

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
FEBRUARY 25, 2013
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) (via telephone); James W. Arp, Jr. (District 9)

Others Present:

Ted Voorhees, City Manager
Kristoff Bauer, Assistant City Manager
Karen McDonald, City Attorney
Dana Clemons, Assistant City Attorney
Lisa Smith, Chief Financial Officer
Rusty Thompson, Engineering and Infrastructure Director
Lee Jernigan, Traffic Engineer
Randy Hume, Transit Director
Victor Sharpe, Community Development Director
Karen Hilton, Planning and Zoning Division Manager
Craig Harmon, Planner II
Patricia Bradley, Police Attorney
Greg Caison, Stormwater Manager
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Arp.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 APPROVAL OF AGENDA

MOTION: Council Member Hurst moved to approve the agenda with the addition of Item 8.3, closed session for a personnel matter.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (10-0)

ANNOUNCEMENTS AND RECOGNITION

Council Member Davy announced the spring 2013 Citizens' Academy would begin on April 4, 2013, at 6:00 p.m. and the classes would be held once a week for seven weeks.

Council Members Chavonne and Hurst, on behalf of the City Council, presented a proclamation to Ms. Victoria R. Raleigh, Executive Director of the American Red Cross Highlands Chapter, proclaiming March 2013 American Red Cross Month.

Post Commander Thomas Person, Fayetteville's Veterans of Foreign Wars Post 6018, and District Commander Jesse Bellflower, District 8 of the Veterans of Foreign Wars Department of North Carolina, presented a Public Service Award and Fire Fighter of the Year Award to Fayetteville Fire Captain Vince Lewis. Captain Lewis received a round of applause and standing ovation.

5.0 CONSENT

MOTION: Council Member Fowler moved to approve the consent agenda with the exception of Item 5.3 for a separate vote.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (10-0)

5.1 Adopt the resolution to accept a report of unpaid taxes for 2012 and direct the advertisement of tax liens.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE ACCEPTING THE REPORT OF UNPAID TAXES AND DIRECTING THE ADVERTISEMENT OF TAX LIENS.

RESOLUTION NO. R2013-013.

5.2 Extension of grants for Cape Fear River Trail - Phase 2.

The Council approved a Supplemental Agreement to merge and extend end date of grants.

5.3 Pulled for a separate vote by Council Member Fowler.

5.4 Approval of speed limit recommendations along Bingham Drive and Robeson Street.

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND

REQUEST FOR CONCURRENCE [SR 4160 (Between SR 1391 and SR 1321 -Brentwood Elementary School, in effect from 30 minutes before to 30 minutes after school begins and ends on school days only) - Car (25 MPH) and Truck (25 MPH)]. ORDINANCE NO. NS2013-011.

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND

REQUEST FOR CONCURRENCE [SR 3828 (Between Blount Street and NC 87 - Martin Luther King, Jr. Freeway) - Car (45 MPH) and Truck (45 MPH)]. ORDINANCE NO. NS2012-012.

5.5 Community Development - Approval of transfer of a City-owned vacant lot located at 312 Old Wilmington Road to Fayetteville Metropolitan Housing Authority (FMHA) in exchange for a vacant lot located at 329 Cross Creek Street.

5.6 Budget Ordinance Amendment 2013-10 (Stormwater Management Funds).

The amendment appropriated a \$60,000.00 contribution from the Homebuilders Association of Fayetteville to share in the cost of a study to evaluate the performance of wet detention ponds for water quality improvement.

5.7 Case No. P13-02F. Request for a Rezoning from NC Neighborhood Commercial to CC Community Commercial or to a more restrictive zoning district on property located at 821 Cliffdale Road. Containing 1.92 acres more or less and being the property of McCauley and McDonald (Staff and Zoning Commission recommend rezoning to LC).

5.8 Case No. P13-03F. Request for a Rezoning from LC Limited Commercial to CC Community Commercial or to a more restrictive zoning district on property located at 5522 Yadkin Road. Containing 1.07 acres more or less and being the property of JPIII Family Limited Partnership.

5.9 Approval of a Municipal Agreement with NCDOT in support of improving vertical clearances of bridges over I-95 Business.

5.10 Approval of a Municipal Agreement with NCDOT for Landscaping on Ramsey Street.

5.11 Request to set public hearing for proposed revisions to Stormwater Management Ordinance.

5.12 Special Revenue Fund Project Ordinance 2013-8 (FY 13 Juvenile Restitution Program).

The ordinance appropriated \$108,839.00 for the Juvenile Restitution Program for fiscal year 2013.

5.3 Approval of Mediated Settlement Agreement in the matter of *City of Fayetteville v. Jacqueline Pfendler, et al.*

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

MOTION: Council Member Applewhite moved to approve the mediated settlement agreement in the matter of *City of Fayetteville v. Jacqueline Pfendler, et al.*

SECOND: Mayor Pro Tem Arp

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

6.0 PUBLIC HEARINGS

6.1 Case No. P11-47F. Request for rezoning from SF-10 Single-Family Residential to LC Limited Commercial on property located at 1520 Hope Mills Road. Containing 1.59 acres more or less and being the property of Matilda Autry. (Appeal of a Zoning Commission Recommendation)

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, 2010 Land Use Plan, and Hope Mills Road Land Use Plan. He explained the purpose of the SF-10 Single-Family Residential and LC Limited Commercial districts. He stated the applicant was looking to market the property for sale under what they saw as the highest and best use of LC Limited Commercial. He further stated the property was also sitting at an intersection that was the entrance to a neighborhood. He noted the Zoning Commission held a public hearing on the case and recommended that the property be rezoned to O&I Office and Institutional in keeping with the Hope Mills Road Land Use Plan. He further noted the applicant appealed the Zoning Commission's recommendation of O&I and maintained that the LC district was still a better fit.

He advised the case was delayed in coming before Council due to negotiations between the property owner and the City for the purchase of the property as the City had interest in the property becoming a new location for the existing Fire Station on Hope Mills Road. He further advised that the Zoning Commission and staff recommended a more restrictive zoning of O&I based on (1) the property being at the entrance of a residential development, (2) the Hope Mills Road Land Use Plan calling for office use, and (3) two sides of the property being zoned for single-family residential.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Randy Gregory, Attorney for the applicant, 405 Barrington Cross, Fayetteville, NC 28303, appeared in favor and stated he and his client would appreciate the support of the City Council. There being no one further to speak, the public hearing was closed.

Council Member Fowler inquired if there was concern that this could be another little house turned into something commercial. Mr. Harmon responded there was more concern for what type of commercial may operate there, especially as it was an entrance into a neighborhood. Council Member Crisp inquired how the City had come to negotiate for purchase of the property. Mr. Harmon responded at the time of the initial negotiation he was unaware that the Real Estate Division was interested in possible purchase of the property.

Council Member Applewhite inquired of Mr. Gregory why he was requesting the property be rezoned, when the intent was to sell the property. Mr. Gregory responded that LC zoning would result in a higher value than the current residential zoning.

MOTION: Council Member Crisp moved to approve the request to rezone the property to LC Limited Commercial.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (10-0)

6.2 Case No. P13-01F. Request for a Special Use Permit for Retail Establishment greater than 2,500 square feet in the NC Neighborhood Commercial District, located beside 247 Bonanza Drive. Containing 1.25 acres more or less and being the property of Par 5 Development.

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 in question was currently undeveloped and while the current Land Use Plan was calling for medium-density residential, the property was already zoned for Neighborhood Commercial. He further explained the property was next to a daycare and in front of a school and City recreation facility. He stated the applicant was requesting a Special Use Permit to allow the construction of a Dollar General store on the property. He noted the Dollar General store would be over 2,500 square feet and thus would require a Special Use Permit. He further noted that general retail such as this was already permitted in the NC district and the purpose of limiting the size and requiring buildings to be closer to the street in the NC district was to encourage a compact, pedestrian oriented less auto-

dependent area providing services and goods needed on a frequent basis by the immediately surrounding neighborhoods. He stated that provided the development continued to meet the objectives of a small front setback and parking placement on the side or rear yards, the larger building size would be compatible with the NC district purposes. He advised the site plan and building elevation plans met the City's development standards for commercial buildings in the NC district. 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 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. Gordon A. Rose, P.E., 104 Gillespie Street, Fayetteville, NC 28301, appeared in favor and stated he was the Engineer for the project speaking on behalf of the applicant.

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

Council Member Crisp inquired what kind of feedback Mr. Harmon had received from residents in the surrounding area. Mr. Harmon responded there had not been any response and no residents attended the Zoning Commission meeting.

Council Member Applewhite inquired if the natural buffer of the tree line would remain. Mr. Harmon responded the trees would remain and they were within the adjacent school property.

MOTION: Council Member Haire moved to approve the request for a Special Use Permit with the conditions of the site plan and building elevation and findings all being met.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (10-0)

6.3 Case No. P13-04F. Request for a Special Use Permit to operate a heavy automotive repair business on property located at 5522 Yadkin Road, contingent upon rezoning to CC Community Commercial zoning district. Containing 1.07 acres more or less and being the property of JP III Family Limited Partnership.

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 located along Yadkin Road to the south and east of Santa Fe Drive. He also explained the property had two businesses on it and prior to the Unified Development Ordinance (UDO), one of the businesses was a heavy auto repair establishment. He stated the UDO remapping project had rendered the property nonconforming. He further stated the owner of the property applied for a rezoning to CC Community Commercial. He noted the property must be rezoned before approval of the Special Use Permit. He further noted the property was fully developed and the developer had not requested any changes to their current site layout. He stated the Zoning Commission recommended the conditions of retaining the vegetated buffer at the back of the property to City standards and maintaining the current separation between the property and the residential lots adjoining it, a minimum of 10 feet wide. He advised staff recommended the conditions of (1) adding shrubs spaced three feet apart to the grassed island along Yadkin Road and maintain

the existing tree; (2) maintaining the existing vegetation along the rear of the property adjacent to the residential development and enhance it, as needed, to establish the equivalent of a type D buffer; and (3) any outdoor storage of vehicles waiting to be repaired or in some stage of repair must meet all current development 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 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.

Council Member Crisp inquired if a fence was at the rear of the property. Mr. Harmon responded there was currently no fence.

Mayor Pro Tem Arp inquired who would determine the length of time a car could sit in the parking lot in a state of disrepair. Mr. Harmon responded Code Enforcement would monitor that activity.

Council Member Haire inquired if a privacy fence could be a requirement. Mr. Harmon responded in the affirmative.

Council Member Hurst inquired how many responses had been received to the 64 letters that were mailed. Mr. Harmon responded there had been no responses.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Lonnie Player, Attorney representing the applicant, 400 Westwood Shopping Center, Suite 210, Fayetteville, NC, appeared in favor.

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

MOTION: Council Member Haire moved to approve.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (10-0)

7.0 OTHER ITEMS OF BUSINESS

7.1 Approval of Lease Agreement between the City of Fayetteville and Megabus.

Mr. Randall Hume, Transit Director, presented this item with the aid of a power point presentation. He stated that Megabus, a company operating express inter-city bus services in various parts of the country, had plans to add Fayetteville to their network. He further stated the new route would connect Raleigh/Durham, NC; Fayetteville, NC; Columbia, SC; Athens, GA; and Atlanta, GA. He explained the Megabus coaches were equipped with free Wi-Fi; 110v outlets at every seat; restrooms; and GPS systems that monitor all vehicle operations such as speed, low clearance, and tire pressure with alert systems; and ADA accessible. He stated Megabus would use the City's current bus Transfer Center on Old Wilmington Road and then use the new MMTTC once it began operation. He further stated Megabus would lease the needed space from the City and have access to the Transfer Center property for its scheduled six daily runs. He advised the operation would neither interfere with FAST operations nor require additional staffing or costs of FAST and ticketing would be conducted online and not require any sales or handling by Transit staff. He further advised Megabus would make and pay for some parking lot improvements to ensure safety of passengers and buses and would also

provide security to meet late night and Sunday buses. He noted their bus operators would be entitled to use the FAST operators lounge during their brief stops. He further noted FAST would also provide a bus shelter for passengers at their stop and limited permit short-term parking for dropping-off and picking-up passengers. He concluded by stating rent paid to the City would be \$900.00 per month.

Council Member Davy stated this was a great opportunity for the City and it sounded like it would be a good partnership.

MOTION: Council Member Applewhite moved to approve the Lease Agreement between the City of Fayetteville and Megabus.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

8.0 ADMINISTRATIVE REPORTS

8.1 Monthly statement of taxes for January 2013.

2012 Taxes.....	\$10,254,788.83
2012 Vehicle.....	387,589.16
2012 Taxes Revit.....	26,340.61
2012 Vehicle Revit.....	399.36
2012 FVT.....	44,853.72
2012 Transit.....	44,853.74
2012 Storm Water.....	378,947.85
2012 Fay Storm Water.....	757,943.81
2012 Fay Recycle Fee.....	221,756.41
2012 Annex.....	0.00
2011 Taxes.....	12,638.05
2011 Vehicle.....	46,509.14
2011 Taxes Revit.....	0.00
2011 Vehicle Revit.....	33.62
2011 FVT.....	6,790.63
2011 Transit.....	6,790.62
2011 Storm Water.....	577.46
2011 Fay Storm Water.....	1,154.93
2011 Fay Recycle Fee.....	950.99
2011 Annex.....	0.00
2010 Taxes.....	1,969.61
2010 Vehicle.....	703.56
2010 Taxes Revit.....	0.60
2010 Vehicle Revit.....	0.00
2010 FVT.....	297.16
2010 Transit.....	297.15
2010 Storm Water.....	64.50
2010 Fay Storm Water.....	129.00
2010 Fay Recycle Fee.....	204.24
2010 Annex.....	0.00
2009 Taxes.....	442.75
2009 Vehicle.....	748.14
2009 Taxes Revit.....	0.00
2009 Vehicle Revit.....	0.00
2009 FVT.....	197.90
2009 Transit.....	197.88
2009 Storm Water.....	12.00
2009 Fay Storm Water.....	24.00
2009 Fay Recycle.....	76.00
2009 Annex.....	0.00

2008 and Prior Taxes.....	499.53
2008 and Prior Vehicle.....	1,240.80
2008 and Prior Taxes Revit.....	0.00
2008 and Prior Vehicle Revit.....	0.00
2008 and Prior FVT.....	346.00
2008 and Prior Transit.....	52.46
2008 and Prior Storm Water.....	15.96
2008 and Prior Fay Storm Water.....	0.00
2008 and Prior Fay Recycle Fee.....	0.00
2008 and Prior Annex.....	55.46
Interest.....	31,818.48
Revit Interest.....	79.76
Storm Water Interest.....	718.81
Fay Storm Water Interest.....	1,419.86
Annex Interest.....	2.55
Fay Recycle Interest.....	934.73
Fay Transit Interest.....	1,179.40
Total Tax and Interest.....	\$12,236,647.22

8.2 Tax refunds of less than \$100.00.

<u>Name</u>	<u>Year</u>	<u>Basis</u>	<u>City Refund</u>
Valasco, James	2011	Clerical Error	<u>\$85.27</u>
TOTAL			<u>\$85.27</u>

8.3 N.C.G.S. § 143-318.11 Closed Session.

MOTION: Council Member Bates moved to go into closed session for a personnel matter.

SECOND: Mayor Pro Tem Arp

VOTE: UNANIMOUS (10-0)

The regular session recessed at 8:30 p.m. The regular session reconvened at 9:55 p.m.

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

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:55 p.m.