasonable pedestrian interest).

This is the advertised public hearing set for this date and time. The public hearing was opened. There being no one to speak, the public hearing was closed.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO MODIFY THE REQUIREMENTS OF CHAPTER 30-5.F ASSOCIATED WITH MIDBLOCK CONNECTION AND BLOCK LENGTHS. ORDINANCE NO. S2013-022

MOTION: Council Member Bates moved to adopt the ordinance amendment as presented to allow a maximum block length of 1200 feet under specified conditions.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (9-0)

7.11 Amendment to City Code Chapter 30 to modify zero lot line standards and allow it in additional zoning districts

This item was deferred until the November 18, 2013, Special City Council meeting agenda.

7.12 Amendment to City Code Chapter 30 to clarify "redevelopment" and make minor adjustments to open space standards

Mr. Scott Shuford presented this item and stated the revised standards adopted in July 2013 for parkland, open space and tree save areas are, collectively, significant reductions from the previous standards calculated separately for those three elements. That amendment included changes expanding the features that can be used to meet the requirements. These changes were considered necessary because, combined with other infrastructure such as stormwater and streets, a significant amount of developable area was lost. Since some usable open space is an important component of residential environments, the new standards clearly indicated that a minimum of 10% for sites greater than one (1) acre and up to five (5) acres had to be provided on site for residential development. However, it did not make it clear how residential development fit relative to "redevelopment." Another aspect of this amendment is some concern that for some small residential sites, there still could be problems providing the mandatory 10% on site. Infill sites are often challenging in their configuration or constraints on site. Staff therefore proposes an additional change to allow consideration of a reduction or elimination of the on-site open space through a hearing process (special use permit). The mandatory 10% on site was acceptable to the development committee; staff has recommended this additional flexibility but only through a process that emphasizes the importance of open space/recreational facilities as part of residential development. The public hearing for this amendment was continued from the September 2013 Planning Commission meeting to allow further discussion about a very different aspect of these standards -- the portions of footnotes 4 and 5 that refer to a penalty (or, more accurately, a 'surcharge') for sites that have been cleared prior to submittal of development plans. The intent was to discourage speculative clear cutting, even with a clear-cutting permit, because of the high public value of keeping tree cover and undisturbed land areas as long as possible to help with reducing heat island effects, improving water and air quality, and providing habitat. The UDO provides seven standards of review for proposed text amendments. Each standard is listed in the staff report, along with analysis of how the proposed changes relate to the evaluation standards. At its meeting on October 15, 2013, the Planning Commission recommended approval of the amendment. There were no speakers for or against the proposed amendment.

This is the advertised public hearing set for this date and time. The public hearing was opened. There being no one to speak, the public hearing was closed.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE FOR CORRECTIONS AND MINOR ADJUSTMENT AFFECTING OPEN SPACE STANDARDS (CLARIFYING 'REDEVELOPMENT'). ORDINANCE NO. S2013-023

MOTION: Council Member Crisp moved to adopt the ordinance amendment as presented, clarifying and modifying the open space standards.

SECOND: Council Member Massey

VOTE: UNANIMOUS (9-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 Annual Sustainability Report

Mr. Jerry Dietzen, Environmental Services Director, presented this item with the aid of a PowerPoint presentation and stated on October 12, 2009 City Council adopted the City of Fayetteville Sustainability Master Plan. The plan was funded by the US Department of Energy through the Energy and Conservation Block Grant. The plan addresses the broad definition of sustainability that incorporates the environment, social equity, and the economy. Long term sustainability depends on a careful balance of economic, social, and environmental goals and objectives. Local stakeholders developed the definition of sustainability unique to Fayetteville's cultural and regional characteristics. The agreed upon definition is "Living today in a way that permits future generations to live the same way or better." The plan focuses on four areas: Environment and Natural Resources, Planning, Community and City Agencies.

The plan was developed using seven (7) guiding-principals:

- 1.Promote national energy independence
- 2.Increase competitiveness and produce economic benefits
- 3.Promote regional cooperation
- 4.Preserve neighborhoods and maintain housing affordability
- 5.Develop healthier communities and social equity
- 6.Lead by example
- 7.Utilize performance metrics and ensure accountability

The overall goal of the plan is to create a culture of sustainability in all that the City does. In doing so, the City can improve the quality of life for its citizens by providing cleaner air, conserving our natural resources and improving the local economy. In an environmentally responsible way. Projects and work included in the sustainability annual report align with the four areas of focus, the seven guiding-principals and the local definition of sustainability.

MOTION: Council Member Massey moved to accept the report.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

8.2 National League of Cities Conference Voting Delegates

MOTION: Council Member Fowler moved to delegate Council Member Davy.

SECOND: Council Member Massey

VOTE: UNANIMOUS (9-0).

8.3 Rental Action Management Program Ordinance Adjustment

Mr. Scott Shuford, Development Services Director, presented this item and stated the Fayetteville Code of Ordinances Section 14-64 defines the owner of residential rental property as the person, persons or legal entity that holds legal title to a residential rental property. Section 14-65 provides that each owner of residential rental property that has been found with three (3) or more verified violations (solid waste, junk, nuisance, or abandoned vehicles, or sub-standard building) in the previous twelve (12) month period, whether those violations have been resolved by corrective action or not, shall register that property with the development services official. By the established definition of an owner, the only person or entity that has title of the property can be compelled to register residential rental property. Section 14-66 provides that each owner of residential rental property that has been found with four or more verified violations in the previous 12-month period, whether those violations have been resolved by corrective action or not, shall he rental registration for that property revoked by the development services official. Section does not provide for a specific time for the registration period, however, Section 14-68 provides for that revocation of rental registration shall remain in place for a period on one (1) year. Due to the code definition of an owner, residential rental properties with deceased owners that have heirs and others without title to the property that are exercising ownership control of the property would not be required to register for excessive verified code violations. Staff has already encountered this situation and feels that there will be more in the near future. With no time duration on registration, a subject property with three verified violations within the last 12 months could only have two or less within a short period of time (depending on when the first and subsequent verified violations occurred) and could have several more while being registered and technically not be subject to registration revocation. The proposed code revisions

would add property owner heirs, persons, or other legal entity that are exercising ownership control of a residential rental property to the definition of an owner, and would set a one (1) year period for registration, consistent with the one (1) revocation period set forth in Section 14-68. If there are one or more verified code violations within that registration period, the registration would be subject to revocation.

AN ORDINANCE OF THE CITY council OF the city of FAYETTEVILLE amending various sections of article v, rental action management program, under chapter 14, housing, dwellings, and buildings, of the code of ordinances of the city of fayetteville. Ordinance no. s2013-024

MOTION: Mayor Pro Tem Arp moved to adopt the ordinance amendment to various sections of Article V, Rental Action Management Program.

SECOND: Council Member Davy

VOTE: UNANIMOUS (9-0)

8.4 Revenue and Expenditure Report for Annual Funds for the Three-Month Period Ended September 30, 2013

Ms. Lisa Smith, Chief Financial Officer, presented this item and stated the report consists of two main sections: revenues by major category by fund, and expenditures by department and fund. The report provides revenue and expenditure data for the current fiscal year (column "Actuals thru September 2013") with comparison data for the same period of the prior fiscal year (column "Actuals thru September 2012"). The current year annual budget is also provided in the column labeled "Annual Budget as of September 2013". Positive or negative changes between the "Actuals thru September 2013" column and the "Actuals thru September 2012" column are also provided as percentages in the "% Change Actuals" column. Sales tax distributions are received approximately 75 days after the period in which they apply. The report includes sales tax revenues for July 2013 for the current fiscal year, and for July 2012 for comparative purposes for the prior fiscal year. The quarterly utility taxes are received from the State approximately 75 days after the period to which they apply; therefore, no utility tax revenues are included in this report for the current or prior fiscal year. Utility tax data for the period ended September 2013 will be released in mid-December 2013.

This item was for informational purposes only and no action was taken.

8.5 Uninhabitable Structures Demolition Recommendations

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

228 S. C Street

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on June 6, 2012. A hearing on the condition of the structure was conducted on June 27, 2012, which the owner did not attend. A notice of the hearing was published in the Fayetteville Observer. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner June 28, 2012. To date there have been no repairs to the structure. The utilities to this structure have been disconnected since October 2010. In the past 24 months, there have been 15 calls for 911 service to the property. There have been 11 code violations cases with a pending assessment of \$153.94. The low bid for demolition is \$1,900.00.

216 Hedgepeth Street

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on April 25, 2013. A hearing on the condition of the structure was conducted on May 15, 2013, which one of the property owners appeared. A notice of the hearing was published in the Fayetteville Observer. A subsequent Hearing Order to repair or demolish the structure within 90 days was issued and mailed to the owners on May 16, 2013. To date there have been no repairs to the structure. The utilities to this structure have been disconnected since December 2008. In the past 24 months, there have been 20 calls for 911

service to the property. There have been 11 code violation cases with no pending assessments. The low bid for demolition is \$2,500.00.

1040 Kingsley Road

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on May 30, 2013. A hearing on the condition of the structure was conducted on June 12, 2013, which the owner did not appear. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner on June 13, 2013. To date there have been no repairs to the structure. The utilities to the structure are still connected. In the past 24 months, there has been (one) 1 call for 911 service to the property. There have been five (5) code violation cases with a pending assessment of \$405.82. The low bid for demolition is \$2,500.00.

2008 Overlook Drive

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a blighted structure on June 5, 2013. A hearing on the condition of the structure was conducted on June 19, 2013, which the owner did not appear. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner on June 20, 2013. To date there have been no repairs to the structure. There is no record of utilities to the structure. In the past 24 months, there have been no calls for 911 service to the property. There have been two code violation cases with a pending assessment of \$220.12. The low bid for demolition is \$1,680.00.

2869 Owen Drive

Mr. Shuford stated the structure is a commercial structure with seven tenant spaces. The structure was inspected and condemned as a dangerous structure on May 14, 2013. A hearing on the condition of the structure was conducted on May 29, 2013, which the owner did not attend. A subsequent Hearing Order to repair or demolish the structure within 60 days was issued and mailed to the owner on May 30, 2013. The owner appealed the Hearing Order to the Board of Appeals for Dwellings and Buildings; the subsequent hearing was conducted on July 25, 2013, in which the Board of Appeals voted to affirm the Hearing Order to repair or demolish the structure within 60 days. To date there have been no repairs to the structure. The utilities are disconnected to six of the seven tenant spaces. In the past 24 months, there have been 1,156 calls for 911 service to the property. There have been 41 code violation cases with a pending assessment of \$11, 403.76. The cost of the demolition and any asbestos abatement will be determined through a formal bidding process.

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 (S C. Street, PIN 0437-91-0440). ORDINANCE NO. NS2013-036.

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 (216 Hedgepeth Street, PIN 0436-39-9405). ORDINANCE NO. NS2013-037.

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 (1040 Kingsley Road, PIN 0407-23-5880). ORDINANCE NO. NS2013-038.

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 (2008 Overlook Drive, PIN 0438-45-8403). ORDINANCE NO. NS2013-039.

**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 (2869 Owen
Drive, PIN 0426-92-4153). ORDINANCE NO. NS2013-40.**

8.6 Parks and Recreation - Outdoor Adoption Program/Gateways

This item was deferred until the November 18, 2013, meeting.

9.0 ADMINISTRATIVE REPORTS

9.1 Monthly Statement of Taxes for September 2013

2013 Taxes.....	\$2,882,504.53
2013 Vehicle.....	370,482.77
2013 Taxes Revit.....	10,939.64
2013 Vehicle Revit.....	406.31
2013 FVT.....	41,630.61
2013 FTT.....	41,630.62
2013 Storm Water.....	129,140.27
2013 Fay Storm Water.....	258,280.29
2013 Fay Solid Waste Fee.....	122,203.75
2013 Annex.....	0.00
2012 Taxes.....	40,249.12
2012 Vehicle.....	70,045.34
2012 Taxes Revit.....	1.23
2012 Vehicle Revit.....	0.33
2012 FVT.....	9,231.37
2012 FTT.....	9,231.41
2012 Storm Water.....	1,341.31
2012 Fay Storm Water.....	2,682.62
2012 Fay Recycle Fee.....	3,026.05
2012 Annex.....	0.00
2011 Taxes.....	5,641.32
2011 Vehicle.....	3,016.71
2011 Taxes Revit.....	0.00
2011 Vehicle Revit.....	0.00
2011 FVT.....	732.37
2011 FTT.....	732.38
2011 Storm Water.....	253.22
2011 Fay Storm Water.....	506.44
2011 Fay Recycle Fee.....	497.87
2011 Annex.....	0.00
2010 Taxes.....	1,076.21
2010 Vehicle.....	879.93
2010 Taxes Revit.....	0.00
2010 Vehicle Revit.....	0.00
2010 FVT.....	208.18
2010 FTT.....	208.18
2010 Storm Water.....	12.00
2010 Fay Storm Water.....	24.00
2010 Fay Recycle.....	38.00
2010 Annex.....	0.00
2009 and Prior Taxes.....	306.05
2009 and Prior Vehicle.....	2,247.34
2009 and Prior Taxes Revit.....	0.00
2009 and Prior Vehicle Revit.....	0.00

2009 and Prior FVT.....	496.74
2009 and Prior FTT.....	188.73
2009 and Prior Storm Water.....	5.91
2009 and Prior Fay Storm Water.....	0.00
2009 and Prior Fay Recycle Fee.....	0.00
2009 and Prior Annex.....	82.91
Interest.....	16,879.55
Revit Interest.....	9.15
Storm Water Interest.....	164.33
Fay Storm Water Interest.....	319.04
Annex Interest.....	24.76
Fay Recycle Interest.....	341.13
Fay Transit Interest.....	1,403.66
Total Tax and Interest.....	\$4,029,323.68

9.2 Tax Refunds of Less Than \$100

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
King, Bryan J. Jr.	2011	Corrected Assessment	\$9.55

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:38 p.m.