

**FAYETTEVILLE CITY COUNCIL  
AGENDA BRIEFING MINUTES  
LAFAYETTE ROOM  
JUNE 19, 2013  
4:00 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); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); James W. Arp, Jr. (District 9)  
Absent: D. J. Haire (District 4); Wade Fowler (District 8)  
Others Present:

Theodore Voorhees, City Manager  
Kristoff Bauer, Deputy City Manager  
Rochelle Small-Toney, Deputy City Manager  
Dele Lowman Smith, Assistant City Manager  
Karen McDonald, City Attorney  
Scott Shuford, Development Services Director  
Rusty Thompson, Engineering and Infrastructure Director  
Lisa Smith, Chief Financial Officer  
Tracey Broyles, Budget Manager  
Tracie Davis, Corporate Communications Director  
Karen Hilton, Planning and Zoning Division Manager  
Erica Haggard, Interim Human Resource Development Director  
Greg Caison, Stormwater Manager  
Rebecca Rogers-Carter, Management Services Manager  
Dwight Miller, PWC Chief Financial Officer  
Pamela Megill, City Clerk  
Members of the Press

Mayor Chavonne called the meeting to order at 4:00 p.m.

City staff presented the following items scheduled for the Fayetteville City Council's June 24, 2013, and July 22, 2013, agendas:

**TEXT AMENDMENT**

**Consolidation of Tree Save, Open Space, Parkland**

Mr. Scott Shuford, Development Services Director, presented this item and provided an overview of the revision to the open space/parkland and tree save requirements. He stated after meeting with the developer group on the issue, staff prepared an ordinance for Planning Commission and City Council consideration that would modify the requirements. He stated the group presented a compelling argument that current standards, combined with stormwater requirements, were problematic on smaller sites and hindered both development and redevelopment. He explained the ordinance would not modify other landscaping requirements such as streetyard, bufferyards, and parking lot landscaping.

**DEMOLITION**

**Demolition of former Patel Motel (442 S. Eastern Boulevard)**

Mr. Scott Shuford, Development Services Director, presented this item and provided an overview of the planned demolition of the former Patel Motel and stated the Fayetteville Police Department obtained a court order forcing the business to close as a nuisance on March 22, 2012. He stated a hearing on the condition of the structures was conducted on January 23, 2013, in which the owner attended. He stated thereafter a hearing order with special conditions to repair or demolish the structures was issued on January 28, 2013. He noted there had not been any change in the condition of the structures. He explained the demolition would require a formal bid process due to the cost of demolishing the structures.

**CONSENT ITEMS**

**Case No. P13-05F. Rezoning from HI to BP/CZ for 235 acres known as the Military Business Park at Sante Fe, All American, and Bragg Boulevard.**

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item with the aid of a power point presentation. Ms. Hilton showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. She stated the properties were located between Bragg Boulevard, Santa Fe Drive, and the All American Expressway and currently zoned HI Heavy Industrial. She explained the previous M2 zoning had been applied to the site in 2010 to address the mix of manufacturing, some commercial, and other related office or support uses envisioned for the park. She further explained the new LI or HI zoning would not allow such a mix. She stated in November of 2012 City Council adopted an amendment to the development code that created a new zoning district, the BP Business Park. She further stated the amendment allowed business parks over 50 acres in size to create development standards specific to their site. She advised the following conditions were offered by the owner:

- 1.The submitted Exterior Design and Use Standards for the Military Business Park.
- 2.The developer would have to meet all other development requirements of the City and State that were not specifically addressed in the submitted Exterior Design and Use Standards for the Military Business Park.

Ms. Hilton advised the Zoning Commission and staff recommended approval of the rezoning to BP based on (1) the Land Use Plan calling for Light Industrial on the property, (2) the property already being developed as a multiphase business park, and (3) the submitted conditions.

**Case No. P13-15F. Initial zoning to LI Light Industrial or to a more restrictive district for property located at 185 Airport Road. Containing 4.49 acres more or less and being the property of Fullblock LLC.**

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item with the aid of a power point presentation. Ms. Hilton showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. She stated the property was currently being developed as a commercial flex space building. She explained the owner of the project petitioned the City for annexation so that the building could be hooked in to PWC's water and sewer system. She noted the building was already under construction and permitted for construction through Cumberland County. She advised the Zoning Commission and staff recommended approval of the initial zoning to LI based on (1) the Land Use Plan calling for Heavy Industrial, and (2) commercial and industrial uses being on two sides of the property, and (3) the LI district being an appropriate zoning for the property.

**Case No. P13-18F. The rezoning from SF-10 Single Family Residential to CCC Community Commercial or to a more restrictive district for property located at Yadkin Road and the All American Expressway and being the property of Hyung S. Sackos.**

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item with the aid of a power point presentation. Ms. Hilton showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. She stated the property was located between Yadkin Road and the All American Expressway and access to the property was from Yadkin Road. She further stated the property was 1.23 acres and the front part was zoned CC Community Commercial and the back .65 acres was zoned SF-10 Single Family Residential. She explained when the All American Expressway was built the property was cut off from other buildable sites similarly zoned. She stated the owners of the property would like to rezone the rear 0.65 acres to make the entire property CC. She advised the Zoning Commission and staff recommended approval of the rezoning to CC based on (1) the Land Use Plan calling for Heavy Commercial on the portion of the property, (2) the portion of the property to the south already being zoned CC, and (3) the area zoned SF-10 on the property being surrounded by commercial and office zoning along with the Expressway.

**PUBLIC HEARINGS**

**Case No. P13-14F. Rezoning from SF-10 Single Family Residential to CC Community Commercial or to a more restrictive district for property located at Lake Valley Road**

**across from street # 4760. Containing 12.95 acres more or less and being the property of JKAM Investments LLC.**

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item and stated the property was located behind property facing Lake Valley Drive to the south side across from the Embassy Suites Hotel and Conference Center. She stated the property did not have direct access to Lake Valley Drive, but was part of a larger proposed development that would include a movie theater. She stated the proposed development would be separated from the residential by a creek, woods, and wetlands area. She reviewed the survey noting the areas of proposed open space and tree save. She stated most of the existing woods would be preserved on the property and would form a natural buffer between the property and its residential neighbors.

She stated the detention pond shown on the site plan already existed and serves as the stormwater detention for the Embassy Suites development. She stated the only new construction on the property would be approximately 60 parking spaces and would be located away from the neighboring residential properties. She advised stated the Zoning Commission recommended approval of the rezoning request. She stated there were four speakers during the public hearing with two speaking in favor and two in opposition. She advised the Zoning Commission and staff recommended approval of the rezoning to CC based on (1) the Land Use Plan calling for Heavy Commercial on the property, (2) the property to the north which borders Lake Valley Drive being already zoned CC, and (3) the open space and tree save areas providing an adequate buffer between the property and the surrounding residential.

**Case No. P13-12F. Initial zoning from R6A County Residential to LC Limited Commercial or to a more restrictive district for property located at 1030 Palm Drive and Honeycutt Road. Containing 1.32 acres more or less and being the property of Estate Builders, LLC.**

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item. Ms. Hilton showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. She stated the owner of the properties petitioned for annexation into the City of Fayetteville and as part of the petition the applicant requested that the property be initially zoned to LC Limited Commercial. She stated currently the properties were zoned R6A in the Cumberland County's jurisdiction. She stated the Land Use Plan was calling for the properties to eventually convert to heavy commercial. She stated it was staff's opinion that development in the area had not increased enough to warrant the conversion of the properties to commercial. She stated there were already several properties in the area zoned for commercial use that were either undeveloped or underdeveloped. She stated less than a mile to the south of the project on McArthur Road, there would be an interchange built for Interstate 295 and an increase in traffic would be expected in the area. She explained as stated in previous reports to the City Council, Fayetteville had an overabundance of property already zoned for commercial use. She stated staff would encourage the developer to look at infill development instead of expanding the commercial zoning footprint in the City. She stated if annexed it was staff's opinion that the property should remain zoned residentially at this time. She advised the Zoning Commission recommended approval of the rezoning.

**Case No. P13-21F. The rezoning from AR Agricultural Residential to SF-10/CZ Single-Family Residential Conditional Zoning or to more restrictive district for property located in River Glen Subdivision on Vendenberg Drive. Containing 196 acres more or less and being the property of Estate Builders, LLC.**

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item. Ms. Hilton showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. She stated the property was located on the east side of the Cape Fear River and was the undeveloped portion of River Glenn Subdivision.

She stated prior to the initial approval of the subdivision in 2007, the owner requested that a flood study be conducted on the property. She noted the result of the study greatly reduced the amount of floodplain. She stated the subdivision was originally approved for 469 lots under the old AR district with zero lot line and 111 of those lots were platted in Phase I. She stated in July of 2011, the developer was issued a Zoning Permit to obtain their Vested Rights for the project.

She stated properties were developed in Phase I in size from approximately 10,000 square feet to 35,000 square feet. She stated the requested conditional zoning would allow up to 571 zero lot line lots on approximately 196 acres, which was an increase of 213 lots over what was currently approved. She stated approximately 100 acres, most of which was floodway or floodplain, would be designated as open space. She stated the typical lot size was approximately 8,700 square feet as shown on the applicant's site plan. She stated lots were much smaller than the lots in Phase I. She stated the proposed subdivision would be accessed through the existing Phase I of River Glen Subdivision through two separate routes. She stated the City's Land Use Plan was in conflict with what had previously been built and with what was proposed. She stated the area on the Land Use Plan shown as 1 acre lots had been developed and was being proposed for much higher density. She stated the discrepancy was likely due to water and sewer being extended into the area since the time when the Land Use Plan was adopted. She stated the following conditions were offered by the applicant:

- 1.The submitted Preliminary Site Plan.
- 2.The submitted conditions of approval.

Ms. Hilton stated the applicant offered to accept a more restrictive SF-15/CZ district. She stated the Zoning Commission denied any rezoning request and the applicant appealed the case to the City Council. She advised the Zoning Commission and staff recommended denial of the rezoning based on (1) the significant increase in density from the approved plan to the plan proposed with the rezoning, (2) all traffic from the proposed subdivision going through existing neighborhoods with larger lot sizes, (3) the proposed development including 8,700 square foot lots throughout, independent of surrounding and adjacent property's size, and (4) the submitted site plan as a condition of approval raising the following concerns from staff:

- 1.No additional road connections are proposed. Under this plan there would be only two road outlets serving 682 lots.
- 2.This development is located along the Cape Fear River, and includes approximately 107 lots in the 100 year floodplain, of the 571 proposed in this rezoning.
- 3.Open Space and Community areas are located along the periphery of the development, away from most of the residential lots, as remnants of land having no significance to the design of the site.

**Case No. P13-22F. The rezoning from SF-10 Single-Family Residential to SF-6/CZ Single-Family Residential Conditional Zoning or to a more restrictive district for property located at 6959 Fillyaw Road and being the property of Kewon Edwards.**

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item. Ms. Hilton showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. She stated the property was located on Fillyaw Road and currently had four single-family houses on it. She stated the City's Land Use Plan called for low-density residential on the property. She stated the existing four homes were the maximum allowed on the property in the SF-10 district. She stated the owner was requesting a rezoning to SF-6/CZ which would allow up to 13 units on the property under a Special Use Permit. She stated the property had single-family residential on three sides and multifamily across the street. She stated the single-family lots that were behind and on two sides of the property range in size from around 12,000 square feet to 17,000 square feet. She stated a new SF-6 district would allow lots to have the size of the smallest lots on the part of the south side of Fillyaw Road. She stated the Zoning Commission met on June 11, 2013, and held a public hearing on the case. She stated there were two speakers in favor and none in opposition. She stated the Zoning Commission recommended approval of the rezoning to SF-6/CZ based on (1) the redevelopment of a blighted area, (2) the property being across the street from a large multifamily development, (3) the proximity to Yadkin Road and Fort Bragg, and (4) a Special use Permit being required for the property to be developed as multifamily.

**OTHER ITEMS**

**Application of County Animal Control Ordinance revisions to City**

Mr. Theodore Voorhees, City Manager, stated at the City Council's May 14, 2012, meeting, the County Attorney presented proposed revisions to the Animal Control Ordinance. He stated the Board of Commissioners adopted the revised Animal Control Ordinance on May 21, 2012. He stated in order to meet the City Council's interest of having one ordinance for the City and the County, the City Council adopted a resolution making the County's ordinance applicable within the municipal limits of Fayetteville as well as an Ordinance repealing Chapter 6, Animals and Fowl, Section 17-15, Barking dogs, Section 18-9, Animals running at Large, and Section 20-3, Police dogs and horses, of the City Code. He stated on June 17, 2013, the County Board of Commissioners adopted certain revisions to the Animal Control Ordinance. He stated the changes included additional definitions, a reduction in the compliance period following notices of violation, regulation of nuisance animals and new sections regarding spaying or neutering of dogs and cats as a condition for reclamation by an owner, tethering of animals, sanitation, breeding permits, and nuisance/reckless owners. He stated City staff would provide for the Council's consideration the County's Revised Animal Control Ordinance and a proposed Resolution making the County's revised ordinance, and any subsequent revisions, applicable within the municipal limits of Fayetteville.

### **Recommended Fiscal Year 2013-2014 Budget**

Mr. Theodore Voorhees, City Manager, presented this item and referenced the handout that was provided to Council during the June 3, 2013, work session meeting. He stated that two additional matters had now entered the picture that merit attention while they contemplated how to move forward. He stated the first concerns the potential financial impact of the court decisions on video sweepstakes privilege license fees. He stated they had taken the fiscally conservative approach of not budgeting these revenues due to their controversial nature. He stated there was concern that they might be ruled illegal, and there was concern that the industry itself might be made illegal through legislative action. He stated either direction could jeopardize the City's ability to collect. He stated as it turned out, both happened. He stated the General Assembly outlawed video sweepstakes and the City had, accordingly, stopped licensing such activity. He stated meanwhile, the courts also applied the ruling in the Lumberton case to their situation in Fayetteville. He stated while they contend that the facts in their case are different, there was concern that they may be required to return some or all of the revenues to the licensee. He stated in light of the current court decision, the conservative approach was to set these revenues aside and not to treat them as undesignated fund balance as they had in the past. He stated the second issue had to deal with what was going on in the General Assembly with tax reform. He stated while they hoped the current Senate bill was modified to be more in line with the House bill, it remained to be seen. He stated accordingly, they may be required to address significant shortfalls in FY 2015 which would suggest that they should avoid drawing down fund balance any more than absolutely necessary. He stated this would give them greater flexibility in the following fiscal year. He stated the fiscal impact of the two issues could run as high as \$6 million (\$3 million in one-time sweepstakes privilege license refunds, and \$3 million in recurring revenue losses due to tax reform.) He stated in both cases, it was still too early to know what, if any, impact would be decided, but he wanted them to be aware of the magnitude of the issues. He recommended the Council adopt the FY 2014 budget, as proposed, without the following:

- Additional 1 cent property tax increase and hiring of the associated 15 police officers
- \$1.00 per month stormwater fee increase
- \$10.00 per year solid waste fee increase
- \$1 million boost in one-time street resurfacing funds
- \$1 million community investment project funds
- Any of the proposed parks and recreation capital project initiatives

Mr. Voorhees recommended they retain the employee merit pay increase, but reduce the budgeted amount from 2.5 percent to 2.0 percent. He stated addressing pay was identified as a Council Strategic Plan Target for Action and was the number one employee issue from the employee opinion survey. He recommended the savings from the adjustment be allocated to

fund balance in anticipation of the budgetary impacts discussed above, with one exception. He stated they would add back the supplemental litter crews that were eliminated in the current fiscal year and which had reduced their ability to keep roadsides clean. He continued in defending the recommendation on public safety issues and reminded everyone that the new police deployment plan was already adding five new positions, and they had a funded plan to add more officers over the next three fiscal years. He stated additionally, the current staffing model would result in an approximately 46 percent increase in staffing during periods of highest demand. He also stated while this would necessarily reduce available officers during periods of low demand, nevertheless, they thought it would deliver more value to the citizen and better match resources and costs with need.

A discussion period ensued.

Mayor Pro Tem Arp stated he had concerns with the budget process in that it lacked clarity. He also expressed concerns regarding employee pay increases and the uncertainty of several factors that could impact the City budget.

Council Member Crisp stated he was in favor of the City Manager's recommended budget, and that he had been opposed to the one cent tax increase for the funding of additional police officers because the Chief had not identified his needs.

Council Member Applewhite stated the City employees were underpaid and turnover of staff was costly. She stated removing or reducing the pay increase was taking the low hanging fruit, and stated exceptional employees should be rewarded.

Council Member Massey stated due to the uncertainty of several issues, they should take the most conservative approach with the budget. He stated they needed to trust the City Manager and do what was best for the citizens.

Council Member Davy inquired if a one-time bonus, similar to what Cumberland County was proposing for their employees, would be reasonable. Mr. Voorhees responded that action would send a message to the employees that they were not being paid for the value of service they were providing.

Council Member Hurst stated he did support the one cent tax increase to providing the funding for 15 additional police officers, and was also in support of the City Manager's recommended budget.

Council Member Bates stated he would support a one cent tax increase to provide for the funding of 15 additional police officers and would support the consensus of the Council for adopting the budget.

Mr. Voorhees stated he along with staff have tried to be as transparent as possible throughout the entire budget process and have provided as much information and options as they were able. He stated this was a reasonable budget and it was also justifiable.

Mayor Chavonne stated the recommended budget presented this evening would be placed on the June 24, 2013, City Council regular meeting agenda for consideration and adoption.

There being no further business, the meeting adjourned at 5:50 p.m.