

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JANUARY 25, 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); 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
Jeffery Brown, Engineering & Infrastructure Director
Sgt. Matthew Dow, Police Department
Craig Harmon, Planner II
Marsha Bryant, Planner
Joe Callis, PWC Business Planning Manager
Jackie Tuckey, Communications Manager/Public Information Officer
Doug Peters, Executive Director FCCCC
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 Pastor John Adderley, Covenant Love Family Church.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 APPROVAL OF AGENDA

MOTION: Council Member Crisp moved to approve the agenda with the addition of the proposed settlement with AIT and Lease Agreement to the Consent Agenda (Item 6.13).

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

5.0 ANNOUNCEMENTS AND RECOGNITIONS

Council Member Applewhite announced that citizens could call 433-1FAY (1329) for discarded furniture disposal.

Council Member Massey announced that District 3 citizens would be holding a community meeting on January 28, 2010, from 6:30 to 8:00 p.m. He stated City staff would be available to answer questions and the meeting would be open to all City citizens.

6.0 CONSENT

MOTION: Council Member Applewhite moved to approve the consent agenda with the exception of Item 6.8.

SECOND: Council Member Meredith

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

6.1 City Attorney – A decision of the Fayetteville City Council denying American Tower Corporation's application for a Special Use Permit submitted on October 5, 2009.

The City Council held a quasi-judicial hearing on December 14, 2009, regarding American Tower Corporation's application for a Special Use Permit to allow the construction of a Wireless Telecommunications Tower. By statute, the City Council must render a decision in writing as enunciated by the City Council during the hearing. The City Council adopted the findings of fact, conclusions of law, and decision to deny the American Tower Corporation Special Use Permit.

- 6.2City Manager’s Office - Adoption of the FY 2011 Federal Legislative Agenda.
- 6.3Engineering & Infrastructure (via PWC) - Bid Recommendation for Skye Drive Stormwater Improvements-System #2.
- 6.4Engineering & Infrastructure (via PWC) – Consider resolution of award for Reilly Road/Ramsey Street Sidewalk Project.
RESOLUTION OF AWARD OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA - REILLY ROAD/RAMSEY STREET SIDEWALK PROJECT – NORTH CAROLINA DEPARTMENT OF TRANSPORTATION SAFE ROUTES TO SCHOOL DIVISION FUND PROJECT.
RESOLUTION NO. R2010-004.
- 6.5Finance – Budget Ordinance Amendment 2010-5 (General Fund – City Attorney’s Office and Fire Department.
- 6.6Finance - Resolution to accept the state grant and Capital Project Ordinance 2010-16 (Airport Fingerprint Machine Replacement).
RESOLUTION. RESOLUTION NO. R2010-005.
- 6.7PWC - Bid award for Little Cross Creek Best Management Practices (BMP) Project.
The Public Works Commission, during their meeting on January 13, 2010, approved to award bid for the Little Cross Creek BMP Project to Wells Brothers Construction Company, Turkey, NC, in the total amount of \$1,222,516.00 and to forward to City Council for approval. Bids were received December 31, 2009, as follows:

Bidders	Total Cost
Wells Brothers Construction Co. (Turkey, NC)	\$1,222,516.00
Lanier Construction Co. (Snow Hill, NC)	\$1,376,965.00
S.T. Wooten Company (Wilson, NC)	\$1,517,049.75
Hine Sitework, Inc. (Goldsboro, NC)	\$1,624,259.00
T.A. Loving, Co. (Goldsboro, NC)	\$1,713,000.00
ES&J Enterprises (Autryville, NC)	\$1,927,980.50
- 6.8Pulled at the request of Council Member Applewhite.
- 6.9PWC – Release of Easement to abandon that portion of the utility easement that is no longer needed on the parcel of land located on Skibo Road referenced by Pin No. 0418-34-8882.
The Public Works Commission, during their meeting on January 13, 2010, approved a request by Darrell L. Rogers, Trustee, Trustee of the Darrell L. Rogers 2008 Trust, a Texas Irrevocable Trust for the Release of Easement to abandon that portion of the utility easement that was no longer needed on the parcel of land located on Skibo Road referenced by Pin No. 0418-34-8882 and to forward to City Council for approval and execution. The City Council approved and executed the Release of Easement.
- 6.10Development Services - Case No. P09-47F: The rezoning from P2 Professional to C1P Commercial District or to a more restrictive zoning classification for property located at 8363 Cliffdale Road. Containing 0.44 acres more or less and being the property of Ethel and Worth A. Pate.
- 6.11Development Services - Case No. P09-48F: The rezoning from AR Agricultural Residential District to R5A Residential District or to a more restrictive zoning classification for property located to the west of 8047 Raeford Road. Containing 28.66 acres (of 33.71 total) more or less and being the property of John A Williams, Jr., et al., heirs. Zoning Commission recommendation was for R10.
- 6.12Development Services - Case No. P09-49F: The rezoning from P2 Professional District to C3 Commercial District or to a more restrictive zoning classification for property located at 230 Robeson Street. Containing 0.47 acres more or less and being the property of Charleston Seven Group, LLC.
- 6.13City Attorney – Proposed settlement with AIT and Lease Agreement.
- 6.8PWC - Interlocal Agreement between the County of Cumberland and the Public Works Commission of the City of Fayetteville, NC, for the Brooklyn Circle water main

extension project.

The Public Works Commission, during their regular meeting on January 13, 2010, approved the Interlocal Agreement between the County of Cumberland and the Public Works Commission for the Brooklyn Circle water main extension project and forwarded to City Council for approval. This extension project would provide water service to 17 contaminated well lots in the Brooklyn Circle area. PWC's contribution toward the cost of the project was \$12,700.00. Participation in this project was previously approved by the Commission. The City Council approved and executed the Interlocal Agreement with the County of Cumberland.

Council Member Applewhite pulled this item for discussion.

Mr. Joe Callis, PWC Business Planning Manager, presented a brief overview.

Council Member Applewhite inquired who had initiated the agreement. Mr. Callis responded the Cumberland County Board of Commissioners.

Council Member Applewhite requested a Council briefing at a future meeting. Mr. Dale Iman, City Manager, confirmed the February 1, 2010, work session meeting for the date of the briefing.

MOTION: Council Member Applewhite moved to approve.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

7.0 PUBLIC HEARINGS

7.1 Engineering & Infrastructure - Public hearing to consider closing a portion of Crystal Drive.

Mr. Jeffery Brown, Engineering & Infrastructure Director, briefed Council regarding this item. He stated a petition was received from Ms. Carolyn Armstrong for the closure of a portion of Crystal Drive. He stated this section of street served as a private driveway to an existing residence and the property owner was planning on redeveloping the parcel and the adjacent parcels. He stated the public hearing was required to receive comments on the closure.

Council Member Bates requested clarification that the applicant had knowledge that they could not request the City to pave this street in the future. Mr. Brown replied in the affirmative. 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 7:16 p.m.

RESOLUTION AND ORDER CLOSING A PORTION OF CRYSTAL DRIVE FROM THE END OF CURRENT CITY MAINTENANCE TO THE SOUTH END OF THE STREET. RESOLUTION NO. R2010-006.

MOTION: Council Member Meredith moved to adopt the resolution and order the closing of a portion of Crystal Drive.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

7.2 PWC - Public hearing regarding the resolution declaring cost, ordering preparation of preliminary assessment roll and calling public hearing approved by City Council at the January 11, 2010, meeting for the Arran Lake area of the Phase 5 Annexation.

Mr. Joe Callis, PWC Business Planning Manager, presented this item and stated the following: On January 11, 2010, City Council approved the resolution declaring cost, ordering preparation of preliminary assessment roll, and calling a public hearing. The resolution set the date of the public hearing for Monday, January 25, 2010. A notice was published in The Fayetteville Observer regarding the public hearing and the preliminary assessment notices were mailed January 13, 2010, informing the property owners of the proposed assessment and the public hearing date. The Arran Lakes area of the Phase 5 Annexation project resulted in 26,170 feet of sanitary sewer main having been installed at a cost to date of \$3,973,233.00. Construction contracts in the annexation area indicated the average per parcel cost for sanitary sewer, which included the service lateral, was \$10,188.00 or an average per foot linear cost of \$140.00 for mains without laterals. In keeping with the presentations held in the original neighborhood meetings, the sanitary sewer assessment rate for single-family residential lots was recommended at \$5,000.00 which included both the main and lateral

charges. This amount does not include what is referred to as the facility investment fee of \$640.00 for sewer, however, if property owners make application for service within six months of being notified sewer was available, PWC waives the facility investment fee. For properties that required grinder pumps, the average lateral charge of \$790.00 was recommended. After the public hearing, the next step in the process would be to approve the resolution confirming the assessment roll and levying assessments, which was scheduled for February 8, 2010. After approval of the resolution, the confirmed assessment roll would be delivered to the PWC tax collector who would then mail the final assessment notices to the property owners on February 9, 2010, and publish a newspaper notice on March 1, 2010.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:24 p.m.

Mr. Imam Eronomy Mohammed, 1700 Murchison Road, Fayetteville, NC 28302, appeared in favor.

There being no one further to speak, the public hearing closed at 7:25 p.m.

7.3 Development Services - Voluntary Annexation Petition - River Landing Center, LLC - Property on Andrews Road across from Rosebank Drive.

Mrs. Marsha Bryant, Planner, presented a summary of the annexation ordinance. She stated the property consisted of 128.04 acres and was located on Andrews Road. She stated the Cumberland County Commissioners had zoned the property to Mixed Use/Condition Use District and approved a plan consisting of 128 single-family parcels, 192 multi-family units, and 124,950 square feet of office space. She informed Council that the property was contiguous to the City limits. She further stated that since the developer, Mr. John Koenig, requested PWC water and sewer services, a petition for annexation was required and submitted.

Mayor Pro Tem Haire questioned whether there was an investment fee. Mrs. Bryant stated there was an impact fee.

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 7:28 p.m.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA (RIVER LANDING PROPERTY – LOCATED ON THE SOUTHERN SIDE OF ANDREWS ROAD ACROSS FROM ROSEBANK DRIVE). ANNEXATION ORDINANCE NO. 2010-01-513.

MOTION: Council Member Bates moved to adopt the proposed ordinance approving the requested annexation with an effective date of January 25, 2010.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 Development Services - Case No. P09-45F: The initial zoning of 128 acres of newly annexed property on the south side of Andrews Road across from Rosebank Drive to MU Mixed Use Conditional Zoning District. River Landing Center, LLC, owner.

Mr. Craig Harmon, Planner II, briefed Council regarding this item. He stated the City received a petition requesting voluntary contiguous annexation into the City. He explained this request related to the above annexation request and that Council could only take action after the annexation had been acted upon. He further explained Cumberland County approved this property for a Mixed Use Development/Conditional Use District on April 20, 2009. The right-of-way for the I-295 Bypass runs along the southern border of the property. The Zoning Commission and staff moved to approve the initial zoning to MU/CZ Mixed Use Conditional District based on the City's policy and the record of Cumberland County's action related to this property including all conditions established thereby.

MOTION: Council Member Bates moved to approve the initial zoning to MU/CZ Mixed Use Conditional District based on the City's policy and the record of Cumberland County's action related to this property including all conditions established thereby.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

8.2 Appointment Committee (Council Member Hurst): Presentation of Appointment Committee recommendations for Ethics Commission appointments.

MOTION: Council Member Hurst moved to approve the Appointment Committee's recommendations for the Ethics Commission appointments.

SECOND: Council Member Crisp

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

8.3 Police - Consideration of proposed ordinance revisions to Article VII, Wrecker and Tow Ordinance.

Sgt. Matthew Dow, Police Department, provided a summary of the proposed ordinance revisions incorporated from the meeting conducted with the Wrecker Review Board on December 15, 2009, as well as the following revisions: (1) the proposed truck size requirement was deleted; therefore, the primary truck size reverted back to original requirement; and (2) the deletion of the statement regarding Council Member ownership.

A question and answer period ensued.

MOTION: Council Member Crisp moved to recommend approval of all proposed ordinance revisions.

SECOND: Council Member Meredith

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

MOTION: Council Member Mohn moved that staff provide Council with a presentation with demographic maps and other requests at a future work session meeting.

SECOND: Council Member Applewhite

VOTE: PASSED by a vote of 6 in favor (Council Members Applewhite, Davy, Haire, Massey, Meredith, and Mohn) to 4 in opposition (Council Members Chavonne, Bates, Crisp, and Hurst)

8.4 City Manager - Fayetteville Police Department Operating Procedure 3.8: Response to Sexual Assault Cases.

Mr. Dale Iman, City Manager, presented this item based on Council's direction at the conclusion of the January 19, 2010, special meeting as follows:

As stated in his letter dated January 19, 2010, Cumberland County District Attorney Edward Grannis advised the Fayetteville Police Department to refrain from having extra judicial discussions of pending investigations. This letter, which tracks on his August 4, 2008, memorandum to local law enforcement agencies, does recognize the public's legitimate interests in these types of cases. However, in both letters he urged caution in the release of detailed information concerning pending investigations.

Additionally, staff met with members of Rape Crisis Volunteers of Cumberland County (RCVCC) who are concerned a revision to the operating procedure will be "going backwards for victims' rights." RCVCC believes that the number of reported sexual assaults is up over prior years, because victims had confidence that the Fayetteville Police Department would handle their information with a high level of confidentiality.

While RCVCC understood the desire of the City Council in requesting the operating procedure change, they felt a change in policy would reduce the number of victims who reported attacks to the Fayetteville Police Department. During that meeting they cited examples of women who were recently assaulted and refused to report the incident to police because of the recent media attention and the fear that the Fayetteville Police Department could no longer shield their identity.

The RCVCC's stated preference is to see no change from the current procedures used by the Fayetteville Police Department; which is to release sexual assault information upon request or when the need for confidentiality is outweighed by the need for public disclosure. However, understanding the City Council's direction, RCVCC was comfortable with the revisions in section

3.8.4 - Public Awareness. (Pages 154-156 of the agenda packet)

A discussion period ensued.

MOTION: Council Member Bates moved to have City Council support and accept the revision to the Fayetteville Police Department Operating Procedure 3.8: Response to Sexual Assault Cases.

SECOND: Mayor Pro Tem Haire

Council Member Applewhite inquired whether the procedure could be modified in the future. Mr. Iman replied in the affirmative.

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

8.5 City Manager’s Office – FY 2010 Strategic Plan 2nd Quarter Report.

Mr. Doug Peters, Executive Director FCCCC, summarized the Economic Development Group Quarterly Dashboard Report, 2nd Quarter (2009-2010).

Mr. Doug Hewett, Assistant City Manager, reviewed the elements of the strategic plan and provided an overview of the progress made and anticipated actions for the following targets for action.

POLICY AGENDA	
Top Priority	High Priority
Unified Development Ordinance	County Jail Capacity
Murchison Road Corridor Redevelopment	Air Quality Non-Attainment
Parks and Recreation Service	Emergency Medical Transport Performance Report
Annexation Policy	Tree Preservation Ordinance
Workforce Development	Building Demolition
Recycling Program for Multifamily and Commercial	Property Revaluation and Tax Rate
	Legislative Agenda and Lobby Strategy
MANAGEMENT AGENDA	
Top Priority	High Priority
Crime Reduction Strategy and Report	Reclaiming Neighborhoods Strategy
FAST Improvements	Police Staffing
Community Report Card	Non-Stop Air Service to Washington, DC
Community Watch Expansion	Telling the City’s Positive Story
Economic Development	Northwest Gateway Project

9.0 ADMINISTRATIVE REPORTS

9.1 City Clerk - Monthly statement of taxes collected for December 2009from the Cumberland County Tax Administrator.

2009 Taxes.....	\$14,293,663.97
2009 Vehicle Taxes.....	393,818.76
2009 Revit.....	45,742.03
2009 Vehicle Revit.....	357.84
2009 FVT.....	47,578.74
2009 Transit Tax.....	47,573.79
2009 Storm Water.....	622,036.95
2009 Fay Storm Water.....	1,244,865.97
2009 Recycle Fee.....	335,194.44
2008 Annex.....	336.53
2008 Taxes.....	7,622.79
2008 Vehicle Taxes.....	64,700.08
2008 Revit.....	0.70
2008 Vehicle Revit.....	12.29
2008 FVT.....	8,279.82
2008 Transit Tax.....	7,838.09

2008 Storm Water.....	549.20
2008 Recycle.....	902.89
2008 Fay Storm Water.....	371.93
2008 Annex.....	0.00
2007 Taxes.....	2,256.95
2007 Vehicle Taxes.....	3,101.14
2007 Revit.....	0.00
2007 Vehicle Revit.....	0.00
2007 FVT.....	574.12
2007 Storm Water.....	98.72
2007 Fay Storm Water.....	73.25
2007 Annex.....	0.00
2006 Taxes.....	1,111.60
2006 Vehicle Taxes.....	1,033.24
2006 Revit.....	0.00
2006 Vehicle Revit.....	0.00
2006 FVT.....	231.99
2006 Storm Water.....	24.12
2006 Annex.....	433.21
2005 and Prior Taxes.....	975.01
2005 and Prior Vehicle Taxes.....	2,624.33
2005 and Prior Revit.....	0.00
2005 and Prior Vehicle Revit.....	0.99
2005 and Prior FVT.....	479.74
2005 and Prior Storm Water.....	24.00
Interest.....	15,457.34
Interest (Revit).....	2.45
Interest (Storm Water).....	1.36
Interest (Fay Storm Water).....	50.43
Interest (Annex).....	49.46
Interest (Fay Recycling).....	97.71
Total Collections.....	17,150,237.97

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:23 p.m.