

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
DECEMBER 14, 2009  
7:00 P.M.**

Present: Mayor Anthony G. Chavonne  
Council Members Keith Bates, Sr. (District 1); Kady-Ann Davy (District 2); 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); Wesley A. Meredith (District 9)

Others Present: Dale E. Iman, City Manager  
Doug Hewett, Assistant City Manager  
Kristoff Bauer, Assistant City Manager  
Janet C. Smith, Assistant City Attorney  
Lisa Smith, Chief Financial Officer  
Michele Thompson, Cherry, Bekaert and Holland  
Craig Harmon, Planner II  
Jackie Tuckey, Communications Manager/Public Information Officer  
Rita Perry, City Clerk  
Members of the Press

**1.0 CALL TO ORDER**

Mayor Chavonne called the meeting to order at 7:00 p.m.

**2.0 INVOCATION**

The invocation was offered by Apostle Wiley Hughes, Pastor, Mount Carmel Church.

**3.0 PLEDGE OF ALLEGIANCE**

Following the invocation, the audience was led in the Pledge of Allegiance to the American Flag by Troop 709 from Westminster Presbyterian Church.

**4.0 CITY MANAGER’S OFFICE – RECONSIDERATION OF ZONING CASE NO. P09-27F**

**MOTION:** Mayor Pro Tem Haire moved to reconsider Council’s November 23, 2009, decision to deny the rezoning regarding Case No. P09-27F.  
**SECOND:** Council Member Crisp  
**VOTE:** PASSED by a vote of 9 in favor to 1 in opposition (Council Member Bates)

**5.0 APPROVAL OF AGENDA**

**MOTION:** Council Member Bates moved to approve the agenda.  
**SECOND:** Council Member Applewhite  
**SUBSTITUTE MOTION:**  
Mayor Pro Tem Haire moved to approve with the addition of Item 4.0 as Item 9.1.  
**VOTE:** PASSED by a vote of 9 in favor to 1 in opposition (Council Member Bates)

**6.0 PUBLIC FORUM**

NAME	ADDRESS	SUBJECT/CONCERN
Neil Yarborough	115 E Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center
Jackie Pfendler	6936 Timbercroft Lane Fayetteville, NC 28314	In opposition of the Multi-Modal Center
Nell Lindsay	531 W Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center
Joel Smith	611 W Russell Street Fayetteville, NC 28301	In opposition of the Multi-Modal Center
David Nimocks	201 Stedman Street Fayetteville, NC 28305	In opposition of the Multi-Modal Center)

Raynard Esquilin	517 Southwick Drive Fayetteville, NC 28303	In opposition of P09-27F – (Cottonade)
Russell Pierre	5708 Trotter Court Hope Mills, NC 28348	Transit Department
Gwen York	5703 Cypress Road Fayetteville, NC 28304	Need for a Domestic Violence Unit on City Police Force

Mr. Dale Iman, City Manager, addressed Council with respect to the Multi-Modal Transportation Center. He stated the proposed center would be a centralized location for buses, but not limited to buses. He stated the proposal was to locate the buses in close proximity so that citizens would have the ability to utilize them for transportation to the train depot, which would be the most use utilized throughout the Amtrak system. He clarified the center would not be a bus stop or transfer station and would be a safe, fully staffed, accessible facility that would also serve as a hub for transportation oriented business. He stated City Council held a public hearing on December 8, 2008, which was advertised appropriately regarding the location of the Multi-Modal Center at which time several locations were considered. He explained that Council would not be condemning a small business and provided a synopsis of the events as follows:

- The announcement of the proposed purchase of the subject property by the City was widely publicized in the local newspaper, television, and other media sources.
- City began the process to acquire the properties needed to assemble the lot.
- May 2009: During the process required under federal acquisition, Mrs. Jackie Pfendler made a purchase agreement for the property located at 135 Robeson Street. Prior to Mrs. Pfendler purchasing the property, staff contacted her and explained that the City had identified the subject parcel as one of the parcels for the Multi-Modal Transportation hub and offered to assist in locating an alternative building which would be suitable for her business, if necessary, in the downtown area. Mrs. Pfendler indicated there was no interest in the option offered by the City.
- July 2009: Mrs. Pfendler purchased the property for \$218,000.00.
- August 2009: The subject parcel appraised at \$210,000.00.
- August 2009: Mr. Neil Yarborough, Mrs. Pfendler’s attorney, suggested to Mrs. Patricia Bradley, Assistant City Attorney, that his client would sell the property for \$650,000.00.
- The City rejected the offer and proceeded with the condemnation resolution.
- October 2009: A building permit was issued totaling \$150,000.00.
- November 2009: Council authorized the condemnation process.

**7.0 CONSENT**

**MOTION:** Council Member Mohn moved to approve the consent agenda with the exception of Item 7.16.

**SECOND:** Council Member Hurst

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

**7.1 Airport - Acceptance of 2009 and 2010 State Aviation capital funding allocation and authorization of local match.**

The award of 2009 funding for the annual NCDOT Aviation funding allocations to the Fayetteville Regional Airport were delayed due to freezes applied to the State budget. The allocations would be used to implement the State Capital Improvement Program. The approval would accept the state funding and authorize the local airport match which had already been budgeted. Specific grants requested from NCDOT Aviation would come back individually to City Council for approval.

**7.2 PWC for all City and PWC Departments – Award Annual Contract for the Purchase of Miscellaneous Office Supplies to Forms & Supply, the lowest responsible bidder, in the amount of \$49,008.61.**

The City and Public Works Commission entered into a joint contract for the purchase of office supplies in 2004. The original contract was renewable for a period of four years, therefore, the current contract expired in 2009. Formal bids for the City's and PWC's annual office supply

requirements were received October 8, 2009, as follows:

Bids were received October 8, 2009, as follows:

Forms & Supply (Lumberton, NC).....	\$49,008.61
Williams Office Environments (Fayetteville, NC).....	\$53,605.39

Bids were solicited from seven vendors with five vendors responding. Bidders were asked to submit pricing on the most frequently used office supplies, copy paper and print cartridges, as well as a percentage discount off the catalog prices for all other items. Quantities used were estimated based on previous usage. Bids received from Office Depot; Pens, Paper, Etc.; and Staples were all determined to be non-responsive. Office Depot had not submitted unit pricing as requested, but instead referenced their GSA contract. In addition, a substantial number of unit prices submitted by Pens, Paper, Etc. and Staples were not listed in the unit of measure requested, or items were not bid at all, therefore not possible to calculate a true total bid or compare their bids equally with the other bidders. The Public Works Commission approved award of the contract during their regular meeting on December 9, 2009. Forms and Supply was HUB certified as a woman-owned business.

**7.3City Manager's Office - Consider resolution to adopt 2010 City Council meeting dates calendar.**

**RESOLUTION OF THE FAYETTEVILLE, NORTH CAROLINA CITY COUNCIL TO ADOPT THE 2010 CITY COUNCIL MEETING DATES CALENDAR TO CLARIFY THE TIME AND LOCATION OF CITY COUNCIL REGULAR MEETINGS FOR 2010. RESOLUTION NO. R2009-080.**

**7.4 City Manager’s Office – Resolution assigning ARRA recovery zone facility bond capacity and seeking additional bond allocation.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, RELATING TO RECOVERY ZONE FACILITY BONDS. RESOLUTION NO. R2009-081.**

**7.5 Engineering & Infrastructure - Changes to parking time limits on Maiden Lane.**

**AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES, AND TRAFFIC OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES. ORDINANCE NO. NS2009-019.**

**7.6 Engineering & Infrastructure - Resolution to set public hearing to consider closing a portion of Crystal Drive.**

**RESOLUTION CALLING A PUBLIC HEARING REGARDING THE PROPOSED CLOSING OF A PORTION OF CRYSTAL DRIVE FROM THE END OF CURRENT CITY MAINTENANCE TO THE SOUTH END OF THE STREET. RESOLUTION NO. R2009-082.**

**7.7 Engineering & Infrastructure - Award contract for the purchase of one (1) 39,000 GVW cab and chassis with dump body to Tri-Point Truck Center, lowest responsible bidder, in the amount of \$89,802.00.**

The City needed to purchase one 39,000 GVW cab and chassis with a dump body to replace Unit #323. The budgeted amount for replacement of this unit was \$100,000.00. Staff recommended awarding the contract in the amount of \$89,802.00 for the purchase of one 39,000 GVW cab and chassis with dump body to the lowest responsible bidder, Tri-Point Truck Center, Raleigh, NC.

Bids were received November 11, 2009, as follows:

Tri-Point Truck Center (Raleigh, NC).....	\$89,802.00
Cooper Kenworth (Raleigh, NC).....	\$97,915.00

Smith International, Fayetteville, NC, also submitted a bid, however, subsequently sent written notification that they would not be able to honor their price due to their inability to obtain a pre-emission engine as quoted.

**7.8 Finance - Adopt Capital Project Ordinance Amendment 2010-21 (Taxiway A Rehabilitation Development and Design).**

This capital project ordinance amendment appropriated \$9,750.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$9,750.00, resulting in no

change in the overall budget for the project.

**7.9 Finance - Special Revenue Fund Project Ordinance 2010-14 (FY 2010 Juvenile Restitution Program).**

This ordinance appropriated \$133,259.00 for the Juvenile Restitution Program for Fiscal Year 2010.

**7.10 Finance – Adopt Capital Project Ordinance Amendment 2010-22 (Airport Parking Project).**

This capital project ordinance amendment appropriated \$60,000.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$60,000.00, resulting in no change in the overall budget for this project.

**7.11 Finance – Adopt Capital Project Ordinance Amendment 2010-23 (West General Aviation Lower Ramp Rehabilitation Project).**

This capital project ordinance amendment appropriated \$61,500.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$61,500.00, resulting in no change in the overall budget for this project.

**7.12 Finance – Adopt Capital Project Ordinance Amendment 2010-24 (Runway 4/22 Rehabilitation Project).**

This capital project ordinance amendment appropriated \$332,827.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$332,827.00, resulting in no change in the overall budget for this project.

**7.13 Finance – Adopt Capital Project Ordinance Amendment 2010-25 (Airport Fire Training Facility Upgrade).**

This capital project ordinance amendment appropriated \$59,337.00 in passenger facility charge revenue and reduced the transfer from the Airport Operating Fund by \$59,337.00, resulting in no change in the overall budget for this project.

**7.14 Finance - Capital Project Ordinance 2010-15 and reimbursement resolution for purchase and upgrade of 800 MHz radios.**

This resolution allowed the City to reimburse itself from the financing proceeds for any project expenditures paid prior to the acquisition of the financing. The total amount expected to be financed for the radio expenditures within the next 12 months would be \$3,600,000.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, DECLARING THE INTENTION OF SAID CITY TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND TO BE MADE IN CONNECTION WITH THE PURCHASE AND UPGRADE OF 800 MHZ RADIOS. RESOLUTION NO. R2009-083.**

**7.15 Finance – Authorize the Mayor to execute a contract with Cherry, Bekaert and Holland to audit accounts for Fiscal Year 2009-2010.**

This contract allowed Cherry, Bekaert and Holland staff to work with City staff to ensure a smooth transition as City staff assumed the responsibility to prepare the comprehensive annual financial report.

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

**7.17 Inspections – Adoption of ordinance authorizing demolition of condemned property at 157 Cooper Street.**

**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. NS2009-020.**

**7.18 Planning – Rezoning Case No. P09-44F, Frances M. Geddie, property owner, proposing the rezone of 3.96 acres at 1656 Skibo Road from R10 to C1P.**

**7.19 Police – Purchase of 800 MHZ (Digital) radios for “Public Safety” and other City departments.**

The Police Department exceeded the end of support date for existing Motorola analog radios for which parts to repair these radios were nearly impossible to locate. It was imperative to replace the analog radios with digital capable radios to be used on Motorola existing and future platforms. They provided a migration path for either digital upgrade on a Fayetteville System or to the State Viper System.

**7.20 PWC – Bid Recommendation – One cab and chassis with service body and air compressor.**

The Public Works Commission, during their meeting of December 9, 2009, approved award of bid for purchase of one 33,000 GVWR cab and chassis with service body and air compressor (with the option to purchase additional units within a one-year period) to Cooper Kenworth, Raleigh, NC, the lowest responsible bidder, in the total amount of \$98,703.00 and forward to City Council for approval. This was a budgeted item (budgeted amount of \$105,000.00 to replace Unit #371).

Bids were received November 11, 2009, as follows:

Cooper Kenworth (Raleigh, NC).....	\$98,703.00
*Smith International (Fayetteville, NC).....	\$90,867.86

\* Smith International submitted a letter stating they would not be able to honor their price due to their inability to obtain a pre-emission engine.

**7.21 PWC– Bid Recommendation – Purchase of structures and equipment for Arran Park and Crystal Springs 69 to 15 x 25kV substations.**

The Public Works Commission, during their meeting of December 9, 2009, approved bid recommendation to award bid for purchase of structures and equipment for Arran Park and Crystal Springs 69 to 15 x 25Kv substations to Stuart C. Irby, Denver, CO, the lowest responsible bidder, in the total amount of \$424,290.54 and forwarded to City Council for approval. This was a budgeted item (Arran Park – FY 2010 CIP Budget in the amount of \$270,000.00; Crystal Springs FY 2011 CIP budget in the amount of \$270,000.00).

Bids were received December 1, 2009, as follows:

	Price Per Substation	Total Cost
Stuart C. Irby (Denver, CO).....	\$212,145.27.....	\$424,290.54
Substation Enterprises (Alabaster, AL).....	\$224,950.00.....	\$449,900.00
Associated Substation Engineering..... (Bremen, GA)	\$227,000.00.....	\$454,000.00
Peak Substation Services (Birmingham, AL).....	\$238,560.00.....	\$477,120.00
Tatman Associates (Solon, OH).....	\$273,970.00.....	\$547,940.00

**7.22 PWC – Fiber Use Agreement with DukeNet Communications, LLC.**

The Public Works Commission, during their meeting of December 9, 2009, approved the Fiber Use Agreement between DukeNet Communications, LLC, and Public Works Commission to provide dark fibers (a total of 45.7 miles identified as the “North Ring” ) to DukeNet Communications, LLC, for a monthly fee of \$7,966.00 (\$95,592.00 annually) and forwarded to City Council for approval. The Fiber Use Agreement was for a ten-year period, with options for renewal with DukeNet Communications, LLC.

**7.23 PWC – Amendment #1 to the Phase V Annexation Funding Agreement.**

The Public Works Commission, during their meeting of December 9, 2009, approved Amendment #1 to the Agreement between the City and Public Works Commission establishing a formal agreement to fund the construction of water and sanitary sewer systems in the annexed area referred to as Phase V and forwarded to City Council for approval. Amendment #1 amended the original agreement adopted by the Public Works Commission on May 7, 2008, and the Fayetteville City Council on May 12, 2008, to allow the GO refund savings (\$14,800.00 City’s share) to go to the City’s General Fund instead of the Annexation Phase V Reserve Fund as requested by the City.

**7.16 Finance – Resolution assigning ARRA recovery zone economic development bond capacity and seeking additional bond allocation for a parking facility.**

Council Member Mohn pulled this item for discussion. Mr. Dale Iman, City Manager, provided a summary of the necessity of this resolution.

Council Member Mohn requested clarification that the resolution would be a request for funds, not an allocation of tax dollars at this time. Mr. Iman responded in the affirmation.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA RELATING TO RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.  
RESOLUTION NO. R2009-085.**

**MOTION:** Council Member Crisp moved to approve.

**SECOND:** Council Member Bates

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

**8.0 PUBLIC HEARINGS**

**8.1 Rezoning Case No. P09-32F: Steve Paris, applicant, requesting the rezoning of six parcels on Link and School Streets containing 31,864 square feet from R5 to C3 for Kentucky Fried Chicken.**

Mr. Craig Harmon, Planner II, presented this item and 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 existing restaurant would be demolished to build a new facility. He stated the Zoning Commission and Planning staff recommended approval. He informed Council a valid protest petition had been filed on Wednesday, December 10, 2009; therefore, a minimum vote of 8 to 2 would be required to pass the rezoning instead of the normal 6-4 vote.

Council Member Crisp questioned the applicant's intent regarding the replacement of an existing storage facility and if it remained on the site would there be adequate buffering. Mr. Harmon stated the applicant intended to keep the existing storage unit. He stated currently no buffering or fencing existed; however, if the parcels were rezoned fencing would be required.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:42 p.m.

Mr. Nick Potter, Paris and Potter Group, 430 Ramsey Street, Fayetteville, NC 28302, appeared in favor and stated the subject property was the final store which was being remodeled to bring up to the new KFC imagining, which was required per the franchise agreement.

Mr. Steve Paris, Paris and Potter Group, 430 Ramsey Street, Fayetteville, NC 28302, appeared in favor.

Council Member Haire inquired whether the employees would be relocated to other facilities during the rebuilding process. Mr. Paris replied in the affirmative.

Council Member Crisp inquired whether there were future plans to renovate or replace the existing storage facility. Mr. Paris stated there were no immediate plans.

There being no one further to speak, the public hearing closed at 7:46 p.m.

**MOTION:** Council Member Davy moved to approve the requested rezoning.

**SECOND:** Council Member Bates

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

**8.2 Planning - Appeal of Zoning Commission denial of rezone Case No. P09-38F: Kazi-Jasiba Burns, applicant, requesting the rezoning from R10 Residential District to C1 Commercial District or to a more restrictive zoning classification for property located at 7376 Stoney Point Road containing 8.77 acres.**

Mr. Craig Harmon, Planner II, presented this item and 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 denial based on: (1) the property being surrounded mostly by low-density residential, with the exception of a nonconforming commercial property across the road and (2) the 2010 Land Use Plan calling for low-density residential. He stated rezoning almost 9 acres to a general commercial district in this more rural part of the City would completely change the character of the neighborhood and should only occur if found consistent with an amendment to the 2010 Land Use Plan.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:53 p.m.

Mrs. Debbie Liebers, 3439 Dundle Road, Fayetteville, NC 28306, appeared in opposition. She stated the approval of this rezoning would affect the family character of her neighborhood and presented a neighborhood petition.

Mr. David Saffle inadvertently signed up to speak at the public forum and requested to address Council regarding this matter, which Council consented to. Mr. David Saffle, 7376 Stoney Point Road, Fayetteville, NC 28306, appeared in favor. He stated the intent of the request was not meant to have an adverse affect on the community but to compliment the area.

There being no one further to speak, the public hearing closed at 8:03 p.m.

**MOTION: Council Member Crisp moved to deny the requested rezoning.**

**SECOND: Council Member Bates**

Council Member Mohn inquired whether prospective developers could be encouraged to come to the Zoning Commission and Council with a proposed site plan, similar to Conditional Use Zoning as part of the City's Unified District Ordinance (UDO).

Mr. Rob Anderson, Development Services Director, responded that under the UDO there would be several options regarding a project of this type. He summarized the Planned Unit Development option.

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

**8.3 Planning - Special Use Permit Case No. P09-39F: L.J. Bruton Living Trust, owner, to allow the location of a Wireless Telecommunications Tower on the property located at 2610 Dundle Road containing 0.584 acres.**

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, 2010 Land Use Plan and proposed site plan. He stated the Zoning Commission, Appearance Commission, and Planning staff recommended approval with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:10 p.m. All speakers were sworn in.

Mr. Tom Johnson, 201 Shannon Oaks Circle, Suite 100, Cary, NC 27511, appeared in favor and provided statistics regarding cell usage to illustrate the necessity of the tower.

Mr. Joe Riddle, 125 Great Oaks, Fayetteville, NC 28303, appeared in opposition. He stated he represented the new developed section of Gates IV, which was annexed into Fayetteville. He stated the proposed 200 foot tower was directly adjacent to the residents.

Mr. Alan Tucker, 2637 Old Colony Place, Fayetteville, NC 28303, appeared in opposition. He stated the eruption of this tower would conflict with the residential enjoyment of the existing neighborhood.

There being no one further to speak, the public hearing closed at 8:20 p.m.

Council Member Crisp inquired as to the extent of the proposed development of Gates IV and questioned the distance from the subject property to Camberly Drive. Mr. Riddle responded the proposed development would encompass the subject property and Mr. Harmon estimated the distance would be approximately 300 feet.

Council Member Meredith questioned the cost of the lots which Mr. Riddle provided.

Council Member Applewhite inquired whether alternative locations had been researched. Mr. Johnson responded in the affirmative.

Mayor Chavonne requested confirmation of a current agreement with a provider. Mr. Johnson responded in the affirmative with AT&T.

Council Member Haire presented the possibility of partnering with an existing tower. Mr. Johnson stated that option was reviewed; however, the existing towers had not met AT&T needs.

Council Member Meredith inquired whether the applicant/associates directly contacted Mr. Riddle and/or any property owners. Mr. Johnson replied in the negative.

**MOTION:** Council Member Crisp moved to approve the Special Use Permit with conditions.

**SECOND:** Council Member Bates

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

**8.4 Planning - Special Use Permit Case No. P09-40F: Janice M. Smith, applicant, to allow a child daycare center on a 2.2 acre parcel located on Rosehill Road.**

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, 2010 Land Use Plan and proposed site plan. He stated the Zoning Commission and Planning staff recommended approval with conditions. He stated the applicant had an active Special Use Permit for a childcare center on this property and this permit would allow the applicant to increase the number of children and employees at the proposed facility.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:32 p.m.

After being sworn in, Janice M. and Jocelyn D. Smith, 1019 Landau Road, Fayetteville, NC 28311, and Tabitha Patterson, 2131 Quailridge Road, Fayetteville, NC 28304, appeared in favor of the Special Use Permit.

There being no one further to speak, the public hearing closed at 8:40 p.m.

Council Member Applewhite requested clarification on how the facility would accommodate the request to increase the number of student enrollment from 80 to 100 and the various additional uses listed (school within a school for third graders, youth, young adults and seniors programs, battered women, etc.). Mrs. Janice Smith, applicant, explained the 80 to 100 children would be distributed between two shifts and stated during the Zoning Commission meeting, it was agreed that this facility would only house ages zero to Kindergarten; therefore, no community services would be provided.

**MOTION:** Council Member Massey moved to approve the Special Use Permit with conditions.

**SECOND:** Mayor Pro Tem Haire

**VOTE:** PASSED by a vote of 8 in favor to 2 in opposition (Council Members Applewhite and Meredith)

**8.5 Planning - Appeal of Zoning Commission denial of rezone Case No. P09-42F: Karen J. Ehle-Johnson, applicant, rezoning from R6 Residential District to R6/MH(O) (manufactured housing) Residential District for property located at 1480 Bingham Drive containing 1.24 acres.**

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, 2010 Land Use Plan. He stated the Zoning Commission and Planning staff recommended denial based on the proposed rezoning being inconsistent with the 2010 Land Use Plan which called for medium-density residential for the property, but not manufactured housing, and that manufactured housing would not be in keeping with the revitalization efforts on Bingham Drive.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:48 p.m.

Mrs. Lori Epler, Larry King & Associates, 1333 Morganton Road; Fayetteville, NC 28305, appeared in favor. She provided a timeline of events regarding this property.

Mr. Richard Johnson, 1480 Bingham Drive; Fayetteville, NC 28304, appeared in favor. He provided a summary of his ownership of the subject property.

Mr. Bobby Bell, 1412 Delmar Drive, Fayetteville, NC 28304, appeared in opposition.

There being no one further to speak, the public hearing closed at 9:03 p.m.

Council Member Meredith inquired whether there was one common septic system and requested confirmation that the applicant had the opportunity to tap into the sewer system for the past six (6) months. Mr. Johnson replied in the affirmative to both questions.



Council Member Applewhite referred to a slide depicting a large amount of items surrounding a trailer and questioned its relation to the applicant's beautification efforts. Mr. Johnson stated it was a storage trailer and had been at the location for approximately 15 years. He stated he planned to eliminate the trailer.

**MOTION: Council Member Meredith moved to deny the rezoning.**

**SECOND: Council Member Bates**

**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Crisp and Massey)**

**8.6 Planning - Special Use Permit Case No. P09-43F: James Smith, applicant, to allow a Mini-Warehouse Facility in a C1P Commercial Shopping Center District for property located at 1653 Cedar Creek Road containing 2.23 acres.**

Mr. Craig Harmon, Planner II, presented this item and showed a vicinity map and gave an overview of the current land use, current zoning, surrounding land use and zoning, 2010 Land Use Plan. He stated the Zoning Commission and Planning staff recommended approval with conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:05 p.m.

Mr. Branch Smith, 1104 W. Broad Street, Elizabethtown, NC 28337, appeared in favor and reviewed the proposed site plan.

There being no one further to speak, the public hearing closed at 9:09 p.m.

Council Member Bates questioned whether the applicant must adhere to the new guidelines. Mr. Harmon replied in the affirmative.

Council Member Crisp inquired whether the abandoned commercial establishment would be going. Mr. Harmon replied in the affirmative.

**MOTION: Council Member Davy moved to approve the Special Use Permit with conditions.**

**SECOND: Council Member Hurst**

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

## **9.0 OTHER ITEMS OF BUSINESS**

### **9.1 City Manager's Office – Reconsideration of Zoning Case No. P09-27F.**

Mr. Kristoff T. Bauer, Assistant City Manager, presented this item.

**MOTION: Council Member Haire moved to allow the applicant to apply for a Conditional Use Permit.**

**SECOND: Council Member Crisp**

Council Member Mohn clarified that the motion would permit the applicant to reapply within a one-year period.

Mayor Pro Tem Haire requested input on how the citizens' concerns regarding access to the community would be addressed with a Conditional Use Permit. Mr. Harmon explained the applicant could agree to restrict themselves in matters pertaining to use, access, not to use access in Cottonade or certain roads in Cottonade.

Council Member Haire questioned whether Council would have the option to deny the Conditional Use Permit should conditions not meet with the satisfaction of Council. Mr. Harmon responded in the affirmative.

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

### **9.2 PWC – Annexation Policy 150.2 Update.**

Mr. Kristoff Bauer, Assistant City Manager, presented this item. He stated the current draft policy not only referred to an outdated map, it also contained requirements that were inconsistent with the Municipal Influence Area (MIA) Agreement and referred to annexation agreements which had been ineffective. He stated the MIA agreement specifically prohibited the City from directing PWC to require annexation in exchange for sewer service in the "Sewer Service Area". He stated it was silent regarding water service. He stated it also contemplated that every application for service would be reviewed by Council to "determine whether an

annexation petition or annexation agreement is warranted”. He stated this had not been done and would represent a significant increase in agenda items for the Council. He stated the proposed revision would require a petition for voluntary annexation prior to any new water or sewer connection for all property within the MIA. He stated existing single-family homes not close to current City boundaries would be exempt and would result in more voluntary petitions, which would require Council action. He stated this effort, however, would diminish the properties that may be impacted by future proposed involuntary annexation.

A question and answer period ensued.

- MOTION:** Council Member Bates moved to adopt the policy update.
- SECOND:** Council Member Massey
- VOTE:** PASSED by a vote of 8 in favor to 2 in opposition (Council Members Meredith and Crisp)

**10.0 ADMINISTRATIVE REPORTS**

**10.1 City Clerk - Monthly statement of taxes collected for November 2009from the Cumberland County Tax Administrator.**

2009 Taxes.....	\$21,519,815.94
2009 Vehicle Taxes.....	397,069.56
2009 Revit.....	8,319.29
2009 Vehicle Revit.....	404.33
2009 FVT.....	46,272.78
2009 Transit Tax.....	46,262.73
2009 Storm Water.....	446,956.68
2009 Fay Storm Water.....	893,913.54
2009 Recycle Fee.....	1,223,144.46
2008 Annex.....	99.53
2008 Taxes.....	11,407.09
2008 Vehicle Taxes.....	64,313.55
2008 Revit.....	0.00
2008 Vehicle Revit.....	40.28
2008 FVT.....	8,799.77
2008 Transit Tax.....	8,199.55
2008 Storm Water.....	1,189.25
2008 Recycle.....	504.44
2008 Fay Storm Water.....	1,018.12
2008 Annex.....	7.14
2007 Taxes.....	1,002.01
2007 Vehicle Taxes.....	3,207.86
2007 Revit.....	0.00
2007 Vehicle Revit.....	17.42
2007 FVT.....	655.42
2007 Storm Water.....	180.00
2007 Fay Storm Water.....	0.00
2007 Annex.....	0.00
2006 Taxes.....	504.38
2006 Vehicle Taxes.....	959.04
2006 Revit.....	0.00
2006 Vehicle Revit.....	0.00
2006 FVT.....	210.46
2006 Storm Water.....	62.08
2006 Annex.....	1,782.03
2005 and Prior Taxes.....	789.87
2005 and Prior Vehicle Taxes.....	1,851.23

2005 and Prior Revit.....	0.00
2005 and Prior Vehicle Revit.....	0.00
2005 and Prior FVT.....	439.39
2005 and Prior Storm Water.....	84.00
Interest.....	13,275.77
Interest (Revit).....	6.92
Interest (Storm Water).....	179.03
Interest (Fay Storm Water).....	88.83
Interest (Annex).....	257.97
Interest (Fay Recycling).....	34.04
Total Collections.....	\$24,704,325.18

**10.0     ADJOURNMENT**

There being no further business, the meeting adjourned at 9:30 p.m.