

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
JANUARY 24, 2011
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); James W. Arp, Jr. (District 9)

Others Present:

Dale E. Iman, City Manager
Doug Hewett, Assistant City Manager
Kristoff Bauer, Assistant City Manager
Karen M. McDonald, City Attorney
Lisa Smith, Chief Financial Officer
Rob Anderson, Chief Development Officer
Victor Sharpe, Community Development Director
Jeffery Brown, Engineering and Infrastructure Director
Karen Hilton, Planning and Zoning Manager
James Rose, PWC Chief Administrative Officer
Rebecca Rogers Carter, Management Services Manager
David Steinmetz, Code Enforcement Administrator (Zoning)
Frank Lewis, Senior Code Enforcement Administrator
Michelle Thompson, Cherry, Bekaert & Holland, L.L.P.
Doug Peters, Executive Director, Fayetteville-Cumberland County Chamber of

Commerce

Allen Davis, Rural Broadband, LLC
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 Reverend David Gira, Associate Pastor with Haymount United Methodist Church.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Boy Scout Troop 705, sponsored by Fayetteville Christian Church on Rosehill Road.

4.0 Administration of Oath of Office to District 9 Designate – James William Arp, Jr.

Mr. James William Arp, Jr., was sworn in by The Honorable Paul M. Newby, Associate Justice of the North Carolina Supreme Court. Mr. Arp thanked his family for their support.

5.0 APPROVAL OF AGENDA

MOTION: Mayor Chavonne moved to approve the agenda with the addition of Item 10.6, closed session for consultation with the City Attorney.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

6.0 Announcements and Recognitions

Council Member Massey announced that the North Carolina League of Municipalities hosted their first Advocacy Goals Conference wherein League members come together to debate and approve the League's Advocacy Agenda for the next two years. He advised the goals could be viewed on the League's website.

7.0 PUBLIC FORUM

Mr. Brian Lyncook, 1511 Pinebrook Drive, Fayetteville, NC 28314, alerted the public and Council on the dangers of identity theft. He stated more information was available on the Federal Trade Commission website at www.ftc.gov or his website at www.lyncook.com.

Ms. Regina McLean, 731 Greenland Drive, Fayetteville, NC 28305, expressed concerns regarding an incident that involved the police.

Ms. Priscilla Hudson, 2919 Peacock Street, Hope Mills, NC 28348, introduced the new ABA professional basketball team of Fayetteville “The Fayetteville Flights”. She stated they were in need of facilities to practice, transportation, and endorsement and requested support from Council.

Ms. Gwen York, 5703 Cypress Road, Fayetteville, NC 28304, expressed concerns regarding domestic violence and lack of assistance from the Police Department.

Mr. Marquis Jackson, 1709 Winnabow Drive, Fayetteville, NC 28306, announced a Break the Cycle campaign was scheduled for January 29, 2011, and requested support from Council.

8.0 Consent

MOTION: Council Member Bates moved to approve the consent agenda with the exception of Item 8.4.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

8.1 Adoption of calendar for Fiscal Year 2012 budget process.

8.2 Approve purchase of one 45’ hybrid bucket truck.

The Public Works Commission approved bid award for purchase of one 45’ hybrid budget truck (with the option to purchase additional units within a one-year period) to Altec Industries, Birmingham, AL, in the total amount of \$184,067.00. Bids were received November 16, 2010, as follows:

Altec Industries (Birmingham, AL)	
(Kenworth Cab and Chassis).....	\$184,067.00
Terex Utilities, Inc. (Glen Allen, VA).....	\$191,915.00
Altec Industries (Birmingham, AL)	
(International Cab and Chassis).....	\$192,245.00
PeterbiltTruck Center (Dunn, NC).....	\$193,740.00
*Altec Industries (Birmingham, AL)	
(Freightliner Cab and Chassis).....	\$183,380.00
*Cooper Kenworth (Raleigh, NC).....	\$165,450.00

*Bids were determined to be noncompliant. Contained exceptions which were not acceptable.

8.3 Adopt a resolution declaring jointly-owned real property surplus and authorizing a quitclaim of the City's interest in order to expedite Cumberland County's sale of property.

RESOLUTION DECLARING PROPERTY EXCESS TO CITY’S NEEDS AND QUITCLAIMING CITY TITLE IN THE PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2011-001.

8.4 Pulled for discussion by Council Member Bates.

8.5 Case No. P10-41F. Rezoning 0.37 acres at 597 Oliver Street from P1 Professional District to P2 Professional District. Ginny Queen, owner.

8.6 Case No. P10-43F. The initial zoning of 2.14 acres of recently annexed property at 135 Airport Road to M2 Industrial Zoning District. Fullblock Inc., owner.

8.7 Case No. P10-44F. The initial zoning of 20.43 acres of recently annexed property at Black and Decker Road, east of Legion Road to R5 Residential Zoning District. Atlantic Multifamily LLC, owner.

8.8 Landscape Maintenance Agreement I-95 Exit 49.

8.4 Adopt a resolution authorizing the FY 2011 Transit Multi-Modal Center grant agreement with the North Carolina Department of Transportation.

This item was pulled for discussion by Council Member Bates.

Mr. Dale Iman, City Manager, presented this item and stated the Transit Department received a Federal Transportation Administration grant in the amount of \$1,329,845.00 to be used for

property acquisition, relocation, and potential demolition costs associated with the Multi-Modal Transportation Center. He stated there was a stipulation that there be a 20 percent match and the North Carolina Department of Transportation (NCDOT) agreed to meet 10 percent of the total match in the amount of \$166,231.00 and the City would provide the remaining 10 percent of \$166,231.00. He stated the Council budgeted for the grant on October 11, 2010, and in order for the City to enter into a grant agreement, a resolution authorizing the City Manager enter into the contract with NCDOT was needed.

RESOLUTION AUTHORIZING CITY OF FAYETTEVILLE TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION. RESOLUTION NO. R2011-002.

MOTION: Council Member Bates moved to not adopt the resolution authorizing the grant agreement with the North Carolina Department of Transportation.

SECOND: Council Member Crisp

Council Member Mohn requested clarification that the City's match would not be coming from the FAST operating budget. Mr. Iman responded in the affirmative and clarified it would come from the Capital Project Ordinance that was adopted by Council.

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

MOTION: Council Member Massey moved to adopt the resolution authorizing the grant agreement with the North Carolina Department of Transportation.

SECOND: Council Member Hurst

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

9.0 PUBLIC HEARING

9.1 Case No. P10-40F. The rezoning of 0.941 acres at 874 Strickland Bridge Road from C1P Commercial District to C3 Commercial Conditional Zoning District. Wildemar and Kyung Guzman, owners.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, 2010 Land Use Plan, and past rezoning through the County. He stated the purpose of the current rezoning request was to allow for an auto repair garage to be located on the property and the developer offered the following conditions: (1) heavy auto repair would be the only C3 use allowed, (2) the property would retain all uses of the current C1P district, (3) the use would be limited to one auto repair garage, (4) auto repair hours of operation would be limited to Monday through Saturday, 8:00 a.m. to 5:00 p.m., and (5) the site plan which was revised to meet all aspects of the City's ordinance. He stated the Zoning Commission and staff recommended denial of the rezoning based on (1) the 2010 Land Use Plan called for low-density residential, (2) the property was currently zoned R10 Residential to the west and south, (3) the 2030 Growth Vision Plan cautioned against rezoning additional land to commercial when there was an abundance of unused commercially zoned property in the area; and (4) commercial zoning would not serve as a good buffer to residential zoning.

This is the advertised public hearing set for this date and time. The public hearing opened at 7:39 p.m.

Mr. Jonathan Elliott, 6541 Raeford Road, Fayetteville, NC 28304, appeared in opposition based on the reasons provided by the Zoning Commission and expressed concern for the residential properties surrounding the property.

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

MOTION: Council Member Crisp moved to deny the rezoning of the property at 874 Strickland Bridge Road from C1P to C3/CZ.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

10.0 OTHER ITEMS OF BUSINESS

10.1 Update on the Fiber-To-The-Home (FTTH) concept exploration.

Mr. James Rose, PWC Chief Administrative Officer, presented this item and provided background information on the project. He stated they had contracted with Rural Broadband, LLC, to conduct the feasibility study and develop the business plan. He introduced Allen Davis with Rural Broadband, LLC.

Mr. Allen Davis explained they were contracted to develop a fiber-to-the-premise (FTTP) plan that would place fiber optic facilities to every residential and commercial location. He stated it was set up as a stand alone operation and every element was self-sufficient and designed to operate independent of the City and the Public Works Commission. He provided an overview of the FTTP system expansion plan and explained the benefits. He provided the FTTP project capitalization assumptions as follows:

Capital Budget	\$228,980,184.00
Capitalized Interest	25,675,000.00
Issuance Expense	2,093,115.00
Excess Proceeds	<u>1,701.00</u>
Total Amount Financed	<u>\$256,750,000.00</u>

Mayor Chavonne requested that Mr. Rose provide background information on the project for the benefit of Council Member Arp. Mr. Rose provided background information and stated a market survey resulted in positive feedback from the community and Council directed staff to find out how much the endeavor would cost. He stated if Council wished to move forward they would need to find funding options or funding sources. He stated another option would be to continue to look at emerging technologies that cost less. He stated there was an ad hoc committee made up of a staff member from the City and Public Works Commission and a member of the Public Works Commission and City Council. He recommended the ad hoc committee meet and come back with a recommendation.

A question and answer period ensued regarding the possibility of expanding from the existing fiber network, the services that would be provided, the savings to the customers, the timeframe to complete the plan, and the feasibility of the plan.

10.2 Consideration of a Memorandum of Understanding with Fayetteville State University for the acceptance and demolition of the Washington Drive Junior High School property for the implementation of their Historically Black Colleges and Universities (HBCU) grant.

Mr. Victor Sharpe, Community Development Director, presented this item and stated Fayetteville State University (FSU) was in receipt of an HBCU grant which would pay for and assist in the redevelopment of the school site once the property was demolished. He stated the City would be contributing up to \$30,000.00 in the demolition cost through one of their existing grant programs as well as providing \$25,000.00 in in-kind support for the redevelopment of the gateway of the Martin Luther King, Jr. Park pursuant to the Master Plan. He stated they would be providing contract management for the demolition process and that FSU in turn would utilize grant funds to pay for the cost of the demolition. He stated staff was recommending approval of the Memorandum of Understanding and acceptance of the property.

Council Member Bates inquired if no funds would be exchanged as indicated in the agreement. Mr. Kristoff Bauer, Assistant City Manager, explained no funds would be exchanged specifically for the transfer of the property. He further explained that after the property was cleaned up and the City was reimbursed by FSU for the cost of cleanup, then the property would be given to FSU at no additional cost.

MOTION: Council Member Bates moved to approve the Memorandum of Understanding and to accept and demolish the Washington Drive Junior High School property.

SECOND: Council Member Applewhite

VOTE: UNANIMOUS (10-0)

10.3 Request for sidewalk waiver for development within the City's MIA, for Vander Community Center at Rock Hill Road and Sunnyside School Road.

Mr. David Steinmetz, Code Enforcement Administrator, presented this item and provided background information on the approval of the development of the project. He stated the

property was within the City's Municipal Influence Area (MIA), and therefore a concrete sidewalk must be constructed along the entire length of the property prior to a final building inspection. He stated Vander Civic Association was applying for a waiver through the County and explained it was brought before Council because the property was within the MIA. He showed site maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings. He stated staff was recommending the waiver request be denied on Rock Hill Road, and that along Sunnyside School Road sidewalk segments be installed at the corners to connect with the existing walking trail, with the applicant dedicating the easements for the portions outside the public right-of-way. He provided the following reasons for the denial:

Residential and commercial development as well as a school exist nearby, particularly near the Rock Hill Road side.

- As a public park the likelihood of pedestrian traffic would be high, particularly during the occasional events, and safe access was a priority.
- There were existing improvements near the Sunnyside School Road right-of-way that could provide adequate safe access for that portion.
- Retrofitting the site in the future would be more costly and disruptive and would not meet current safety considerations.

Council Member Hurst inquired on the length of the proposed sidewalk on Rock Hill Road and the estimated cost. Mr. Steinmetz responded 500 feet and the cost would be approximately \$15,000.00.

Mayor Chavonne inquired if the community would have access to the state safe routes to school grant and if that had been explored to see if there would be an opportunity for funding. Mr. Jeffery Brown, Engineering and Infrastructure Director, responded those funds could possibly be accessed through the North Carolina Department of Transportation.

MOTION: Council Member Bates moved to recommend to the Cumberland County Joint Planning Board that the waiver request be denied on Rock Hill Road and along side Sunnyside School Road sidewalk segments be installed at the corners to connect with the existing walking trail with the applicant dedicating the easements for the portions outside the public right-of-way.

SECOND: Council Member Davy

VOTE: UNANIMOUS (10-0)

10.4 Uninhabitable structures demolition recommendations for 220 Scott Avenue and 5802 Shenandoah Drive.

Mr. Frank Lewis, Senior Code Enforcement Administrator, presented this item and stated the structure at 220 Scott Avenue was approximately 40 years old. He stated the case was started back in 2007 in which they attempted to work with the owner to no avail. He stated the property continues to deteriorate as the owners have done nothing and presented photos of the damage. He stated the owner attended a hearing in July 2010 wherein the City offered the owner an opportunity to apply to Community Development for the acquisition and demolition program with no response to date.

Mr. Lewis stated the inside of the structure located at 5802 Shenandoah Drive sustained substantial damage from a fire that occurred in August 2010. He stated the owner had not attempted any repairs and presented photos of the damage. He stated the owner was given the opportunity to take advantage of the acquisition and demolition program with no response to date.

Council Member Applewhite inquired why 5802 Shenandoah Drive had come before Council so soon. Mr. Lewis responded it was before Council tonight because the owner had made no attempt to work with the City or repair the damages. He explained with fire damage to a structure, they generally wait 30 days during which time they watch the property for repairs and wait for permits or plans. He stated the owner had said he was going to repair it to no avail and the owner was advised the issue would go before City Council.

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 (220 SCOTT AVENUE). ORDINANCE NO. NS2011-001.

MOTION: Council Member Davy moved to adopt the proposed ordinances authorizing the demolition of the structures at 220 Scott Avenue and 5802 Shenandoah Drive.

SECOND: Council Member Bates

Council Member Bates inquired if the structure at 5802 Shenandoah Drive was beyond repair. Mr. Lewis responded there were no engineering statements on the structure. Mr. Iman clarified the inspectors provide that service and do not require engineering certificates of the structural stability of a property. He stated the building inspectors go out and look at the properties and determine whether or not they were worth salvaging or whether the cost of replacement would exceed the value of the properties.

Mr. Lewis stated the building inspectors had not gone out to assess the property and the property was repairable but the owner had seemed to abandon the property.

FRIENDLY AMENDMENT:

Council Member Arp made a friendly amendment to adopt the ordinance authorizing demolition of 220 Scott Avenue and that the property owner at 5802 Shenandoah Drive be allowed 90 additional days to come to reconciliation with the Inspections Department on the status of the property, and if after 90 days no status was reached then Council would reconsider demolition of the property.

Council Member Davy accepted and Council Member Bates did not accept the friendly amendment.

VOTE: FAILED by a vote of 3 in favor (Council Members Bates, Hurst, and Massey) to 7 in opposition

MOTION: Council Member Davy moved to adopt the proposed ordinance authorizing demolition of 220 Scott Avenue.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

MOTION: Council Member Crisp moved to postpone action for 90 days for the property located at 5802 Shenandoah Drive.

SECOND: Council Member Arp

Discussion ensued regarding lack of communication from the property owner and the timeframe of the demolition process.

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

10.5(a) FY 2011 Strategic Plan Policy and Management Action Agenda 1st quarter update.

Ms. Rebecca Rogers-Carter, Management Services Manager, presented this item and reviewed the components of the strategic plan to include the vision statement, mission statement, and core values. She provided a recap of the FY 2011 policy and management agenda targets for action.

Mayor Pro Tem Haire stated they were at one point looking at the Jasper Street area as part of their priorities and strategic planning and inquired why the project had come off the list. Mr. Dale Iman, City Manager, responded the Jasper Street intersection had not come off the list. He stated they were having difficulty attracting a developer willing to do a project at that location. He explained the funding mechanism to provide funds for the redevelopment of the Jasper Street site would require a developer willing to do the development. He stated the City could not apply for funds without commitment from a developer.

Council Member Hurst inquired if there was a projected date for the sidewalk inventory to come back to Council. Mr. Jeffery Brown, Engineering and Infrastructure Director, responded the plan was to have the inventory completed by the end of the fiscal year.

Council Member Hurst inquired if the November 22, 2010, bid for Fire Station 19 was awarded to CSI. Mr. Brown responded in the affirmative.

Council Member Massey requested clarification that all the phases that were discussed and worked on during the Murchison Road study were still there. Mr. Iman clarified the plans were in place but would require private-sector investment as well as public-sector investment. Mayor Chavonne suggested bringing this item to a future work session. Mr. Iman responded Mr. Victor Sharpe, Community Development Director, had planned to bring this back to Council at the March work session but needed to confer with the consultant before bringing back to Council.

10.5(b) Fayetteville-Cumberland County Chamber of Commerce quarterly Economic Development Report.

Mr. Doug Peters, Executive Director, Fayetteville-Cumberland County Chamber of Commerce, presented this item and provided an update on the economic development activities. He stated they were graded on investments in the community, job creation, retention visits with existing industry, the number of contacts made either by fielding inquiries about investment in the community or calling on companies they believe were strong fits for the particular market, and national marketing placements and provided quarterly updates on the targets.

A question and answer period ensued regarding the employment impact of Panera Bread.

10.6 Closed session for consultation with the City Attorney.

MOTION: Mayor Pro Tem Haire moved to go into closed session for consultation with the City Attorney.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

The regular session recessed at 9:15 p.m. The regular session reconvened at 10:05 p.m.

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

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

11.0 ADMINISTRATIVE REPORTS

11.1 Monthly statement of taxes for December 2010 from the Cumberland County Tax Administrator.

2010 Taxes.....	\$12,602,099.50
2010 Vehicle Taxes.....	360,040.94
2010 Revit.....	46,730.81
2010 Vehicle Revit.....	363.04
2010 FVT.....	45,497.69
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.