

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
SEPTEMBER 28, 2009  
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith A. Bates, Sr. (District 1); Charles E. Evans (District 2 – via telephone); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Council Member Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Doug Hewett, Assistant City Manager  
Kristoff Bauer, Assistant City Manager  
Karen M. McDonald, City Attorney  
Rob Anderson, Chief Development Officer  
Craig Harmon, Planner II  
Karen Hilton, Interim Planning Director  
Victor Sharpe, Community Development Director  
Jackie Tuckey, Communications Manager/Public Information Officer  
Rita Perry, City Clerk  
Members of the Press

**INVOCATION - PLEDGE OF ALLEGIANCE**

The invocation was offered by Pastor Mark Rowden, Savannah Missionary Baptist Church, followed by the Pledge of Allegiance to the American Flag.

**RECOGNITIONS AND ANNOUNCEMENTS**

There were no recognitions or announcements.

**1. APPROVAL OF AGENDA**

**MOTION:** Mayor Pro Tem Meredith moved to approve the agenda.

**SECOND:** Council Member Massey

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

**2. CONSENT:**

Council Member Haire requested to pull Item 2.I. for discussion.

Council Member Bates requested to pull Items 2.B. and 2.C. for discussion.

**MOTION:** Council Member Haire moved to approve the consent agenda with the exception of Items 2.B., 2.C., and 2.I.

**SECOND:** Mayor Pro Tem Meredith

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

**A. Approve Minutes:**

1. City Council Meeting Held on August 3, 2009.
2. City Council Dinner and Discussion Meeting Held on August 10, 2009.
3. City Council Meeting Held on August 10, 2009.
4. Agenda Briefing Meeting Held on August 19, 2009.
5. City Council Meeting Held on August 24, 2009.
6. City Council Dinner and Discussion Meeting Held on August 24, 2009.
7. City Council Special Meeting Held on August 31, 2009.
- B. Pulled for discussion by Council Member Bates.
- C. Pulled for discussion by Council Member Bates.
- D. Finance - Resolution to Accept the State Grant and Capital Project Ordinance 2010-11 (Rehabilitate Visual Navigational Aids Project)
- E. Finance - Capital Project Ordinance 2010-12 (Vegetation Management Project)
- F. Finance – Special Revenue Project Ordinance 2010-9 (FY2009 Justice Assistance Grant Program)

- G. Planning – Sign permit request by the Junior League for ten signs between October 6 and November 8 for the Holly Day Fair
- H.Planning – Community Street Banner Request by the Cape Fear Botanical Garden for banners along the service road, for 180 days
- I. Pulled for discussion by Council Member Haire.
- J. PWC – Bid Recommendation - Annexation, Phase V, Project 2, Area 6 "North LaGrange"

The Public Works Commission requested Council approve award of contract to Utilities Plus, Inc., Linden, NC, the lowest responsive, responsible bidder, in the amount of \$950,884.50. Bids were received as follows:

Utilities Plus (Linden, NC).....	\$950,884.50
State Utility Contractors (Monroe, NC).....	\$984,926.00
Hendrix-Barnhill (Smithfield, NC).....	\$995,619.90
Billy Bill Grading (Fayetteville, NC).....	\$1,015,435.00
Step Construction (LaGrange, NC).....	\$1,051,458.00
T.A. Loving (Goldsboro, NC).....	\$1,201,500.00
ES&J Enterprises (Autryville, NC).....	\$1,245,135.00
Triangle Grading & Paving.....	\$924,862.00

**K. PWC – Bid Recommendation - Water Main Rehabilitation Work**

The Public Works Commission of the City of Fayetteville requested Council approve award of a one-year contract for water main rehabilitation work to Heitkamp, Inc., Watertown, CT, sole bidder, in the amount of \$686,726.42.

**B. Engineering & Infrastructure - Municipal Agreement with NCDOT and Aberdeen & Rockfish Railroad**

Council Member Bates pulled this item for discussion.

**MOTION: Mayor Pro Tem Meredith moved to approve the Municipal Agreement with NCDOT and Aberdeen & Rockfish Railroad.**  
**SECOND: Council Member Haire**  
**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Bates and Crisp)**

**C. Engineering & Infrastructure - Resolution Accepting State Revolving Loan for Skye Drive Drainage Improvement Project**

Council Member Bates pulled this item for discussion and requested the City Manager to inform the citizens as to why the City was borrowing money for stormwater repairs when there was a general population assessment. Mr. Dale Iman, City Manager, stated the City received money from a stormwater project sponsored through a stimulus program developed as part of the Recovery Act. He explained the project cost was divided in half; one-half (\$272,930.00) being a grant with the balance of \$272,930.00 being a 0 percent interest loan over 20 years and the City's only cost being a 1 percent (\$5,000.00) origination fee.

Council Member Crisp questioned the progress and timeframe of the assessment for stormwater. Mr. Iman responded City staff continuously works on significant stormwater projects involving studies, which requires pre-approval from various agencies.

Council Member Massey questioned the method used in choosing this area given the City had other areas, particularly Rosehill Road, needing improvement. Mr. Jeffrey Brown, Engineering and Infrastructure Director, explained the guidelines for stimulus projects through ARRA (American Recovery and Reinvestment Act of 2009) funding, utilized in making the area selection, and a green project.

Council Member Haire inquired whether this item was a separate entity from the City's additional stormwater fee. Mr. Brown responded in the affirmative.

Council Member Evans requested the names of the areas receiving improvement, which Mr. Brown provided.

RESOLUTION OF THE FAYETTEVILLE CITY COUNCIL. RESOLUTION NO. R2009-072.

**MOTION:** Council Member Crisp moved to approve the resolution accepting the state revolving loan for Skye Drive Drainage Improvement Project.

**SECOND:** Council Member Bates

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

I. Planning – Case P09-27F: The rezoning from R10 Residential District to R6 Residential District for the property located west of All American Expressway, northwest of the intersection with Santa Fe Dr. Containing 84.82 acres more or less and being the property of John and wife Margarete Koenig

Council Member Haire pulled this item for discussion.

**MOTION:** Council Member Haire moved to set a public hearing.

**SECOND:** Council Member Bates

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

3. PUBLIC HEARINGS:

A. Amendment to the Code of Ordinances, Chapter 30, Article IV, Section 107 (10), to allow one employee not a resident of the home for an incidental home daycare occupation

Ms. Karen Hilton, Interim Planning Director, defined incidental home daycares and daycare homes/centers and outlined the related operating standard.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:19 p.m.

The following persons appeared and spoke in favor of the ordinance amendment:

rs. Keziah Amoako	715 Dwain Drive, Fayetteville, NC 28305
rs. Monique Brown	6457 Rutherglen Drive, Fayetteville, NC 28304
rs. Regina Lassiter	5801 Falkirk Street, Fayetteville, NC 28304
rs. Patricia Bradley	1024 Bunce Road, Fayetteville, NC 28314
rs. Yolande Vickers	7742 Adrian Drive, Fayetteville, NC 28314

In opposition: Mr. Anthony Castillo, 106 Scott Avenue, Fayetteville, NC 28301, expressed concerns regarding child abuse in Cumberland County.

There being no one further to speak, the public hearing closed at 7:28 p.m.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ZONING, ARTICLE IV, DISTRICT USE REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2009-007.

**MOTION:** Council Member Bates moved to approve the amendment to the Code of Ordinances, Chapter 30, Article IV, Section 107 (10), to allow one employee not a resident of the home for an incidental home daycare occupation allow the applicant to send this matter back to the Zoning Commission for Conditional Use.

**SECOND:** Council Member Haire

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

B. Economic Development Incentive – Property Tax Grantback for the Towers at Wood Valley Apartments

**MOTION:** Mayor Pro Tem Meredith moved to be recused.

**SECOND:** Council Member Bates

Ms. Karen McDonald, City Attorney, clarified the recusal would be from the discussion and vote.

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

Mr. Rob Anderson, Chief Development Officer, provided an overview of the Property Tax Grantback program. He reviewed the proposed project site plan and conditions, developer's cost estimate and projected tax revenue for the City.

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 7:31 p.m.

**MOTION:** Council Member Bates moved to deny the Property Tax Grantback Funding Agreement.

The motion died due to lack of a second.

Council Member Massey requested the developer to address Council.

Ms. Karen McDonald, City Attorney, clarified Council's policy regarding citizens speaking after the Public Hearing is closed.

Mr. Brian Hall, developer with Commonwealth Road Properties, thanked Council for the opportunity to develop this project in the community.

**MOTION: Council Member Massey moved to approve the Property Tax Grantback Funding Agreement.**

**SECOND: Council Member Hurst**

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

**C. Case P09-23F: The rezoning from AG Agricultural District to R6/CZ Residential Conditional Zoning District for property located on Rim Road between Identity Road and Olted Road. Containing 14.9 acres more or less and being the property of Vance and Elizabeth Hall and the property of Alex and Catherine Hall.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon 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. He stated the Zoning Commission and Planning staff recommended approval of R6/Conditional Zoning District. He summarized staff's findings for recommendation and related conditions.

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

Mr. Scott Brown, Surveyor and Engineer Representative, 409 Chicago Drive, Suite 112, Fayetteville, NC 28306, appeared in favor. He clarified the exact number of units would be 162 and addressed previous traffic concerns expressed by Council.

Mr. Barry D. Hackett, Managing Member and General Contractor for Hackett Builders, 1152 Kearns-Hackett Road, Pleasant Garden, NC 27313, appeared in favor and reviewed traffic solutions.

There being no one further to speak, the public hearing closed at 7:48 p.m.

**MOTION: Council Member Applewhite moved to approve the rezoning from AG Agricultural District to R6/CZ conditions.**

**SECOND: Mayor Pro Tem Meredith**

Council Member Mohn explained the staff recommendation on page 110 of the agenda stated 161 units whereas Council was informed the total was 162 units, as well as the Zoning Commission's minutes alluding to 162 units.

**AMENDED MOTION:**

**Council Member Applewhite moved to approve the rezoning from AG Agricultural District to R6/CZ conditions modified to include 162 units.**

Council Member Applewhite expressed the concerns of the impact of apartment developments on the community regarding traffic and schools and the need for Council to address these issues. Council Members Bates and Crisp concurred with Council Member Applewhite's sentiments.

**SECOND: Mayor Pro Tem Meredith**

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

**D.Planning – Case P09-28F: The rezoning from C1 Commercial District and R6 Residential District to C1/CZ Commercial Conditional Zoning District for a Military Christian Center on property located at 590 N. Reilly Rd. Containing 1.37 acres more or less and being the property of Missions to Military Inc.**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon 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. He stated the Zoning Commission recommended denial based on incapability with surrounding land uses; however, the Planning staff recommended approval with conditions limiting the depth of rezoning and other features depicted on the site plan as well as the singular use as a community center. He stated staff also recommended the organization clearly define

the scope and operation of the overnight facilities component prior to approval.

Discussion ensued regarding conditions listed on page 127 of the agenda, to which Mr. Harmon provided an overview of the proposed site plans and condition requirements.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:04.m.

Mr. John Adhern, Director of Missions to Military (Camp Lejeune, NC), 530 Shadowridge Road, Jacksonville, NC 28546, appeared in favor. He summarized the purpose of the proposed center and addressed the overnight guest issue.

Mr. John T. Sargent, Director of Missions to Military (Norfolk, Virginia), 3424 Sale Drive, Virginia Beach, VA 23464, appeared in favor.

Mr. Ross S. Olson, 5205 Balboa Drive, Virginia Beach, VA 23464, appeared in favor. He briefed Council on his 26 years of experience with Missions to Military, Inc.

Mr. Steve Brown, Military Chaplin, 5308 Summercrescent Drive, Virginia Beach, VA 23464, appeared in favor. He stated Missions to Military, Inc., was a positive experience for him during his military career.

Mr. Joe R. Yeargin, former Director of Missions to Military (Goldsboro, NC), 3501 E. Ash Street, Goldsboro, NC 27534, appeared in favor. He addressed concerns raised from adjacent property owners regarding disorderly conduct and alcohol and drug use, which are prohibited.

Pastor Keith Davey, 4713 Regal Court, Chesapeake, VA 23464, appeared in favor. He briefed Council on experiences with Missions to Military, Inc.

Mr. M. B. Gentry, Engineer, 169 Vance Drive, Goldsboro, NC 27534, appeared in favor.

Mrs. Sharon Valentine, 512 Dandridge Drive, Fayetteville, NC 28302, appeared in opposition. She emphasized the neighborhood options and the efforts to compromise with Missions of Military, Inc., regarding alternate sites, which they declined. She stated the three reasons for opposition as follows: (1) neighborhoods are struggling to contain commercial use to one lot depth along Reilly Road; (2) a 7,000 square foot building and parking lot in the center of the neighborhood would be a form of in-fill and (3) a non-profit would not add much to the property tax base but could devalue property.

Mr. Bobby Wrenn, 7246 Godfrey Drive, Fayetteville, NC 28303, appeared in opposition. He expressed support of the military but not the infringement of his property.

There being no one further to speak, the public hearing closed at 8:25 p.m.

Ms. Karen M. McDonald, City Attorney, informed Council of Council Member Evans' absence from the conference call due to illness and requested a motion to excuse.

**MOTION: Council Member Bates moved to excuse Council Member Evans from the remainder of the meeting.**

**SECOND: Council Member Crisp**

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

**MOTION: Mayor Pro Tem Meredith moved to approve the rezoning from AG Agricultural District to R6/CZ with the following conditions: No alcohol on the premises, follow Site plan as presented on Page 127 of the September 28, 2009 agenda, 1.37 acre depth limitation and single use for a community center.**

**SECOND: Council Member Bates**

Discussion ensued regarding conditions listed on page 127 of the agenda, to which Mr. Harmon provided an overview of the proposed site plans and condition requirements.

Council Member Mohn stated previous and present Council has consistently heldfast to the one lot depth into a neighborhood for commercial; however, this case proposes a three lot depth for commercial development.

Council Member Crisp questioned the validity and qualifications of the counseling services the centers provide. Mr. Steve Brown stated the centers provide biblical based counseling.

**VOTE: PASSED by a vote of 7 in favor to 2 in opposition (Council Members Crisp and Mohn)**

**E. Case P09-29F: Special Use Permit (SUP). Consideration of an application for a SUP to allow a Daycare in a Residential District for property located at the corner of 5514**

**Ramshorn Dr and Santa Fe Dr. Containing .36 acres more or less and being the property of Harry Jefferson and Linda E. Jefferson**

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon 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. He stated Zoning Commission recommended denial of the SUP based on the following reasons: (1) it would be detrimental to the surrounding area because of the traffic; (2) the ingress and egress and (3) it would cause additional hardship to other members of the neighborhood.

Discussion ensued regarding the number of daycares in the vicinity and City-wide statistics as it relates to meeting the daycare needs. Mr. Harmon explained Planning staff does not maintain those statistics; however, the newly formed Daycare Taskforce might calculate those statistics in the future.

Council Member Applewhite asserted she would request the information from Mrs. Eva Hansen, President for the Partnership for Children.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:42 p.m.

There were no speakers in favor.

Mrs. Vivian W. Evans (adjacent property owner), 5512 Ramshorn Drive, Fayetteville, NC 28303, appeared in opposition. She stated the area already has a traffic congestion problem, the applicant does not reside in the property and expressed her disapproval of the proposed site plan as it relates to front yard paved parking.

Mr. Perry Evans (adjacent property owner), 5512 Ramshorn Drive, Fayetteville, NC 28303, appeared in opposition and conveyed his concerns regarding traffic.

Mr. Stanley Carter, 5504 Ramshorn Drive, NC 28303, appeared in opposition and urged Council to deny the request.

There being no one further to speak, the public hearing closed at 8:45 p.m.

**MOTION: Council Member Haire moved to deny the request for a Special Use Permit.**

**SECOND: Mayor Pro Tem Meredith**

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

**4. MURCHISON ROAD REDEVELOPMENT FUNDING STRATEGY**

Mr. Victor Sharpe, Community Development Director, provided a summary of the revised funding strategy, which consists of the City investment of \$7.9 million. He stated conceptual actions require presentation to Council prior to proceeding.

A question and answer period ensued regarding funding sources, which Mr. Sharpe provided a synopsis of the available resources.

**MOTION: Council Member Haire moved to approve the Murchison Road Redevelopment Plan and Concept.**

**SECOND: Council Member Mohn**

Council Member Applewhite requested further clarification of the term "concept". She questioned whether the terminology refers to work in progress with possible modifications in the future. Mr. Sharpe answered in the affirmative.

**VOTE: PASSED by a vote of 7 in favor to 2 in opposition (Council Members Bates and Meredith)**

**5. CONSIDER CREATION OF AN ETHICS COMMISSION**

Ms. Karen McDonald, City Attorney, presented an overview of the proposal to create an Ethics Commission to investigate and render advisory opinions regarding the conduct of City officials and employees. She defined the proposed Ethics Commission formation and procedures and briefed Council on the City Internal Auditor's utilization of the Code of Ethics Questionnaire.

A question and answer period ensued.

**MOTION: Mayor Pro Tem Meredith moved to approve the proposal to create an Ethics Commission to include a penalty limitation no greater than \$1,000.00.**

**SECOND: Council Member Bates**  
**VOTE: UNANIMOUS (9-0)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IV, CODE OF ETHICS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE S2009-008.

**6. NC LEAGUE OF MUNICIPALITIES ANNUAL LEAGUE BUSINESS MEETING VOTING DELEGATES**

Mr. Dale Iman, City Manager, requested Council to designate one voting delegate and/or one alternate voting delegate to represent the City of Fayetteville at the NCLM Annual Business meeting.

**MOTION: Mayor Pro Tem Meredith moved to designate Council Member Bates the voting delegate.**

**SECOND: Council Member Mohn**

**MOTION: Council Member Massey moved to designate Mayor Pro Tem Meredith the alternate voting delegate.**

**SECOND: Council Member Mohn**

One vote was taken on both motions.

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

**INFORMATION ITEM:**

**1. Report of Tax Refunds Less Than \$100**

<u>NameYearBasisCity Refund</u>			
Strickland, Michael A.	2008	Adjusted Value	<u>\$15.75</u>
<b>TOTAL</b>			<u><b>\$15.75</b></u>

There being no further business, the meeting adjourned at 9:34 p.m.