## FAYETTEVILLE CITY COUNCIL REGULAR MEETING MINUTES CITY HALL COUNCIL CHAMBER JANUARY 13, 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); William J. L. Crisp (District

6); Lawrence O. Wright, Sr.,(District 7); Theodore Mohn (District 8); James W. Arp, Jr.

(District 9)

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

Victor Sharpe, Community Development Director

Tracie Davis, Corporate Communications Director

Steven K. Blanchard, PWC CEO/General Manager

Mark Brown, PWC Senior customer Programs Officer

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 Bishop Larry Wright, Heal the Land Ministries.

#### 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.

**SECOND:** Council Member McDougald

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

5.0 RECOGNITION - None.

#### 6.0 PUBLIC FORUM

Mr. Everett Smith, Sr. 201 Anderson Street, Fayetteville, NC 28301; stated he is considered homeless and addressed concerns regarding public rest rooms.

Ms. Kathy Waddell, 1853 Geiberger Drive, Fayetteville NC 28303; stated she is the Chair of the Fayetteville Cumberland Human Relations Commission and invited all to attend and participate in the Community Conversation Event to be held on January 20, 2014 from 11:00 a.m. until 2:00 p.m. at the Crown Exposition Center.

Mr. Mitchell Guy, 205 Bethune, Fayetteville, NC 28305; stated he is a member of the Fayetteville Cumberland Human Relations Commission and requested all districts be represented at the Community Conversation Event.

Ms. Harmony Sell. No address provided. Ms. Sell addressed personal concerns regarding her children's welfare.

Mr. Jerry Reinoehl, 516 Deer Path, Fayetteville, NC 28311; congratulated the Information Technology Department for the new agenda application on the City web site; it is a logical design and greatly superior to the previous application.

#### 7.0 CONSENT

MOTION: Council Member Mohn moved to approve the consent agenda; with the addition of a technical correction to the December 9, 2013 minutes item 7.6; vote 9 in

favor and 1 in opposition.

SECOND: Council Member Arp VOTE: UNANIMOUS (10-0)

# 7.01 Code Amendment to Article 30 to modify zero lot line standards and allow it in additional zoning districts

This item was tabled until the next regular City Council meeting (January 27, 2014).

#### 7.02 Approve Meeting Minutes:

November 18, 2013 - Special

November 25, 2013 - Regular

December 2, 2013 - Special

December 9, 2013 - Special

December 9, 2013 - Regular

December 12, 2013 - Special

December 13, 2013 - Special

#### 7.03 Award Contract for 2012, Phase II, Street Resurfacing

The project was first advertised for bids to be opened on November 26, 2013; however, only two (2) bids were received. Therefore, in accordance with North Carolina General Statutes which require three (3) bids for opening on the first advertisement, the project was re-advertised and bids were opened on December 4, 2013 as follows:

Barnhill Contracting Company, Fayetteville, NC.... \$1,858,905.00

Highland Paving Co., Fayetteville, NC.....\$1,913,285.00

The bids received were over the budgeted amount of \$1,543,081.80, therefore, as allowed by North Carolina General Statutes, staff negotiated with the low bidder, Barnhill Contracting Company, to eliminate nine (9) streets in order to bring the contract within the budgeted amount. The negotiated bid amount is \$1,543,081.80. The DBE participation goal for this project is 10% and Barnhill Contracting Co. met the 10% goal.

# 7.04 Award Contract for the Purchase of Thirty Eight (38) Dodge Charger Police Cars to Ilderton Dodge Chrysler Jeep, High Point, NC the lowest responsive bidder in the total amount of 1,118,418.50

There was only one bidder.

# 7.05 Special Revenue Fund Project Ordinance Amendment 2014-5 - Mobile Technology Initiative Grant)

On August 26, 2013, Council adopted Special Revenue Fund Project Ordinance 2014-5, which appropriated funding for the purchase of 18 rugged mobile data computers. The source of the funds for the project was a grant award of \$40,500 from the Federal Byrne Justice Assistance Grant program and a required local match of \$13,500 from the General Fund. The Police Department has obtained a quote for the rugged mobile data computers at significant savings from the original projected price, and would like to purchase a quantity greater than 18, up to an amount approved by the grantor agency within the current funding level. This project budget amendment will remove the specific limit of computers that the police department can purchase within the existing project budget. No additional funds will be required for the project.

#### 7.06 Special Revenue Fund Project Ordinance 2014-9 - Downtown Public Art

The City of Fayetteville was recently awarded a \$7,800 grant from the Arts Council of Fayetteville for the purpose of a public art project designed to increase cultural heritage tourism in the community. Additional funds committed to the project include \$2,000 from the Central Business Tax District and \$24,700 in projected contributions from corporate sponsors. City Council approved acceptance of the grant on August 26, 2013. The funds will be used to design and install icons which will represent our community. The icons will be installed in downtown Fayetteville to increase tourism in the area, increase visibility of our museums, parks, and side streets, showcase local artists, and to unify our community with an icon. The project budget also includes funds for marketing and other operating costs. This special revenue project ordinance will formally establish the budget for the project.

#### 7.07 Amendments to the Code of Ethics

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE IV, CODE OF ETHICS, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2014-001 8.0 PUBLIC HEARINGS

8.01 Amendment to City Code Chapter 30 to change use listings, primarily from SUP to P, modify some use-specific standards, and add or delete certain uses in some districts

Ms. Karen Hilton, AICP, Manager, Planning and Zoning, presented this item and stated the Unified Development Ordinance (UDO) became effective August 1, 2011. The new development code reduced the number of zoning districts by over a third. Redistributing the uses among the new districts resulted in a larger number of uses being allowed in more areas but in some cases only through the special use review process. As an example, the former C3 district allowed heavy auto repair (paint and body shops) and a few uses often allowed only in light manufacturing districts. In the new use classification, such uses either were moved up to LI and not subject to the Special Use Permit (SUP), or were allowed in the Community Commercial (CC) district and could locate in more parts of the city but only by SUP approval or by meeting a series of use – specific standards and separation requirements. Since adoption of the new code, there have been relatively few changes in the use classifications. Most of those have been to allow consideration, through the SUP process, of a reduced separation or setback for certain uses. One concern raised by the development community in the past year has been the number of uses subject to an SUP process (two public hearings, including the more rigorous quasijudicial hearing by City Council). Practical experience in application of the new use-specific standards and certain separation requirements, plus other performance standards applied during site plan review, have demonstrated that some listings as SUP and some use-specific standards can be relaxed without significant negative impacts on adjacent uses, whether residential or other business uses. A summary of changes follows: Section 1 recognizes that the electronic version of Chapter 30 uses blanks rather than slashes to indicate a use is prohibited. Section 2 makes a number of changes in the Use Table, often to be less restrictive, by adding a previously prohibited use to a district or changing a use from Special (S) to Permitted (P), but in a few cases to be more limiting. Section 3 involves corrections and clarifications for high impact/hazardous uses. One part corrects the references to Additional Requirements (use-specific standards), and the other part removes references to SUP and makes the steps clearer in the use-specific standards. Section 4 allows a reduction in a separation requirement to be approved through the SUP process except for certain uses (bars/nightclubs and adult entertainment, and, under proposed changes in Section 3 above, high impact/hazardous uses since the separation standard for those uses can be considered under the required hazard mitigation plan). Section 5 deletes the SUP process for several uses subject to the transitional standards. It is two parts - one deletes the requirement in the Transitional Standards section unless a reduction in the buffering or separation standards is requested, and the other synchronizes the footnotes in the Use Table. The UDO provides seven standards of review for proposed text amendments. Each standard and staff analysis of how the proposed changes relate to the evaluation standards is listed in the attached report to the Planning Commission. At the public hearing on November 19, 2013, there were no speakers for or against. The Planning Commission unanimously voted to recommend approval as presented by staff.

Council Member Mohn questioned fire arms sales that are in close proximity to schools. Ms. Hilton responded it is a Federal Association that regulates fire arm sales; staff is checking into the specifics. Council Member Mohn requested the information once staff receives it.

Council Member Crisp asked who will profit from these amendments. Ms. Hilton responded the builders, developers, private investors and general public will all profit, and continued, we think we have the best of both worlds with these amendments.

Mayor Pro Tem Davy asked about proximity to tobacco retailers. Ms. Hilton responded that staff is working closely with the Police Department to fully identify if there are patterns of

problem areas, and once the research has been completed this item will hopefully be presented to the Planning Department sometime in March 2014.

Council Member Jensen asked if the "Group Living Facilities" will be subject to more lenient or stricter standards. Ms. Hilton responded that Group Living Facilities located in commercial zones will have more lenient requirements and those that are located in neighborhood zones, the requirements will not change.

Council Member Wright asked which other cities had been looked at as models. Ms. Hilton responded comparable cities and consideration of local experience.

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

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF CHAPTER 30 TO BECOME LESS RESTRICTIVE FOR SEVERAL USES; AND TO DELETE OR OTHERWISE MODIFY CERTAIN OTHER USE CLASSIFICATIONS. ORDINANCE NO. S2014-002

MOTION: Council Member Hurst moved to approve the proposed amendment to increase densities in commercial zoning districts as presented by staff.

SECOND: Council Member Arp

VOTE: UNANIMOUS(10-0)

8.02 Amendment to City Code Chapter 30 to increase allowed densities in commercial zoning districts (NC, LC, CC, MU)

Ms. Karen Hilton, AICP, Manager, Planning and Zoning, presented this item and stated the Unified Development Ordinance became effective August 1, 2011. There have been no changes in the density standards that were established at that time; except for removing maximum density standards in the DT Downtown zoning district. One major change with the new code was allowing residential development in commercial district. However, none has occurred to date, even though there is relatively little remaining vacant property zoned specifically for multifamily development. Staff is also aware of the oversupply of commercially zoned but vacant or underutilized land in the city. Therefore staff is seeking to make redevelopment of commercial properties viable for uses other than retail and service, such as for multifamily development. Higher density residential development along major transportation corridors is a marketable product with high investment returns in many communities. Before the new development code residential development was not an allowed use in commercial districts. Although it is now allowed in all commercial districts it is not a strong option in Fayetteville in part because of the lower density caps currently in place and, to some degree, the practice of building lower scale structures. Staff has proposed residential densities enough higher than the existing MR-5 to be an attractive development option in commercial areas. We have coordinated the proposed densities with the private sector to ensure that there is an element of market realism in the numbers selected. Because of the efforts to create a redevelopment momentum in certain older parts of the community, staff is proposing another tier of higher densities that would be available within designated priority development areas as may be designated by City Council.

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

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE TO INCREASE DENSITIES ALLOWED IN NC, LC, CC AND MU DISTRICTS AND IN DESIGNATED PRIORITY REDEVELOPMENT AREAS. ORDINANCE NO. 2014-003

MOTION: Council Member McDougald moved to approve the proposed amendment to increase densities in commercial zoning districts as presented by staff.

SECOND: Mayor Pro Tem Davy VOTE: UNANIMOUS(10-0)

8.03 Amendment to City Code Chapter 30 to make corrections, minor adjustments, and changes in response to recent state legislation (Set 9)8.1 Case # P13-41 F. Special Use Permit for retail larger than 2,500 sq.ft. on property zoned NC.

Ms. Karen Hilton, AICP, Manager, Planning and Zoning, presented this item and stated The Unified Development Ordinance (UDO) became effective August 1, 2011. Since that time, several substantive changes and eight bundles of smaller adjustments and corrections have been approved. This is the ninth bundle. While we have been working closely with a small developer advisory group, in this case most changes proposed are staff or state initiated. The changes include: minor adjustments affecting reference to the PWC tree list, accessory buildings in commercial districts, changes in procedures per state legislature, fencing in agricultural districts, and height of accessory buildings in commercial districts. Three of the miscellaneous items emerged in recent site plan reviews or questions. One is to make fencing regulations in the city consistent with both state law and practice on properties in the State present use farm program. The second is to reflect the availability of a plant or tree list that PWC maintains to guide plantings in PWC utility easements and particularly under power lines. The third item, accessory uses in commercial districts, allows increased height with increased setback from residential or office and institutional districts. The other amendments are to make local regulations consistent with the recently enacted state legislation. The greatest area of change is in operation of the Board of Adjustments, where the required number of votes, the standards for approval, and the notice of decision and timetable for appeal are among the most significant changes. Other changes include expanding the land use actions subject to notification to and comment from the designated representative of Fort Bragg and notice to the State Building Commission for any proposed structure over 200 feet in height within five miles of Fort Bragg facilities. The UDO provides seven standards of review for proposed text amendments. The variety of items in the Ordinance makes use of the evaluation table difficult, but staff believes these amendments are all consistent with the evaluation criteria. In particular, they are intended to eliminate confusion, or improve consistency with other legislation. Such changes make development standards clearer and more conducive to investment in the community.

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

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

Council Member Colvin asked if staff had taken any consideration of whether the barbed wire (item 8) would count against the beautification of our gateways. Ms. Hilton responded it would only be the interior of properties that would be permitted to use barbed wire and electric fences. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND CHAPTER 30 UNIFIED DEVELOPMENT ORDINANCE FOR MISCELLANEOUS CORRECTIONS AND MINOR ADJUSTMENTS AFFECTING REFERENCE TO PWC TREE LIST; ACCESSORY BUILDINGS IN COMMERCIAL DISTRICTS; CHANGES IN PROCEDURES PER STATE LEGISLATURE; FENCING IN AGRICULTURAL DISTRICT. ORDINANCE NO 2014-004

MOTION: Council Member Arp moved to approve the proposed amendments referred to as Set 9, as presented by staff.

**SECOND: Council Member McDougald** 

VOTE: UNANIMOUS(10-0)

9.0 OTHER ITEMS OF BUSINESS

#### 9.01 Council Policy 105.2 Assessments - Interest Rate

Mr. Kristoff Bauer, Deputy City Manager, presented this item and stated assessments are an important part of financing critical infrastructure used most appropriately when the improvements being constructed have a localized benefit. The City has used this method to assist in the cost of paving soil streets and considered using it to support the cost of replacing the Reyconda Dam, but it has been used most in the past few years to support water and wastewater service connection in areas of the City without service. The Council's Policy 105.2 Assessments applies

to all assessment activity guiding staff in providing notice to potentially impacted parties and preparing assessment documents for consideration by the Council. The current policy, revised in 2006, sets the interest rate for any unpaid assessment at 8%. That rate has been consistently applied to assessments since the policy was revised. On October 28, 2013, the Council held a public hearing regarding the adoption of assessment rolls for Phase V annexation areas 9, 10, 11 and 11-WS. The Council then acted to defer further consideration of the adoption of that assessment roll until January 13, 2014. The projects to be supported by these assessment rolls have been completed. Adoption of the assessment roll would authorize the collection of identified assessments and set the interest rate for any unpaid assessments. Staff prepared assessment notices and documents based on the existing policy including an interest rate of 8%. It is believed that the Council deferred action in order to further consider the appropriate interest rate for assessments. The Council considered Policy 105.2 during the January 6, 2014 Council Work Session. Staff presented Exhibit A comparing Fayetteville's policy to the policy of peer communities. The consensus of Council during the Work Session was for staff to analyze three alternatives for consideration on January 13, 2014. Those alternatives include: 1. A policy consistent with the current policy of charging 8% on unpaid assessments (While this is the current policy, staff has revised the language in the attached to clarify its application) 2. A policy charging 6% interest on unpaid assessments 3. A policy charging the prime interest rate plus 2% on unpaid assessments Policies consistent with these three options are attached for consideration. The required public hearing having already been held, Council will have the opportunity to act without further process. The documents are currently drafted based on the existing Council Policy including an interest rate of 8%. If Council approves a revised policy regarding interest rates for assessments during consideration of this agenda item, then that revised interest rate would need to be included in the motion adopting the assessment roles. Mr. Bauer provided a slide showing benchmarking sewer assessment interest rates.

Mr. Victor Sharpe, Community Development Director, briefed the City Council on the Water and Sewer Assessment Fee Program, and stated the program is designed to assist low to moderate-income homeowners with the assessment fee incurred to provide city water and sewer in newly annexed areas. The effective date of implementation of this program was July 1, 2000. The city utilizes its Community Development Block Grant (CDBG) as its source of funding for the program. The program was initially designed to assist eligible low to moderate income property owners at 50% or below the income median with \$1,000 for each type of assessment for annexation areas III-A through IV-B and later increased

Council Member Jensen asked if a person received the \$2,000 grant, would the City finance the \$3,000 over a ten year period. Mr. Sharpe responded they would not.

Council Member Colvin asked how staff communicates with citizens in the newly annexed areas; how do they receive information about this program. Mr. Sharpe responded PWC sends all of the program information when they provide notification of the water and sewer hook-up fees, in addition they receive information verbally during neighborhood meetings.

Council Member Arp asked Mr. Blanchard what is the impact for Council delaying a decision on this item. Mr. Blanchard responded they have not received payment since these projects have been completed, 1.1 million dollars has not been paid, it is not lost revenue it is cash flow not received.

Council Member Wright asked Mr. Blanchard if PWC was in business to make money. Mr. Blanchard responded they were not; PWC is a utility enterprise fund of the City, PWC's budget does not anticipate profit.

Council Member Crisp stated more than 60% of the citizens assessed have to finance the \$5,000 assessment fee and pay the 8% interest; they cannot afford.

Council Member Arp asked when the interest rate was last set. Mr. Blanchard replied it was in 2006.

Further discussion ensued.

MOTION: Council Member Arp moved to approve a revision of the assessment interest rate from 8% to prime + 2% with the prime interest as of January 13, 2014 and that future

assessments be assigned as prime interest rate as of July 1st, 2014 of the assessment year + 2%.

SECOND: Council Member McDougald

VOTE: PASSED by a vote of 6 in favor and 4 in opposition (Council Members Colvin, Mohn, Wright, and Crisp).

9.02 PWC - Phase 5 Annexation Areas 10 and 11

Mr. Mark Brown, PWC Customer Programs Director, presented this item with the aid of a PowerPoint presentation and stated the Preliminary Assessment Roll was made available at the City Clerk's office for review by property owners and the public hearing was held on October 28, 2013. As outlined in the public hearing and set forth in information previously provided property owners in the affected area, the sanitary sewer assessment rate for single family residential lots is recommended at \$5,000 which includes both the main and lateral charges. For non-single family residential properties, a per front foot rate of \$55.56 with a 90 foot minimum plus the area average lateral charge of \$1,571 is recommended.

Discussion ensued pertaining to the waiver for the \$720.00 Facility Investment Fee, and the length of time it takes to repair streets once they have been dug up to lay the water and sewer lines.

Mr. Blanchard stated the intent of the waiver is to encourage citizens to connect early.

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS.

**RESOLUTION NO. R2014-001** 

MOTION: Council Member Crisp moved to pass the Resolution Confirming Assessment Roll and Levying Assessments.

**SECOND: Council Member McDougald** 

VOTE: PASSED by a vote of 9 in favor and 1 in opposition (Council Member Mohn) 9.03 PWC - Phase 5 Annexation Bedford Road and Roundtree Drive

Mr. Mark Brown, PWC Customer Programs Director, presented this item and stated the Preliminary Assessment Roll was made available at the City Clerk's office for review by property owners and the public hearing was held on October 28, 2013. As outlined in the public hearing and set forth in information previously provided property owners in the affected area, the sanitary sewer assessment rate for single family residential lots is recommended at \$5,000 which includes both the main and lateral charges.

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS.

**RESOLUTION NO. R2014-002** 

MOTION: Council Member Hurst moved to pass the Resolution Confirming Assessment Roll and Levying Assessments

**SECOND: Council Member McDougald** 

VOTE: PASSED by a vote of 9 in favor and 1 in opposition (Council Member Mohn) 9.04 PWC - Phase 5 Annexation Area 11WS9.

Mr. Mark Brown, PWC Customer Programs Director, presented this item and stated the Preliminary Assessment Roll was made available at the City Clerk's office for review by property owners and the public hearing was held on October 28, 2013. As outlined in the public hearing and set forth in information previously provided property owners in the affected area, the sanitary sewer assessment rate for single family residential lots is recommended at \$5,000 which includes both the main and lateral charges. For non-single family residential properties, a per front foot rate of \$55.56 with a 90 foot minimum plus the area average lateral charge of \$1,571 is recommended.

RESOLUTION CONFIRMING ASSESSMENT ROLL AND LEVYING ASSESSMENTS.

**RESOLUTION NO. R2014-003** 

MOTION: Council Member Crisp moved to pass the Resolution Confirming Assessment

**Roll and Levying Assessments** 

**SECOND: Council Member McDougald** 

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

## 10.0 ADMINISTRATIVE REPORTS

10.0 ADMINISTRATIVE REPORTS		
10.1 Monthly Statement of Taxes for November 2013		
2013 Taxes	\$21,174,166.21	
2013 Vehicle	375,415.58	
2013 Taxes Revit	11,154.39	
2013 Vehicle Revit	634.36	
2013 FVT	39,677.65	
2013 FTT	39,677.64	
2013 Storm Water	421,829.60	
2013 Fay Storm Water	84,659.47	
2013 Fay Solid Waste Fee	1,133,857.82	
2013 Annex		
2012 Taxes		
2012 Vehicle	,	
2012 Taxes Revit		
2012 Vehicle Revit		
2012 FVT		
2012 FTT	•	
2012 Storm Water	•	
2012 Fay Storm Water	,	
2012 Fay Recycle Fee		
2012 Annex		
2011 Taxes		
2011 Vehicle	·	
2011 Taxes Revit	·	
2011 Vehicle Revit		
2011 FVT		
2011 FTT		
2011 Storm Water		
2011 Fay Storm Water		
2011 Fay Recycle Fee		
2011 Annex		
2010 Taxes		
2010 Vehicle	•	
2010 Taxes Revit		
2010 Vehicle Revit		
2010 FVT		
2010 FTT		
2010 Storm Water		
2010 Fay Storm Water		
2010 Fay Recycle		
2010 Annex		
2009 and Prior Taxes		
2009 and Prior Vehicle		
2009 and Prior Taxes Revit		
2009 and Prior Vehicle Revit		
2009 and Prior FVT		
2009 and Prior Storm Water		
2009 and Prior Fay Storm Water		
2009 and Prior Fay Recycle Fee		
2009 and Prior Annex	15.14	

Interest	16,785.85
Revit Interest	39.74
Storm Water Interest	187.42
Fay Storm Water Interest	332.95
Annex Interest	1.07
Fay Recycle Interest	628.88
Fay Transit Interest	1,334.30
Total Tax and Interest	. \$24,163,089.85

## 11.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:48 p.m.