

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JANUARY 27, 2014
7:00 P.M.**

Present: Mayor Nat Robertson

Council Members Kathy Jensen (District 1); Kady-Ann Davy (District 2); Mitchell Colvin (District 3); Chalmers McDougald (District 4); Robert T. Hurst, Jr.(District 5); Lawrence O. Wright, Sr.,(District 7); Theodore Mohn (District 8); James W. Arp, Jr. (District 9)

Absent: William J. L. Crisp (District 6)

Others Present:

Theodore Voorhees, City Manager
Kristoff Bauer, Deputy City Manager
Rochelle Small-Toney, Deputy City Manager
Karen McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Scott Shuford, Development Services Director
Benjamin Major, Fire Chief
Jerry Dietzen, Environmental Services Director
Lee Jernigan, Traffic Engineer
Brad Whited, Airport Director
Randy Hume, Transit Director
Rebecca Rogers-Carter, Strategic Initiatives Manager
Dwight Miller, PWC Chief Financial Officer
Craig Harmon, Sr. Planner
David Nash, Planner II
Will Deaton, Planner II
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Robertson called the meeting to order.

2.0 INVOCATION

The invocation was offered by Dr. Bruce Martin, Village Baptist Church.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 APPROVAL OF AGENDA

MOTION: Council Member Hurst moved to approve the agenda with the exception of moving item 9.04 – Annual Air Quality Report to 6.04.

SECOND: Council Member Arp

VOTE: UNANIMOUS (9-0)

5.0 RECOGNITION

There were no recognition items.

6.0 REPORTS FROM BOARDS AND COMMISSIONS

6.01 Airport Commission Annual Report 2013

Mr. Ralph Hamilton, Airport Commission Chair, provided the Airport Commission Annual Report for 2013.

6.02 Board of Adjustment Annual Report 2013

Mr. Bill Jenkins, Board of Adjustment Chair, provided the Board of Adjustment Annual Report for 2013.

6.03 Joint Appearance Commission Annual Report 2013

Mr. Johnny Lanthorn, Joint Appearance Commission Chair, provided the Joint Appearance Commission Annual Report 2013.

6.04 Annual Air Quality Report

Ms. Kelly Blanford Bah, Executive Director, Sustainable Sandhills, presented the Annual Air Quality Report and stated the Clean Air Act (CAA), as amended in 1990 is the most recent version of a law first passed in 1970. The 1990 Amendment made some major changes in the act, by empowering the US Environmental Protection Agency (EPA) to set up permitting and enforcing programs for larger sources that release pollutants into the air. On July 17, 1997, the EPA promulgated revised National Ambient and Air Quality Standards, addressing changes in the Ozone and moving from 1 hour standard to an 8 hours standard, as longer exposure to ozone has been proven to have a greater impact on people and the environment. The new primary and secondary standard was set to 0.08 parts per million (ppm) for ground level ozone. In 2002 the EPA proposed a new program, the Early Action Compact (EAC), to areas in the country that would meet certain criteria. Each participating area was to have an Early Action Compact Memorandum of Agreement signed by December 31, 2002. The Chairman of the Cumberland County Board of Commissioners originally signed the EAC Memorandum of Agreement on December 13, 2002. The Early Action Plan, a document outlining local, state, and federal strategies to reduce ozone precursors, followed. Milestones set by EPA were met by Cumberland County resulting in a designation as an Ozone Attainment Area in April 2008. Ground level ozone standards were changed once more in 2008 and set at 0.075 ppm.

Cumberland County elected to continue with the air quality regional efforts in the hope that uninterrupted work would further the ozone precursors reduction. The Cumberland County Air Quality Stakeholders Committee, which was formed as part of the EAC, still meets quarterly ten years after first assembling to review and promote air quality improvement strategies. As a former Early Action Compact Region the area decided it was advantageous to participate in this program and the Cumberland County Board of Commissioners approved participation in the Ozone Advance (OA) Program to continue the efforts initiated in 2002. During the following months, every municipality within Cumberland County signed a resolution of support of and participation in the OA program. The Stakeholders' Committee is supported by the Combined Air Team (CombAT) with members of the Cumberland County Air Technical Committee, the Fort Bragg Air Team and Sustainable Sandhills Air Team. The CombAT meets more often and provides the Stakeholders with the technical information and administrative assistance. The public involvement does not end with the Stakeholders. An aggressive process of education and outreach into the community has been documented since the beginning of this endeavor, to include involvement of the Public School Systems (Cumberland County and Fort Bragg), utility providers, and any organization requesting presentation. The Air Quality web page, maintained by FAMPO staff, provides information on the local effort and related links. FMPO is currently relying on Sustainable Sandhills to plan and implement air quality related programs. The EPA is scheduled to lower the Ozone precursor level at some time in the near future. Due to the current measurements this may put Fayetteville and Cumberland County in the "non-attainment" status for ground level Ozone and possibly other toxins. Being in the Ozone Advance program may provide added opportunities for Fayetteville and other municipalities in Cumberland County to reduce our ozone levels in an effort to remain in "attainment" for the projected new Ozone precursor levels. Recommendations in the Ozone Advance Program may have an impact on how the City currently does business. For example: recommendations to purchase clean fuel vehicles and following LEED recommended building retrofits for energy efficiency may ultimately yield cost avoidance; however, may require some limited initial investment. This limited investment may be in competition for other City priority needs.

A brief question and answer session ensued.

Mayor Robertson thanked Ms. Blanford Bah for her report.

7.0 CONSENT

MOTION: Council Member Mohn moved to approve the consent agenda; with the exception of Item 7.06 pulled for discussion and separate vote. Mayor Pro Tem Davy moved to also pull Item 7.05 to provide additional information to the public and a separate vote

SECOND: Council Member Wright

VOTE: UNANIMOUS (9-0)

7.01 13-44F Rezoning of property from OA- office and Institutional to LC – Limited Commercial

7.02 Electric Vehicle (EV) Parking Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 16, ARTICLE X - PARKING, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO.S2013-005

**7.03 Approval of a Municipal Agreement with NCDOT for sidewalk along Cliffdale Road
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE FOR THE INSTALLATION OF SIDEWALK IMPROVEMENTS ALONG CLIFFDALE ROAD (SR 1400).
RESOLUTION NO. R2014-004**

7.04 Special Revenue Fund Project Ordinance Closeouts 2014-6 through 2014-11 and Capital Project Fund Ordinance Closeouts 2014-11 and 2014-12

7.05 Pulled for a separate vote by Mayor Pro Tem Davy

7.06 Pulled for a separate vote by Council Member Arp

7.05 Revision of City Council Policy 120.9 - Public Forum

Mr. Theodore Voorhees, City Manager, stated on January 6, 2014, Council Member Mohn presented a request to Council for consideration of revising City Council Policy 120.9 - Public Forum. Council Member Mohn asked Council to consider extending the Public Forum speaking time limit from two minutes to three minutes per speaker and to increase the total time limit for the Public Forum from 15 minutes to 30 minutes, and allow the Mayor discretion to extend the public forum to whatever time necessary to listen to all speakers that are signed up to speak and present at the start of the Public Forum. Consensus of Council was to extend the Public Forum speaking time limit from two minutes to three minutes per speaker and to leave in place the time limit of 15 minutes for the Public Forum with the Mayor to have discretion to increase the time limit to 30 minutes.

MOTION: Council Member Davy moved to adopt the revised City Council Policy 120.9 – Public Forum

SECOND: Council Member Wright

VOTE: UNANIMOUS (9-0)

7.06 Council Policy 105.2 Assessments

Mr. Theodore Voorhees, City Manager, stated the City Council acted on January 13, 2014, to set the rate for assessments at the prime rate then in effect plus 2%. That rate of 5.25% was applied to sewer assessment rolls approved later on that night's agenda. The motion also indicated that future assessments, after that date, should be set at the prime rate in effect as of July 1st plus 2%. The action taken did not encompass all elements of Council Policy 105.2. Staff has drafted the attached revised policy that is believed to be reflective of the action taken by Council. Based on the previous Council action, should Council adopt the attached, then staff will use the rate set on January 13th through the end of this fiscal year. This item is basically a ratification of the language of a prior Council action.

MOTION: Council Member McDougald moved to adopt the revised City Council Policy 105.2 – Assessments

SECOND: Council Member Arp

VOTE: PASSED by a vote of 6 in favor and 3 in opposition (Council Members Colvin, Mohn, and Wright)

8.0 PUBLIC HEARINGS

8.01 P13-45F. The issuing of a Special Use Permit for a Communications Tower on property zoned SF-10 - Single Family Residential, located at 1715 Johnson Street and being the property of Hubert M. Barkley.

Mr. Craig Harmon, 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 property is

located at the end of Johnston Street and is currently undeveloped. Almost all of the surrounding properties are zoned SF-10 and are also undeveloped. A portion of the properties to the southwest of this lot are developed as a single family neighborhood. The proposed, 175 foot, communications tower meets the entire City's current development standards. Requirements for:

(4) Freestanding Towers

The "Summary of Compliance with Ordinance Requirements (Kornbow ATC #281228)-c" details how American Tower will comply with each of the following requirements.]Freestanding telecommunications towers, whether as a principal or accessory use, shall comply with the following standards:

a. Safety

- i. Before obtaining a Building Permit, the applicant shall submit to the City Manager engineering drawings for the tower, sealed by a licensed engineer, that include a statement that the tower will meet all applicable local, State, and Federal building codes and structural standards.
- ii. Every two years after construction of a tower, the owner shall submit to the City Manager a statement on the tower's structural soundness that is signed and sealed by an engineer. Every sixth year, the statement shall be signed and sealed by an independent, registered, and licensed engineer.

b. Height

The height of a telecommunications tower, including any building or structure atop which the tower is located, shall not exceed 450 feet.

c. Aesthetics

- i. A monopole shall be used unless a different structure is explicitly approved by City Council.
- ii. Towers shall either maintain a galvanized steel finish or be painted.
- iii. Towers shall be camouflaged with the surrounding area, through paint, incorporation into architectural design/structure, or other means, to the maximum extent practicable.
- iv. The exterior appearance of ground-based accessory structures located within a residential zoning district shall be designed to look like a residential structure typical of the district (e.g., with a pitched roof and frame or brick siding).
- v. Photo imagery shall be used to illustrate the appearance of the facility and its visual impact on the area.

d. Lighting

If lighting is required by the Federal Aviation Administration (FAA), it shall comply with FAA standards. To the extent allowed by the FAA, strobe lights shall not be used for nighttime lighting and lighting shall be oriented so as not to project directly onto any surrounding residentially-zoned property. Documentation from the FAA that the lighting is the minimum lighting it requires shall be submitted to the City Manager before issuance of any building permit for the tower.

e. Setbacks

- i. Except as provided in subsection iii., telecommunications towers shall be set back from abutting property lines the distance equal to or exceeding that in Table 30-4.C.3, Freestanding Telecommunications Tower Setback Standards.
- ii. Buildings associated with a telecommunications facility shall meet the minimum setback requirements for the zoning district where located.
- iii. When a tower, building or other structure is being added to an existing telecommunications tower site that was in existence prior to the adoption of the setback requirements under subsection b.i. and ii. above and the existing site does not comply with the setback requirements of subsection b.i. and ii., the Council, upon good cause shown by the applicant and evidence provided by a North Carolina registered professional engineer regarding the safety of the proposed setback, may reduce the setback requirements for the tower, building or other structure to be added to the existing site.

f. Separation from Other Towers

New telecommunication towers shall not be located within 1,500 feet of an existing telecommunications tower. This standard shall not apply to a telecommunications tower placed out of view in a building or other structure. The 1,500-foot standard may be reduced or waived through the special use permit process based on mitigating circumstances which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics.

g. Collocation

i. No freestanding telecommunications tower shall be allowed unless it is demonstrated that no suitable existing tower, building, or other structure within the coverage area is available for the collocation of antennas.

ii. New freestanding telecommunications towers shall be designed to accommodate the present and future needs of the owner and at least two comparable users. Unused space on an existing telecommunications tower shall be made available to other users at a fair market rental unless mechanical, structural, or regulatory factors prevent collocation. In determining fair market rental, the rent paid by a current co-locator under a swapping agreement need not be considered.

h. Buffer and Screening

A Type D buffer (see Section 30-5.B.4.d, Property Perimeter Landscape,) shall be provided around the perimeter of a freestanding telecommunications tower facility (including equipment structures and guy anchor supports).

i. Security

Towers, guy anchor supports, and ground-based equipment buildings shall be enclosed by security fencing not less than ten feet in height.

j. Interference

No telecommunications tower, antenna, or supporting equipment shall disturb or diminish radio or television or similar reception on adjoining residentially zoned land.

k. Use of Associated Buildings

Building and structures associated with a telecommunications tower shall not be used as an employment center for any worker. This does not prevent the periodic maintenance, inspection, and monitoring of equipment and instruments, or renovation of the facility.

l. No Outdoor Storage

No outdoor storage shall be allowed on a telecommunications tower site.

m. Compliance with State or Federal Laws and Regulations

Towers and antennas shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the State or Federal government that regulates telecommunications towers and antennas.

n. Replacement of Existing Towers

Existing freestanding towers may be replaced with a new tower that increases the number of collocation opportunities, subject to the following standards:

i. The height of the replacement tower shall not exceed 110 percent of the height of the replaced tower.

ii. The replacement tower shall be located within 100 feet of the replaced tower, unless the City Manager determines that a farther distance furthers the purpose and intent of this Ordinance.

iii. The replacement tower shall comply with all the standards of this section.

o. Nonconforming Telecommunications Towers

Nonconforming telecommunications towers shall be allowed to remain and be maintained in accordance with the standards in Article 30-7: Nonconformities.

Additional equipment may be added to the tower provided that such additions do not increase the degree of nonconformity.

p. Discontinued Use

If a telecommunications tower is not used for a period of six consecutive months, the City Manager may send the tower owner notice indicating that the tower must be removed within 90 days from the date of notice.

Mr. Harmon further advised a Special Use Permit shall be approved only upon a finding that all of the following standards are met:

- 1.The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards; *[Yes, see the attached "Summary of Compliance with Ordinance Requirements (Kornbow ATC #281228)-c".]*
- 2.The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands; *[Yes, most of the surrounding land is undeveloped]*
- 3.The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; *[Yes, the tower meets the City's requirements.]*
- 4.The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; *[Yes the proposed tower in on a large undeveloped lot.]*
- 5.The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; *[Yes, the tower meets the City's requirements.]*
- 6.The special use maintains safe ingress and egress onto the site and safe road conditions around the site; *[Yes, the tower meets the City's requirements.]*
- 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 *[Yes, as documented in the submitted application packet.]*
- 8.The Special use complies with all other relevant City, State, and Federal laws and regulations. *[Yes, as documented in the submitted application packet.]*

Mr. Harmon further stated the Zoning Commission held a public hearing on this case on December 10, 2013. The Commission voted 5-0 to recommend approval. There was one speaker in favor and none in opposition.

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

Mr. Tom Johnson, 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612; stated he is the attorney representing the applicant, American Towers and stated the Mr. Barkley, the property owner is present at this meeting along with Mr. Joe Smathers, whom is qualified to present the findings of the Impact Statement. Mr. Johnson provided the Council with a copy of a letter of 'determination of no hazard to air navigation' from the Federal Aviation Administration.

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

Council Member Colvin asked for clarity regarding if the federal government standard of emissions is tracked as this tower is embedded inside a residential area. Mr. Johnson responded that AT&T does track emission and this operation is a fraction of 1% permitted exposure.

MOTION: Council Member McDougald moved to approve the Special Use Permit as presented by staff, with the attached conditions and upon a finding that all of the 8 standards are met.

SECOND: Council Member Wright

VOTE: UNANIMOUS (9-0)

8.2 P13-46F. The issuing of a Special Use Permit for a Communications Tower on property zoned BP/CZ - Business Park/Conditional Zoning District, located at 3204 Jupiter Drive and being the property of Waverly Broadwell Family LLC.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. Mr. Harmon stated this property is located in the Military Business Park, near Bragg Boulevard and adjacent to Interstate 295. The City's Technical Review

Committee has requested that the developer make this, 125 foot tower, a stealth monopole with a flag tower because of its visibility along I-295. The owners have agreed to this condition. There is also a Duke Energy power line easement adjacent to the proposed tower compound. The proposed tower compound is located outside of the Duke easement. Requirements for:

(4) Freestanding Towers

“Summary of Compliance with Ordinance Requirements (Jupiter 295 ATC #281632)-c” details how American Tower will comply with each of the following requirements.] Freestanding telecommunications towers, whether as a principal or accessory use, shall comply with the following standards:

a. Safety

- i. Before obtaining a Building Permit, the applicant shall submit to the City Manager engineering drawings for the tower, sealed by a licensed engineer, that include a statement that the tower will meet all applicable local, State, and Federal building codes and structural standards.
- ii. Every two years after construction of a tower, the owner shall submit to the City Manager a statement on the tower's structural soundness that is signed and sealed by an engineer. Every sixth year, the statement shall be signed and sealed by an independent, registered, and licensed engineer.

b. Height

The height of a telecommunications tower, including any building or structure atop which the tower is located, shall not exceed 450 feet.

c. Aesthetics

- i. A monopole shall be used unless a different structure is explicitly approved by City Council.
- ii. Towers shall either maintain a galvanized steel finish or be painted.
- iii. Towers shall be camouflaged with the surrounding area, through paint, **City of Fayetteville** *Page 2 Printed on 1/23/2014 File Number: 13-346* incorporation into architectural design/structure, or other means, to the maximum extent practicable.
- iv. The exterior appearance of ground-based accessory structures located within a residential zoning district shall be designed to look like a residential structure typical of the district (e.g., with a pitched roof and frame or brick siding).
- v. Photo imagery shall be used to illustrate the appearance of the facility and its visual impact on the area.

d. Lighting

If lighting is required by the Federal Aviation Administration (FAA), it shall comply with FAA standards. To the extent allowed by the FAA, strobe lights shall not be used for nighttime lighting and lighting shall be oriented so as not to project directly onto any surrounding residentially-zoned property. Documentation from the FAA that the lighting is the minimum lighting it requires shall be submitted to the City Manager before issuance of any building permit for the tower.

e. Setbacks

- i. Except as provided in subsection iii., telecommunications towers shall be set back from abutting property lines the distance equal to or exceeding that in Table 30-4.C.3, Freestanding Telecommunications Tower Setback Standards.
- ii. Buildings associated with a telecommunications facility shall meet the minimum setback requirements for the zoning district where located.
- iii. When a tower, building or other structure is being added to an existing telecommunications tower site that was in existence prior to the adoption of the setback requirements under subsection b.i. and ii. above and the existing site does not comply with the setback requirements of subsection b.i. and ii., the Council, upon good cause shown by the applicant and evidence provided by a North Carolina registered professional engineer regarding the safety of the proposed setback, may reduce the setback requirements for the tower, building or other structure to be added to the existing site.

f. Separation from Other Towers

New telecommunication towers shall not be located within 1,500 feet of an existing telecommunications tower. This standard shall not apply to a telecommunications tower placed out of view in a building or other structure. The 1,500-foot standard may be reduced or waived through the special use permit process based on mitigating circumstances which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics.

g. Collocation

- i. No freestanding telecommunications tower shall be allowed unless it is demonstrated that no suitable existing tower, building, or other structure within the coverage area is available for the collocation of antennas.
- ii. New freestanding telecommunications towers shall be designed to accommodate the present and future needs of the owner and at least two comparable users. Unused space on an existing telecommunications tower shall be made available to other users at a fair market rental unless mechanical, structural, or regulatory factors prevent collocation. In determining fair market rental, the rent paid by a current co-locator under a swapping agreement need not be considered.

h. Buffer and Screening

A Type D buffer (see Section 30-5.B.4.d, Property Perimeter Landscape,) shall be provided around the perimeter of a freestanding telecommunications tower facility (including equipment structures and guy anchor supports).

i. Security Fencing

Towers, guy anchor supports, and ground-based equipment buildings shall be enclosed by security fencing not less than ten feet in height.

j. Interference

No telecommunications tower, antenna, or supporting equipment shall disturb or diminish radio or television or similar reception on adjoining residentially zoned land.

k. Use of Associated Buildings

Building and structures associated with a telecommunications tower shall not be used as an employment center for any worker. This does not prevent the periodic maintenance, inspection, and monitoring of equipment and instruments, or renovation of the facility.

l. No Outdoor Storage

No outdoor storage shall be allowed on a telecommunications tower site.

m. Compliance with State or Federal Laws and Regulations

Towers and antennas shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the State or Federal government that regulates telecommunications towers and antennas.

n. Replacement of Existing Towers

Existing freestanding towers may be replaced with a new tower that increases the number of collocation opportunities, subject to the following standards:

- i. The height of the replacement tower shall not exceed 110 percent of the height of the replaced tower.
- ii. The replacement tower shall be located within 100 feet of the replaced tower, unless the City Manager determines that a farther distance furthers the purpose and intent of this Ordinance.
- iii. The replacement tower shall comply with all the standards of this section.

o. Nonconforming Telecommunications Towers

Nonconforming telecommunications towers shall be allowed to remain and be maintained in accordance with the standards in Article 30-7: Nonconformities. Additional equipment may be added to the tower provided that such additions do not increase the degree of nonconformity.

p. Discontinued Use

If a telecommunications tower is not used for a period of six consecutive months, the City Manager may send the tower owner notice indicating that the tower must be removed within 90 days from the date of notice.

The SUP must meet the following finding of fact:

- 1.The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards; *[Yes, see the attached "Summary of Compliance with Ordinance Requirements (Jupiter 295 ATC #281632)-c".]*
- 2.The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands; *[Yes, most of the surrounding land is undeveloped]*
- 3.The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; *[Yes, the tower meets the City's requirements.]*
- 4.The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; *[Yes the proposed tower is on a large undeveloped lot.]*
- 5.The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; *[Yes, the tower meets the City's requirements.]*
- 6.The special use maintains safe ingress and egress onto the site and safe road conditions around the site; *[Yes, the tower meets the City's requirements.]*
- 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 *[Yes, as documented in the submitted application packet.]*
- 8.The Special use complies with all other relevant City, State, and Federal laws and regulations. *[Yes, as documented in the submitted application packet.]*

Mr. Harmon stated the Zoning Commission held a public hearing on this case on December 10, 2013. The Commission voted 5-0 to recommend approval. There was one speaker in favor and none in opposition.

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

Mr. Tom Johnson, 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612; stated he is the attorney representing the applicant, American Towers. Mr. Johnson stated Mr. Joe Smathers, is qualified to present the findings of the Impact Statement and is here this evening. Mr. Johnson confirmed that the American flag on the pole will be lighted at all times.

There being no one further 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, with the attached conditions and upon a finding that all of the 8 standards are met.

SECOND: Council Member Arp

VOTE: UNANIMOUS (9-0)

9.0 OTHER ITEMS OF BUSINESS

9.01 Code Amendment to Chapter 30 to modify Zero Lot Line standards

Mr. Scott Shuford, Development Services Director presented this item with the aid of a PowerPoint presentation and stated the proposed changes to zero lot line (ZLL) standards reflect extensive discussion with the development community. ZLL standards are used in a relatively unique way in Fayetteville, to provide significant flexibility in setback and lot area standards and, in many instances, some increase in actual density as well as greater ease in achieving the maximum allowed density because of the increased options in lot layout. The flexibility in setback requirements is often used in (re)development of smaller sites in established areas - so called "infill development." Because of concerns about infill on small lots in established residential areas and the potential to be incompatible with the existing development pattern, the current standards require a special use permit for development sites of less than three acres. Because of the time and the uncertainty associated with the two hearings for the

special use permit (SUP), representatives of the development community are seeking a reduction or elimination of the special use process for smaller ZLL developments. Under the code that preceded the UDO, a neighborhood meeting and one public hearing before the Planning Commission was required for infill projects. ZLL currently is allowed in the following base zoning districts: SF-15, SF-10, SF-6, MR-5, OI, NC, LC, and CC. The development community has asked for ZLL to be available in the AR - Agricultural District. Staff proposes to add the procedure for all base zoning districts. The Planning Commission heard two speakers in favor of the proposed amendment at its meeting on September 17, 2013. The Commission voted unanimously to recommend approval. The draft ordinance has changed somewhat since their consideration, becoming more restrictive. Staff will update the Commission on changes to the ordinance at its January 21 meeting and report any issues or concerns to Council. Subsequent discussions with representatives active in the initial zero lot line and neighborhood infill regulations and in the drafting of the new development code raised some scenarios not adequately addressed in the draft ordinance. Both these participants and development representatives agreed this item should be deferred at the October 28th and November 18th City Council meetings. At the November 18th meeting, City Council heard one speaker who recommended continuing the item; the hearing was closed and City Council tabled action to allow continued discussions with neighborhood and development interests, scheduling the item to return on January 13th. On January 13, 2014, City Council tabled the item to its January 27th meeting. The primary issue involves striking a balance between neighborhood compatibility and site design that maximizes density. Many ZLL projects previously built in the City fit well into the neighborhoods where they have been developed, but some have not. In the proposed ordinance, staff has attempted to quantify the site design characteristics that create issues with neighborhood compatibility and to require projects that are not reflective of the character of the surrounding neighborhood to undergo a new Neighborhood Compatibility Permit process.

There was no discussion.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF CHAPTER 30 TO MODIFY STANDARDS RELATED TO ZERO LOT LINE DEVELOPMENT. ORDINANCE NO. S2014-006

MOTION: Council Member Wright moved to adopt the amendment to zero lot line regulations as presented by staff.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0).

9.02 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:

2524 Carriage Road

Mr. Shuford stated the structure is avacantresidential home that was inspected and condemned as a blighted structure on September 3, 2013. A hearing on the condition of the property was conducted on September 18, 2013, in which one of the owners attended. A notice of the hearing was published in the Fayetteville Observer newspaper. A subsequent Hearing Order to repair or demolish the structure within 90 days was issued and mailed to the owners on September 20, 2013. To date there have been no repairs to the structure. The utilities to the structure have been disconnected since March 2008. In the past 24 months there have been 10 calls for 911 service to the property. There have been 13 code violation cases with a pending assessment of \$1,529.64 for lot cleaning. The low bid for demolition is \$3,248.00.

918 Ellis Street

Mr. Shuford stated the structure is avacantresidential home that was inspected and condemned as a blighted structure on June 24, 2013. A hearing on the condition of the property was conducted on July 10, 2013, in which the owners appeared. A notice of the hearing was published in the Fayetteville Observer newspaper. A subsequent Hearing Order to repair or

demolish the structure within 90 days was issued and mailed to the owners on July 11, 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 services to the property. There have been 3 code violation cases with a pending assessment of \$363.44 for lot cleaning. The low bid for demolition is \$1,800.00.

710 State Avenue

Mr. Shuford stated the structure is a vacant residential home that was inspected and condemned as a dangerous structure on July 8, 2013. A hearing on the condition of the structure was conducted on July 24, 2013 in which the owner attended. A notice of the hearing was published in the Fayetteville Observer newspaper. A subsequent Hearing Order to repair or demolish the structure within 90 days was issued and mailed to the owner on July 25, 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 services to the property. There have been 3 code violation cases with no pending assessments. The low bid for demolition is \$3,100.00.

AN ORDINANCE OF THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA, REQUIRING THE CITY BUILDING INSPECTOR TO CORRECT CONDITIONS WITH RESPECT TO, OR TO DEMOLISH AND REMOVE A STRUCTURE PURSUANT TO THE DWELLINGS AND BUILDINGS MINIMUM STANDARDS CODE OF THE CITY (2524 Carriage Road, PIN 0446080-9669) ORDINANCE NO. NS2014-001

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 (918 Ellis Street, PIN 0437-13-1331). ORDINANCE NO. NS2014-002

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 (710 State Street, PIN 0438-04-1235). ORDINANCE NO. NS2014-003

MOTION: Council Member McDougald moved to adopt the ordinances authorizing demolition of the structures

SECOND: Council Member Davy

VOTE: UNANIMOUS (9-0)

9.03 Transit Fares for After School Activities

Mr. Randy Hume, Transit Director, presented this item and stated Transit provides scheduled bus service throughout the City of Fayetteville including routes that operate near some Cumberland County schools. Staff is aware that transportation can be an impediment to some students' ability to participate in after school activities, including sports teams, arts activities, and school sponsored clubs. Transit in cooperation with County Schools transportation officials and athletic directors have proposed an after school transportation program that would allow participating students to ride FAST buses at no cost on weekdays from 3:00 p.m. until 8:00 p.m. FAST would provide transit passes to coaches and club sponsors who would distribute the passes to the students in need of transportation. There is no added cost to FAST as these trips would be taken on buses already scheduled to be operating on scheduled routes. The program would initially operate for the remainder on the 2013-2014 school year and continue through June 2015. The program would be evaluated at that time for needed revisions and possible renewal.

Council Member McDougald asked if the time frame could be expanded for game nights. Mr. Hume responded that could be an option.

Council Member Colvin asked how we will know if the students riding the bus are part of the program compared to regular students riding the bus. Mr. Hume responded that the schools will issue identification passes.

Council Member Wright stated this is an outstanding program and thank you for looking out for our children and helping them to get involved with positive activities.

Council Member Jensen asked if during the summer months additional services could be provided for early morning activities. Mr. Hume responded this would be something we could work on with the coaches.

Mayor Pro Tem Davy recommended the passes not reflect a time frame.

Council Member Arp stated August 1st is typically the start for fall sports and practice is usually held early in the morning and late into the evening. Council Member Arp said he would like to see an avenue for the expanded hours to cover the athletes.

MOTION: Council Member Arp moved to approve the after school activity fare program and direct staff to bring back a revision to the City's fee schedule.

SECOND: Council Member McDougald

VOTE: UNANIMOUS (9-0)

9.04 Annual Air Quality Report

This item was presented as item 6.04

9.05 The City of Fayetteville FY 2014 Semiannual Strategic Plan Report

Ms. Rebecca Rogers-Carter, Strategic Initiatives Manager, presented this item with the aid of a PowerPoint program and stated the City Council has developed a sustainable strategic planning model that assists Council, as representatives of the community, to plan for our community's future and to lead with vision. The City is committed to advancing the strategic priorities articulated in the City's strategic plan. To that end and in an effort to promote greater accountability for results, City staff prepares a semiannual report that details the progress made. The strategic plan report reinforces transparency and clarifies Council's vision for our community. As the City of Fayetteville continues to grow and thrive, the City Council looks to chart a course with a strategic plan which articulates a vision for our community's future that will ensure vitality and sustainability. This model aligns City programs and spending with long-term goals, brings critical needs into focus and provides an organizational roadmap for success. The City's strategic plan is a critical component of a larger system of planning, which includes the annual budget process, citizen input, capital and technology prioritization and financial planning. The City's strategic planning process is designed to build upon past successes, yet also accommodates our proactive response to the changing environment. This year we incorporated more input from citizens and staff and focused on areas of unity and common interests among the City Council.

The City's Strategic Plan has five main areas:

- 1.A vision statement that describes the type of community the Council would like to facilitate through policy direction and staff's work efforts
- 2.A mission statement that describes our organizational purpose, "making Fayetteville a better place for all"
- 3.A list of core values that describes our standards of performance which is expressed with the acronym statement to "Serve with RESPECT"
- 4.Multi-year goals that provide an intermediate focus for the work of City Council and staff, and further outlines the activities Council believes are necessary to realize the vision
- 5.A one-year action plan that identifies issues that Council wishes to address by providing policy direction and the necessary actions that the City management should complete during the upcoming fiscal year.

In February 2013, Fountainworks consulting firm met with City Council in a two-day planning retreat. The session included opportunities for participants to build upon ideas and interact in open conversation. During the April and May follow up work sessions, Council worked to confirm the community vision statement which reflects a vibrant and engaged City of Fayetteville. Drawn from environmental scans, City Council determined the path our organization must follow in order to reach the community's vision and worked to confirm five-year goals. And finally, in preparation for budget development, City Council prioritized elements of a one-year action plan. These are the activities that Council and staff will spend a majority of time during the fiscal year,

working hand in hand, to bring each target for action to successful conclusion. Six goals were identified for the next five years, which help achieve the community's Vision:

- 1.The City of Fayetteville will be a safe and secure community.
- 2.The City of Fayetteville will have a strong, diverse and viable local economy.
- 3.The City of Fayetteville will be designed to include vibrant focal points, unique neighborhoods and high quality, effective infrastructure.
- 4.The City of Fayetteville will be a highly desirable place to live, work and recreate with thriving neighborhoods and a high quality of life for all citizens.
- 5.The City of Fayetteville will have unity of purpose in its leadership, and sustainable capacity within the organization.
- 6.The City of Fayetteville will develop and maintain strong and active community connections.

The City Council also prioritized 13 specific targets for action (TFA) for staff to enact this year to achieve these goals. The semiannual report focuses on advancing the Targets for Action and meeting the objectives of the City's goals. This year, and to more closely align our organization's processes to achieve even greater success, the City is working to transition into program budgeting and performance management. We are in the initial phase and the effort is very promising. Performance management is an ongoing, systematic approach to improving results through evidence-based decision making, continuous organizational learning, with a focus on accountability for performance. This effort should be integrated into all aspects of an organization's management and policy-making processes and, for the City of Fayetteville, must begin with the development of departmental program budgets. The City has aggressively taken on the challenge of developing a program inventory. We prepared for this change management process by assessing the organizational gaps, developing strategy and building the tools needed to transition into program budgeting and performance management. The PRIDE program was developed with a team structure. We implemented a communication and training plan which included an organizational wide overview of program budgeting and performance management. We first focused our effort on developing the City's "program inventory" and financially mapping the programs to begin preparation of the FY15 budget. Departments are currently working diligently to develop FY15 program budgets. Objectives and performance measures were *drafted* and will be fine-tuned in the coming months as we align them with Council's strategic plan. The performance measures contained in the semiannual report are just a start and focus on some of the measures identified during the FY14 strategic planning retreat. Moving forward we will need to build organizational capacity to further train city staff on performance management techniques and to attain the necessary tools needed to capture, validate, assess and report performance measures. An integrated system of strategic planning, budgeting for results and performance management takes years to fully develop but the benefits transform local governments into focused organizations, achieving improved results and greater value for the public.

A brief question and answer session ensued.

MOTION: Mayor Pro Tem Davy moved to accept the report as presented.

SECOND: Council Member Wright

VOTE: UNANIMOUS (9-0)

Item Not Listed on the Agenda

Mr. Russ Rogerson, The Alliance, Executive Vice President, presented The Alliance Economic Development Second Quarter Report.

MOTION: Council Member Arp moved to table The Alliance Second Quarter Report until the item is properly scheduled on an agenda and the report to be provided in the agenda packet prior to the meeting.

SECOND: Council Member McDougald

VOTE: UNANIMOUS (9-0)

9.06 Approval of Bond Counsel

Ms. Lisa Smith, Chief Financial Officer, presented this item and stated after an extensive request for qualifications process, City Council selected Womble Carlyle Sandridge & Rice

(WCSR) as lead bond counsel in 2007. In an interest to have a local legal firm on the financing team, City Council also selected Rand & Gregory as co-bond counsel at that time. Since that time, WCSR has served as lead or sole bond counsel on the City's general obligation and revenue bond transactions. At the January 6 work session, City Council was briefed on an upcoming proposed financing for the City's electric and waste water utility system. Preparation for the financing has begun and assistance from the City's bond counsel will soon be required.

As discussed at the Work Session, City and Public Works Commission (PWC) staff has requested confirmation of bond counsel to proceed with the next steps in the financing process. City and PWC staffs believe that retaining one bond counsel firm will be more cost-effective and efficient than retaining two separate firms. WCSR has extensive experience serving as a bond counsel firm, they have provided excellent bond counsel services in the past, and the firm is very familiar with the organizational structure of the City and its PWC. This knowledge will be invaluable as the City works through the treasury issues related to the shared services study with its PWC. It is important to note that Council will have an opportunity to consider and vote on several key matters related to the proposed financing in the next few months. At the January 6th Work Session, a Council member inquired if a local firm could be engaged as co-bond counsel for future bond issues. There is not a state requirement to retain a co-bond counsel; however, the City has the option to select co-bond counsel if that is the City Council's interest. As outlined below, most North Carolina issuers only use one bond firm for a financing transaction. PWC's financial advisor, Davenport & Company, gathered the attached information which shows all publicly sold bond issues completed in North Carolina during calendar year 2012 and 2013. The attached information does not include privately placed bank transactions; however, the financial advisor believes this information accurately reflects the frequency with which issuers use co-bond counsel firms for a transaction. During calendar year 2012 and 2013, issuers retained co-bond counsel on six transactions (out of 106) and five transactions (out of 78), respectively. Of these 11 transactions, only four separate issuers (State of North Carolina and three local governments) are represented. Of those transactions, one local firm, The Charleston Group, was retained as co-counsel for one bond issue during this period. Ms. Smith concluded by stating that staff recommend Council move to authorize the retention of Womble Carlyle Sandridge & Rice as the City's bond counsel.

Council Member Colvin stated Strategic Plan Goal number two – “the City of Fayetteville will have a strong, diverse and viable local economy” is very important to him. Council Member Colvin asked if we hired a local co-bond counsel would the fees paid for co-bond counsel be paid in addition to Counsel fees. Ms. Smith responded that creating jobs in the local economy is a high priority, and the hiring of a co-bond counsel would more than likely not produce an elevated cost. Ms. Smith stated there is a certain level of expertise and knowledge needed for co-bond counsel.

Council Member Arp noted that most municipalities across the State use one of two bond counsel companies, one of them being Womble Carlyle Sandridge & Rice. Ms. Smith stated the city sends out the RFQ rather than a RFP as the emphasis is on qualifications rather than cost, which is secondary.

Council Member McDougald stated bond counsel is a particular specialty performed by a law firm. Ms. Smith responded she agreed and stated she was unaware of any local law firm that provides this expertise.

Council Member Wright stated, following line of the strategic plan for hiring locally and trying to save money; hiring out of the County is money lost to our community. Council Member Wright stated he would like to see an underwriter or co-counsel out of Cumberland County.

MOTION: Council Member Arp moved to authorize the retention of Womble Carlyle Sandridge and Rice as the City's bond counsel for services presented by staff in item 9.06, to be completed no later than the end of the first quarter, fiscal year 2015.

SECOND: Council Hurst

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

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:10 p.m.