

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
FEBRUARY 28, 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); 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
Tom Bergamine, Chief of Police
Lisa Smith, Chief Financial Officer
Charles Hunter, Police Captain
Jeffery Brown, Engineering & Infrastructure Director
Rusty Thompson, City Traffic Engineer
Karen Hilton, Planning and Zoning Division Manager
Craig Harmon, Planner II
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 Mayor Pro Tem Haire.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was recited by those in attendance.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Bates moved to approve the agenda.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

5.0 ANNOUNCEMENTS AND RECOGNITIONS

Mr. Dale Iman, City Manager, announced that both the House of Representatives and State Senate recognized the veterans of North Carolina by passing resolutions designating July 4, 2011, North Carolina Veterans Park Day in the State of North Carolina.

6.0 CONSENT

MOTION: Council Member Applewhite moved to approve the consent agenda with the exception of Item 6.1.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

6.1 Pulled for discussion by Council Member Applewhite.

6.2 Special Revenue Fund Project Ordinance 2011-9 (FY 10 Assistance to Firefighters Grant).

The ordinance appropriated a federal grant of \$80,000.00 awarded through the FY 2010 Assistance to Firefighters Grant and a required local match from the General Fund of \$20,000.00. The funds were used to purchase 40 semi-automated defibrillators.

6.3 Capital Project Ordinance 2011-9 Airport Rescue Fire Fighting Vehicle Replacement.

The ordinance appropriated \$700,000.00 of Airport Passenger Facility Charge revenues for the purchase of a replacement Airport rescue fire fighting vehicle.

6.4 Special Revenue Fund Project Ordinance Amendment 2011-2 (Appropriation of Federal Forfeiture and Controlled Substance Tax Funds for Law Enforcement Purposes) and Capital Project Ordinance Amendment 2011-14 (Public Safety Computer-Aided Dispatch and Records Management Systems Project).

The special revenue fund project ordinance amendment appropriated \$82,403.00 in controlled substance tax revenues and federal forfeiture funds to increase resources for law enforcement purposes, and authorized the transfer of \$178,937.00 of the funds to the Public Safety Capital Project Fund. The capital project ordinance amendment appropriated funds transferred from the Special Revenue Fund and \$97,188.00 was transferred from the General Fund for the project.

6.5 Budget Ordinance Amendment 2011-7 (General Fund).

The amendment appropriated \$108,000.00 to fund additional outside legal services for the City Attorney's office and \$320,599.00 to fund permit and fee reimbursement commitments for the Hope VI project through the end of fiscal year 2011. The funding sources for the appropriations included \$301,225.00 in permits and fee revenues for the Hope VI project to be paid in fiscal year 2011 and a \$127,374.00 General Fund fund balance appropriation. Additionally, the amendment increased budgeted transfers from the Public Works Commission to the General Fund by \$818,156.00 consistent with PWC budget and project ordinance amendments adopted by City Council on February 14, 2011.

6.6 Enforcement provisions of the City Code related to the regulation of taxicabs.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 26, TAXICABS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. ORDINANCE NO. S2011-002.

6.7 Approve purchase of four automated side loader refuse trucks.

Pursuant to N.C.G.S. 143-129(g), the City piggybacked Town of Gibsonville, NC, contract to Carolina Environmental Systems, Kernersville, NC, to purchase 2 Mack/Heil automated side loader refuse trucks in the amount of \$456,988.00 and piggybacked City of Waterloo, IA, contract to Cedar Rapids Truck City, Cedar Rapids, IA, to purchase 2 trucks in the amount of \$430,751.42.

6.8 Phase 5 Annexation Areas 6 and 7 assessment process.

RESOLUTION DECLARING COST AND ORDERING PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND SETTING TIME AND PLACE FOR PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL. RESOLUTION NO. R2011-009.

6.9 Consider single bid award for the City Enterprise GPS/AVL system.

The City issued a Request for Proposal to six potential bidders for the new system and held a pre-bid conference on January 14, 2011, to address any potential bidder's questions. Only one bid was received from Mentor Engineering for an estimated total project cost of \$750,012.00.

6.1 Case No. P11-02F. Rezoning of four properties totaling 1.19 acres at 1018, 1010, 1009 Ellis Street and 828 Wilbon Drive from C1 Commercial District to R5 Residential District. Grace Baldwin, Yvette Bullard, David McLaurin, and Daniel Washington, owners.

This item was pulled for discussion by Council Member Applewhite.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave an overview of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He explained the area was zoned for commercial use and at one time there was a store and junkyard in the area. He stated the owners were requesting the rezoning so that the properties matched the surrounding properties and they could rebuild their homes if necessary. He stated the Zoning Commission and Planning staff recommended approval based on the properties being adjacent to and surrounded by similar residential zoning.

Council Member Applewhite inquired if there had been environmental concerns for the salvage yard. Mr. Harmon responded no environmental testing was conducted on the property and explained it had been included with the group of junkyards that were to be abolished by January 1, 2012. Mr. Dale Iman, City Manager, explained the phases of environmental testing.

MOTION: Council Member Bates moved to approve the rezoning to R5.

SECOND: Council Member Massey

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

7.0 PUBLIC HEARINGS

7.1 Case No. P11-01F. Rezoning 81.38 acres at west of All American and northwest of Santa Fe Drive and south of Fort Bragg from R10 Residential District to R6 Residential District. John Koenig and wife, Margarete, owner.

Mr. Kristoff Bauer, Assistant City Manager, presented this item. Mr. Bauer showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the rezoning had previously been denied by Council in 2009 due to community concerns that the developer would connect the development to the Southwick Drive community by reconnecting the dam which would increase traffic through Cottonade. He stated Council at that time requested the rezoning come back within one year with a conditional zoning that there be no connection from the development to the Southwick Drive area. He stated the Zoning Commission and Planning staff recommended approval of the current rezoning request.

Council Member Bates inquired how the City would hold the property owners to the UDO standards that were not in effect. Mr. Bauer responded between now and July 1 there was the risk of single- and multi-family development that was not assisted living and explained any assisted living facility would have to come back as a special use.

Council Member Applewhite inquired if Southwick Drive could be closed. Mr. Bauer responded in the affirmative.

A question and answer period ensued regarding access to the property. Mr. Bauer explained a condition on the property with regard to a connection on Southwick Drive would not be effective because the property does not adjoin Southwick Drive. He explained at some point it would be set out in a plan because it would require a special use permit and the property was not developable until access to the property was determined.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. John Koenig, owner of the property, 1763 Wilmington Highway, Fayetteville, NC 28306, appeared in favor and provided information on the surrounding properties and explained the access would be through Santa Fe Drive.

Mr. Kenneth Steen, 5545 Hedrick Drive, Fayetteville, NC 28303, appeared in opposition. He stated the rezoning would negatively impact property values in Cottonade and expressed concern that a connection would be made between the development and Cottonade.

Mr. Randol W. Wilkie, 428 Hallmark Road, Fayetteville, NC 28303, appeared in opposition and expressed concern that a connection would be made between the development and Cottonade.

Mr. Floyd W. Johnson, 448 Hallmark Road, Fayetteville, NC 28303, appeared in opposition and expressed concern that a connection would be made between the development and Cottonade.

Mr. Rudolph B. Jones, 517 Thorngate Drive, Fayetteville, NC 28303, appeared in opposition and expressed concern for the property values in Cottonade. He stated an ideal buffer would be a walking path or park.

Mr. Stanley Lonell, 6424 Milford Road, Fayetteville, NC 28303, appeared in opposition and expressed concern that a connection would be made between the development and Cottonade.

Mr. Raynard Esquilin, 517 Southwick Drive, Fayetteville, NC 28303, appeared in opposition.

Mr. John Tucker, 5822 Weatherford Road, Fayetteville, NC 28303, appeared in opposition and expressed concern that a connection would be made between the development and Cottonade. There being no one further to speak, the public hearing was closed.

Council Member Applewhite inquired of Mr. Koenig if he had any plans for the entry or exit.

Mr. Koenig responded it would be to the Broadwell property coming from Santa Fe Drive going north. He explained Southwick Drive would be the worst choice as it would cost in the millions to make the connection.

Mayor Chavonne inquired how long it would take to research whether they could close off Southwick Drive. Ms. McDonald explained the statutory process and stated more information could be provided at the next work session.

Council Member Arp inquired if Council approved the zoning and another developer acquired the parcel that abutted Southwick Drive, would they have to submit a site plan that would show their intent to make a connection with Southwick Drive. Mr. Bauer responded if a connection were proposed, the timeframe for the approval would run into July 1 and therefore would be under the UDO which would require an appeal to Council for the connection.

Council Member Mohn stated there were three parcels that were vacant that could be used as a connection and inquired if those parcels could also be closed. Mr. Bauer responded under the UDO any proposed connection to an existing neighborhood would require a notice, community meeting, and an appeal to the Council for consideration.

MOTION: Mayor Pro Tem Haire moved to deny the rezoning of the property to R6.

SECOND: Council Member Massey

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

7.2 Case No. P11-04F. Special Use Permit for mini-storage warehouses, 1.98 acres at 2638 Legion Road. Rorie Investments, LLC, owner.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and provided overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He reviewed aerial photos and stated the proposal for the property was for two mini-storage warehouses and the developer wanted to retain the area fronting Legion Road as future commercial development. He stated the Zoning Commission and Planning staff recommended approval subject to the following conditions:

- 1.The site plan;
2. Construction and operation of such facilities shall comply with the provisions of the general statutes of the State of North Carolina and any other applicable federal, state, or local codes including the City of Fayetteville Fire Code;
- 3.All required driveway permits shall be obtained;
- 4.The construction of the facilities and the future expansion indicated on the site plan must comply with the City's regulations regarding mini-warehouses at the time of construction;
- 5.The Special Use Permit would be null and void if the mini-warehouses would not receive a permit to construct within two years from the date of approval of the Special Use Permit; and
- 6.All outside lighting must be shielded to prevent light trespass to other properties.

A question and answer period ensued regarding the buffer and landscaping requirements.

This is the advertised public hearing set for this date and time. The public hearing was opened.

Mr. Chris Pusey, 409 Chicago Drive, Fayetteville, NC 28306, appeared in favor and stated he was part of the design team and the owner was present if there were any questions.

There being no one further to speak, the public hearing was closed.

MOTION: Council Member Davy moved to approve the Special Use Permit with the conditions as listed or modified.

SECOND: Council Member Arp

FRIENDLY AMENDMENT: Council Member Bates made a friendly amendment to follow the current guidelines for appearance design.

Council Members Davy and Arp accepted the friendly amendment.

VOTE: UNANIMOUS (10-0)

7.3 Multifamily Recycling "Draft" Ordinance.

Mr. Jerry Dietzen, Environmental Services Director, presented this item and stated they had partnered with Sustainable Sandhills to conduct online and personal surveys with multifamily property managers, residents, and owners. He stated the survey respondents clearly stated they wanted a recycling program, were willing to pay for the service, wanted the flexibility to design their own program, wanted to work with their current contract haulers, and believed the program would not happen unless the City enacted a City-wide program or required a mandate. He stated they researched and contacted other North Carolina cities and counties to determine their current practices. He provided a brief history on recycling and reviewed highlights of the

ordinance. He stated the effective date of the ordinance would be 180 days from the date of adoption and a how-to booklet with step-by-step instructions would be available.

A question and answer period ensued regarding the additional cost to implement the program and design of the containers for larger complexes. Mr. Dietzen responded the additional cost would include staff time, development of the step-by-step booklet, and review of sites on a periodic basis. He stated the design of the containers at larger complexes would be the responsibility of the management officer and the provider.

This is the advertised public hearing set for this date and time. The public hearing was opened. Ms. Kristin Bradley, on behalf of Waste Management of Fayetteville, 6005 Whitmore Court, Fayetteville, NC 28306, appeared in favor and assured Council they could provide the multifamily recycling and tonnage reports to the customers.

There being no one further to speak, the public hearing was closed.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 22, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE TO PROVIDE SPACE FOR APPROPRIATE CONTAINERS AND THE COLLECTION OF SINGLE-STREAM RECYCLABLES FROM MULTIFAMILY COMMUNITIES. ORDINANCE NO. S2011-003.

MOTION: Council Member Bates moved to adopt the ordinance making the appropriate amendments with a program start date of 180 days from adoption.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

8.0 OTHER ITEMS OF BUSINESS

8.1 Award a contract to LSV Partnership to perform an analysis on locating police substations.

Mr. Tom Bergamine, Chief of Police, presented this item and stated they were requesting to enter into negotiations with LSV Partnership regarding a study of potential sites for two substations. He stated the main focus of the contract would be the study of potential sites for full service substations based on crime patterns, infrastructure, historical trends, City growth, and projected growth. He stated there would also be preliminary design considerations based on the needs of a police substation to include that of the citizens which they would be serving. He stated the projected time for the study would be 16 weeks and the money was capped at \$50,000.00.

A question and answer period ensued regarding the bids received, the firm having the knowledge to study crime patterns and growth, substations offering other services such as yard sale permits, and combining fire and police stations. Mr. Bergamine responded bids were sent out to ten regional firms with only one responding. Mr. Charles Hunter, Police Captain, further responded negotiations with LSV would address study needs, substations providing other services, and the possibility of combining fire and police stations.

MOTION: Council Member Arp moved to authorize the City Manager or his designee to conduct the final negotiations with LSV Partnership as the architectural firm to conduct the requested study.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

8.2 Special consideration for the Boys and Girls Club to serve alcohol at Cross Creek Park at their fundraising event.

Mr. Michael Gibson, Parks and Recreation Director, presented this item and stated a request was approved last year for the Boys and Girls Club at the Cross Creek Park where they held a fundraiser and they were requesting special consideration again.

Ms. Jenny Beaver, on behalf of the Boys and Girls Club of Cumberland, stated they were requesting permission to serve alcohol. She stated this was not a children's event but on behalf of the children and the invitation would state no children in attendance. She stated wrist bands would be provided to the adults who have paid and temporary fencing would be erected.

MOTION: Council Member Bates moved to approve.

SECOND: Council Member Hurst

VOTE: PASSED by a vote of 9 in favor to 1 in opposition (Mayor Pro Tem Haire)

8.3 Consideration of waiver of qualification based selection process for structural engineering services for Cape Fear River Trail.

Mr. Craig Hampton, Special Projects Director, presented this item and provided background on the Cape Fear River Trail. He reviewed a map showing the locations of Phases I and II. He stated Phase I was completed at a cost of \$1.8 million. He stated on July 24, 2006, City Council passed a resolution in support of funding from the Clean Water Trust Fund for Phase II. He stated Phase II was estimated at \$2.3 million and the funding consisted of \$1.3 million from the Clean Water Trust Fund with a balance of two NCDOT grants for a total of \$1 million and local matches. He stated construction would begin later this year and take approximately 8 to 9 months. He stated they were requesting a waiver of the qualification-based selection process for structural engineering services to save time and money. He stated the recommendation was to use the Phase I engineer due to the excellent work received on that project, cost, and knowledge of design and DOT specifications.

MOTION: Council Member Bates moved to authorize the City Manager or his designee to execute the contract as recommended.

SECOND: Mayor Pro Tem Haire

VOTE: UNANIMOUS (10-0)

8.4 Consideration of a Planned Neighborhood District General Site Plan application for property located on the southeast side of Bingham Drive across from Lakeridge Drive. Containing 56.22 acres more or less and being the property of Edgar L. Maness and wife and Robert C. Draughon and wife.

Mr. Craig M. Harmon, Planner II, presented this item and stated they received a general development plan for a Planned Neighborhood District (PND) called Bingham Place. He showed vicinity maps and provided overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He explained the PND development application process and stated after approval of the site plan by Council, the developer would have two years to submit a detailed site plan. He stated the Planning Commission and staff recommended approval based on (1) the submitted site plan meeting the minimum requirements for a general PND site plan and (2) the Planning staff and the Technical Review Committee reviewing the General Development Plan and accepting the layout and distribution of use areas as submitted. He stated staff had also noted to the developer that (1) a berm or more substantial fence and landscaping may be needed where the public edge was to the rear yard of the development, (2) a traffic impact analysis was likely to be required, and (3) open space should help connect or provide a natural corridor. He stated as one of the conditions the developer would have to change the proposed name of the site as there was already a development called Bingham Place.

A question and answer period ensued regarding whether a traffic impact study would be required and who would maintain the fence. Mr. Harmon explained whether a traffic impact study was conducted or not would be based on the detailed development plan and maintenance of the fence would be the responsibility of the property owner.

MOTION: Council Member Crisp moved to approve with the condition that the developer change the recommended name of Bingham Place.

SECOND: Council Member Massey

VOTE: UNANIMOUS (10-0)

8.5 Special Sign Permit request for temporary event signs for the Fort Bragg Fair from April 14 through May 15, 2011.

Ms. Karen Hilton, Planning and Zoning Division Manager, presented this item and stated the Special Sign Permit was allowed by the existing regulations for temporary events. She stated they were requesting ten signs and a banner. She stated staff recommended approval of the ten signs and denial of the banner.

Mayor Chavonne inquired if the UDO would provide an administrative solution to sign requests. Ms. Hilton responded in the affirmative and explained there would be options available if there were concerns.

A question and answer period ensued regarding public information being available explaining the requirements for signs and banners. Ms. Hilton responded there were a number of brochures and the requirements were provided on the application.

MOTION: Council Member Bates moved to grant the Special Sign Permit for up to ten signs to be put out on April 14, 2011, and to be removed by the end of the day on May 15, 2011, and deny the banner request.

SECOND: Council Member Applewhite

VOTE: UNANIMOUS (10-0)

9.0 ADMINISTRATIVE REPORTS

9.1 Revenue and expenditure report for annually budgeted funds for the five-month period ended November 30, 2010 and 2009.

Mr. Dale Iman, City Manager, presented this item and stated this was being provided as information only.

10.0 ADJOURNMENT

There being no further business, the meeting adjourned.