

FAYETTEVILLE CITY COUNCIL

MINUTES

APRIL 28, 2008

5:00 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)(departed at 7:35 p.m.); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager

Kyle Sonnenberg, Assistant City Manager

Stanley Victrum, Assistant City Manager

Doug Hewett, Assistant City Manager

Karen M. McDonald, City Attorney

Lisa Smith, Chief Financial Officer

B.E. (Benny) Nichols, Fire/Emergency Management Chief

Jimmy Teal, Planning Director

Karen Hilton, Assistant Planning Director

Kyle Garner, Planner

Bobby B. Teague, Engineering and Infrastructure Director

Victor Sharpe, Community Development Director

Frank Simpson, Inspection Director

James Alexander, Inspection Assistant Director

Ron Malcaluso, Transit Director

Mick Noland, PWC Water Resources Chief Operating Officer

Candice H. White, City Clerk

Members of the Press

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Rev. Dr. Floyd Johnson, Minister of Williams Chapel Baptist Church, followed by the Pledge of Allegiance to the American Flag.

ANNOUNCEMENTS AND RECOGNITIONS

1. APPROVAL OF AGENDA

MOTION: Council Member Massey moved to approve the agenda.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

2. CONSENT:

Council Member Evans requested Item 2.R.9. pulled for discussion.

MOTION: Council Member Evans moved to approve the consent agenda with the exception of Item 2.R.9.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

The following items were approved:

A.Approval of FY2008-2009 Budget Work Session Schedule

B. Special Revenue Fund Project Ordinance 2008-13 (FY2007 State Homeland Security Grant)

This ordinance will establish the budget for the FY2007 State Homeland Security Grant, awarded to the Fire Department by the North Carolina Department of Crime Control and Public Safety - Division of Emergency Management. The \$251,571 grant must be used to purchase equipment and provide training for first responders to prepare for threatened or actual weapon of mass destruction events, domestic terrorist attacks, major disasters and other emergencies to protect human life, property and the environment.

C. Tax Refunds Greater Than \$100				
	BILL NO.	YEAR	BASIS	CITY REFUND
S, Leona	2470399	2003-2006	Corrected Assessment	\$2
L				\$2

D. Ordinance Revisions to Sewer Use Ordinance

The Public Works Commission, during their meeting of April 9, 2008, approved changes to the Sewer Use Ordinance and to forward to City Council for adoption. Due to recent changes in the Federal Clean Water Act, modifications to the Sewer Use Ordinance were required by the State of North Carolina Division of Water Quality. PWC’s Attorney, Richard Lewis and City Attorney, Karen McDonald reviewed and approved the proposed changes to this Ordinance. Recommendation is to adopt required modifications to the Sewer Use Ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE “II” OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2008-006

E. Award contract in the amount of \$174,452 for the purchase of one (1) six- wheel regenerative air street sweeper to Public Works Equipment Co., Monroe, NC

Bids were received as follows:

- Twin States Equipment (Marshville, NC)..... \$169,412.00
- Public Works Equipment Co. (Monroe, NC)..... \$174,452.00

F. Consider Offer to Purchase a Portion of a City-Owned Lot

**G. Adopt Resolution Declaring Property Surplus
RESOLUTION DECLARING PROPERTY EXCESS TO CITY’S NEEDS AND QUITCLAIMING CITY TITLE IN THE PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2008-027**

**H.Resolution to Set Public Hearing to Consider Closing a 15-foot Wide Alley Running Between N. Racepath Street and Pepsi Lane
RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF AN UNNAMED ALLEY LOCATED BETWEEN PEPSI LAND AND NORTH RACEPATH STREET. RESOLUTION NO. R2008-028**

I. Approval of Municipal Maintenance Agreements, Schedules C and D, with NCDOT

J. Consideration of the 2008-2009 Community Development Annual Action Plan

K. ConsiderAppointment of Bus Rider To the Transit Advisory Committee

Larry Preston, a F.A.S.T. bus rider, appointed to the Transit Advisory Committee.

L.2008 State Legislative Agenda

M. Approval of Settlement in *Weller v. City of Fayetteville and Hilda P. Hall*

N. Approve the rezoning from C1P commercial district to C1 commercial district for property located at 6182 Ramsey Street. Containing 1.00 acres more or less and being the property of Fred Kanos. Case No. P08-10F

O.Approve the initial zoning to R10 residential district for property located on the east side of Dundle Road between Tall Pine Drive and Talus Road. Containing 55.09 acres more or less and being the property of March Riddle as evidenced by map and legal description furnished by the City of Fayetteville and annexed by the City of Fayetteville effective February 29, 2008. Case No. P08-14F

P. Approve the initial zoning to AR agricultural\residential district for property located on the east side of Cedar Creek Road between Division Place and Sunnyside School Road. Containing 104 acres more or less and being the property of Kenneth Huggins and Paula Faircloth as evidenced by map and legal description furnished by the City of Fayetteville and annexed by the City of Fayetteville effective February 29, 2008. Case No.P08-19F

Q.Approve sign permit for placing a banner on the front of City Hall welcoming troops home.

R. 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.

1. 703 Bullard Street (PIN 0436-98-5930); Anderson Temple Church of God in Christ

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. NS2008-04

2. 411 Chatham Street (PIN 0437-56-3660); Alfred and Roberta Davis

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. NS2008-05

3. 325 (327) Ingram Street (PIN 0438-82-0029); James and Lula Crosby

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. NS2008-06

4. 343 McMillan Street (PIN 0437-32-9999); Bertha Hepburn

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. NS2008-07

5. 213 and 213-C Preston Avenue (PIN 0428-58-8024); Steven L. Hedgepeth, Wilbert Nichols, III and Lenique R. Nichols

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. NS2008-08

6. 301 Preston Avenue (PIN 0428-57-6885); Joseph R. Thompson

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. NS2008-09

7. 317 Preston Avenue (PIN 0428-57-4417); Margaree F. McKoy

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. NS2008-10

8. 321 Preston Avenue (PIN 0428-57-3471); Theresa E. Frett and Darwin Frett

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. NS2008-11

9. Pulled at the request of Council Member Evans.

2.R.9. 2701 Providence Street (PIN 0428-67-4602); Abundant Life Outreach Ministry, Inc.

Frank Simpson, Inspection Director, reviewed proceedings with regard to 2701 Providence Street and provided a video depicting the condition of the property.

Council Member Haire read a communication he received from the Pastor of Abundant Life Outreach Ministry, Inc., which included a request for a sixty-day extension. Mr. Simpson responded to questions regarding the dispatch of letters to the property owner, actions by the property owner and whether the property owner had used the appeal process. Mr. Simpson noted the utilities had been off at the property since November of 1997.

**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. NS2008-12**

MOTION: Council Member Bates moved to follow staff's recommendation for the demolition.

SECOND: Council Member Meredith

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

3. PUBLIC HEARINGS:

Mayor Chavonne reviewed the policy related to public hearings and advised the public hearing regarding transit fares would be extended to thirty minutes for proponents and opponents.

A. Consider increasing all transit fares, but not limited to, changing the adult bus fare from \$1.00 to \$1.50, the paratransit fare from \$1.50 to \$2.50, effective Tuesday, July 1, 2008.

Ron Macaluso, Transit Director, provided a brief overview of the proposed fare increases and the proposed increase in the motor vehicle license tax to yield a total revenue projection of \$481,000. Mr. Macaluso reviewed proposed initiatives to be funded by the increased revenues as outlined in the Transit Management Performance Review recommendations. Mr. Macaluso apprised Council of an adjustment to the Technical Transportation Improvement Program (TTIP) that would replace the van fleet by 2010 and the bus fleet by 2011 and a proposed Transportation Development Plan (TDP) that would lead to a quality system of growth. Mr. Macaluso responded to questions regarding quality of service and performance improvements, appropriations from the Federal Transit Administration (FTA), revenue collected from advertisements on buses, non-service areas, and ridership and transfer fares. Discussion ensued.

Dale E. Iman, City Manager, stated the Fayetteville Area System of Transit (FAST) Management Performance Review (MPR) indicated transit was understaffed in key positions and recommended against growing the current system. Mr. Iman advised the replacement of vans and buses and the hiring of additional staff consistent with MPR recommendations would provide improvements to the current system.

Mr. Macaluso responded to additional questions regarding service improvements and customer service.

This is the advertised public hearing set for this date and time. The public hearing opened at 6:10 p.m.

Dennis Endre, 117 ½ N. Virginia Avenue, Fayetteville, NC appeared in favor and compared the cost of riding the public transit system with the increasing price of gasoline.

Arvetra Jones, Sr., 1048 Appomattox Court, Fayetteville, NC appeared in favor, spoke regarding handicap riders and stated he supported the fare increase only if citizens received better service.

Thea Dockey, 605 Pearl Street, Fayetteville, NC appeared in favor and stated she supported the fare increase only if the buses and bus service would be improved.

Jeffrey Jones, 170 Cooper Street, Fayetteville, NC appeared in opposition and stated he opposed the proposed fare increases because the buses break down and the current system does not operate efficiently or effectively.

Albert Bryant, 927 Shannon Drive, Fayetteville, NC appeared in opposition and asked City Council to table the matter until the new buses were mobile.

Karl Merrit, 4405 Biway Circle, Fayetteville, NC appeared in opposition and asked that City Council consider all information available in order to make a decision that is fair, reasonable and visionary.

Brian R. Thompson, 3942 Gaithersburg Lane, Hope Mills, NC appeared in opposition and expressed concern that City Council would consider raising fares on a system that is obviously broken.

Alphonse Turner, 1004 Bugle Call Drive, Fayetteville, NC appeared in opposition and expressed concern that the proposed increase would affect those who could least afford it.

Hubert Williams, 2907 Kingfisher Drive, Fayetteville, NC appeared in opposition and asked that City Council put a visionary system in place that would surpass other cities.

Marshall Isler, 309 East Loch Haven Drive, Fayetteville, NC appeared in opposition and expressed concern that the transit system had a history of under funding by the City and the lowest funding per capita in the state.

Matthew Davis, 6131 Sabine Drive, Fayetteville, NC appeared in opposition and questioned who should take ownership of the problems with the transit system because the transit system should be designed for everyone.

There was no one further to speak and the public hearing closed at 7:00 p.m.

MOTION: Mayor Chavonne moved for the City to commit to improve the transit system by increasing the City's funding levels to the average per capita funding of the other cities in North Carolina within three years and to create a Blue Ribbon Advisory Board to fully explore all the creative ideas for additional funding for the system.

SECOND: Council Member Bates

Mayor Chavonne responded to questions regarding the commitment to reach the average per capita funding in three years and the proposed Blue Ribbon Advisory Board.

VOTE: UNANIMOUS (10-0)

MOTION: Council Member Crisp moved that Council direct the City Manager to report back to the City Council in six months, at the end of October, with a detailed report on any substantial improvements that have been made in the transit system with regards to new funding, new equipment, new management; and secondly, that Council not do anything to change the fare structure at this time.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

MOTION: Council Member Mohn moved to increase the budget by \$100,000 over this year's current levels dedicated to the transit system.

SECOND: Council Member Massey

Council Member Haire inquired about the City's current funding for transit. Mr. Iman responded the general fund contribution of \$1,956,000 was the highest contribution to date and this represented a \$400,000 increase over the prior year.

FRIENDLY AMENDMENT: Council Member Bates moved to find at least another \$500,000.

Council Member Mohn accepted the friendly amendment.

Council Member Massey asked if further reductions to the general fund would jeopardize the City. Mr. Iman responded the balanced budget to be presented to Council would draw the fund balance down to the minimum and another half million from the general fund would involve a tax increase or layoffs.

Council Member Massey did not accept the friendly amendment.

VOTE ON ORIGINAL MOTION: UNANIMOUS (10-0)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTIONS 16-31 OF CHAPTER 16, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF

ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2008-007

MOTION: Council Member Evans moved to ask for a \$5 additional motor vehicle license tax for the transit system.

SECOND: Council Member Haire

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

The regular session recessed at 7:20 p.m.

The regular session reconvened at 7:35 p.m.

B. Consider an application by Humans United Giving Greater Services (HUGGS) for a Special Use Permit for a counseling\rehabilitation service in an R5 residential district for property located at 1083, 1087, 1091, 1095 & 1099 North Street Extension. Containing 1.00 acres more or less and being the property of HUGGS. Case No. P08-07

Mr. Garner 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. Garner stated HUGGS is a charitable organization involved with counseling and rehabilitation services and they wish to utilize five existing houses on North Street Extension for the purpose of operating a service for women trying to overcome substance abuse. Mr. Garner explained this use requires a Special Use Permit in order to operate at this location. Mr. Garner stated the Zoning Commission vote was two in favor and two in opposition. Mr. Garner clarified staff's recommendations for the conditions.

Council Member Mohn inquired whether the properties could be rented under the current R5 residential district. Mr. Garner responded in the affirmative.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:40 p.m.

Alice Smith, Executive Director, HUGGS, 131 Hay Street, Fayetteville, NC appeared in favor and provided an overview of the rehabilitative services that would be available for women recovering from substance abuse and for their children at the residential facility.

Carolyn Allen, 1917 Morganton Road, Fayetteville, NC appeared in favor and stated the residential facility would revitalize the North Street area.

Cynthia King, 1121 North Street, Fayetteville, NC appeared in opposition and expressed concern for introducing more substance abusers into the North Street neighborhood because of drug activity already present in the area.

Attorney Anne Evans, 202 Fairway Drive, Fayetteville, NC appeared in opposition and read a letter from Bob Allen, President of Fayblock Materials, Inc. and Concrete Service Co., which expressed concern that the one acre lot owned by HUGGS was carved out of property which was almost exclusively used for heavy commercial/industrial purposes, including the use of large industrial/commercial equipment.

There was no one further to speak and the public hearing closed at 8:00 p.m.

Council Member Haire questioned how the Special Use Permit would be affected should the residential facility fail. Mr. Garner responded the Special Use Permit would run in perpetuity unless there were a change in zoning or another request was made of the property. Mr. Garner stated staff would suggest a time limitation for the Special Use Permit.

Ms. Smith responded to questions posed by Council regarding regulation and inspection of the facility, supervision at the facility, the number of children allowed per house and authority of clinicians on staff.

Council Member Crisp questioned whether a fence would separate the residential facilities from Fayblock. Ms. Smith responded metal fencing was in place. Council Member Crisp expressed concern for placing children in an area with alleged drug activity and industrial/commercial uses. Council Member Meredith questioned whether the square footage per child for recreation had been addressed. Mr. Garner responded the State required 75 square feet per child, which the site accommodated.

MOTION: Council Member Evans moved to approve the Special Use Permit.

SECOND: Council Member Bates

Discussion ensued regarding rental of the houses should the Special Use Permit not be granted and the community's concern regarding the same. Mr. Garner reviewed suggested conditions for the proposed use.

AMENDED MOTION: Council Member Evans moved to approve the Special Use Permit with the conditions as outlined.

Council Member Bates accepted the amended motion.

VOTE: FAILED by a vote of 4 in favor (Council Members Bates, Haire, Evans and Massey) to 6 in opposition (Council Members Chavonne, Hurst, Mohn, Meredith, Applewhite and Crisp).

C. Consider the rezoning from R5 residential district to C1\CZ commercial district\conditional zoning to allow an event and banquet facility as well as all uses within the P2 professional district for property located on Lot 4 Sam Cameron Avenue. Containing 0.87 acres more or less and being the property of BHW Properties, LLC. Case No. P08-08F

Mr. Garner 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. Garner stated the applicant is requesting commercial conditional zoning and if approved, the conditional use would require property to be developed consistent with the site plan. Mr. Garner explained the site is located along the fringe of the Hope VI Redevelopment Area but not within the Hope VI area. Mr. Garner confirmed the public hearing was set by City Council at the March 25, 2008 meeting. Mr. Garner further stated the Zoning Commission recommends approval of the C1 commercial district\conditional zoning as requested.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:30 p.m.

Bobby Washington, 5605 Murphy Road, Stedman, NC appeared in favor of the rezoning and provided an overview of the proposed event and banquet center.

George Gradle, 524 Cool Spring Street, Fayetteville, NC appeared in favor and stated the center would liven up the area and would clear the woods of rats, snakes and dogs.

Essie Mae Humphrey, 523 Cool Spring Street, Fayetteville, NC appeared in favor and stated she would be glad to see the woods cleaned up after living in the area for thirty-four years.

Iderrie Johnson, 209 Lucas Street, Fayetteville, NC appeared in favor and stated she supported Bobby Washington and his project because the area needed a make over.

Sylvia Keller, 6827 Cooper Court, Hope Mills, NC appeared in favor and stated the proposed facility would bring pride to the area and beautification to the City.

Christina Smith, 412 Wilmington Road, Fayetteville, NC appeared in opposition and expressed concern that the serving of alcohol would be allowed in a residential area with a church across the street.

Gwendolyn Gibbs, 328 Vanstory Street, Fayetteville, NC appeared in opposition and expressed concern for the safety of the community, which doesn't need drunks and alcohol in its neighborhoods.

Joseph A. Lawrence, 630 Whitehead Road, Fayetteville, NC appeared in opposition and expressed concern that the proposed use did not represent the best interest of the community whose past efforts have been to rid the area of alcohol related activities.

There was no one further to speak and the public hearing closed at 9:00 p.m.

In response to questions posed by Council Member Crisp, Mr. Washington provided an overview of the proposed layout and event center functions and stated no functions would be contracted for on Sundays during church services.

Council Member Evans asked whether the proposed use had been discussed with the Wilmington Road Improvement Group. Mr. Washington responded he had mentioned the location of a commercial venture on the periphery of the old Wilmington Road community during a community watch program in a December 2007 forum conducted by the City's Community Development Department. Mr. Washington stated Ms. Smith did not support the idea.

Council Member Meredith asked Mr. Washington if he would consider not allowing alcohol on the premises. Mr. Washington responded he would be agreeable to it as a condition of the rezoning. Discussion ensued.

MOTION: Council Member Evans moved to deny the request for rezoning to C1.

SECOND: Council Member Bates

Council Member Evans spoke to the revitalization efforts of the community.

SUBSTITUTE MOTION: Council Member Meredith moved to rezone the property to commercial district conditional zoning with the additional condition of not serving alcohol.

SECOND: Council Member Haire

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

VOTE ON ORIGINAL MOTION: PASSED by a vote of 9 in favor to 1 in opposition (Council Member Hurst)

D. Consider the rezoning from P2 professional district to C1P commercial district for property located at 5607 Ramsey Street. Containing 2.672 acres more or less and being the property of Charles Hardee. Case No. P08-11F

Mr. Garner 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. Garner stated the applicant wishes to use the property for commercial uses. Mr. Garner further stated the Zoning Commission recommends denial of the request.

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 9:20 p.m.

MOTION: Council Member Bates moved to deny the request.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

E. Consider an application by Joseph Flood for a Special Use Permit for an after school child care center and tutoring center in an R6 residential district for property located at Strickland Bridge Road and Fagins Way. Containing 2.00 acres more or less and being the property of Roger and Letha Pierce. Case No. P08-12F

Mr. Garner 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. Garner advised the applicants previously requested rezoning of the property but are now requesting a special use permit to open an after school and tutoring center at this location. Mr. Garner stated the Zoning Commission recommends approval with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:25 p.m.

Jean Weston, 6516 Lagoon Drive, Fayetteville, NC appeared in favor and spoke to affordable tutoring services that would be provided for the community in collaboration with the Work Force Development program.

Joseph Weston, 6516 Lagoon Drive, Fayetteville, NC appeared in favor and stated he would defer to his son who would speak on his behalf.

Jerry Flood, 1133 Chestnut Wood, Fayetteville, NC appeared in favor and stated he would yield to Mr. Mead.

Joseph Flood, 301 Weaver Street, Fayetteville, NC appeared in favor and stated he would defer to Mr. Mead who would explain everything.

Warren Mead, 150 North McPherson Church Road, Fayetteville, appeared in favor and provided an overview of the Forever Young childcare and tutoring center. Mr. Mead stated the proposed center fits with the current neighborhood and would provide a service for the proposed influx of children in the area as a result of BRAC.

Deloris Leflore, 2111 Coinjack Circle, Fayetteville, NC appeared in opposition and expressed concern for traffic accidents and fatalities in the area and difficulties entering/exiting

Strickland Bridge Road.

Darlene Shaw, 1648 Strickland Bridge Road, Fayetteville, NC appeared in opposition and expressed concern for accidents and fatalities as a result of traffic on Strickland Bridge Road.

There was no one further to speak and the public hearing closed at 9:40 p.m.

In response to a question posed by Council Member Haire, Mr. Garner confirmed the traffic count on Strickland Bridge Road was 9,000 vehicles per day.

Discussion ensued regarding hours of operation, tutoring for younger children, students and tutors from the Work Force Development program, and traffic hazards on Strickland Bridge Road.

MOTION: Council Member Applewhite moved to deny the request for a Special Use Permit based on findings.

SECOND: Council Member Evans

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

F. Consider the rezoning from R10 residential district to P2 professional district for property located at 1545 Cain Road. Containing .41 acres more or less and being the property of Lisardi Valdez. Case No. P08-13F

Mr. Garner 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. Garner stated the site is the current location of a home occupation and the applicant is seeking rezoning to allow professional uses at the location. Mr. Garner further stated the Zoning Commission recommends denial of the request.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:55 p.m.

Hal Smith, 1541 Cain Road, Fayetteville, NC appeared in favor and stated the area is no longer residential due to traffic and commercial development over the past twenty years.

Maurice Perez, 1549 Cain Road, Fayetteville, NC appeared in favor and stated the owners have significantly changed the property by clearing and removing undergrowth.

Melanie Valdez, 1545 Cain Road, Fayetteville, NC appeared in favor and stated she purchased the property based on the expectation of a rezoning to P2 or P4 for a hair salon that provides services to persons with special needs.

Lisardi Valdez, 1545 Cain Road, Fayetteville, NC appeared in favor, called attention to a neighborhood petition in support of the rezoning request and stated P2 zoning is requested so they can work and have a proper business sign.

Tanesh Blake, 1545 Cain Road, Fayetteville, NC appeared in favor and stated P2 zoning would increase the property value and the value of the surrounding properties.

Deborah Slesinski, 1424 Valencia Drive, Fayetteville, NC appeared in opposition and expressed concern for the wide range of uses allowed under P2 zoning, increased traffic and how the residential character of the surrounding neighborhoods would be affected.

There was no one further to speak and the public hearing closed at 10:17 p.m.

Council Member Haire asked whether a Special Use Permit or conditional zoning would apply to the property owner's current request. Karen M. McDonald, City Attorney, responded the property owners could go through the process for a Special Use Permit or a conditional rezoning;

however, it would not be permissible at this time as the current request was for a rezoning.

Discussion ensued regarding information provided to Ms. Valdez by staff regarding the rezoning process, requirements for a one-chair salon or home occupation and sign allowances under P2 and P4 zoning. Mrs. McDonald advised the operation of a home occupation would require that the applicant reside on the property.

MOTION: Council Member Haire moved to rezone the property from R10 to P2.

SECOND: Council Member Bates

SUBSTITUTE MOTION: Council Member Applewhite moved to rezone the property to P4.

SECOND: Council Member Evans

VOTE: PASSED by a vote of 6 in favor (Council Members Haire, Crisp, Bates, Applewhite, Evans and Massey) to 4 in opposition (Council Members Chavonne, Meredith, Hurst and Mohn)

Mr. Garner advised under P4 zoning the use would be permitted but submission of a site plan for consideration by the Planning Commission would be required.

G. Consider the reauthorization of the Downtown Municipal Service District for a five-year period beginning July 1, 2008 through June 30, 2013.

Karen Hilton, Assistant Planning Director, provided an overview regarding the creation and purpose of the Municipal Service District (MSD). Mrs. Hilton stated the actual tax rate and the services or projects the tax funds are established each year as part of the City's annual budget preparation. Mrs. Hilton further stated the statutes do not set a time limit on how long a MSD may exist but it has historically been established on a five-year cycle. Mrs. Hilton outlined the boundaries for the MSD and advised the proposed boundaries remain essentially the same with adjustments only to reflect minor changes in lot size since 2003 when the MSD was last authorized. Mrs. Hilton stated staff recommendation is to reauthorize the boundaries for the MSD.

This is the advertised public hearing set for this date and time. The public hearing opened at 10:35 p.m.

John Malzone, 3305 Hutton Place, Fayetteville, NC appeared in favor and stated he supported the reauthorization of the MSD in five-year increments with the reminder that a seat at the table for those within the MSD had been promised when the monies were spent.

Mark W. Rice, 2913 Mirror Lake Drive, Fayetteville, NC appeared in favor as President of the Downtown Alliance and shared criteria on which the Alliance based its support of the reauthorization of the MSD: 1) establish a clear set of guidelines for the usage of the MSD funds; 2) City Council through the City Manager seek input from the Downtown Alliance; and 3) carryover of unexpended MSD tax dollars from year to year.

Manos Dutton, 2721 Colgate Drive, Fayetteville, NC appeared in opposition and stated everyone should pay their fair share and downtown property owners should not be penalized for owning property.

Jim Ellis, 139 Winslow Street, Fayetteville, NC appeared in opposition and stated no improvements had been made to his family's property and they were not realizing any benefits from the MSD.

There was no one further to speak and the public hearing closed at 10:50 p.m.

In response to a questions posed by Council Members, Mr. Iman spoke briefly to the expenditure of MSD tax revenues. Mr. Iman stated revenues generated this year would be just under \$90,000 and he had sought recommendations from the MSD taxpayers, although there was no mandate to follow the recommendations. Mr. Iman further stated strategic planning with regards to management in the downtown area would be a key point regarding the use of the revenue.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE CREATING A MUNICIPAL SERVICES DISTRICT PURSUANT TO CHAPTER 160A, ARTICLE 23, OF THE NORTH CAROLINA GENERAL STATUTES. RESOLUTION NO. R2008-029

MOTION: Council Member Bates moved to approve the resolution reauthorizing the boundaries as proposed.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

H. Consider an amendment to the Fayetteville Code of Ordinances, Section 30-117(76) Zoning, design requirements for large-scale retail development.

Jimmy Teal, Planning Director, provided background leading up to the development of the proposed big box ordinance for new development. Mr. Teal reviewed changes made as a result of concerns voiced by developers during the public hearing and public comment periods conducted by the Planning Commission. Mr. Teal stated recommendation is to adopt the

ordinance as recommended by the Planning Commission following which the Planning Commission would continue to work on provisions for additions to existing buildings.

This is the advertised public hearing set for this date and time. The public hearing opened at 11:00 p.m.

No one appeared in favor.

John McCauley, 135 C Street, Fayetteville, NC appeared in opposition, stated the ordinance was too complicated to understand and expressed concern that the proposed ordinance would affect all types of commercial development and stifle economic activity needed and desired by the community.

Malcolm McFadden, 1007 Canopy Lane, Fayetteville, NC appeared in opposition and stated experts from the development community needed to be involved in the development of the ordinance so a better ordinance could be written.

Jimmy Kizer, 214 Woodcrest Drive, Fayetteville, NC appeared in opposition and asked Council to defer approval of the ordinance so elements contained in the proposed ordinance could be addressed to make it workable for this community rather than try to make an ordinance from Winston Salem workable for this community.

Joe Riddle, 125 Great Oak, Fayetteville, NC appeared in opposition and expressed concern regarding the use of a Winston Salem ordinance for Fayetteville because it may push business/commercial developments outside of Fayetteville.

There was no one further to speak and the public hearing closed at 11:15 p.m.

Mr. Teal responded to questions from Council Member Applewhite regarding opportunities for public involvement in the development of the proposed ordinance and whether public involvement had been taken into consideration. Mr. Teal stated as a result of public involvement, the Planning Commission removed from the proposed ordinance the special use permit requirement and retrofitting of existing buildings. Discussion ensued.

MOTION: Council Member Haire moved to delay action for ninety-days to use the time for stakeholders to work with staff to address issues and come back with another ordinance for consideration.

SECOND: Council Member Hurst

Council Member Bates expressed concern for the proliferation of big box development and the need for more stringent development standards.

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

I. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated non-contiguous annexation by Gregg Floyd. (Floyd property located on the southern side of Clinton Road next to Cape Fear Crossing subdivision).

Mr. Teal stated the annexation petition is submitted in order to receive PWC water and sewer service as outlined in City Council policy #150.2. Mr. Teal further stated recommendation is to adopt the annexation ordinance with effective date of April 28, 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 11:25 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ANNEXATION ORDINANCE NO. 2008-04-507

MOTION: Council Member Haire moved to adopt the annexation ordinance with an effective date of April 28, 2008.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

J. Consider extending the corporate limits of the City of Fayetteville for a petition-initiated contiguous annexation by Cumberland Christian Center. (Located on the southern side of Clinton Road between Eleanor Avenue and Draper Road).

Mr. Teal stated the annexation petition is submitted in order to receive PWC water and sewer service as outlined in City Council policy #150.2. Mr. Teal further stated recommendation is to adopt the annexation ordinance with effective date of April 28, 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 11:26 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ANNEXATION ORDINANCE NO. 2008-04-508

MOTION: Council Member Hurst moved to adopt the annexation ordinance with an effective date of April 28, 2008.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

4. CONSIDER ADOPTING RESOLUTION IN SUPPORT OF THE SALES TAX INCREASE AND REDUCTION OF PROPERTY TAXES

Mr. Iman stated the Cumberland County Board of Commissioners is requesting City Council consider the adoption of a resolution in support of the sales tax increase, which will appear on the May 2008 ballot. In response to a question posed by Mayor Chavonne, Mr. Iman stated his understanding was that all other municipalities in Cumberland County had adopted a resolution of support. A brief discussion followed.

RESOLUTION SUPPORTING THE LOCAL OPTION QUARTER CENT SALES TAX. RESOLUTION NO: R2008-030

MOTION: Mayor Chavonne moved to approve and adopt the resolution.

SECOND: Council Member Applewhite

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

5.PROVIDE NOMINATIONS TO THE ANIMAL CONTROL BOARD

No nominations were made.

INFORMATION ITEMS:

1. Report of Tax Refunds Less Than \$100

NAMEYEARBASISCITY REFUND

Dancarol Real Estate			
Limited Partnership	2006	Corrected Assessment	\$98.58
Dancarol Real Estate			
Limited Partnership	2006	Corrected Assessment	<u>93.81</u>
TOTAL			<u>\$192.39</u>

There being no further business, the meeting adjourned at 11:30 p.m.