

FAYETTEVILLE CITY COUNCIL

MINUTES

MARCH 23, 2009

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); Darrell J. Haire (District 4); Bobby Hurst (District 5); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); Wesley A. Meredith (District 9)

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

Others Present: Dale E. Iman, City Manager

Jeffrey Powell, Assistant City Manager

Karen M. McDonald, City Attorney

Lisa Smith, Chief Financial Officer

Rob Anderson, Chief Development Officer

Victor Sharpe, Community Development Director

Bobby Teague, Engineering and Infrastructure Director

Jimmy Teal, Planning Director

Craig Harmon, Planner II

Gloria Wrench, PWC Purchasing Manager

Bill Simons, Fayetteville Police Department Assistant Chief

Jackie Tuckey, Communications Manager/Public Information Officer

Sarah Hemingway, Cumberland County Communicare Deputy Director/JCPC
Coordinator

Candice H. White, City Clerk

INVOCATION - PLEDGE OF ALLEGIANCE

The invocation was offered by Father Ray Brown, Pastor, Holy Trinity Episcopal Church, followed by the Pledge of Allegiance to the American Flag led by Boy Scout Troop 752 from Mt. Olive Baptist Church.

RECOGNITIONS AND ANNOUNCEMENTS

Mayor Chavonne extended to Council Member Crisp wishes for a speedy recovery from his recent surgery.

Council Member Applewhite announced her attendance of a spelling bee at Cliffdale Elementary School and recognized the winner for a job well done.

1. APPROVAL OF AGENDA

MOTION: Council Member Meredith moved to approve the agenda.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

2. CONSENT:

Council Member Applewhite requested Item 2.C. pulled.

MOTION: Council Member Applewhite moved to approve the consent agenda with the exception of Item 2.C.

SECOND: Council Member Massey

VOTE: UNANIMOUS (9-0)

The following items were approved:

A. Approve Minutes:

1. Dinner and Discussion of Agenda Items Meeting Held on February 23, 2009

2. City Council Meeting Held on February 23, 2009

3. Work Session Meeting Held on March 2, 2009

4. Dinner and Discussion of Agenda Items Meeting Held on March 9, 2009

B. Capital Project Fund Ordinance Amendment 2009-18 (Texfi Property Acquisition and Development)

This amendment appropriates an additional \$25,000 transfer from the General Fund for the Texfi property acquisition and development project. If approved, the revised budget for this project will be \$109,376.

C. Pulled at the request of Council Member Applewhite.

D. Resolution to Apply for Stimulus Funding

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA TO DIRECT THE FILING OF AN APPLICATION FOR A STATE LOAN UNDER THE NC CLEAN WATER REVOLVING LOAN AND GRANT ACT OF 1987. RESOLUTION NO. R2009-020

E. Resolution to Apply for Stimulus Funding for Stormwater Projects

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA TO DIRECT THE FILING OF AN APPLICATION FOR A STATE LOAN UNDER THE NC CLEAN WATER REVOLVING LOAN AND GRANT ACT OF 1987. RESOLUTION NO. R2009-022

F. Consider Adoption of Resolution and Order to File and Publish a Preliminary Assessment Resolution for the Extension of the Sanitary Sewer Collection System within Areas 6 and 7 of the Phase 5 Annexation

RESOLUTION AND ORDER TO FILE AND PUBLISH A PRELIMINARY ASSESSMENT RESOLUTION FOR THE EXTENSION OF THE SANITARY SEWER COLLECTION SYSTEM IN ALL OR A PORTION OF THE STREETS WITHIN AREAS 6 AND 7 OF THE PHASE 5 ANNEXATION LISTED ON EXHIBIT "A". RESOLUTION R2009-021

G. Approve Transfer of Lots 16, 17, 25, 26, and 27 Located in the Fairley Estates II Subdivision to Kingdom Community Development Corporation for the Construction of Affordable Housing

H. Consideration of an Amendment to the 2008-2009 Community Development Annual Action Plan by Awarding a Contract to Kingdom Community Development Corporation for the Construction of a House in the Fairley Estates II Subdivision

I. Approve Revision to City Council Policy 110.1 – Boards and Commissions, Membership and Attendance

J. Approve Revision to City Council Policy 110.2(2) – Terms

K. Consider Clarification to Ordinance Governing Itinerant Merchants

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 15-16.1 OF CHAPTER 15, LICENSES, OF THE CODE OF ORDINANCES OF THE CITY OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2009-003

L. Consider Adoption of Draft Resolution and Authorize City Manager to Sign Letter to Forward to the EPA in Order to Continue to Pursue an Early Action Compact for Air Quality

RESOLUTION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA TO SUPPORT CONTINUATION OF THE OZONE EARLY ACTION COMPACT. RESOLUTION NO. R2009-019

M. Approve the rezoning from R10 residential district to P4 professional district or to a more restrictive zoning classification for property located at 2026 Hope Mills Road. Containing 0.28 acres more or less and being the property of J & E Pest Enterprise. Case Number P09-07F

2.C. Special Revenue Fund Project Ordinance 2009-9 (Juvenile Restitution Program)

This ordinance appropriates \$134,944 for the Juvenile Justice and Delinquency Prevention Program for fiscal year 2009. The source of funds for this program is an \$84,251 grant, a \$12,152 local match from Cumberland County, a \$12,151 local match from the City of Fayetteville, and a \$26,390 in-kind match from the City of Fayetteville for office space, supplies, utilities and materials. This program is a sentencing alternative for Fayetteville and Cumberland County youth.

Council Member Applewhite inquired whether grant funds could be used to assist youth prior to their becoming involved in the juvenile justice system. Sarah Hemingway, Cumberland County Communicare Deputy Director/JCPC Coordinator, provided an overview of the juvenile restitution program. Dale E. Iman, City Manager, stated prevention and restitution would be

important parts of crime fighting strategies in the future.

MOTION: Council Member Applewhite moved to approve Item 2.C.

SECOND: Council Member Evans

VOTE: UNANIMOUS (9-0)

3. PUBLIC HEARINGS:

- A. Consider an application by Columbus Thurmond for a Special Use Permit to allow a daycare in an R6 residential district for property located at 5007 Redwood Drive. Containing .26 acres more or less and being the property of Columbus Thurmond. Case Number P09-06F**

Jimmy Teal, Planning Director, 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 operate a daycare for thirty children for property located at 5007 Redwood Drive. Mr. Teal reviewed findings of fact as required of the Zoning Commission for approval of special use permits and the basis on which the Zoning Commission recommended denial of the special use permit for a daycare. Mr. Teal then reviewed conditions as suggested by staff should Council find the use appropriate. Mr. Teal stated City Council opened the public hearing on February 23rd and continued the public hearing to March 23rd based on a request from Mr. Thurmond who could not be present at the meeting on February 23rd. Mr. Teal responded to questions.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:20 p.m.

After being sworn in, Columbus Thurmond, 1813 Cawdor Drive, Fayetteville, NC appeared in favor and stated noise generated by the daycare whether inside or outside the house would not be excessive.

After being sworn in, Kevin Morrison, 5105 Palmetto Lane, Fayetteville, NC appeared in opposition, expressed concern that the daycare would cause an increase in noise and traffic and that neighborhood property values would decline once the property became commercial.

There was no one further to speak and the public hearing closed at 7:30 p.m.

MOTION: Council Member Meredith moved to follow the Zoning Commission's recommendation to deny the Special Use Permit for the daycare.

SECOND: Council Member Bates

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

- B. Consider an application by Chris Manning to amend a previously approved R6 residential district\conditional zoning case to allow the flexibility of the of the multifamily residential units to be condominiums and\or apartments for an area located on Rosehill Road at the end of Grafton Avenue and behind Haymount Presbyterian Church. Containing 28.2 acres more or less and being the property of Green Valley South, LLC. Case Number P09-02F**

Jimmy Teal, Planning Director, 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 City Council on July 23, 2007 approved a rezoning request from R10 residential district to R6 residential district\CZ conditional zoning for 61 single-family homes and 192 condominium units. Mr. Teal explained approval of this most recent request would allow the developer to construct 192 multifamily units as condominiums or apartments or a combination of the two. Mr. Teal stated the Zoning Commission recommended approval based on the stipulation that the previously approved conditions would remain in effect. Mr. Teal reviewed crime statistics, drainage plans, rental rates versus owner occupied and the access point to the development. Mr. Teal stated a neighborhood meeting had been held and required notifications had been mailed.

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

No one appeared in favor.

Julian Stackhaus, 3445 Bennett Drive, Fayetteville, NC appeared in opposition and expressed concern for the degree of crime in the surrounding residential areas should apartment units be constructed.

Robert Williams, 2713 Rosehill Road, Fayetteville, NC appeared in opposition and expressed concern that the developers wanted to renege on a previous compromise and eliminate the conditional zoning. Mr. Williams further stated condominium units were more representative of home ownership than apartment units and development should compliment rather than degrade the associated areas.

Anthony Cone, 2921 Rosehill Road, Fayetteville, NC appeared in opposition and expressed concern regarding the construction of apartments because it would bring about negative changes to the quality of life and life style of residents in the area; an increase in noise, traffic and crime; and decrease property values.

There was no one further to speak and the public hearing closed at 8:52 p.m.

MOTION: Council Member Massey moved to deny the request and limit the multifamily units to condominiums only.

SECOND: Council Member Applewhite

Council Member Massey recognized residents from the Rosehill Road area. Mayor Chavonne clarified conditional zoning relative to the case and flexibilities requested therein upon which Council would vote.

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

4. PRESENTATION ABOUT PARTNERSHIP FOR DEFENSE INNOVATION (PDI) AND THEIR TWO PROGRAMS DEFENSE AND SECURITY TECHNOLOGY ACCELERATOR (DSTA) AND THE SOF WIRELESS LAB

Scott Perry presented information regarding the Partnership for Defense Innovation (PDI) and two programs, the state funded Defense and Security Technology Accelerator (DSTA) and the federally funded Special Operations Forces (SOF) wireless lab. Mr. Perry explained the projects represented collaboration between the City and the Chamber of Commerce towards the creation of technology jobs and growth for the community.

5. CONSIDER THE REZONING FROM R10 RESIDENTIAL DISTRICT TO R5 RESIDENTIAL DISTRICT OR TO A MORE RESTRICTIVE ZONING CLASSIFICATION FOR PROPERTY LOCATED AT 5946 CLIFFDALE ROAD. CONTAINING 2.00 ACRES MORE OR LESS AND BEING THE PROPERTY OF MAYON J. WEEKS AND DOROTHY WEEKS. CASE NUMBER P09-08F

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 a greater density to redevelop the property and submitted a request for rezoning to R5 residential district. Mr. Teal further stated the applicant agrees with the Zoning Commission and the planning staff for R6 residential zoning. Mr. Teal explained this case appears as a regular item on the agenda based on the Zoning Commission recommending approval for a zoning district other than what the applicant requested and based on no appeal being filed relative to the Zoning Commission's recommendation. Mr. Teal explained options available to Council were to approve or set a public hearing. Mr. Teal responded to questions and questions were posed to the applicant, Mayon J. Weeks, Jr.

MOTION: Council Member Hurst moved to rezone the property R6 residential district as recommended by the Zoning Commission and the staff.

SECOND: Council Member Haire

In response to a question posed by Council Member Applewhite, Mrs. McDonald clarified for Council to take any action other than approval, a public hearing would be required. Mr. Teal responded to additional questions and recapped the Zoning Commission vote and staff recommendation.

Council Member Applewhite asked to put forth a substitute motion.

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

6. CONSIDER A RECOMMENDATION TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD ON A WAIVER REQUEST BY GILBERT SMITH FAMILY, LLC FOR 462 LINEAR FEET OF SIDEWALK ON THE EASTSIDE OF RIVER ROAD AT THE INTERSECTION OF SWEETIE ROAD

Jimmy Teal, Planning Director, 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 explained the Gilbert Smith Family, LLC is developing property at the corner of River Road and Sweetie Road and this property is within the City of Fayetteville’s Municipal Influence Area, which requires the construction of a sidewalk abutting any paved public road. Mr. Teal further explained the property abuts River Road for a total of 546 linear feet requiring the developer to install a sidewalk adjacent to River Road for that length. Mr. Teal stated the applicant is requesting the Cumberland County Joint Planning Board to waive the sidewalk request. Mr. Teal further stated before acting upon the request, the Cumberland County Joint Planning Board is requesting a recommendation from the Fayetteville City Council on this matter and planning staff recommendation is to deny the request and construct the sidewalks.

MOTION: Council Member Bates moved to recommend denial of the sidewalk waiver.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

Council Member Applewhite requested clarification on her request for a substitute motion under Item 5. At the request of Mayor Chavonne, Mrs. McDonald advised regarding substitute motions and responded to questions.

MOTION: Council Member Applewhite moved to reconsider Item 5.

SECOND: Council Member Evans

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

MOTION: Council Member Applewhite moved to set a public hearing to consider other options.

SECOND: Council Member Haire

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

MOTION: Council Member Hurst moved to approve R6.

SECOND: Council member Meredith

VOTE: PASSED by a vote of 7 in favor to 2 in opposition (Council Members Applewhite and Evans)

INFORMATION ITEMS:

1. Report of Tax Refunds Less Than \$100

<u>NAMEYEARBASISCITY REFUND</u>			
Bryant, Vera E.	2007	Corrected Assessment	\$32.05
New Life Pentacostal			
Holiness Trustees	2004-2007	Mapping Error	82.68
TOTAL		\$114.91	

2.Statement of Taxes Collected for the Month of February 2009 from the Cumberland County Tax Administrator

2008 Taxes.....	\$1,228,141.14
2008 Vehicle Taxes.....	444,026.18
2008 Revit.....	8,461.91
2008 Vehicle Revit.....	362.80
2008 FVT.....	50,270.99
2008 Transit Fee.....	41,044.54
2008 Storm Water.....	64,969.95

2008 Fay Storm Water.....	87,881.32
2008 Recycle Fee.....	81,072.81
2008 Annex.....	160.59
2007 Taxes.....	\$8,608.15
2007 Vehicle Taxes.....	66,749.21
2007 Revit.....	3.03
2007 Vehicle Revit.....	12.92
2007 FVT.....	8,917.75
2007 Storm Water.....	478.11
2007 Fay Storm Water.....	410.51
2007 Annex.....	0.00
2006 Annex.....	\$10,779.53
2006 Taxes.....	2,490.61
2006 Vehicle Taxes.....	3,437.83
2006 Revit.....	0.81
200 Vehicle Revit.....	0.00
2006 FVT.....	786.28
2006 Storm Water.....	131.59
2005 Taxes.....	\$1,319.22
2005 Vehicle Taxes.....	1,895.91
2005 Revit.....	0.00
2005 Vehicle Revit.....	0.00
2005 FVT.....	395.00
2005 Storm Water.....	116.29
2004 and Prior Taxes.....	\$1,104.15
2004 and Prior Vehicle Taxes.....	4,098.80
2004 and Prior Revit and Prior.....	0.00
2004 and Prior Vehicle Revit and Prior.....	0.00
2004 and Prior Vehicle FVT and Prior.....	901.06
2004 and Prior Stormwater.....	45.73
Interest.....	\$57,234.81
Interest (Revit).....	184.17
Interest (Storm Water).....	1,828.49
Interest (Fay Storm Water).....	2,390.83
Interest (Annex).....	428.71
Interest (Fay Recycling).....	2,197.77
Total Collections.....	\$2,183,339.50

3.Report on Disposal of City of Fayetteville and PWC Surplus Personal Property Sold During the Time Period of July 1, 2007 Through June 30, 2008

There being no further business, the meeting adjourned at 8:52 p.m.