

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JUNE 28, 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) (arrived at 7:32 p.m.); 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
Karen M. McDonald, City Attorney
Janet Smith, Assistant City Attorney
Craig Harmon, Planner II
Jeffery Brown, Engineering & Infrastructure Director
Lisa Smith, Chief Financial Officer
Jackie Tuckey, Public Information Officer
Rita Perry, City Clerk
Members of the Press

• **CALL TO ORDER**

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

• **INVOCATION**

The invocation was offered by Council Member Meredith.

3.0 PLEDGE OF ALLEGIANCE

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

• **APPROVAL OF AGENDA**

MOTION: Council Member Crisp moved to approve the agenda with the addition of Item 7.3, closed session to discuss a personnel matter.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (9-0)

• **CONSENT**

MOTION: Council Member Applewhite moved to approve the consent agenda with the exception of Item 5.4.

SECOND: Council Member Bates

VOTE: UNANIMOUS (9-0)

• **Approve Minutes:**

- May 3, 2010 – Work Session Meeting
- May 10, 2010 – Regular Meeting
- May 24, 2010 – Dinner and Discussion Meeting
- May 24, 2010 – Regular Meeting
- June 1, 2010 - Council/Planning Commission Special Joint Meeting
- June 7, 2010 – Regular Meeting
- June 14, 2010 – Dinner and Discussion Meeting

5.2 Authorization to acquire the lot at 108 Deep Creek Road for the construction of a community entrance sign.

- **Resolution authorizing the transfer of real property to Fayetteville Area Operation**
Inasmuch for the benefit of housing for the homeless.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE APPROVING CONVEYANCE OF PROPERTY PURSUANT TO G.S. § 160A-279. RESOLUTION NO. r2010-057.

- **Pulled at the request of Council Member Applewhite.**
- **Case No. P10-17F. The rezoning of the property located at 4456 Carula Lane from AR Residential District to R10 Residential District. Richard V. West, owner.**
- **Case No. P10-19F. The rezoning of the property located at 1140 Mintz Mill Road from R10 Residential District to C1P Commercial District. JB Rouse, III, and wife, Virginia, owners.**
- **Condemnation for demolition of 134 Swain Street, PIN 0418-46-0350.**

AN ORDINANCE OF THE CITY 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. NS2010-007.

- **Condemnation for demolition of 5507 Hedrick Drive, PIN 0409-51-4704.**

AN ORDINANCE OF THE CITY 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. NS2010-008.

- **Addition of streets to the City of Fayetteville's System of Streets.**
- **Consider bid award for the purchase of one (1) 50' hybrid bucket truck.**

Formal bids were received June 10, 2010. A total of eight bids were received. Upon review and evaluation it was determined that five bids were non-responsive because they were incomplete and did not contain all the required information. The three bids received were as follows:

Peterbilt of Dunn (Dunn, NC).....	\$172,566.00
Altec Industries (Birmingham, AL).....	\$184,049.00
Terex Utilities (Glen Allen, VA).....	\$191,485.00

The bids received from Peterbilt and Altec Industries were found to be non-compliant to the specifications. The aerial device submitted by Peterbilt did not meet the required specifications. The cab and chassis submitted by Altec was not a true hybrid system as required by the specifications and the granting authority. Therefore, the recommendation of staff was that a contract be awarded to the most responsive bidder, Terex Utilities, Glen Allen, VA.

- **Special Revenue Fund Project Ordinance Closeouts 2010-1 through 2010-8 (Various Police Projects).**
- **Special Revenue Fund Project Ordinances 2011-1 and 2011-2 (FY 2010-2011 HOME and CDBG Program Budgets).**
- **Capital Project Ordinance 2010-23 (Clean Cities FY09 Petroleum Reduction Technology Project).**

5.4 Case No. P10-16F. The rezoning of property located at 9271 Cliffdale Road from AR and R15 to R10. Virginia Newton Barefoot, owner.

This item was pulled by Council Member Applewhite.

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 this property was surrounded by R15 and AR Residential; R10 zoning was also near the property and the existing subdivisions zoned R15 were built prior to the extension of public water and sewer to the area. Mr. Harmon stated the Zoning Commission and staff recommended approval of the rezoning based on: (1) the 2010 Land Use Plan called for low-density residential for the property, R10 was one of the City's low-density districts; (2) the public utilities were available to the development; and (3) Cliffdale Road was a major thoroughfare, appropriate for reasonable access.

Council Member Applewhite questioned how many units were allowed as presently zoned and whether a community meeting was required. Mr. Harmon clarified that 70 units were allowed in AR, 104 units in R15, and 208 units in R10 and answered in the negative regarding the requirement for a community meeting.

Mr. Harmon responded to questions regarding the Traffic Impact Analysis (TIA) and public hearing notification requirements. He explained that NCDOT would make the determination

regarding a TIA and clarified the radius requirement for public hearing notification was 500 feet.

MOTION: Council Member Applewhite moved to set a public hearing for the July 4, 2010.

SECOND: Council Member Crisp

VOTE:UNANIMOUS (9-0)

6.0 PUBLIC HEARINGS

- Case No. P10-15F. Appeal of a Zoning Commission recommendation to rezone the property located at 1506 Mazie Loop from R10 to P2. Applicants Matthew and Catherine Levy requested C1P.

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 applicant's purpose for rezoning the property was for medical offices/facilities. He stated the property was surrounded by a mix of uses. He stated the City Code Enforcement Division had cited the property for a violation of the City Code for property maintenance. He stated the Zoning Commission and staff recommended approval of the rezoning to a P2 District (not C1P) based on: (1) although the 2010 Land Use Plan called for low-density residential, the property should serve as a buffer between commercial and residential properties (P2 zoning would allow either office or residential uses; and (2) C1P Commercial was usually not an appropriate district when abutting residential, especially with the parcel location, the property was mostly surrounded by established residential areas; and (3) the 2030 Growth Vision Plan called for professional districts to be used as transition areas. Council Member Hurst inquired whether a community meeting was required and questioned whether the property owners were amenable to the P2 rezoning recommendation. Mr. Harmon replied in the affirmative to both questions.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:22 p.m.

Mr. Andy Privette, 2545 E. Edgewater Drive, Fayetteville, NC 28303, appeared in favor and reviewed the proposed parking and stated the development would generate employment in the City.

Mrs. Joan Nelson, 812-1 Sage Creek Lane, Fayetteville, NC 28305, appeared in opposition and expressed safety and traffic concerns.

Mrs. Sharon Drake, 1335 Levy Drive, Fayetteville, NC 28304, appeared in opposition and expressed safety and traffic concerns.

There being no one further to speak, the public hearing closed at 7:40 p.m.

MOTION: Council Member Hurst moved to approve the rezoning of the property located at 1506 Mazie Loop from R10 to P2.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

- Case No. P10-18F. Special Use Permit to allow the location of a wireless telecommunications tower on the property located at 4308 Rosehill Road, containing 2.0 acres. Fayetteville Christian Church, Inc., 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, and 2010 Land Use Plan. Mr. Harmon presented the following conditions for approval:

(1) comply with the site plan dated February 3, 2010; (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. Mr. Harmon stated the Zoning Commission and staff recommended approval based upon the finding that the proposed location was in harmony with the area and would not be detrimental to the surrounding neighborhood based upon the submitted site plan, documentation, and recommended conditions.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:52 p.m. The following speakers appeared in favor:

NAME/ADDRESS	COMMENT SUMMARY
Tom Johnson 101 Shannon Oaks Circle; Suite 100 Cary, NC	Appeared in favor and stated the church was in support of the tower. He reviewed the site plan and stated T-Mobile and AT&T have committed to use the proposed tower.
Graham Herring 1052 Grey Oak Drive Raleigh, NC	Appeared in favor and stated he evaluated the site and found there would be no impact to surrounding areas.
Dave La Cava AT&T Representative Raleigh, NC	Wireless carrier to use the proposed tower
Kevin Jackson T-Mobile Representative Charlotte, NC	Wireless carrier to use the proposed tower

There were no speakers in opposition.
There being no one further to speak, the public hearing closed at 8:00 p.m.

Mr. Herring responded to questions regarding the process utilized to determine the effect on the surrounding properties' values.

MOTION: Council Member Massey moved to approve based upon the finding that the request was in harmony with the character of the area and would not be detrimental to the surrounding neighborhood based upon the submitted site plan, documentation, and staff recommended conditions and the conditions required under Section 30-107(17).

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

- Public hearing for assessment rolls on soil streets that have been paved.

Mr. Jeffery Brown, Engineering & Infrastructure Director, presented this item. He stated streets authorized for paving by Council had been paved and tonight's hearing was to receive comments from affected property owners concerning the preliminary assessment rolls. Mr. Brown explained the assessment fees.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:22 p.m.

Mr. Joe Riddle, 125 Great Oak Drive, Fayetteville, NC 28305, appeared in opposition and expressed legality and traffic concerns.

There being no one further to speak, the public hearing closed at 7:32 p.m.

MOTION: Council Member Bates moved to approve and adopt the resolutions confirming assessment rolls.

SECOND: Council Member Massey

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

- Public hearing on a proposed installment financing agreement in a principal amount not to exceed \$5,950,000.00 for the purpose of financing the construction of a parking deck.**

The following actions were recommended:

- Adopt the resolution accepting the proposal of Branch Banking & Trust Company (BB&T) in connection with an installment financing for a parking deck and related improvements for the City of Fayetteville, North Carolina.
- Adopt the resolution making certain findings and determinations regarding the financing of a parking deck and related improvements for the City of Fayetteville, North Carolina pursuant to an installment financing agreement and requesting the Local Government Commission to approve the financing arrangement.

Mrs. Lisa Smith, Chief Financial Officer, presented this item.

This is the advertised public hearing set for this date and time. There was no one present to speak and the public hearing opened and closed at 8:32 p.m.

MOTION: Council Member Meredith moved to adopt the two resolutions.

SECOND: Council Member Bates

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

- **OTHER ITEMS OF BUSINESS**
- **Budget Ordinance Amendment 2010-8 (Transit) and Capital Project Ordinance 2010-24 (Transit Capital Improvements and Enhancements)**

Mr. Dale Iman, City Manager, provided an overview regarding the proposed expenditure of the unspent transit funds of \$519,000.00 as follows:

- Budget Ordinance Amendment 2010-8 would reduce the General Fund transfer to the Transit Operating Fund by \$459,000.00 and the approved Capital Project Ordinance 2010-24 would appropriate the budget for various Transit capital improvements and enhancements, including, but not limited to, the purchase of a Light Transit Vehicle (LTV), bus shelters, benches and other necessary improvements.
- \$60,000.00 would be designated for business development and marketing initiatives for Transit.

A brief discussion ensued regarding the replacement of the transit vehicle.

MOTION: Council Member Meredith moved to approve and adopt Budget Ordinance Amendment 2010-8 and Capital Project Ordinance 2010-24.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

- **Fiscal Year 2010-2011 Budget Ordinance, Fee Schedule, Fiscal Year 2011-2015 Capital Improvement Plan, Capital Project Ordinance 2011-1, and Capital Project Amendments 2011-1 through 2011-7.**

Mr. Dale Iman, City Manager, presented the information for this item as follows:

Annual Budget Process

- Recommended FY2010-2011 Budget presented on May 10, 2010
- Budget work sessions and public hearing conducted
- Council provided direction on desired changes to the recommended General Fund budget

Changes to Recommended General Fund Budget

Expenditures

Original Recommended Budget	\$133,908,042
Fund Police Step Plan (5% cap)	298,181
Fund Police Upper Ranks Perf. Pay	37,856
Fund Planner Position (9 months)	56,676
Increase in Sales Tax Reimb.	24,293
Eliminate Goodyear Payment	(100,000)
Defer Murchison Rd Consulting	(40,000)
Reduce Kaleidoscope (1/2 shows)	(25,800)
Fund Police Services Study	50,000
Total Expenditures	\$134,209,248

Revenues

Original Recommended Budget	\$133,908,042
Sales Tax Adjustments	96,997
Fund balance appropriations:	
Lighting at Tokay Football Fields	90,000
Walking Trails	64,000
Police Services Study	50,000
Miscellaneous to Balance	209
Total Revenue Changes	\$134,209,248

Changes to the Recommended Fee Schedule

Transit Fare Increases

- Proposed increases for elderly and disabled riders eliminated
- Free-Ride Thursdays retained
- Anticipate achieving projected fare revenues with current fees based upon recent months' receipts

Police alarms fees

- False alarms fees revised to the Greenville model
- Annual alarm registration fees eliminated

Privilege license fees for electronic gaming operations (internet sweepstakes cafes)

- Add fee of \$2,000 per location plus \$2,500 per computer terminal

FY2010/2011 Budget Ordinance

- Revised General Fund Budget - \$134,209,248
- 1.8% reduction from FY2009/2010 Original Budget
- Establishes tax rates and adopts fee schedule
- General Tax Rate – 45.6 cents
- CBTD Tax Rate – 10.0 cents
- No changes to recommended budgets for other funds
- Total Annual Budget Ordinance - \$421,094,835

Recommended FY2011-2015 CIP

- Funding plan for major capital improvements through fiscal year 2015
- No changes to recommended CIP as presented to Council on May 12, 2010
- Summary lists of recommended projects
- Project funding by fiscal year
- Project funding by source of funds

Recommended FY2011-2015 CIP

Funding Source	Project Funding to Date	General Fund	Debt Financing Proceeds	Grants/Other Sources
Economic Development	6,874,761	2,751,067	11,286,050	3,431,000
Facilities & Equipment	1,418,091	2,518,118	5,000,000	1,764,914
Infrastructure	30,116,270	26,567,111	400,000	1,305,472
Parks & Rec	25,177,000	476,834	0	2,209,620
Public Safety	1,591,217	20,000	14,659,913	1,129,766
Transit	2,736,065	1,814,618	0	17,424,062
Airport	14,589,854	0	0	22,755,501
Proposed Bond Refer.	0	0	15,000,000	0
Total	82,503,258	34,147,748	46,345,963	50,020,335

Mr. Iman stated the recommendation was for Council to adopt the FY 2010-2011 Budget Ordinance and Fee Schedule, to adopt the FY 2011-2015 Capital Improvement Plan, and to adopt Capital Project Ordinance 2011-1 and Capital Project Amendments 2011-1 through 2011-7.

MOTION: Council Member Meredith moved to approve.

SECOND: Council Member Haire

SUBSTITUTE MOTION:

Council Member Hurst moved to approve with an Elderly and Disable Transit Fare increase to 50 percent of the Adult Fare effective January 3, 2011.

SECOND: Council Member Bates

A discussion ensued regarding the necessity to raise fares and Council's commitment to involve the Transit System.

SUBSTITUTE MOTION VOTE:

FAILED by a vote of 8 in opposition to 2 in favor (Council Members Bates and Hurst)

Council Member Crisp proposed a friendly amendment to remove the \$50,000.00 consultant fee from the budget.

Mayor Chavonne explained Council would address the present motion.

Council Member Meredith restated his original motion.

ORIGINAL MOTION VOTE:

PASSED by a vote of 7 in favor to 3 in opposition (Council Members Davy, Crisp, and Mohn)

Council Member Crisp questioned why he was not allowed to make a substitute motion.

Ms. Karen McDonald, City Attorney, explained the original motion was moved and seconded followed by a substitute motion which failed; therefore, the vote reverted back to the original motion, which was restated for clarification. Council Member Crisp requested to go on the record that "he found the proceedings highly irregular".

7.3 Closed session to discuss a personnel matter.

MOTION: Council Member Meredith moved to go into closed session for personnel matter.

SECOND: Mayor Pro Tem Haire

VOTE: UNANIMOUS (10-0)

The regular session recessed at 9:05 p.m. The regular session reconvened at 9:35 p.m.

MOTION: Council Member Meredith moved to go into open session.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

MOTION: Council Member Applewhite made the following motion regarding the City Attorney's compensation:

- (1) She receive 2 percent salary adjustment granted to all other City employees who meet or exceed expectations on their annual performance review;**
- (2) Make a contribution to her 401K of \$2,000.00; and**
- (3) Move her annual review date from April to September of each year, with the next evaluation being September 2011.**

SECOND: Mayor Pro Tem Haire

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

8.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:35 p.m.