

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
CITY HALL COUNCIL CHAMBER  
NOVEMBER 22, 2010  
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); 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

Doug Hewett, Assistant City Manager

Kristoff Bauer, Assistant City Manager

Karen M. McDonald, City Attorney

Rob Anderson, Chief Development Officer

Michelle Thompson, Cherry, Bekaert & Holland, L.L.P.

Lisa Smith, Chief Financial Officer

Doug Peters, Executive Director, Fayetteville-Cumberland County Chamber of Commerce

Rebecca Rogers Carter, Management Services Manager

Rita Perry, City Clerk

Members of the Press

#### **1.0 CALL TO ORDER**

Mayor Chavonne called the meeting to order.

#### **2.0 INVOCATION**

The invocation was offered by Ms. Baylor Hicks who is pursuing her ordination in the Triratna Buddhist Order.

#### **3.0 PLEDGE OF ALLEGIANCE**

Following the invocation, the Pledge of Allegiance to the American Flag was led by the audience.

#### **4.0 APPROVAL OF AGENDA**

**MOTION:** Council Member Hurst moved to approve the agenda with the deferral of Item 8.3 to the December 13, 2010, meeting.

**SECOND:** Council Member Meredith

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

#### **5.0 ANNOUNCEMENTS AND RECOGNITIONS**

Colonel Stephen J. Sicinski, US Army, Garrison Commander was presented the 100 Best Communities for Young People Award.

Ms. Cheryl Underwood, Zeta Phi Beta Sorority International President, informed Council that the sorority shared Thanksgiving with the military and adopted a local family for a year.

Mayor Chavonne reviewed the District 9 vacancy selection process and informed the audience that the candidates would be addressing Council at the December 13, 2010, meeting.

#### **6.0 CONSENT**

**MOTION:** Council Member Meredith moved to approve the consent agenda.

**SECOND:** Council Member Bates

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

**6.1** Adopt a resolution pursuant to N.C.G.S. § 160A-58.2 setting December 13, 2010, as the date for a public hearing for a petition-initiated noncontiguous annexation area (Fullblock, Inc. - Located at 135 Airport Road).

**A RESOLUTION FIXING A DATE FOR A PUBLIC HEARING FOR A PETITION-INITIATED NONCONTIGUOUS ANNEXATION AREA PURSUANT TO N.C.G.S. 160A-58.2**

**(FULLBLOCK, INC. – LOCATED AT 135 AIRPORT ROAD). RESOLUTION NO. R2010-084.**

**6.2 Adopt a resolution pursuant to N.C.G.S. 160A-58.2 setting December 13, 2010, as the date for a public hearing for a petition-initiated noncontiguous annexation area (Atlantic Multifamily, LLC, Astoria Apartments - Located on Black and Decker Road).**

**A RESOLUTION FIXING A DATE FOR A PUBLIC HEARING FOR A PETITION-INITIATED NONCONTIGUOUS ANNEXATION AREA PURSUANT TO N.C.G.S. 160A-58.2 (ATLANTIC MULTIFAMILY, LLC – LOCATED ON BLACK AND DECKER ROAD, EAST OF LEGION ROAD). RESOLUTION NO. R2010-085.**

**6.3 Capital Project Ordinance Closeouts 2011-1 through 2011-6 (Transportation Museum, Drainage Improvement and Infrastructure Projects) and Special Revenue Fund Project Ordinance Closeouts 2011-1 through 2011-2 (Assistance to Firefighters Grants).**

**6.4 Capital Project Ordinance 2011-8 (Military Business Park Grant for Infrastructure).**

**6.5 Capital Project Ordinance Amendment 2011-13 and Budget Ordinance Amendment 2011-5 (Public Safety Computer-Aided Dispatch and Records Management Systems Project).**

**6.6 Consider approval of Capital Project Ordinance Amendment 2011-12, contracts and agreements necessary to fund the construction of Fire Station #19.**

**6.7 Approve purchase of equipment, software, and professional services to upgrade the Police Department's E-911 communications system.**

CenturyLink, Rocky Mount, NC, is the only authorized reseller of the Positron LifeLine Power 911 System for the City of Fayetteville area. CenturyLink was authorized by the manufacturer to upgrade, install, and maintain the system. The cost of the upgrade including all hardware, software, shipping costs, labor, and project management was \$272,331.60. The source of funding for the upgrade was E-911 funds and was included in the Police Department's FY 2011 CIP budget.

**6.8 Bid award recommendation - one (1) 70,000 GVWR cab and chassis with dump body.**

Formal bids were received November 3, 2010, as follows:

Tri-PointTruck Center (Raleigh, NC)..... \$142,260.00

Cooper Kenworth (Raleigh, NC)..... \$159,788.00

\*Peterbilt Truck Center (Dunn, NC)..... \$133,334.00

\*The bid received from Peterbilt Truck Center, Dunn, NC, contained several exceptions to the specifications which were not acceptable.

This unit replaced Unit #97/327 and was included in the FY 2011 budget. The budgeted amount was \$165,000.00.

**6.9 Bid recommendation - ferric sulfate liquid.**

The Public Works Commission approved the bid award for purchase of approximately 6,000 tons of ferric sulfate liquid to Kemira Water Solutions, Lawrence, KS, low bidder in the amount of \$1,298,580.00, over a one-year period, with option to extend contract for additional periods.

Bids were solicited from 20 bidders with 1 bidder responding. Bids were received September 30, 2010, as follows:

Kemira Water Solutions (Lawrence, KS)..... \$1,298,580.00

**7.0 PUBLIC HEARING**

**7.1 Case No. P10-35F. Special Use Permit to allow a nursing home in an R6 Residential District on property located at 400 Pelt Drive containing 5.43 acres. Emraq Investments, owner.**

All speakers and staff were administered the oath.

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, 2010 Land Use Plan, 2030 Growth Plan and site plan. He stated the request was for the expansion of an existing nursing home to create more private rooms and the bed count and number of clients and staff would remain the same. He stated the Zoning Commission and staff recommended approval of the requested Special Use Permit based on the submitted site plan and that the use fit in with the character of the area in which such use will be located and that the use will not be

detrimental the surrounding neighborhood.

This was the advertised public hearing set for this date and time. The public hearing opened at 7:25 p.m.

Mr. Bill Daniels, 1160 S.E. Maynard Road, Cary, NC, appeared in favor and provided a summary of the request.

There were no speakers in opposition.

There being no one further to speak, the public hearing closed at 7:26 p.m.

**MOTION: Mayor Pro Tem Haire moved to approve the Special Use Permit to allow a nursing home in an R6 Residential**

**District on property located at 400 Pelt Drive containing 5.43 acres with conditions.**

**SECOND: Council Member Meredith**

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

**7.2 Case No. P10-38F. Special Use Permit to allow the location of a wireless telecommunications tower on property located at 1769 Bingham Drive containing 0.23 acres. Calvary Freewill Baptist Church, owner.**

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. Mr. Harmon stated the Zoning Commission and staff recommended approval with the following conditions:

- (1) Comply with the site plan;
- (2) Written agreement confirmation of one or more providers to use the tower once built (prior to the issuance of a building permit);
- (3) Special Use Permit becomes null and void if a building permit was not issued after two years from the date of the request approval; and
- (4) Comply with all communication tower requirements as stated in the City Code [30-107(17)].

Mr. Harmon stated the Zoning Commission and staff recommended approval with additional conditions noted above, based upon the finding that the request fits with the character of the area in which it would be located and that it would not be detrimental to the surrounding neighborhood based upon the submitted site plan and documentation and recommended conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:30 p.m.

Mr. Tom Johnson, 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612, appeared in favor and stated the tower was a necessity to accommodate growth. He reviewed the site plan and type of pole to be used.

Mr. Johnny Pike, 1775 Bingham Drive, Fayetteville, NC, appeared in favor and stated the congregation's concerns relating to the future of the church were addressed.

Mr. Samar Qubain, 7357 Circle Bank Drive, Raleigh, NC 27615, appeared in favor and explained the maps and radio frequencies.

Mr. Graham Herring, 8052 Grey Oak Drive, Raleigh, NC, appeared in favor and presented the financial impact study results which showed no adverse affect on surrounding properties.

Mr. William Garrett, 400 Regency Forest; Suite 300, Cary, NC 27518, appeared in favor and provided a structural overview of the proposed tower.

There were no speakers in opposition.

There being no one further to speak, the public hearing closed at 7:50 p.m.

A question and answer period ensued regarding the affect on other carriers, tower structure, and range. Mr. Qubain clarified that the request would not affect other carriers. Mr. Garrett explained the request was for the use of a 150-foot monopole and stated the higher the pole the better to allow for multi-users without interference.

**MOTION: Council Member Applewhite moved to approve the Special Use Permit to allow the location of a wireless**

**telecommunications tower on property located at 1769 Bingham Drive**

**containing 0.23 acres with conditions.**

**SECOND: Council Member Hurst**

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

**7.3 Case No. P10-39F. Special Use Permit to allow the location of a wireless telecommunications tower on property located at 733 Bargain Street containing 0.278 acres. Richard Angel, owner.**

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. Mr. Harmon presented the following conditions for approval:

- (1) Comply with the site plan;
- (2) Written agreement confirmation of one or more providers to use the tower once built (prior to the issuance of a building permit);
- (3) Special Use Permit becomes null and void if a building permit was not issued after two years from the date of the request approval; and
- (4) Comply with all communication tower requirements as stated in the City Code [30-107(17)].

Mr. Harmon stated the Zoning Commission and staff recommended approval based upon the finding that the request fit with the character of the area in which it would be located and that it would not be detrimental to the surrounding neighborhood based upon the submitted site plan and documentation and recommended conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:02 p.m.

Mr. Tom Johnson, 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612, appeared in favor and reviewed the request and site plan.

Mr. Samar Qubain, 7357 Circle Bank Drive, Raleigh, NC 27615, appeared in favor and reviewed the coverage maps.

Mr. Graham Herring, 8052 Grey Oak Drive, Raleigh, NC, appeared in favor and presented the financial impact study results which showed no adverse affect on surrounding properties.

Mr. William Garrett, 400 Regency Forest, Suite 300, Cary, NC 27518, appeared in favor and reviewed the setback differences.

There were no speakers in opposition.

There being no one further to speak, the public hearing closed at 8:07 p.m.

A question and answer period ensued regarding the impact statement, communication with adjacent property owners, and requiring the use of internal antennas. Mr. Herring stated adjacent property owners were provided written notification.

**MOTION: Council Member Meredith moved to approve the Special Use Permit to allow the location of a wireless**

**telecommunications tower on property located at 733 Bargain Street containing 0.278 acres with conditions**

**and an additional requirement for a 150-foot (slick) unipole.**

**SECOND: Council Member Bates**

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

**7.4 Case No. P10-37F. Rezoning 0.29 acres at 6021 Fisher Road from R10 Residential District to P2 Professional District or a more restrictive district. Milo Investments LLC, owner.**

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. Mr. Harmon stated the purpose for the rezoning request was to create a professional district at the entrance of several new subdivisions. He stated that while there were two properties to the east zoned professional, they do not fit the character of the rest of the neighborhood. He stated these were zoned professional while still in the County's jurisdiction.

Mr. Harmon stated the Zoning Commission recommended approval by a vote of 3 to 2 based on the findings that the use: (1) would fit in with the character of the area in which such use was to

be located, (2) would not be detrimental to the surrounding neighborhood, and (3) would be in keeping with the approved long-range plans of the City. He stated staff recommended denial of the rezoning to P2 Professional District based on: (1) the 2010 Land Use Plan called for low-density residential, (2) the property currently having R10 Residential zoning on three sides, and (3) the 2030 Growth Vision Plan cautioned against rezoning residential properties solely because they adjoin a major street.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:31 p.m.

Mr. Tim Evans, 2256 Cypress Lakes, Fayetteville, NC, appeared in favor and reviewed the rezoning history of the property and surrounding properties. He explained that the property would be used as a model home and the developer wished to use the property as an office.

Ms. Annie Famulari, 2238 Baywater Drive, Fayetteville, NC, appeared in opposition and questioned the necessity for commercial zoning for a model home.

There being no one further to speak, the public hearing closed at 8:50 p.m.

Mr. Harmon responded to questions posed by Council regarding permitted uses.

**MOTION: Council Member Applewhite moved to deny rezoning of 0.29 acres at 6021 Fisher Road from R10 Residential District to P2 Professional District or a more restrictive district.**

**SECOND: Council Member Bates**

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

**7.5 Consideration of the Unified Development Ordinance November 2010 Council Draft, which would amend the City Code by replacing Chapters 25, Subdivision, and 30, Zoning, with a new Chapter 30, Unified Development Ordinance (UDO).**

Mr. Rob Anderson, Chief Development Officer, presented this item and provided the history of the UDO. Mr. Anderson provided an overview of the meetings schedule and reviewed additional revisions to the UDO.

Mayor Chavonne questioned the procedure for future revisions and whether a public hearing was required. Mr. Anderson stated future amendments to the ordinance would be processed administratively. Ms. Karen McDonald, City Attorney, responded in the affirmative regarding the public hearing requirement.

A discussion period ensued regarding certification of occupancy as it related to sidewalk bond requirements. Mr. Anderson stated homes would not be deemed as certified as completed until the sidewalks were installed and the bond money would be utilized to complete unfinished sidewalks should they not be completed within a two-year period. Mr. Kristoff Bauer, Assistant City Manager, further stated the sidewalks were part of the infrastructure and the bond would protect that infrastructure.

This is the advertised public hearing set for this date and time. The public hearing opened at 9:31 p.m. The following speakers appeared:

NAME/ADDRESS	COMMENT SUMMARY
Gore Rose 104 Gillespie Street Fayetteville, NC	Stated the Chamber agreed with the need for the UDO, that the UDO must not unreasonably inhibit the growth of development and that the UDO would increase the cost of developing.
Malcolm McFayden 1007 Canopy Lane Fayetteville, NC	Commented on the administrative manual, connectivity, lighting, and parks and recreation fees.
Robert J. Avriett, Jr. 1605 Surrey Road Fayetteville, NC	Commented on fees in lieu of parkland dedication, credit for recreation assistance and developers providing amenities.
Ralph Huff 1127 Offshore Drive Fayetteville, NC	Commented on garages and bond cost.

Chuck Gore 174 Bittersweet Drive Fayetteville, NC	Commented on garages and provided pictures of existing homes which would be in compliance with the UDO.
Floyd Jenkins 1000 Ruthburn Court Fayetteville, NC	Commented on garages requirements.
Maurine Wren 126 Southampton Court Fayetteville, NC	Commented on sidewalk requirements and maintenance.
Jimmy Kizer 114 Woodcrest Road Fayetteville, NC	Suggested a review and compromise to implementing the UDO.
Don Parsons 1265 NC Hwy 87 South Fayetteville, NC	Stated the degree of compromise had been tremendous.
Vendy Michener 123 Hillside Avenue Fayetteville, NC	Thanked the City for sidewalks and stated Haymount Hills had no crosswalks.
John Pate 162 McKimmon Road Fayetteville, NC	Commented regarding the RV storage requirements.
Karl Legatski 122 Magnolia Avenue Fayetteville, NC	Spoke in favor of the UDO.
Mindy Love-Stanley Lakewell	Spoke in favor of the UDO.

There being no one further to speak, the public hearing closed at 10:12 p.m.  
 Mayor Chavonne clarified that this item would be discussed at the December 6, 2010, City Council work session; thereafter, action would be taken at the December 13, 2010, City Council regular meeting.

**8.0 OTHER ITEMS OF BUSINESS**

**8.1 Presentation of the Audited FY 2009-2010 Comprehensive Annual Financial Report.**

Ms. Michelle Thompson, Cherry, Bekaert & Holland, L.L.P., provided an overview of the FY 2009-2010 financial audit’s operating results, revenues and other financing sources, expenditures and other financing uses and fund balance.  
 A brief discussion ensued regarding the fund balance.

**MOTION: Council Member Meredith moved to accept the Audited FY 2009-2010 Comprehensive Annual Financial Report.**

**SECOND: Council Member Bates**

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

**8.2(a) FY 2011 Strategic Plan Policy and Management Action Agenda 1st Quarter Update.**

Ms. Rebecca Rogers-Carter, Management Services Manager, outlined the three main areas of the City’s Strategic Plan and reviewed the Strategic Plan third quarter report to include the status of Top and High Policy Agenda targets for action and the status of Top and High Management Agenda targets for action.

**MOTION: Mayor Pro Tem Haire moved to accept the update of the FY 2011 Strategic Plan Policy and Management Action Agenda 1st Quarter Update.**

**SECOND: Council Member Meredith**

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

**8.2(b) Fayetteville-Cumberland County Chamber of Commerce Quarterly Economic Development Report.**

Mr. Doug Peters, Executive Director of the Fayetteville-Cumberland County Chamber of Commerce, reviewed the First Quarter Dashboard Report, Fiscal Year 2010-2011, which provided information regarding investments, job creations, retention visits, contacts, national marketing placements, employee compensation impacts, business tax (tax revenue), and properties market statistic reports.

Council Member Applewhite requested the wages for the upcoming jobs referenced in the report. Mr. Peters stated he would provide a complete breakdown of the wages.

**MOTION: Council Member Meredith moved to accept the update of the Fayetteville-Cumberland County Chamber of Commerce Quarterly Economic Development Report.**

**SECOND: Mayor Pro Tem Haire**

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

**8.3 Uninhabitable structures demolition recommendations for 1031 Bunce Road, 725 Bunce Road, 6768 Bailey Lake Road.**

This item was deferred to the December 13, 2010, City Council meeting.

**9.0 ADMINISTRATIVE REPORTS**

**9.1 Monthly statement of taxes for October 2010 from the Cumberland County Tax Administrator.**

2010 Taxes.....	\$1,755,755.00
2010 Vehicle Taxes.....	310,078.46
2010 Revit.....	4,380.16
2010 Vehicle Revit.....	258.38
2010 FVT.....	39,927.43
2010 Transit Tax.....	39,927.43
2010 Storm Water.....	136,602.85
2010 Fay Storm Water.....	273,205.84
2010 Recycle Fee.....	84,719.88
2010 Annex.....	0.00
2009 Taxes.....	\$23,372.87
2009 Vehicle Taxes.....	59,834.57
2009 Revit.....	0.42
2009 Vehicle Revit.....	24.66
2009 FVT.....	9,173.72
2009 Transit Tax.....	9,173.71
2009 Storm Water.....	533.56
2009 Fay Storm Water.....	1,067.10
2009 Recycle Fee.....	1,233.58
2009 Annex.....	11.21
2008 Taxes.....	1,269.31
2008 Vehicle .....	3,155.54
2008 Revit.....	3.33
2008 Vehicle Revit.....	0.00
2008 FVT.....	649.63
2008 Transit Tax.....	514.62
2008 Storm Water.....	214.39
2008 Fay Storm Water.....	48.35
2008 Recycle.....	84.61
2008 Annex.....	7.20
2007 Taxes.....	451.95
2007 Vehicle .....	1,441.10
2007 Revit.....	0.00

2007 Vehicle Revit.....	0.00
2007 FVT.....	333.87
2007 Storm Water.....	33.51
2007 Fay Storm Water.....	33.92
2007 Annex.....	0.00
2006 and Prior Taxes.....	679.77
2006 and Prior Vehicle.....	2,780.31
2006 and Prior Revit.....	0.00
2006 and Prior Vehicle Revit.....	0.00
2006 and Prior FVT.....	624.35
2006 and Prior Storm Water.....	50.28
2006 Annex.....	13.50
Interest.....	13,839.09
Revit Interest.....	3.60
Storm Water Interest.....	120.20
Fay Storm Water Interest.....	108.12
Annex Interest.....	7.04
Fay Recycle Interest.....	121.33
Total Tax and Interest.....	\$2,775,874.75

**10.0 ADJOURNMENT**

There being no further business, the meeting adjourned.