

**FAYETTEVILLE CITY COUNCIL**

**MINUTES**

**JUNE 23, 2008**

**7:00 P.M.**

**CITY HALL COUNCIL CHAMBER**

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2); Robert A. Massey, Jr. (District 3)(attended by telephone); Darrell J. Haire (District 4)(arrived 7:35 p.m.); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8)

Absent: Council Member Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Stanley Victrum, Assistant City Manager

Doug Hewett, Assistant City Manager

Karen M. McDonald, City Attorney

Lisa Smith, Chief Financial Officer

Jimmy Teal, Planning Director

Karen Hilton, Assistant Planning Director

Bradley Whited, Airport Director

Jim Alexander, Inspections Interim Director

Jackie Tuckey, Communications Manager/Public Information Officer

Candice H. White, City Clerk

Members of the Press

**INVOCATION - PLEDGE OF ALLEGIANCE**

The invocation was offered by Father Kostas Kostaris, Saint Constantine and Helen Greek Orthodox Church, followed by the Pledge of Allegiance to the American Flag.

**ANNOUNCEMENTS AND RECOGNITIONS**

There were no announcements or recognitions.

**1. APPROVAL OF AGENDA**

**MOTION:** Council Member Bates moved to approve the agenda.

**SECOND:** Council Member Mohn

**VOTE:** **UNANIMOUS (8-0)**

**2. CONSENT:**

Council Member Mohn requested Item 2.D. pulled for discussion.

Council Member Bates requested Item 2.G. pulled for discussion.

**MOTION:** Council Member Bates moved to approve the consent agenda with the exception of Item 2.D. and Item 2.G.

**SECOND:** Council Member Crisp

**VOTE:** **UNANIMOUS (8-0)**

The following items were approved:

**A. Approve Minutes:**

**1. City Council Meeting Held on May 27, 2008**

**B. Consider the Following Financial Matters:**

**1. Adopt Special Revenue Fund Project Ordinance Closeout 2008-8  
(Community Development Block Grant)**

**2. Adopt Special Revenue Fund Project Ordinance Closeout 2008-9 (HOME Investment Partnerships Program)**

**3. Adopt Special Revenue Fund Project Ordinance Closeout 2008-10 (Arsenal Park Project)**

**4. Adopt Special Revenue Fund Project Ordinance Closeout 2008-11 (Assessment Assistance)**

The projects referenced above were completed in prior fiscal years and the associated revenues and expenditures have been audited. The purpose of the requested action is to formally

authorize closure of the projects for accounting purposes.

**C. Adopt Budget Ordinance Amendment 2008-11 (General Fund and Airport Fund)**

This budget ordinance amendment will increase the fiscal year 2007-2008 General Fund budget for interfund transfers by \$382,100 consistent with PWC Budget Amendment #3. In addition, fleet maintenance expenditure projections for several General Fund departments and the Airport Fund are increased by \$308,000 based upon updated PWC projections of service charges from the PWC Fleet Maintenance Internal Service Fund to the City.

**D.** Pulled at the request of Council Member Mohn.

**E. Adopt Resolution Authorizing the Execution and Delivery of a Master Lease Agreement, Equipment Schedule No. 2, an Escrow Agreement, and Related Instruments, and Determining Other Matters in Connection Therewith Pursuant to NCGS 160A-20  
RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTERLEASE AGREEMENT, EQUIPMENT SCHEDULE NO. 2, AN ESCROW AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH PURSUANT TO N.C.G.S. § 160A-20. RESOLUTION NO. R2008-039**

**F. Approve an Interlocal Agreement Between the City of Fayetteville and the Town of Spring Lake Regarding the Fort Bragg and Pope Air Force Base Annexation**

**G.** Pulled at the request of Council Member Bates.

**H. Accept an Offer to Purchase a City-Owned Lot**

**I. Approve the rezoning from R10 residential district to P2 professional district for property located at 827 South McPherson Church Drive. Containing .99 acres more or less and being the property of L & I Investments, LLC. Case Number P08-24F**

**J. Approve the rezoning from R5 residential district to C3 commercial district for property located along the west side of \*\*\* Street. Containing .78 acres more or less and being the property of John Haigh. Case Number P08-25F**

**K. Approve the initial zoning to AR agricultural\residential district for property located on the east side of Clinton Road across from Bladen Circle Road. Containing 4.26 acres more or less and being the property of Floyd Properties & Development as evidenced by map and legal description furnished by the City of Fayetteville and annexed by the City on April 28, 2008. Case Number P08-26F**

**L. Approve the initial zoning to C1P commercial district and AR agricultural\residential district for property located on the east side of Clinton Road across from Downing Road. Containing 43.65 acres more or less and being the property of Cumberland Christian Center as evidenced by map and legal description furnished by the City of Fayetteville and annexed by the City on April 28, 2008. Case Number P08-27F**

**M. Approve sign permit for the Crown Center for their upcoming Backyardigans concert on July 11<sup>th</sup> and 12<sup>th</sup>.**

**N. Approve sign permit for the Fayetteville Fire Department to place signs at Cross Creek Mall on Saturday, October 11<sup>th</sup> for their annual Fall Safety program.**

**O. The following properties are found to contribute to blight in the neighborhood. After notice to the owners and their failure to repair or demolish the properties themselves, this action authorizes the City to demolish the property and place a lien against the property for the cost of that action.**

Staff has reviewed these properties and they are not listed on the National Register, not local landmark properties, or in the historic district.

**1. 215 B Street (PIN 0437-93-2657); G. Geoffrey Cramer**

**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. ORDINANCE NO. NS2008-17**

**2.1600 Piney Creek Place (PIN 0406-61-9071); Billy and Rita Melvin, Trustees**

**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. ORDINANCE  
NO. NS2008-18**

**3.6447 Raeford Road (PIN 0407-20-5093) - 2 trailers;** Bessie Blue Moore, Life Estate

**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. ORDINANCE  
NO. NS2008-16**

**2.D. Consider Approval of Budget Ordinance Amendment 2008-12 (Airport Fund), FAA  
Grant (Runway 4/22 Rehabilitation) and Capital Project Ordinance 2008-09**

This Federal Aviation Grant will provide funding to rehabilitate the pavement and lighting of Fayetteville Regional Airport's primary commercial airline runway. The asphalt was last replaced in 1991 and has cracking that needs attention. The total cost of the project is \$7,171,533.00 with the FAA providing \$6,812,956.00 (95%) and the airport providing \$358,577.00 (5%).

Council Member Mohn stated action by Council should be to approve pending receipt of the federal grant.

**MOTION: Council Member Mohn moved to approve the adoption of Budget Ordinance Amendment 2008-12, acceptance of the FAA grant, and adoption of Capital Project Ordinance 2008-09 pending receipt of the FAA Grant.**

SECOND: Council Member Applewhite

**VOTE: UNANIMOUS (8-0)**

**2.G. Schedule a public hearing for August 11, 2008 for the purpose of considering a Franchise Agreement between the City of Fayetteville and Cumberland County for the operation of a municipal solid waste construction and demolition waste facility at the existing Ann Street Landfill**

Council Member Bates stated prior to the public hearing, a fee schedule needed to be developed with the County and sanitation for tipping fees.

**MOTION: Council Member Bates moved to approve a public hearing for August 11, 2008 but prior to develop a fee schedule with the County and sanitation for tipping fees.**

SECOND: Council Member Hurst

**VOTE: UNANIMOUS (8-0)**

**3. PUBLIC HEARINGS:**

**A. Consider an application by Moorman, Kizer & Reitzel for American Flag Reilly Road, LLC for a Special Use Permit for an addition to a mini-storage facility in a C1P commercial district for developed property located at 362 North Reilly Road. Containing 3.3 acres more or less and being the property of American Flag Reilly Road, LLC. Case Number P08-28F**

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated this request is for an addition to an existing mini-storage facility. Mr. Teal further stated an approval of a special use permit by City Council is required for the expansion. Mr. Teal stated the Zoning Commission recommends approval with conditions. Mr. Teal further stated a seventh condition was added for lighting to be directed away from residential areas.

Council Member Bates requested a revision to the seventh condition so lighting points towards the interior and down.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:11 p.m.

David A. Matthews, PO Box 53774, Fayetteville, NC appeared in favor representing Moorman, Kizer and Reitzel engineering and surveyors, also owners of the property, and stated he was

available for questions.

No one appeared in opposition and the public hearing closed at 7:12 p.m.

Council Member Bates inquired about stormwater runoff. Mr. Matthews responded stormwater runoff would connect and run through an existing canal system.

**MOTION: Council Member Applewhite moved to approve the Special Use Permit with conditional items one through seven with item seven reading that lighting be directed towards the interior of the property.**

SECOND: Council Member Crisp

**VOTE: UNANIMOUS (8-0)**

**B. Consider the rezoning from R15, R10 and R5A residential districts to C1P commercial district for property located along the west side of Gillis Hill Road and south of Raeford Road. Containing 76.00 acres more or less and being the property of John M. Gillis Etal & Gillis Group Partnership. Case Number P08-29F**

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to rezone residentially zoned property for commercial use. Mr. Teal further stated an adjoining property owner appealed the decision of the Zoning Commission requiring a public hearing by City Council. Mr. Teal stated the Zoning Commission recommends approval. This is the advertised public hearing set for this date and time. The public hearing opened at 7:19 p.m.

John Gillis, 128 S. Churchill Road, Fayetteville, NC appeared in favor, stated the area had evolved over time as a commercial node and he believed the property was best suited for commercial uses.

Vivian R. Davis, 1724 Royal Gorge Road, Fayetteville, NC appeared in opposition representing Lancaster At Westin residents and expressed concern for a buffer between residential and commercial properties, increased traffic, maintenance of Gillis property and adult oriented businesses.

John Gillis offered rebuttal in favor of the rezoning, stated restrictive covenants would be implemented, DOT would provide a traffic analysis as part of the approval process and adult entertainment would not be allowed under C1P zoning.

Joyce Craig, 1730 Royal Gorge Road, Fayetteville, NC offered rebuttal in opposition to the rezoning and requested that the sliver of land zoned R15 be properly addressed.

Brian Craig, 1730 Royal Gorge Road, Fayetteville, NC offered rebuttal in opposition to the rezoning and spoke to maintenance of the sliver of land zoned R15 and concern for traffic on private streets within the community.

There was no one further to speak and the public hearing closed at 7:39 p.m.

Mr. Teal reviewed buffer and setback requirements at the request of Council Member Mohn and allowable uses under C1P zoning at the request of Council Member Evans.

Council Member Evans inquired about maintenance of the sliver of land zoned R15. Mr. Gillis stated the undeveloped wooded area was owned by GKB Developers, the right-of-way on Cliffdale Road was maintained by the Department of Transportation (DOT) and he was not aware of any contact that had made regarding maintenance of the property.

Council Member Bates inquired about stormwater runoff, and entrance to and exit from Gillis Hill Road. Mr. Teal stated under C1P zoning, drainage plans would have to be submitted to the city's Engineering Department. Mr. Teal further stated following evaluation of the site plan by the city and DOT, improvements would likely be required for connection to Gillis Hill Road. Council Member Applewhite questioned Ms. Davis about the serving of alcohol by taverns and bars should they become established in the area. Ms. Davis responded concerns would be associated with late operating hours and disruptions to the neighborhood.

Council Member Mohn inquired whether consideration could be given to rezoning a portion of the requested area thereby leaving the other portions residential. Mrs. McDonald advised it would be an option for Council to consider.

**MOTION: Council Member Mohn moved to recommend rezoning to C1P minus the two parcels identified on the graphic on the west side of Two Bale Lane which immediately abut R15 of Lancaster at West.**

SECOND: Council Member Haire

Council Member Bates reiterated concern for stormwater runoff, and entrance to and exit from Gillis Hill Road. Council Member Crisp expressed concern for allowing portions to remain residentially zoned.

**VOTE: PASSED by a vote of five in favor (Council Members Mohn, Haire, Applewhite, Massey and Crisp) to four in opposition (Council Members Chavonne, Evans, Hurst and Bates)**

Mrs. McDonald advised a second reading would be required as the motion did not receive the requisite votes to pass on first reading.

**C. Consider the rezoning from R10 residential district to C1 commercial district for property located at 3317 Rosehill Road. Containing .50 acres more or less and being the property of Agnes Hubbard. Case Number P08-31F**

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to use her property for commercial uses. Mr. Teal stated planning staff recommended P4 professional and the Zoning Commission did not have a recommendation as none of their motions received a majority vote.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:05 p.m.

Jonathan Charleston, 201 Hay Street, Suite 2000, Fayetteville, NC appeared in favor representing the property owner and asked that the case be continued to the next Council meeting or as early thereafter as the case could be heard.

Roberta Butler, 711 Hilton Drive, Fayetteville, NC appeared in opposition and expressed concern for the rezoning of property located at the entrance to the neighborhood, the impact it would have on neighborhood property values, and the safety of neighborhood residents.

Linda French 716 Hilton Drive, Fayetteville, NC appeared in opposition and expressed concern for the rezoning of property located at the entrance to the neighborhood, paving and paving/parking on frontage of Hilton Drive, and strangers driving through the neighborhood.

There was no one further to speak and the public hearing closed at 8:11 p.m.

**MOTION: Council Member Bates moved to deny.**

SECOND: Council Member Evans

Mrs. McDonald advised consistent with the proponent's request for a continuance, procedurally Council should take action on whether or not to continue the public hearing. Mrs. McDonald further advised should Council vote not to continue the public hearing, Council should afford the proponent an opportunity to speak before taking action on the rezoning.

**SUBSTITUTE MOTION:**

**Mayor Chavonne moved to continue the public hearing at the July 28, 2008 meeting.**

SECOND: Council Member Crisp

In response to a question posed by Council Member Haire, Mrs. McDonald advised should the public hearing be continued, fifteen minutes would be allowed for proponents and any time remaining from the current public hearing would be allowed for opponents.

**VOTE: PASSED by a vote of 5 in favor (Council Members Chavonne, Mohn, Massey, Haire and Crisp) to 4 in opposition (Council Members Applewhite, Evans, Hurst and Bates)**

**D. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated contiguous annexation for Shah Property #1. (Located on south side of Owen Drive between Cope Street and Dyer Street)**

Mr. Teal showed a vicinity map and stated the owner wishes to develop the property. Mr. Teal stated the annexation petition for the Shah property was submitted consistent with City Council

policy #150.2. Mr. Teal further stated recommendation was to adopt the annexation ordinance with an effective date of June 23, 2008.

This is the advertised public hearing set for this date and time. There being no one in favor or in opposition, the public hearing opened and closed at 8:20 p.m.

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ANNEXATION ORDINANCE NO. 2008-06-509**

**MOTION: Council Member Haire moved to adopt the annexation ordinance effective June 23, 2008.**

SECOND: Council Member Massey

**VOTE: UNANIMOUS (9-0)**

**E. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated contiguous annexation for Shah Property #2. (Located on south side of Owen Drive between Cope Street and Dyer Street)**

Mr. Teal showed a vicinity map and stated the owner wishes to develop the property. Mr. Teal stated the annexation petition for the Shah property was submitted consistent with City Council policy #150.2. Mr. Teal further stated recommendation was to adopt the annexation ordinance with an effective date of June 23, 2008.

This is the advertised public hearing set for this date and time. There being no one in favor or in opposition, the public hearing opened and closed at 8:21 p.m.

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ANNEXATION ORDINANCE NO. 2008-06-510**

**MOTION: Council Member Bates moved to adopt the annexation ordinance effective June 23, 2008.**

SECOND: Council Member Haire

**VOTE: UNANIMOUS (9-0)**

**4. CONSIDER THE REZONING FROM R10 RESIDENTIAL DISTRICT TO M1 INDUSTRIAL DISTRICT FOR PROPERTY LOCATED AT 820 REILLY ROAD. CONTAINING 4.986 ACRES MORE OR LESS AND BEING THE PROPERTY OF ELWOOD S. CAIN. CASE NUMBER P08-30F**

Mr. Teal showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. Mr. Teal stated the applicant wishes to rezone the property to expand an existing mini-storage facility. Mr. Teal further stated the existing R10 mini-storage facility was approved by Cumberland County as part of an overlay district. Mr. Teal stated the Zoning Commission recommends C3 commercial district and the applicant did not appeal the decision. Mr. Teal further stated options available to Council were to approve C3 rezoning or set a public hearing to consider other options.

**MOTION: Council Member Mohn moved to follow staff recommendation and rezone to C3.**

SECOND: Council Member Bates

**VOTE: UNANIMOUS (9-0)**

**5. RECONSIDER THE REZONING FROM R10 RESIDENTIAL TO M2/CZ INDUSTRIAL DISTRICT/CONDITIONAL ZONING AT 898 SANTEE DRIVE**

**MOTION: Council Member Hurst moved to reconsider the rezoning from R10 residential to M2/CZ industrial district/conditional zoning at 898 Santee Drive and set a public hearing on August 25, 2008.**

SECOND: Council Member Haire

Mrs. McDonald advised the motion should be to reconsider the rezoning and should the motion pass, it would initiate the process to include a public hearing by the Zoning Commission with a recommendation to City Council.

**RESTATED MOTION: Council Member Hurst moved to reconsider the rezoning from R10 residential to M2/CZ industrial district/conditional zoning at 898 Santee Drive.**

SECOND: Council Member Haire

Council Member Bates inquired about the number of votes required to approve a rezoning. Mrs. McDonald advised a three-fourths vote was not required.

**VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Bates).**

**6. CLOSED SESSION FOR ECONOMIC DEVELOPMENT**

**MOTION: Council Member Bates moved to go into closed session for economic development.**

**SECOND: Council Member Applewhite**

**VOTE: UNANIMOUS (9-0)**

The regular session recessed at 8:30 p.m.

The regular session reconvened at 8:55 p.m.

**MOTION: Mayor Chavonne moved to go into open session.**

**SECOND: Council Member Hurst**

**VOTE: UNANIMOUS (9-0)**

**INFORMATION ITEMS:**

**1. Statement of taxes collected for the month of May 2008 from the Cumberland County Tax Administrator.**

2007 Taxes.....	\$239,298.57
2007 Vehicle Taxes.....	453,222.21
2007 Revit.....	87.14
2007 Vehicle Revit.....	281.39
2007 FVT.....	45,560.16
2007 Storm Water.....	11,991.37
2007 Fay Storm Water.....	14,157.32
2006 Annex.....	\$10,100.19
2006 Taxes.....	12,545.26
2006 Vehicle Taxes.....	9,620.30
2006 Revit.....	1.62
200 Vehicle Revit.....	0.00
2006 FVT.....	1,423.61
2006 Storm Water.....	581.20
2005 Taxes.....	\$2,506.58
2005 Vehicle Taxes.....	1,110.88
2005 Revit.....	39.81
2005 Vehicle Revit.....	0.00
2005 FVT.....	339.09
2005 Storm Water.....	136.86
2004 Taxes.....	\$352.04
2004 Vehicle Taxes.....	565.66
2004 Revit.....	0.73
2004 Vehicle Revit.....	0.00
2004 FVT.....	160.00
2004 Storm Water.....	51.53
2003 and Prior Taxes.....	\$691.60
2003 and Prior Vehicle Taxes.....	2,240.83
2003 and Prior Revit.....	0.20
2003 and Prior Vehicle Revit.....	0.00
2003 and Prior FVT.....	486.55
2003 and Prior Storm Water.....	127.57
Interest.....	\$23,919.60
Interest (Revit).....	15.57
Interest (Storm Water).....	804.53
Interest (Fay Storm Water).....	708.92

Interest (Annex)..... 504.78  
Total Collections..... \$833,627.67  
There being no further business, the meeting adjourned at 8:56 p.m.