FAYETTEVILLE CITY COUNCIL REGULAR MEETING MINUTES CITY HALL COUNCIL CHAMBER FEBRUARY 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); 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

Kristoff Bauer, Assistant City Manager Karen M. McDonald, City Attorney

Patricia Bradley, Assistant City Attorney

Bradley Whited, Airport Director

Douglas Banez, InterVISTAS – Air Service Consultant Jeffery Brown, Engineering & Infrastructure Director

Craig Harmon, Planner II

Jackie Tuckey, 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 Pastor Louis Leake of Cliffdale Christian Center.

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: Mayor Chavonne moved to approve the agenda with the reversal of order for Items 7.1 and 7.2.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

5.0 ANNOUNCEMENTS AND RECOGNITIONS

Council Member Hurst extended an invitation to the citizens to attend the Citizens' Academy scheduled for Tuesdays from March 30 through May 11, 2010, from 6:00 to 8:30 p.m.., which would be available at no charge to all City of Fayetteville residents and that applications could be obtained at the City's website at cityoffayetteville.org or calling 433-1578. Mayor Chavonne acknowledged Ms. Melissa Miller's first grade class at Glendale Acres Elementary School.

6.0 CONSENT

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

SECOND: Mayor Pro Tem Haire VOTE: UNANIMOUS (10-0)

6.1 Community Development - Release reverter clause from deeds of trust on lots donated to the Fayetteville Area Habitat for Humanity.

This item authorized the City Manager to execute the necessary documents to release the City's reverter clause from deeds of trust on land donated to the Fayetteville Area Habitat for Humanity on a case-by-case basis.

6.2 Development Services - Case No. P10-04F: Request to rezone the property located at the southwest corner of Bingham Drive and Bailey Lake Road from PND Planned Neighborhood Development District to C1A Area Commercial District. Rivers of Living Water Church of God, Inc., and Diane and Donald Johnson, owners.

6.3 Engineering & Infrastructure - Adopt resolutions setting a public hearing to consider the paving assessments of eight City streets.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR FARRELL AVENUE (FROM DUNN ROAD 1162 FEET TO A CUL-DE-SAC). RESOLUTION NO. R2010-008.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR MCDUFFIE STREET (FROM GUTHRIE STREET TO EASTERN BOULEVARD). RESOLUTION NO. R2010-009.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR GUTHRIE STREET (FROM HOLT WILLIAMSON STREET TO MCDUFFIE STREET). RESOLUTION NO. R2010-010.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR UPTON STREET (FROM STEVENS STREET 306 FEET TO A TURN-AROUND). RESOLUTION NO. R2010-011.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR LUCAS STREET (FROM COOL SPRING STREET 436 FEET TO A TURN-AROUND). RESOLUTION NO. R2010-012.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR CANAL STREET (FROM KENNEDY STREET TO WAYDE STREET). RESOLUTION NO. R2010-013.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR ADAM STREET (FROM KENNEDY STREET 371 FEET TO A TURN-AROUND). RESOLUTION NO. R2010-014.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL FOR GURLEY STREET (FROM ROBESON STREET 377 FEET TO A DEAD-END). RESOLUTION NO. R2010-015.

6.4 Engineering & Infrastructure - Municipal Agreement with NCDOT for Bragg Boulevard Sidewalk.

This Municipal Agreement was for the City to reimburse NCDOT 50 percent of the estimated cost of approximately \$70,000.00 for the construction of the sidewalk on the west side of Bragg Boulevard.

6.5 Finance - Adopt resolution to accept a report of unpaid taxes for 2009 and direct the advertisement of tax liens.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE ACCEPTING THE REPORT OF UNPAID TAXES AND DIRECTING THE ADVERTISEMENT OF TAX LIENS. RESOLUTION NO. R2010-016.

- 6.6 Finance Capital Project Ordinance Closeout 2010-10 (Airport Public Seating Upgrade).
- 6.7 Finance Capital Project Ordinance Closeout 2010-7 (Airport Security System Installation and Upgrade Project).
- 6.8 Finance Capital Project Ordinance Closeout 2010-9 (Airport Security Screening Area Upgrades Project).
- 6.9 Finance Capital Project Ordinance Closeout 2010-8 (Cape Fear River Park Land Acquisition).

The projects referenced in Items 6.6 through 6.9 above were completed in a previous fiscal year and the revenues and expenditures have been audited. The purpose of the requested action is to formally authorize closure of the projects for accounting purposes.

6.10 Finance - Capital Project Ordinance Amendment 2010-27 (Sidewalk Construction along Bragg Boulevard).

This amendment appropriated \$70,000.00 for the City's commitment for the North Carolina Department of Transportation Municipal Agreement to fund 50 percent of the cost of constructing sidewalk along the west side of Bragg Boulevard from the 401 Bypass to north of Santa Fe Drive as part of an overall improvement plan to Bragg Boulevard.

6.11 PWC - Bid recommendation for bus and feeder circuit breakers.

The Public Works Commission approved the bid award for purchase of bus and feeder circuit breakers for miscellaneous substations to Siemens Energy, Wendell, NC, in the total amount of \$880,902.00 and forward to City Council for approval (budgeted in the CIP Budget in the total amount of \$1,150,000). Bids were received as follows:

BiddersTotal Cost

6.12 PWC - Bid recommendation for one 35,000 GVWR cab and chassis with asphalt body.

The Public Works Commission approved the bid award for purchase of one 35,000 GVWR cab and chassis with asphalt body (with option to purchase additional units within a one-year period upon the agreement of both parties) to Piedmont Truck Center, Inc., Greensboro, NC, in the total amount of \$150,500.00 and forward to City Council for approval. This is a budgeted item (budgeted amount of \$165,000.00 to replace Unit No. 341). Bids were received as follows:

BiddersTotal Cost

Piedmont Truck Center, Inc. (Greensboro, NC)	\$150,500.00
Public Works Equipment & Supply (Monroe, NC)	\$151,970.00
Smith International (Fayetteville, NC)	\$152,847.00
Cooper Kenworth (Raleigh, NC)	\$158,545.00
Bids were solicited from 18 vendors with 4 vendors responding.	Piedmont Truck Center was not
classified as a DBE, MBE, or woman-owned business.	

6.13 PWC - Bid recommendation for prefabricated relay control houses.

The Public Works Commission approved the bid award for purchase of prefabricated relay control houses for Arran Park and Crystal Springs Substations to VFP, Inc., Roanoke, Virginia, in the total amount of \$143,845.00 and forward to City Council for approval (budgeted in the CIP Budget in the total amount of \$160,000.00). Bids were received as follows:

Price

BiddersPer UnitTotal Cost

7.0 PUBLIC HEARINGS

At the request of Attorney Neil Yarborough, the first item heard was Item 7.2.

7.2 Development Services - Case No. P09-50F: Appeal of a Zoning Commission denial of a request to rezone from R10 Residential District to P2 Professional District or to a more restrictive zoning classification for property located at 3405, 3409, and 3413 Village Drive. Billy R. and wife, Catherine W. Parker, owners.

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 informed Council that the redesign of the Hospital facilities had changed the

character of the area along Village Drive and caused an increase in rezoning requests. He stated the Zoning Commission and Planning staff recommended denial of the rezoning based on (1) a map change would facilitate a more coordinated redevelopment of both this and the corner lot, but it would also allow individual use of this single lot for office use, thus facilitating inappropriate nonresidential encroachment into the neighborhood; (2) while hospital activity and the noise of the emergency entrance drive suggested that offices were appropriate long-term uses in this immediate area, the lots along Village and Conover Drives were not big enough individually to be re-used for offices without having negative impacts on both the neighborhood behind them and the function and appearance of the corridor; (3) appropriate reuse or redevelopment in this immediate area would include a substantial buffer establishing a protective edge for the neighborhood, a landscaped streetscape, coordinated access, and an urban building pattern; and (4) individual rezoning should not occur in this one-to-two block area unless either a small area plan was completed and an overlay was in place to achieve at least the objectives in number 3 above or the application included a conditional zoning and the site plans achieved the objectives in number 3 above. He stated either approach would help assure that adequate and appropriate parking, landscaping/buffering, access, and building size/height were achievable.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:12 p.m.

Mr. Neil Yarborough, The Yarborough Law Firm, 115 East Russell Street, Fayetteville, NC, appeared in favor as legal counsel for the applicants and presented a summary of why the rezoning request should be approved. He also stated his clients would agree to a P1 District. There were no speakers in opposition.

There being no one further to speak, the public hearing closed at 7:22 p.m.

MOTION: Council Member Hurst moved to defer action until the six-month Land Use Study was completed.

SECOND: Council Member Applewhite

Council inquired what the content of the Land Use Study would be. Mr. Harmon responded that the study would consist of an overlay illustrating various uses--past, present, and proposed.

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

7.1 Development Services - Case No. P09-41F: Appeal of Zoning Commission denial of request to rezone the property located at 1802 Conover Drive from R10 Residential District to P2 Professional District. KAAVU, 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. He informed Council that the redesign of the Hospital facilities had changed the character of the area along Village Drive and caused an increase in rezoning requests. He stated the Zoning Commission and Planning staff recommended denial of the rezoning based on (1) a map change would facilitate a more coordinated redevelopment of both this and the corner lot, but it would also allow individual use of this single lot for office use, thus facilitating inappropriate non-residential encroachment into the neighborhood; (2) while hospital activity and the noise of the emergency entrance drive suggested that offices were appropriate long-term uses in this immediate area, the lots along Village and Conover Drives were not big enough individually to be re-used for offices without having negative impacts on both the neighborhood behind them and the function and appearance of the corridor; (3) appropriate reuse or redevelopment in this immediate area would include a substantial buffer establishing a protective edge for the neighborhood, a landscaped streetscape, coordinated access, and an urban building pattern; and (4) individual rezoning should not occur in this one-to-two block area unless either a small area plan was completed and an overlay was in place to achieve at least the objectives in number 3 above or the application included a conditional zoning and the site plans achieved the objectives in number 3 above. He stated either approach would help assure that adequate and appropriate parking, landscaping/buffering, access, and building size/height were achievable.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:38 p.m.

Mr. James A. McLean, III, 1233 Hunter Trail, Hope Mills, NC, appeared in favor as legal counsel for the applicant and provided a proposed site plan and requested guidance from Council. There were no speakers in opposition.

There being no one further to speak, the public hearing closed at 7:42 p.m.

MOTION: Council Member Hurst moved to defer action until the six-month Land Use Study was completed.

SECOND: Mayor Pro Tem Haire

Council Member Hurst inquired of the City Attorney as to whether the cost would be waived. Ms. Karen McDonald, City Attorney, responded there would be no cost since the decision had been deferred.

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

7.3 Development Services - Case No. P10-02F: Appeal of Zoning Commission denial of a request to rezone the property located at 129 North Plymouth Street from R6 Residential District to P2 Professional District. Tina Dicker and Bruce Morrison, owners.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed a vicinity map and gave an everyion of the current land use current zoning, surrounding land use and zoning, and 2010.

an overview of the current land use, current zoning, surrounding land use and zoning, and 2010 Land Use Plan. He stated while the 2010 Land Use Plan calls for high-density commercial across Plymouth Street from the property, the County, per agenda packet, now looks to the 2030 Growth Vision Plan for guidance in approving rezonings. He stated that County staff, per agenda packet, had indicated that they would be unlikely to recommend a commercial rezoning on the property across the street unless it was part of a major development/concept plan. He stated rezoning a single small area in the middle of the block, contrary to the Land Use Plan and without other compelling reasons, was often viewed as spot zoning which was considered contrary to professional planning practices. He stated the Zoning Commission and Planning staff recommended denial of the rezoning based on (1) the 2010 Land Use Plan calling for medium-density residential, (2) the 2030 Growth Vision Plan calling for caution in rezoning residential area to commercial uses just because they were on or near a highway, (3) currently single-family residential (including owner occupied) and agricultural uses surrounded the property, and (4) spot zoning.

This is the advertised public hearing set for this date and time. There being no one in favor or in opposition, the public hearing opened and closed at 7:48 p.m.

MOTION: Council Member Davy moved to deny the requested rezoning.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

7.4 Development Services - Case No. P10-03F: Appeal filed by an adjacent property owner regarding the recommendation of Planning staff and Zoning Commission to approve a request to rezone the property located at 4584 Carula Lane from AR Residential District to R10 Residential District. Pamela Autry and Martha West, owners.

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 Zoning Commission and Planning staff recommended approval of the rezoning based on (1) the 2010 Land Use Plan called for low-density residential (R10 being one of the City's low-density districts), (2) the property abutting an already approved subdivision zoned R10, and (3) the 2030 Growth Vision Plan stating that development should occur at densities appropriate for the site. He stated the recommended zoning would be appropriate for the level of service and compatible with the proposed/existing homes in the area.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:51 p.m.

Mr. Tim Evans, 2256 Cypress Lakes Road, Hope Mills, Fayetteville, NC, appeared in favor representing the buyer and seller and stated the storm water runoff concerns had been addressed.

There were no speakers in opposition.

There being no one further to speak, the public hearing closed at 7:55 p.m.

Council Member Meredith inquired whether there was a storm water problem. Mr. Harmon responded a neighbor had concerns which initiated the appeal being filed; however, the matter had been resolved. He stated anything built in the area would require compliance with the City's storm water regulations.

MOTION: Council Member Crisp moved to approve the requested rezoning.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

7.5 Development Services - Case No. P10-05F: Request to rezone the property located at 624, 628, 708, and 714 Dunn Road and David J Road from R6 and R10 Residential Districts to M2 Industrial District. David and Jill Soles and Gerald Bishop and Bishop Leasing, owners.

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 currently there was a salvage yard in operation on the properties and it was a nonconforming use on residentially zoned property and a significant portion of the property was also within the floodplain property. He informed Council that the rezoning request was in response to an ordinance adopted by City Council in November 2008 that established a three-year amortization process to close and remove all vehicles/junk from any nonconforming salvage yard by January 1, 2012. He stated the applicant had been cited for being in violation of the first year's requirements. He stated staff was continuing to research operational aspects and stated review/ inspection procedures in the case and updates would be provided where relevant. He stated the Zoning Commission recommended approval of the rezoning based on (1) the history of compatibility with surrounding properties, (2) the sufficient area and separation possible for this type of operation, (3) the loss of jobs if the salvage yard was shut down, and (4) that the applicant would have to submit an application for a Special Use Permit where specific conditions could help mitigate concerns. He stated the Planning staff recommended denial of the rezoning based on (1) the 2010 Land Use Plan recommending medium-density residential and open space or conservation uses for the properties, (2) the existing land use was a nonconforming salvage yard (rezoning to M2 would be contrary to the objectives of the recently adopted ordinance requiring the closing and removal of all vehicles from such salvage yards), (3) the M2 industrial was the least restrictive (most permissive) zoning district in the City (it would allow a variety of commercial and heavy industrial uses that would be inappropriate for the area based on the property being within the floodway or the 100-year floodplain), and (4) the applicant's intent was to receive M2 zoning in order to request a Special Use Permit to change the salvage yard from a nonconforming business to a conforming business. He stated this change would allow the salvage yard to continue operating beyond January 1, 2012, and the use was inconsistent with state law adopted in 2000 prohibiting salvage yards within 100-year floodplain areas.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:05 p.m.

The following speakers appeared in favor:

NAME	ADDRESS
Dr. Al Brice	420 Dunn Road, Fayetteville, NC 28312
Sue Cole	702 Dunn Road, Fayetteville, NC 28312
Lynda Hair	2103 Fordham Drive, Fayetteville, NC 28304
Vernon Fisher	395 Hilliard Drive, Fayetteville, NC 28311
Ted Tilson	3315 Bragg Boulevard, Fayetteville, NC 28303

There were no speakers in opposition.

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

A question and answer period ensued.

MOTION: Council Member Davy moved to deny the requested rezoning and to waive the one-year waiting period to allow the applicant to apply for conditional use.

SECOND: Council Member Hurst

Council Member Bates requested an explanation of the motion. Ms. Karen McDonald, City Attorney, explained the rezoning was denied, however, the motion created an opportunity for the applicant to come back and request a conditional use rezoning which meant specific conditions could be applied.

Council Member Bates inquired what the result would be should the applicant not bring it back for a conditional use by January 1, 2012. Ms. McDonald responded the applicant would be required to be in compliance.

VOTE: UNANIMOUS (10-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 Airport - Brief DC Air Service Study.

Mr. Bradley Whited, Airport Director, provided a history of this item and introduced Mr. Douglas Banez, InterVISTAS, Air Service Consultant. Mr. Banez outlined the DC Air Service Study as follows:

- Air Service Study Elements
- · Funding Details of the Study
- Market Study Overview
- Analytical Results
- U.S. Department of Transportation Statistics
- Business Travel Survey Respondent Profiles
- Business Travel Survey Fayetteville-Washington, DC, Travel Profile
- · Personal Travel Survey Respondent Profiles
- · Personal Travel Survey Fayetteville-Washington, DC, Travel Profile
- Development of Business Case to Target Airlines

8.2 Engineering & Infrastructure - Uniform Street and Thoroughfare Lighting Ordinance.

Mr. Jeffery Brown, Engineering & Infrastructure Director, provided a summary of the proposed ordinance. He stated PWC would no longer continue to make a transfer to the City to cover the cost of street lights within Progress Energy's service area beginning July 1, 2010. He conveyed to Council that the ordinance would provide uniformity in the location and spacing of street lights and consistency in the manner in which citizens pay for street lights.

A brief question and answer period ensued.

MOTION: Council Member Bates moved to approve Uniform Street and

Thoroughfare Lighting Ordinance.

SECOND: Council Member Meredith

VOTE: UNANIMOUS (10-0)

8.3 Appointment Committee - Presentation of recommendations for board/commission appointments.

MOTION: Council Member Hurst moved to approve the Appointment Committee's recommendations for boards/commissions appointments.

SECOND: Council Member Massey

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

9.0 ADMINISTRATIVE REPORTS

9.1 City Clerk - Monthly statement of taxes collected for January 2010from the Cumberland County Tax Administrator.

2009 Taxes	\$8,054,604.41
2009 Vehicle Taxes	
2009 Revit	36,631.77
2009 Vehicle Revit	417.53

0000 FVT	45 000 55
2009 FVT	,
2009 Transit Tax	•
2009 Storm Water	•
2009 Fay Storm Water	
2009 Recycle Fee	
2008 Annex	
2008 Taxes	,
2008 Vehicle Taxes	62,069.94
2008 Revit	
2008 Vehicle Revit	
2008 FVT	7,951.71
2008 Transit Tax	7,462.21
2008 Storm Water	301.56
2008 Recycle	237.29
2008 Fay Storm Water	135.59
2008 Annex	0.00
2007 Taxes	1,099.02
2007 Vehicle Taxes	3,072.23
2007 Revit	0.00
2007 Vehicle Revit	0.00
2007 FVT	606.52
2007 Storm Water	101.62
2007 Fay Storm Water	
2007 Annex	
2006 Taxes	816.46
2006 Vehicle Taxes	679.07
2006 Revit	
2006 Vehicle Revit	
2006 FVT	
2006 Storm Water	
2006 Annex	
2005 and Prior Taxes	
2005 and Prior Vehicle Taxes	,
2005 and Prior Revit	
2005 and Prior Vehicle Revit	
2005 and Prior FVT	
2005 and Prior Storm Water	
Interest	
Interest (Revit)	
Interest (Storm Water)	
Interest (Fay Storm Water)	
Interest (Annex)	
Interest (Fay Recycling)	
Total Collections	9,678,775.86
40 0 AD IOLIDAMENT	

10.0 ADJOURNMENT

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