

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
DECEMBER 12, 2011
7:00 P.M.**

Present: Mayor Anthony G. Chavonne

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); Wade R. Fowler (District 8); James W. Arp, Jr. (District 9)

Absent: Council Member Keith Bates, Sr. (District 1)

Others Present:

Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager

Kristoff Bauer, Assistant City Manager

Karen M. McDonald, City Attorney

Brian Meyer, Assistant City Attorney

Tom Bergamine, Chief of Police

Patricia Bradley, Police Attorney

Lisa Smith, Chief Financial Officer

Rusty Thompson, City Engineer

Scott Shuford, Development Services Director

Craig Harmon, Planner II

John Kuhls, Human Resource Development Director

Bart Swanson, Housing and Code Enforcement Division Manager

Frank Lewis, Sr., Code Enforcement Administrator

Doug Maples, Building Plan Review and Inspection Division Manager

Rebecca Rogers-Carter, Management Services Manager

Jennifer Lowe, Public Information Officer

Nathan Walls, Public Information Specialist

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 Jon-Su Hong, Senior Pastor, New Life Community Church.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by students from Northwood Temple AP Government class.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Hurst moved to approve the agenda with the removal of Item 7.6 and moving Items 9.1, 9.2, and 9.3 before Item 8.0.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

5.0 ANNOUNCEMENTS AND RECOGNITIONS

Mayor Chavonne thanked the students from Northwood Temple High School along with their teacher, Mr. Chris Lattimer.

Council Member Davy announced she had spent the day with Ms. Francesca Jasmine and provided insight into the day of a council member. Ms. Jasmine was presented with a certificate of appreciation, the "2011 Village Scholarship Award", and a medallion. Ms. Jasmine thanked her teachers, family members, and Council Member Davy.

5.1 National Association for Government Training and Development "2011 Program of the Year Award".

Mr. John Kuhls, Human Resource Development Director, announced the City's supervisory operational skills program was recently recognized as the 2011 Program of the Year by the National Association for Government Training and Development. He stated as a requirement to compete for the award, a 500-word statement was submitted by Ms. Ade Lewis, Assistant Director for Organization Development, describing the program and its benefits. He thanked the City Manager for his support, leadership, and participation in many human resource programs from employee appreciation to team building, while being a true advocate of employee development as the City Manager. He also thanked and recognized all the instructors who helped make the program a success.

Council Members Chavonne and Davy, on behalf of the City Council, presented a Proclamation to Ms. Sue Byrd, Fayetteville Area Operation Inasmuch, Inc., proclaiming May 17, 2011, Project Homeless Connect Day. Ms. Byrd extended an invitation to Council to attend the event.

Council Members Arp and Chavonne, on behalf of the City Council, presented a proclamation to Ms. Eva Hansen, President; Mr. Jeff Hylland, Board Chair; and Mr. John Freudenberg, Government and Military Affairs Liaison, congratulating the Partnership for Children of Cumberland County on being awarded the 2011 Nonprofit Sector Stewardship Award and recognizing the important role in ensuring that all children have the opportunity to succeed in school and be prepared to contribute to the City's social and economic future.

5.2 Resolution honoring former Mayor Charles Holt.

Mayor Chavonne read a resolution of respect honoring former Mayor Charles B.C. Holt who passed away December 4, 2011.

FORMER MAYOR CHARLES B.C. HOLT RESOLUTION OF RESPECT. RESOLUTION NO. R2011-052.

MOTION: Mayor Chavonne moved to adopt the resolution.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

6.0 PUBLIC FORUM

Mr. Roosevelt Odom, Fayetteville, NC, through an interpreter, requested support from the elected officials for his endeavor to establish a disability regional center for the deaf and hard of hearing in the City of Fayetteville.

Ms. Chance, 1209 Elliotte Circle, Fayetteville, NC 28301, requested funding assistance for the purchase of computers and school supplies for Teresa C. Berrien Elementary School. She stated the students were economically disadvantaged and most of their interactions with technology took place in the school environment.

7.0 CONSENT

MOTION: Council Member Massey moved to approve the consent agenda with the exception of Item 7.4 for discussion.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

7.1 Approve meeting minutes:

- November 7, 2011 - Work Session
- November 14, 2011 - Agenda Item Discussion
- November 18, 2011 - Special Meeting

7.2 Airport - Capital Project Ordinances No. 2012-6, stormwater drain; No. 2012-7, general aviation fence; and No. 2012-8, general aviation parking lot.

Ordinances No. 2012-6 appropriated \$115,000.00, No. 2012-7 appropriated \$175,000.00, and No. 2012-8 appropriated \$165,000.00.

7.3 Case No. P11-58F. Rezoning from LC Limited Commercial District to CC/C Community Commercial Conditional District, or a more restrictive district, on property located at Legend Avenue and Sycamore Dairy Road. Containing 3.1 acres more or less and being the property of Legend Hospitality One, LLC.

7.4 Pulled for discussion by Council Member Massey.

7.5 Case No. P11-60F. Rezoning from OI Office and Institutional District to LC/C Limited Commercial Conditional District, for a community gymnastics center, on property located at 417 Country Club Drive. Containing 2.4 acres more or less and being the property of New Century Bank.

7.6 Case No. P11-61F. Rezoning from CC Community Commercial District to MR-5 Mixed Residential District, or a more restrictive district, of a portion of property located at 4701 Raeford Road and Scotland Drive. Containing 10.51 acres more or less and being the property of Mitchell Properties of Florence, Inc.

This item was removed from the agenda.

7.7 Accept the Certification of Results from the Cumberland County Board of Elections for the November 8, 2011, Municipal Election.

The Municipal Election results for the Fayetteville City Council were as follows:

Fayetteville Mayor	Votes
Tony Chavonne	6,673
Nat Robertson	5,055
Write-In	58

Fayetteville City Council District 1	
Keith A. Bates	584
Robert L. Evans	244
Write-In	3

Fayetteville City Council District 2	
Kady-Ann Davy	1,506
Arthur Duke	358
Write-In	8

Fayetteville City Council District 3	
Robert A. Massey, Jr.	1,049
Al Woodall, II	414
Write-In	8

Fayetteville City Council District 4	
D. J. Haire	710
Chalmers L. McDougald	635
Write-In	3

Fayetteville City Council District 5	
Bobby Hurst	1,871
Tony D. McKinnon, Sr.	557
Write-In	6

Fayetteville City Council District 6	
Bill Crisp	734
Jeffrey Long	377
Write-In	3

Fayetteville City Council District 7	
Valencia Applewhite	594
Steve Borth	199
Write-In	10

Fayetteville City Council District 8	
Wade Fowler	462
Michael Pinkston	257
Write-In	6

Fayetteville City Council District 9	
Jim Arp	789
Write-In	54

7.8 Authorize the Mayor to execute a contract with Cherry, Bekaert and Holland to audit accounts for Fiscal Year 2011-2012.

7.9 Capital Project Ordinance Amendment 2012-18 (Municipal Transportation Agreements).

The amendment appropriated an additional \$69,529.00 for North Carolina Department of Transportation Municipal Agreements for the construction of sidewalks at Glensford Drive and Camden Road.

7.10 Special Revenue Fund Project Ordinance 2012-11 (Multi-Disciplinary Team Training).

The ordinance appropriated \$18,852.00 in federal and local funds for the Cumberland County Multi-Disciplinary Team Training Program.

7.11 Special Revenue Fund Project Ordinance 2012-10 (Project Safe Neighborhoods - Alcohol Tobacco Firearms Task Force).

The ordinance appropriated \$4,162.00 in federal funds from the Project Safe Neighborhoods Grant Program to fund the Police Department's Alcohol Tobacco Firearms Task Force.

7.12 Approval of a Municipal Agreement with NCDOT for sidewalk construction on Camden Road from King Charles Road to Owen Drive.

7.13 Approval of a Municipal Agreement with NCDOT for sidewalk construction on Glensford Drive from Raeford Road to Cliffdale Road.

7.14 Phase 5 Annexation Areas 12 and 13.

RESOLUTION DIRECTING CONSTRUCTION OF AREAS 12 AND 13 OF THE PHASE 5 ANNEXATION UTILITY IMPROVEMENT PROJECT BE UNDERTAKEN. RESOLUTION NO. R2011-053.

7.15 Renewal of a street sweeping agreement with NCDOT.

7.4 Case No. P11-59F. Rezoning from SF-6 Single Family Residential District to NC Neighborhood Commercial District, or a more restrictive district, on property located at 4820 Rosehill Road. Containing 1 acre more or less and being the property of Westarea Volunteer Fire Department, Inc. (OI Office and Institutional recommended).

This item was pulled for discussion by Council Member Massey.

Mr. Craig Harmon, Planner II presented this item. A brief discussion followed.

MOTION: Council Member Massey moved to approve the rezoning.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

9.0 OTHER ITEMS OF BUSINESS

9.1 Presentation of the Audited FY 2010-2011 Comprehensive Annual Financial Report.

Ms. Lisa Smith, Chief Financial Officer, presented this item and stated the City Council's audit firm, Cherry, Bekaert & Holland, completed the audit of the City's FY 2010-2011 financial statements. She stated a copy of the audited financial report was provided to City Council on November 28, 2011. She thanked the Finance Department staff for their role in completing a successful audit process in preparation of the Comprehensive Annual Financial Report. She respectfully requested the City Council accept the FY 2010-2011 Comprehensive Annual Financial Report.

MOTION: Council Member Hurst moved to accept the FY 2010-2011 Comprehensive Annual Financial Report.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

9.2 Construction permit fee schedule amendments.

Mr. Doug Maples, Building Plan Review and Inspection Division Manager, presented this item and provided background information on the construction permit fee schedule. He stated the current fee schedule utilized a construction value-based fee methodology. He stated staff experience with the methodology and input from customers identified the need for adjustments to the calculation methodology to address equity and simplicity-of use issues. He stated the recommended changes would allow contractors and staff to more easily calculate fees and streamline the permit issuance process. He stated the recommended fee schedule also established a fee for violations of the City Code for junkyards and salvage yards which was

inadvertently left out in the adoption of the fee schedule for this fiscal year. He stated the issues included the electrical trade permits for larger homes being significantly higher under the current fee schedule than prior ones; multiple fee payments for a single construction job being required, which was a continuation of prior practice; and use of standardized construction value tables for various classes of construction not always properly capturing the nature of the actual work being done and creating complications for identifying site upgrade requirements under the Unified Development Ordinance. He stated the proposed revisions would address all of the issues.

MOTION: Council Member Hurst moved to adopt the recommended adjustments to the fee schedule.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0)

9.3 Uninhabitable structures demolition recommendations:

Mr. Bart Swanson, Housing and Code Enforcement Division Manager, presented this item and stated staff was requesting demolition of four buildings determined to be dangerous or blight. He reviewed the following demolition recommendations:

1103 Bunce Road

Mr. Swanson stated the structure was a residential home that was inspected and condemned as a blighted/abandoned structure. He stated the owner had not appeared at the hearing and therefore an order to repair or demolish the structure within 60 days was issued. He stated to date there were no repairs to the structure and the utilities were disconnected on February 18, 2009. He stated within the past 24 months there had been three calls for 911 service and four code violations, one of which was abated by the City. He stated the low bid for demolition of the structure was \$3,000.00.

606 Mechanic Street

Mr. Swanson stated the structure was a residential home that was inspected and condemned as a blighted/abandoned structure. He stated the owners had not appeared at the hearing and therefore an order to repair or demolish the structure was issued. He stated to date there were no repairs made to the structure and the utilities were disconnected June 1, 2010. He stated within the past 24 months there were no calls for 911 service at the property and one code violation case. He stated the low bid for demolition of the structure was \$1,400.00.

608 Mechanic Street

Mr. Swanson stated the structure was a residential home that **was** vacant and the subject of a fire and condemned as a dangerous/abandoned structure. He stated the owners had not appeared at the hearing and therefore an order to repair or demolish the structure within 60 days was issued. He stated to date there were no repairs made to the structure and the utilities were disconnected October 15, 2010. He stated within the past 24 months there had been 18 calls for 911 service and 3 code violation cases, one of which was abated by the City. He stated the low bid for demolition of the structure was \$1,400.00.

6526 Portsmouth Drive

Mr. Swanson stated the structure was a residential home that was the subject of a fire. He stated the owner attended the hearing and an order to repair or demolish within 120 days was issued. He stated to date there were no repairs to the structure and the utilities were disconnected December 28, 2011. He stated within the past 24 months there had been 21 calls for 911 service and 2 code violations, both of which were abated by the owner. He stated the low bid for demolition of the structure was \$1,800.00.

A brief discussion period ensued.

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 (1103 BUNCE ROAD). ORDINANCE NO. NS2011-015.

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 (606 MECHANIC STREET). ORDINANCE NO. NS2011-016.

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 (608 MECHANIC STREET). ORDINANCE NO. NS2011-017.

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 (6526 PORTSMOUTH DRIVE). ORDINANCE NO. NS2011-018.

MOTION: Council Member Applewhite moved to allow an additional 90 days for the properties located at 1103 Bunce Road and 6526 Portsmouth Drive

SECOND: Council Member Hurst

VOTE: UNANIMOUS (9-0)

MOTION: Council Member Davy moved to authorize the demolition for the properties located at 606 Mechanic Street and 608 Mechanic Street.

SECOND: Council Member Crisp

VOTE: UNANIMOUS (9-0)

8.0 PUBLIC HEARING

8.1 Public hearing on RAMP (Rental Action Management Program).

Mr. Doug Hewett, Assistant City Manager, presented this item and stated on April 26, 2011, the City Council adopted a Probationary Rental Occupancy Permit (PROP) program with an implementation date of July 1, 2011. He explained the program was designed to allow the City to more closely monitor and regulate rental properties that were the site of repeated or severe code violations or that were the site of certain criminal acts. He stated the program would require the rental property owners whose properties were the site of such violations or crimes to be placed into PROP and as a condition for renting the offending properties again, the owners would be required to obtain a permit from the City. He stated on June 18, 2011, Senate Bill 683 was ratified by the Legislature and the purpose of the Bill was to limit the level of local regulation of rental properties as well as limit the use of periodic inspections. He stated it would prohibit cities from enforcing an ordinance that would require permitting of rental properties unless the property was the site of more than three violations in a 12-month period or was identified as being in the top 10 percent of properties with crime or disorder problems as set forth in a local ordinance. He stated the language regarding the top 10 percent of properties with crime or disorder problems was based on a program currently utilized in Charlotte. He stated the bill would have a direct impact on the functionality and substance of the PROP program. He stated with adoption of the bill, the PROP ordinance would no longer be enforceable as drafted. He stated only one of the ten PROP eligible conditions could possibly be enforced as intended and would still have to be revised. He stated the ability of the City to charge a permit fee for PROP eligible properties under the PROP ordinance was doubtful. He stated given the substantial changes needed to make the City's PROP ordinance compliant with North Carolina law, staff recommended and City Council approve rescission/repeal of the PROP ordinance on August 8, 2011. He stated the City Council directed staff to revise the PROP program consistent with state law and bring back program alternatives. He Staff provided an update on October 3, 2011, with a draft ordinance for PROP II, now titled RAMP (Rental Action Management Program). He stated in developing the draft ordinance and program overview, staff met several times with counterparts in Charlotte regarding their program to determine how they may be able to replicate it in Fayetteville. He stated staff also conducted five stakeholder meetings to explain RAMP and solicit feedback. He stated staff provided another update to City Council on November 7, 2011, with a recommendation that a public hearing be held on Monday, December

12, 2011, to allow interested stakeholders an opportunity to address Council directly. He stated on November 28, 2011, the City Council approved the following guidelines for the public hearing: Allow each speaker to address the City Council for a maximum of 3 minutes, with up to 60 minutes allocated for the RAMP public hearing.

This is the advertised public hearing set for this date and time. The public hearing opened at 8:34 p.m.

Ms. Stella Mullen, President of and representing the Massey Hill Community Watch, 141 May Street, Fayetteville, NC 28306, appeared in favor.

Ms. Sandra Mitchell, representing the Murchison Citizens Action Group, appeared in favor.

Ms. Kym Shoultz, 1000A Elm Street, Fayetteville, NC 28303, representing the Cumberland County Apartment Association, appeared in opposition.

Mr. Jonathan Elliot, P.O. Box 4306, Fayetteville, NC 28309, appeared in opposition. He stated he was a stakeholder and had attended some of the prior RAMP meetings.

Mr. Royce Hawley, 5826 Samet Drive, High Point, NC 27265, representing Blue Ridge Property Management, appeared in opposition.

Mr. Jimmy Jones, 106 Bienville Drive, Fayetteville, NC 28311, appeared in opposition. He stated he owned a pest control business that services many of the apartment complexes in Fayetteville.

Mr. Robert C. Anderson, 511 Argyll Road, Fayetteville, NC 28303 appeared in opposition and expressed concerns regarding crime in Fayetteville.

Ms. Mary Jo Anderson, 511 Argyll Road, Fayetteville, NC 28303 appeared in opposition. She stated she was a stakeholder and had attended prior RAMP meetings.

Mr. Will Brownlee, 4020 West Chase Boulevard, Raleigh, NC 27607, an attorney representing several property owners, appeared in opposition.

Ms. Susan Passmore, 5826 Samet Drive, High Point, NC 27265, representing the North Carolina Apartment Association, appeared in opposition.

Ms. Angela Ruff, 1429 Bozerman Loop, Fayetteville, NC 28303, appeared in opposition and stated she had been working in property management for over ten years.

Mr. James Popp, 101 Goodyear Avenue, Fayetteville, NC 28303, representing the Cornborough neighborhood residents, appeared in favor.

Mr. Steven Street, 1406 Powell Street, NC 28306, appeared in favor and expressed concerns regarding crime in his neighborhood.

Mr. Anthony Castillo, 1804 Waterfall Way, Spring Lake, NC, appeared in favor and expressed concerns over the amount of crime committed in Fayetteville.

Ms. Karen Valenzuela, 3204A Turtle Point Drive, Fayetteville, NC 28304, appeared in opposition and expressed concerns over the blighted areas of the City.

Mr. Bill Nye, 639 Executive Place, Fayetteville, NC 28305, appeared in opposition and stated he did not believe the RAMP program was ready for a vote in January.

Mr. George Butterfly, 1623 Gillespie, Fayetteville, NC 28306, appeared in favor and expressed concerns regarding drug dealing and crime in his neighborhood.

Mr. Freddy McLean, Sr., 1023 Southern Avenue, Fayetteville, NC 28306, appeared in opposition. He stated he was a landlord and owned several rental properties and expressed concerns over the \$1,000.00 fine.

Ms. Kanice McLean, 1023 Southern Avenue, Fayetteville, NC 28306, appeared in opposition and expressed concerns over the fines and fees.

There being no one further to speak, the public hearing closed at 9:36 p.m.

9.4 Resolution in support of the development of transitional housing for homeless veterans.

Ms. Karen McDonald, City Attorney, presented this item and stated according to a 2009 Fayetteville Veterans Administration Medical Center survey, it was estimated that there were nearly 500 homeless veterans in the community. She stated there was a clear need for safe, secure, and affordable housing for the homeless veterans. She stated the transitional housing community for homeless veterans would help homeless veterans to receive much needed help

from the Veterans Administration Medical Center to address their disabilities or illnesses. She stated the City Council recently considered a request for a special use permit at an Eastwood Avenue property for developing a transitional housing community facility for homeless veterans. She stated the special use permit was denied based on the compatibility of the facility with the surrounding neighborhood. She stated City staff was currently working with RHA Health Services, Inc., to identify property in the City of Fayetteville that would be conducive to the development of housing for the homeless veterans.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE IN SUPPORT OF THE DEVELOPMENT OF TRANSITIONAL HOUSING FOR HOMELESS VETERANS.
RESOLUTION NO. R2011-054.**

MOTION: Council Member Hurst moved approve the resolution.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:45 p.m.