

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
August 28, 2017
7:00 P.M.**

Present: Mayor Nat Robertson (via telephone)

Council Members Katherine K. Jensen (District 1); Kirk deViere (District 2); H. Mitchell Colvin, Jr. (District 3); Chalmers McDougald (District 4); Robert T. Hurst, Jr. (District 5); William J. L. Crisp (District 6); Larry O. Wright, Sr. (District 7); Theodore Mohn (District 8) James W. Arp, Jr. (District 9) (via telephone)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Jay Reinstein, Assistant City Manager
Cheryl Spivey, Chief Financial Officer
Tracey Broyles, Budget and Evaluation Director
Kevin Arata, Corporate Communications Director
Randy Hume, Transit Director
Brad Whited, Airport Director
Giselle Rodriguez, City Engineer
Robert Van Geons, President and CEO, FCEDC
Jane Starling, Deputy City Clerk
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Pro Tem Colvin called the meeting to order.

2.0 INVOCATION

The invocation was offered by Reverend John Hunter, Cliffdale Community Church.

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Mayor Robertson and City Council.

4.0 ANNOUNCEMENTS AND RECOGNITION

Ms. Caroline Hodges, Ms. Teen North Carolina, announced her platform would be "A Matter of Heart" which would pertain to heart disease prevention.

Council Member Jensen introduced Mr. Jordan Clayborn, Fayetteville-Cumberland Youth Council representative.

Mr. Al Florez announced the Latinos United for Progress Entrepreneurship Workshop Graduation.

Mr. Dan Gerlach, President of the Golden Leaf Foundation, presented a check for \$3 million to Mayor Pro Tem Colvin, and stated these types of grants are awarded to local governments working to recover damages caused by Hurricane Matthew.

Mayor Pro Tem Colvin presented a proclamation to Mr. Dave Harvell, Interim Environmental Services Director, and several Environmental Services Department employees proclaiming June 17, 2017, Garbage Man Day.

5.0 APPROVAL OF AGENDA

MOTION: Council Member deViere moved to approve the agenda with the addition of Item 8.04, Public Hearing - Economic Development Incentive of \$37,500.00 for eClerx.
SECOND: Council Member Crisp
VOTE: UNANIMOUS (10-0)

6.0 CONSENT

MOTION: Council Member Wright moved to approve the consent agenda with the exception of Item 6.08, pulled for discussion and separate vote.
SECOND: Council Member Crisp
VOTE: UNANIMOUS (10-0)

6.01 Approval of Meeting Minutes:

May 18, 2017 - Budget Work Session
June 5, 2017 - Work Session
June 12, 2017 - Regular
June 13, 2017 - Special (Budget)
June 19, 2017 - Special (Baseball & Parks and Recreation Bond Projects)
June 19, 2017 - Special (Budget)

6.02 Authorization to Accept Grant Funding for a Universally-Accessible Sports Field at Massey Hill Recreation Center and Adoption of Capital Project Ordinance Amendment 2017-39

Staff was authorized to accept the Connect North Carolina Bond Grant and adopt Capital Project Ordinance Amendment 2017-39 to appropriate the \$250,000.00 grant.

6.03 Resolution Authorizing the Execution and Delivery of a \$3,359,977.00 Equipment Installment Financing Agreement and Related Documents in Connection with the Financing of Various Vehicles and Equipment

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A SECURITY AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF VARIOUS VEHICLES AND EQUIPMENT FOR THE CITY OF FAYETTEVILLE, NORTH CAROLINA. RESOLUTION NO. R2017-035

6.04 Set Public Hearing for Sunday Transit Service

The public hearing related to establishing Sunday service routes was set for August 14, 2017.

6.05 Adoption of Special Revenue Project Ordinance 2017-11 to Appropriate a Grant from the U.S. Department of Agriculture, Natural Resources Conservation Service for Repairs of the Streambank at Cross Creek Cemetery

Special Revenue Project Ordinance 2017-11 appropriated \$345,697.00 for the project, funded by \$267,129.00 of federal funds and \$78,268.00 of a required local match from the General Fund for the creek bank repair project.

6.06 Adoption of Capital Project Ordinance 2017-55 to Appropriate Federal Transit Administration Grant Award NC-2017-031-00 for Various Capital Items

The Federal Transit Administration awarded the City's urban formula grant for federal FY 2017. The grant included pre-award authority for expenditures retroactive to July 1, 2016. The grant provided \$2,196,000.00 of federal funds for operating assistance, preventive maintenance, and ADA paratransit service support. Those grant funds were appropriated with the FY 2017 Transit operating

budget. The grant also provided \$683,802.00 for capital items. Capital Project Ordinance 2017-55 appropriated \$854,752.00 for the \$683,802.00 federal grant funds and the required \$170,950.00 local match for capital items.

6.07 Adoption of a Resolution to Accept a State Grant and Adoption of Special Revenue Fund Project Ordinance 2017-9 for the FY 18 Transit Apprentice Program

RESOLUTION AUTHORIZING CITY OF FAYETTEVILLE TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION - TRANSIT APPRENTICE PROGRAM. RESOLUTION NO. R2017-036

6.08 Pulled for discussion and separate vote by Council Member deViere.

6.09 Approval of Interlocal Agreement on Homelessness with Cumberland County

The Interlocal Agreement on Homelessness with Cumberland County was approved and staff was directed to request Cumberland County to participate in the development of a joint comprehensive homeless strategy and develop a recommendation on the formal structure of the Continuum of Care as a stand-alone organization to address homelessness.

6.010 Adopt a Resolution Declaring Jointly-Owned Real Property Surplus and Authorizing a Quitclaim Deed of the City's Title to the County in Order to Expedite the Sale of Land by Cumberland County (1419 Church Street, 4705 Belford Road, 2237 Jumalon Street, 1714 Long Street, and 1716 Long Street)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO DECLARE CITY PROPERTY SURPLUS AND QUITCLAIM CITY'S INTEREST IN JOINTLY-HELD PROPERTY TO CUMBERLAND COUNTY. RESOLUTION NO. R2017-037

6.011 Bid Recommendation - Water and Water Reclamation Chemicals

Bids were received on May 4, 2017, as follows:

Oltrin Solutions, LLC, Hamlet, NC, low bidder, in the amount of \$377,000.00 for the purchase of approximately 3,250 tons of Sodium Hypochlorite 15 percent. Bids were solicited from 36 bidders with 4 bidders responding as follows:

Oltrin Solutions, LLC, Hamlet, NC.....	\$377,000.00
Water Guard Inc., Wilson, NC.....	\$390,000.00
Brenntag Mid-South, Inc., Durham, NC.....	\$398,450.00
JCI Jones Chemicals, Charlotte, NC.....	\$422,500.00

Oltrin Solutions, LLC, Hamlet, NC, low bidder, in the amount of \$735,000.00 for the purchase of approximately 3,000 tons of Caustic Soda 50 percent. Bids were solicited from 36 bidders with 4 bidders responding as follows:

Oltrin Solutions, LLC, Hamlet, NC.....	\$735,000.00
Univar USA, Inc., Morrisville, PA.....	\$745,470.00
Brenntag Mid-South, Inc., Durham, NC.....	\$760,800.00
JCI Jones Chemicals, Charlotte, NC.....	\$900,000.00

Pencco, Inc., San Felipe, TX, low bidder, in the amount of \$732,000.00 for the purchase of approximately 6,000 tons Ferric Sulfate Liquid. Bids were solicited from 36 bidders with 2 bidders responding as follows:

Pencco, Inc., San Felipe, TX.....	\$732,000.00
Kemira Water Solutions, Inc., Lawrence, KS....	\$896,400.00

Premier Magnesia, LLC, Wayne, PA, low bidder, in the amount of \$275,000.00 for the purchase of approximately 125,000 gallons of Magnesium Hydroxide. Bids were solicited from 36 bidders with 1 bidder responding as follows:

Premier Magnesia, LLC, Wayne, PA.....\$275,000.00

6.012 Airport Capital Project Fund Ordinance Closeout Amendments 2017-1 through 2017-09

The amendments corrected project funding sources in the accounting records by reducing either airport operating fund contributions, or investment income contributions. The revenues offset each other, thus there is no effect on total revenues used for the projects. These changes also reflected the amounts reported to outside agencies; thus, the amendments are only needed to rectify internal reporting discrepancies. The amendments fully and accurately recorded the Passenger Facility Charges utilized for the following FAA-approved projects: Airport Improvement Project (AIP) 23, AIP 24, AIP 28, AIP 30, AIP 32, AIP 33, AIP 34, AIP 35/36, and Airport Storm Water Improvements.

6.013 Resolution to Support Cumberland County Ozone Advanced Program

RESOLUTION OF THE CITY COUNCIL, CITY OF FAYETTEVILLE, NORTH CAROLINA TO ADOPT A RESOLUTION SUPPORTING THE OZONE ADVANCE PROGRAM. RESOLUTION NO. R2017-038

6.014 Professional Services Contract for the Design of Mirror Lake Dam and Mirror Lake Drive, Damaged During Hurricane Matthew

The City Manager was authorized to execute the contract. A Request for Qualifications was submitted for the design and Schnabel Engineering was selected on June 7, 2017, in accordance with City, state, and Federal Emergency Management Agency (FEMA) requirements. Funding for this project is anticipated to be provided by FEMA and the North Carolina Department of Public Safety for the design at a cost of \$448,110.00. Based on the current anticipated schedule, the design will be completed November 2017 and construction completed December 2018.

6.015 Consideration of Approval of Special Revenue Fund Project Ordinances 2018-1 and 2018-2 for the Funding of the CDBG and HOME FY 2017-2018 Programs per the Community Development Department's Annual Action Plan

The Community Development Block Grant (CDBG) and HOME Investment Partnership Grant (HOME) will support activities identified in the Community Development Department's proposed 2017-2018 Annual Action Plan as adopted by City Council on April 24, 2017. Special Revenue Fund Project Ordinances 2018-1 and 2018-2 appropriated the operating budgets for the CDBG and HOME programs, including the anticipated Federal grant funds and program income.

6.08 Approval of Contract for Private Security Services

Council Member deViere pulled this item for discussion and separate vote.

Mr. Kristoff Bauer, Deputy City Manager, provided an overview of the item and explained that contracted security services are needed for City Hall and the new FAST Transit Center. In addition, Parks and Recreation has on occasion the need for on-call services for certain events. These needs were combined into a single Request for Proposals (RFP). Two proposals were received on April 18, 2017, and evaluated by representatives of Police, Transit, and Parks and Recreation. The Transit Center Security Plan was developed in conjunction with Police and will provide two uniformed officers when both FAST and Greyhound are operating and will provide a single officer during the hours that

FAST does not operate. The plan has been reviewed with the Fayetteville Advisory Committee of Transit (FACT). Greyhound will pay for 100 percent of the services required for the hours FAST is closed and 9.0 percent of the services when both are operating. The new transit center is expected to begin operating in early August 2017. Greyhound is expected to move in approximately September 1, 2017. City Hall security calls for 50 hours of service per week for the visitor desk at the City Hall entry and some roving patrols. Provisions will be made in the contract to add additional hours for City Hall security. Parks and Recreation requires on-call services for certain events. Depending on the event, Parks and Recreation may use both Fayetteville Police officers as well as private security. The City will be billed based on actual hours used. The hourly rate for City Hall and Transit will be \$15.36 per hour. The on-call rate will be \$18.78 per hour. Staff advertised for proposals and received two proposals. These proposals were evaluated by a team from Police, Transit, and Parks and Recreation. The team has determined GCS Security Services, LLC, as most qualified and provides the best value for these services based on the criteria set forth in the RFP. The contract term will be three years with two one-year option periods in an amount not to exceed \$250,000.00 per year. This includes a contingency for added services for special events. The City will be billed on an hourly basis.

Discussion ensued.

MOTION: Council Member deViere moved to table the item to the August 7, 2017, work session.

SECOND: Council Member Crisp

VOTE: FAILED by a vote of 5 in favor to 5 in opposition (Council Members Robertson, McDougald, Hurst, Mohn, and Arp)

MOTION: Council Member McDougald moved to award contract to GCS Security Services, Inc., and authorize the City Manager to execute the service contract.

SECOND: Council Member deViere

VOTE: UNANIMOUS (10-0)

7.0 PUBLIC HEARINGS

7.01 P17-08F The rezoning of property from SF-10 Single-Family Residential to CC Community Commercial or LC Limited Commercial Zoning District, located at 1428, 1432, and 1436 Pamalee Drive near the intersection of Pamalee Drive and Cain Road and being the property of 3% General Contracting LLC by Arnell Bobbitt. (Appeal Case)

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated from the intersection of Cain Road and Pamalee Drive there are a few lots zoned for OI Office and Institutional use, but none for commercial use. This section of Pamalee Drive is mainly residential with a few houses that have been converted to offices in the OI District. The applicant has asked that this property be rezoned to either CC Community Commercial or LC Limited Commercial. The applicant has stated that a potential use would be the selling, displaying, and storage of sheds on the property. However, as a straight rezoning, the applicant could use the property for any uses allowed in the CC or LC district if approved. There are no other commercially-zoned property around these lots. This may be a case of spot zoning if approved. If approved, this rezoning could establish the basis for converting other residential property to commercial, destabilizing the existing residential, and initiating a new pattern of commercial traffic and turning movements not intended for that area. The owner has indicated that she would like to sell small sheds/barns on this property. He advised the Zoning Commission and staff recommended denial of the rezoning to LC Limited Commercial or CC Community Commercial based on (1) the property having residential development already built on three of its sides, (2) the City's Land Use Plan calling for low-density

residential on the property and currently these properties are zoned for those types of uses, (3) the rezoning to LC or CC could be considered spot zoning, and (4) the denial of this request helps a residential section of Pamalee Drive to remain as such.

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

Ms. Arnell Bobbitt, 300 Trinity Gardens Lane, Linden, NC 28356, appeared in favor and requested Council approve the rezoning.

Ms. Kristen Roller, 1413 Valencia Drive, Fayetteville, NC 28303, appeared in opposition and asked Council to deny the rezoning request.

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

Council Member McDougald stated this neighborhood is located in his district, and said the rezoning would not be in keeping with the character of the neighborhood.

MOTION: Council Member McDougald moved to deny the rezoning.
SECOND: Council Member deViere
VOTE: UNANIMOUS (10-0)

7.02 P17-12F The issuing of a Special Use Permit to allow two small cell antennas in an SF-6 Single-Family Residential and CC Community Commercial Zoning District, located at 600 Carol and 339 Devers Streets near the intersections of Carol Street and Bragg Boulevard and Devers Street and the FTCC access road and being the property of NCDOT Right-of-Way.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the purpose of locating these small cell antennas is to advance mobile broadband services. The use of existing wooden utility poles allows these antennas to blend more readily into their surroundings. No lighting is required for poles of this height. The utility poles in question are currently 38 feet 10 inches tall and 38 feet 11 inches tall. The antennas will be an additional three feet tall, making each pole just over 41 feet in height. Mr. Harmon presented the pole design and simulation photos showing how the pole currently looks and how it will appear with the antenna affixed to the top. The diagrams also show how the electrical equipment associated with powering the antennas will affix to the utility's poles. This electrical equipment may be adjusted in height to meet the North Carolina Building Code. Mr. Harmon advised the following findings must be met for a motion to approve:

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;

- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations.

Mr. Harmon further advised that a condition of approval would be the submitted site plan with antenna diagrams. He stated the Zoning Commission and City staff recommended approval of the SUP based on (1) the small cell antennas having a minimal visual impact on their surroundings since the total height of the poles will only be three feet higher than they currently are, (2) the antennas being located in commercial and institutional zoning areas; and (3) the applicant meeting the standards for SUPs set forth in the UDO.

This is the advertised public hearing set for this date and time. There being no one to speak, the public hearing was opened and closed.

MOTION: Council Member McDougald moved to approve the Special Use Permit (SUP) to locate small cell antennas on top of two existing utility poles in SF-6 and CC Districts, located at 600 Carol and 339 Devers Streets, as presented by staff, with the one condition listed above, based on the standards of the City's development code, and that the application is consistent with applicable plans because (1) the development is not located in non-residential zoning districts, (2) this use complies with the eight findings as presented by staff, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. This Special Use Permit shall become effective ten days after its approval by the City Council. Unless specified otherwise by the City Council, the SUP shall expire one year from its effective date of July 6, 2017, if a building permit is not issued within that time.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

7.03 P17-14F The rezoning of property from SF-10 Single Family to OI Office and Institutional Zoning, located at 1455 Bingham Drive near the intersection of Bingham Drive and Crestwood Avenue and being the property of Tarek Gayed.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the owner of this property wishes to rezone to OI Office and Institutional to construct a medical office. The property in question sits on the east side of Bingham Drive near the intersection of Bingham Drive and Crestwood Avenue. Since 2008 there have been three attempts at rezoning property along Bingham Drive; two were contrary to the City's Land Use Plan and were denied. City Councils in the past have cited a desire to maintain Bingham Drive as a primarily residential road. Mr. Harmon further stated City staff recommends City Council move to deny the rezoning to OI Office and Institutional Zoning District as presented by staff. The amendment is not consistent with applicable plans because (1) the City's Land Use plan calls for low-density residential on this site, (2) the uses and zoning surrounding this property are not compatible with the proposed zoning, and (3) the proposed zoning is not reasonable and in the public interest because the proposed zoning could be a more intense service provision use such as medical offices that would not fit with the character of most of the development in this area.

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

Mr. Tarek Gayed, 4462 Home Stakes Drive, Parkton, NC 28371, appeared in favor and stated he is the property owner and requested Council approve the request for rezoning.

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

Council Member Wright asked Council Member Crisp for the reason to deny the request for rezoning. Council Member Crisp responded he is trying to be consistent and protect the sanctity of the residential homes in this area.

Council Member Wright asked what type of offices the applicant wants. Mr. Harmon responded the applicant intends to open medical offices.

MOTION: Council Member Crisp moved to deny the request for rezoning.

SECOND: Council Member McDougald

VOTE: PASSED by a vote of 6 in favor to 4 in opposition (Council Members McDougald, Hurst, Wright, and Mohn)

7.04 P17-15F The issuing of a Special Use Permit to allow an Assisted Living Family Care Home in an SF-6 Single-Family Residential Zoning District, located at 1907 Harris Street near the intersection of Harris Street and Hood Avenue and being the property of Chaudette Adkins.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the applicant would like to open an assisted living facility which will provide 24-hour personal care to two to six residents. The property in question is a former group home that now sits vacant. This assisted living facility would provide care to persons who have cognitive impairments. These impairments may jeopardize their safety and wellbeing. The home will have four staff members. That number includes two CNAs. The house will operate 24 hours a day, seven days a week. The facility will be maintained as a home and will retain the character and integrity of the neighborhood. All service delivery will be done inside the home in a normal residential manner. Parking for up to five vehicles is available on the site. None of the residents will come with vehicles and parking will be for the staff and visitors only. Additional on-street parking is available. City staff does have concerns regarding the number of bedrooms when six persons with disabilities will live in the home. Visitors to the facility and outdoor activities for the residents have not been addressed in the application. The conditions of approval are there will be no more than six residents at any one time and the facility must maintain the character of the neighborhood. Mr. Harmon advised the following eight findings must be met for a motion to approve:

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;

- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations.

Mr. Harmon advised the conditions of approval would be (1) no more than six residents at any one time and (2) maintain the character of the neighborhood. He stated the Zoning Commission and staff recommended approval of the SUP based on (1) the facility having 24-hour onsite caregivers, (2) the facility being maintained as a home and not interfering with the character of the neighborhood, (3) the applicant limiting the number of residents to no more than six, and (4) the City's Land Use Plan calling for medium-density residential.

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

Mr. LeRoy Gamble, 1811 Armstrong Street, Fayetteville, NC, appeared in favor and stated the proposed facility would benefit the neighborhood.

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

Mayor Pro Tem Colvin stated this would be a positive for this area of town, and is pleased the neighbors are in agreement.

MOTION: Council Member McDougald moved to approve the Special Use Permit (SUP) to locate an assisted living facility in an SF-6 District, located at 1907 Harris Street, as presented by staff, with three conditions that (1) there will be no more than six residents at any one time, (2) the facility must maintain the character of the neighborhood, and (3) there needs to be a caregiver 24 hours per day on site, and that the application is consistent with applicable plans because (1) the development is located in a single-family zoning district, (2) that this use complies with the findings listed below, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. This Special Use Permit shall become effective ten days after its approval by the City Council. Unless specified otherwise by the City Council, the SUP shall expire one year from its effective date of July 6, 2017, if a building permit is not issued within that time.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

7.05 P17-16F The issuing of a Special Use Permit to allow automotive repair within 100 feet of residential development in an LC - Limited Commercial Zoning District, located at 5327 Raeford Road near the intersection of Raeford & Pompton roads and being the property of Joan Allen Johnson.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated Precision Tune Auto Center wishes to construct a store at this location. This property is currently undeveloped. Precision Tune's proposed hours of operation would be Monday to Friday from 8:00 a.m. to 6:00 p.m. and Saturday from 8:00 a.m. to 5:00 p.m. The business would be closed on Sunday. The business looks to employ a total of 12 workers and expects 35 to 45 clients each day. All repairs will be conducted inside where the service bays are located. There will be no overnight storage of

vehicles outside. The applicant proposed a 30-foot Type D buffer next to all residential zoning districts. This is 10 feet greater than what is required by the City's UDO. He stated the City's proposed conditions for approval were that (1) the hours of operation would be Monday to Friday from 8:00 a.m. to 6:00 p.m. and Saturday from 8:00 a.m. to 5:00 p.m., (2) there will be a 30-foot Type D buffer where abutting residential, and (3) there will be no overnight storage of vehicles outside. Mr. Harmon advised the following eight findings must be met for a motion to approve:

- (1) The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards;
- (2) The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;
- (3) The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration;
- (4) The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) The special use maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations.

Mr. Harmon stated the Zoning Commission and City staff recommended approval of the SUP based on (1) the City's Land Use Plan calling for heavy commercial on this property; (2) the hours of operation, listed under conditions, limiting the time where there may be conflicts between the business and any adjoining residential; and (3) the owner having conditioned to increase the Type D buffer to 30 feet.

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

Mr. Jason Allbert, 106 Woodwind Industrial Court, Cary, NC 27511, appeared in favor and stated he is the potential buyer for this property.

Mr. Phillip Joyner, Jr., 712 Bell Drive, Rocky Mount, NC 27803, appeared in favor and stated he is the Civil Engineer for the technical design for this site.

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

Council Member deViere asked what a Type D buffer is. Mr. Harmon responded it is the City's most stringent buffer, and typically consists of thick vegetative buffer.

MOTION: Council Member Hurst moved to the Special Use Permit (SUP) to locate an automotive repair business within 100 feet of residential development in a LC District, located at 5327 Raeford Road, as presented by staff, with three (3)

conditions: (1) Hours of operation - Monday to Friday 8am to 6pm and Saturday 8am to 5pm., (2) 30 foot Type D buffer where abutting residential, and (3) There will be no overnight storage of vehicles outside; based on the standards of the City's development code, and that the application is consistent with applicable plans because: (1) the development is located in a commercial zoning district and (2) that this use complies with the findings listed below and (3) the proposed permit is not in the public interest because the proposed SUP does/does not fit with the character of the area. This Special Use Permit shall become effective ten days after its approval by the City Council. Unless specified otherwise by the City Council, the SUP shall expire one year from its proposed effective date of July 6, 2017, if a building permit is not issued within that time.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

7.06 Consideration of awarding a contract for Enhanced Services for the Arts and Entertainment Focused Downtown Municipal Service District to Cool Spring Downtown District, Inc.

Mr. Victor Sharpe, Community Development Director, presented this item and stated this item is a public hearing to consider awarding the contract for Enhanced Services for the Arts and Entertainment Focused Downtown Municipal Service District to Cool Spring Downtown District, Inc. Included in the agenda packet is the Request for Proposals and the proposal submitted by Cool Spring Downtown District, Inc. City Council discussed this item at the June 5, 2017, work session. Changes in the State's statutes invalidated the City's contract with the Downtown Alliance as the managing organization of the City's Downtown Municipal Service District. In an effort to comply with the new rules, City staff prepared a Request for Proposals (RFP) seeking qualified agencies to contract for enhanced services in the Arts & Entertainment focused Downtown Municipal Service District. The RFP included the following five enhanced service elements: economic vitality and development; art and design enhancements; promotion and marketing; special events and programming; and partnership, organizational support and conflict resolution. The RFP included the following required component parts: cover letter/letter of intent; executive summary; project understanding, approach and schedule; team organization, experience and qualifications; consultants, agents and/or contractors; references; cost/fee proposal; financial information and additional proposal considerations. There were four respondents to the RFP. The proposals were evaluated on the following criteria: qualification and experience of proposed team; overall understanding as detailed in submittal; demonstration of prior successes/abilities; ability to measure and understand past to adapt to the future; and proposed cost. Based upon staff review of the respondents to the Request for Proposals for Enhanced Services for an "Arts and Entertainment Focused" Downtown Municipal Service District, Cool Spring Downtown District, Inc., is being recommended. Staff also conducted an interview with Cool Spring Downtown District, Inc. The budget impact for FY 18 would be \$120,000.00 from the Municipal Service District Funds and \$100,000.00 from the General Funds which is also included in the FY 18 budget for City Council's consideration to support the proposed Arts and Entertainment District in the Municipal Service District.

Council Member Mohn thanked Mr. Reinstein, Ms. Broyles, and Ms. Culbreth for answering his questions on this item on Friday evening.

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

Mr. Patrick Callahan, 325 Hay Street, Unit 402, Fayetteville, NC 28301, appeared in favor, speaking on behalf of the Downtown Municipal Service District and Cool Spring Downtown District, Inc.

Mr. Henry "Hank" Parfitt, 112 Hay Street, Fayetteville, NC 28301, appeared in favor.

Ms. Deborah Mintz, 610 Westmont Drive, Fayetteville, NC, appeared in favor.

Ms. Takeema Hoffman, 1616 Boris Drive, Fayetteville, NC 28303, appeared in favor.

Mr. William Pryor, 2928 Sky Drive, Fayetteville, NC 28303, appeared in favor.

Mr. Mark Regensburger, 220 Kirkwood Drive, Fayetteville, NC 28303, appeared in favor.

Mr. Steve Barnard, 827 W. Rowan Street, Fayetteville, NC 28301, appeared in favor.

Mr. T.J. Jenkins, 225 Green Street, Fayetteville, NC 28301, requested consideration for the marketing component.

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

Discussion ensued.

MOTION: Council Member deViere moved to approve the contract award to Cool Spring Downtown District, Inc., for Enhanced Services for the Arts and Entertainment Focused Downtown Municipal Service District in the amount of \$119,500.00 from the Municipal Service District funds and approve \$100,000.00 from the General Fund to provide enhanced services. The total contract award would be \$219,500.00.

SECOND: Council Member Crisp

FRIENDLY AMENDMENT:

Mayor Robertson made a friendly amendment that the motion include directing the City Manager to bring the draft contract back to Council for review and final approval at the August 7, 2017, City Council work session.

Council Members deViere and Crisp accepted the friendly amendment.

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

Mayor Pro Tem Colvin recessed the meeting at 9:34 p.m. and reconvened the meeting at 9:44 p.m.

7.07 Amendment to City Code Chapter 30 to define and classification of brewpub, microbrewery and related uses and use-specific standards as appropriate

Mr. Scott Shuford, Planning and Code Enforcement Director, presented this item and stated over the past few years three separate studies (Main Street, ULI, and Cultural Arts) emphasized the importance of increasing the hours of activity downtown to the extent that an arts and entertainment district is proposed. "Bars" and restaurants are frequently part of such a mix, along with unique entertainment venues such as the proposed ballpark or a performing arts center. Separation standards have, to date, limited the number of bar/nightclub uses downtown and in that way helped manage their impact. The rigid standards severely limited possible locations for such uses and led to other issues, such as problems relying on

separation standards downtown included Capital Partners' efforts in 2012 to open a charter school and the difficulty a long-standing local pub had relocating from a site facing major renovations. Consequently, in March 2015 and again in April 2016 the standards were amended, first to remove the separation requirement for the protected uses (schools, churches, etc.), then, in the DT district, to allow a reduced separation through the special use permit if there were no negative impacts or the impacts could be mitigated through conditions of approval. With the latter change, downtown residents, business owners and City Council members asked for standards that would allow new opportunities but also provide greater protection from unintended negative impacts. The goal was to encourage a more vibrant nightlife as an economic development and quality of life enhancement. The following issues and recommendations represent the continued research from Planning, City Attorney, and the Police staffs working with stakeholder groups that included bar and brewpub owners, downtown residents and business owners, local restaurateurs and members of Downtown Alliance. The Planning Commission held a hearing May 16, 2017. There were no speakers for or against. The Commission tabled action to June 20, 2017, to allow staff to prepare a definition of "entertainment". Staff has updated the draft ordinance (included in the agenda packet) with that addition. Research indicates that when it is a significant aspect of the operation, entertainment is one of the most critical factors relative to the noise and disruptive behavior the community fears. However, trying to regulate performance or behavior through land use standards can be problematic. State authority to manage entertainment downtown through licensing may be the best management approach but that is still under study. One of the other striking results of research by the Police Department was that the craft brewing industry and associated uses like brewpubs typically do not cause significant noise, vandalism, or rowdiness problems. As discussed at the work session, a conservative approach supporting new uses like brewpubs seems warranted. Staff recommends using the use-specific standards to limit entertainment to background or sporadic, special event occasions and requiring separate approval (SUP process) for a more significant or frequent level of entertainment at a business. As noted in the recent studies, the craft brewing industry can be a major contributor to a more vibrant, economically diverse urban activity center. Moving forward with the new definitions and classifications for these enterprises would provide new options in small, dense activity centers like a mixed-use development or downtown.

This is the advertised public hearing set for this date and time. There being no one to speak, the public hearing was opened and closed.

AN ORDINANCE TO AMEND CITY CODE ARTICLE 30 VARIOUS SECTIONS, TO DEFINE AND CLASSIFY BREWPUB, MICROBREWERY AND RELATED USES, INCLUDING USE-SPECIFIC STANDARDS AS APPROPRIATE, IN CERTAIN NON-RESIDENTIAL ZONING DISTRICTS. ORDINANCE NO. S2017-009

MOTION: Council Member deViere moved to adopt the proposed amendment to define and regulate brewpubs, microbreweries, and related uses.

SECOND: Council Member Hurst

VOTE: UNANIMOUS (10-0)

8.0 OTHER ITEMS OF BUSINESS

8.01 Staff- or Commission-initiated Code changes to Chapter 30 Development Code, various sections, including supportive uses in a Business Park District, multi-axle trailer parking, residential densities in a Neighborhood Commercial District, Expiration Term for Certificate of Appropriateness, standards for temporary shipping containers, and administrative adjustments for certain utility needs.

Mr. Scott Shuford, Planning and Code Enforcement Director, presented this item and stated in January the City Council approved an

approach to focus staff-initiated code amendments to two times a year--spring and fall--and beginning any such amendment cycle with guidance from City Council. For the spring cycle, staff proposes six changes. A seventh item, a table listing administrative changes, has been removed since it captured typos and similar administrative actions that are already completed, and the table is now part of the record. The bundle was discussed briefly at the April 3, 2017, work session of City Council which included a chart that summarized each of the six substantive changes as to why it was initiated, what the change would be, and why this change was proposed. The direction was to move forward. The Planning Commission held a public hearing April 18, 2017. There were no speakers and the Commission voted unanimously to recommend approval as presented. The City Council held the public hearing on May 22, 2017, as advertised. There were no speakers for or against, and the hearing was closed. After discussion that included concerns about the first two items, the Council deferred action, requesting that each section be made a separate ordinance and brought to the work session in June. At the June 5, 2017, work session, similar concerns were raised. Since the bundle had been to a hearing already, staff recommended the Council leave all the items on the agenda and vote to deny the proposed changes they did not want to enact. A separate ordinance for each topic was prepared and included in the packet and labeled from "a" through "f." The following provides an explanation of each ordinance and staff requested that Council vote on each ordinance separately:

Explanation for Item "a" - Recreational uses in BP Business Park district: Changes impact Article 30-4 Uses, adding stadiums, clubhouses, athletic fields, pools and tennis courts to allowed uses in the BP district and clarifying in Footnote 4 that park or recreational facilities do not count toward any specified limits to supportive/commercial uses in a BP district.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CITY CODE CHAPTER 30, FOR RECREATION USES IN THE BP DISTRICT (Section 1 of draft ordinance hearing 5/22/2017). ORDINANCE NO. S2017-004

MOTION: Council Member McDougald moved to approve.
SECOND: Council Member Wright
VOTE: UNANIMOUS (10-0)

Explanation for Item "b" - Trailers in residential front yards: The most recent change, adopted in September 2015, authorized single-axle trailers and campers and RVs to be parked on improved surfaces in the front yards in residential districts, but multi-axle trailers went through the Neighborhood Compatibility Permit process with the Planning Commission. With little to distinguish them from campers or RVs, the Commission respectfully asks the City Council to treat multi-axle trailers the same as campers and RVs.

MOTION: Council Member McDougald moved to deny.
SECOND: Council Member Crisp
VOTE: UNANIMOUS (10-0)

Explanation for Item "c" - Densities in NC Neighborhood Commercial District: The standard for "all other residential uses" in this district was not adjusted with all the others during an amendment in 2014, leaving "other residential uses" at a level that discouraged residential development in the NC district. The proposed change increased the density of 6 units/acre to 12 units/acre.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CITY CODE CHAPTER 30, TO MODIFY RESIDENTIAL DENSITIES IN NC NEIGHBORHOOD BUSINESS DISTRICT (Section 3 of draft ordinance hearing 5/22/2017). ORDINANCE NO. S2017-005

MOTION: Council Member Wright moved to approve.

SECOND: Council Member McDougald
VOTE: UNANIMOUS (10-0)

Explanation for Item "d" - Expiration period for COAs: The Historic Resources Commission (HRC) follows the same quasi-judicial review process for its Certificates of Appropriateness (COA) as other bodies do for considering variances or special use permits, but the COA expires in six months and has no renewal option compared to the other processes. This change provides a one-year expiration and one six-month renewal, consistent with other decisions under the same process.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CITY CODE CHAPTER 30, TO MODIFY EXPIRATION TERMS FOR CERTIFICATE OF APPROPRIATENESS (Section 4 of draft ordinance hearing 5/22/2017). ORDINANCE NO. S2017-006

MOTION: Council Member Crisp moved to approve.
SECOND: Council Member McDougald
VOTE: UNANIMOUS (10-0)

Explanation for Item "e" - Administrative Adjustment options for utilities: These changes provide an expeditious way to authorize the limited but critical variations in standards for utilities making improvements to respond to future emergencies. An example is having enough large fuel tanks accessible and operating in a utility's staging area, even during floods, to support multiple fleets of repair vehicles.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CITY CODE CHAPTER 30, TO MODIFY ADMINISTRATIVE ADJUSTMENT STANDARDS FOR UTILITY COMPANIES (Section 5 of draft ordinance hearing 5/22/2017). ORDINANCE NO. S2017-007

MOTION: Council Member McDougald moved to approve.
SECOND: Council Member Mohn
VOTE: UNANIMOUS (10-0)

Explanation for "f" - Temporary storage with portable shipping containers: Amendments in 2011 addressed the smaller "PODS" in residential districts but did not speak to the commercial needs for temporary storage. Use of the large steel "ConEx" shipping containers has increased since then. For nonresidential uses in residential districts (such as churches) and uses in commercial districts except DT and MU, the proposed changes provide for up to six months temporary storage in any 48-month period, subject to standards for where they can be placed. Temporary storage during construction and for "just-in-time" production processes are already covered.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CITY CODE CHAPTER 30, TO MODIFY STANDARDS FOR TEMPORARY STORAGE CONTAINERS (Section 6 of draft ordinance hearing 5/22/2017). ORDINANCE NO. S2017-008

MOTION: Council Member Wright moved to approve.
SECOND: Council Member McDougald
VOTE: UNANIMOUS (10-0)

8.02 Adoption of Capital Project Ordinance 2017-56 to Appropriate a Grant Award from the Golden LEAF Foundation for the Spruce Street Drainage Project; and, Adoption of Special Revenue Fund Project Ordinance 2017-10 to Appropriate a Grant Award from the Golden LEAF Foundation for Debris Removal in Multiple Creeks

Ms. Giselle Rodriguez, City Engineer, presented this item and stated on June 7, 2017, the Golden LEAF Foundation awarded the City two grants, totaling \$1,866,871.50, for Hurricane Matthew recovery projects. The first grant provides \$873,871.50 to replace the undersized storm drainage infrastructure at Spruce Street. The second

grant provides \$993,000.00 for removal and disposal of trees and debris from multiple creeks. Capital Project Ordinance (CPO) 2017-56 will appropriate the \$873,872.00 of grant funding for the Spruce Street Storm Drainage Project. Special Revenue Fund Project Ordinance (SRO) 2017-10 will appropriate the \$993,000.00 of grant funding for the Multiple Creek Tree Debris Removal project.

MOTION: Council Member Arp moved to adopt Capital Project Ordinance 2017-56 for the Spruce Street Storm Drainage Project and Special Revenue Fund Project Ordinance 2017-10 for the Multiple Creek Tree and Debris Removal as presented.

SECOND: Council Member deViere

VOTE: UNANIMOUS (10-0)

8.03 Adoption of the Fiscal Year 2017-2018 Budget Ordinance and Fee Schedule, the Fiscal Year 2017-2018 Strategic Plan, the Fiscal Years 2018-2022 Capital and Technology Improvement Plans, Capital Project Ordinances 2018-1 through 2018-12, and Capital Project Ordinance Amendments 2018-1 through 2018-12

Mr. Douglas Hewett, City Manager, presented this item and stated Council is asked to consider adoption of the Fiscal Year 2017-2018 Budget Ordinance which incorporates changes to the recommended budget in accordance with Council direction at the June 19, 2017, special budget work session. In addition to setting the general ad valorem tax rate at 49.95 cents, the Central Business Tax District rate at 10 cents and the Lake Valley Drive Municipal Service District ad valorem tax rate at 39.4 cents, the ordinance also levies the stormwater fee at \$4.25 per month and the residential solid waste fee at \$108.00 per year, and adopts the fee schedule presented. Council is also asked to approve the Fiscal Year 2017-2018 Strategic Plan, and the Fiscal Year 2018-2022 Capital and Technology Improvement Plans which reflect revisions confirmed by Council at the June 19, 2017, work session, and to adopt related capital project ordinances and capital project ordinance amendments to establish project budgets as planned.

MOTION: Council Member Crisp moved to adopt the proposed Fiscal Year 2017-2018 Budget Ordinance and Fee Schedule, the Fiscal Year 2017-2018 Strategic Plan, the Fiscal Years 2018-2022 Capital and Technology Improvement Plans, Capital Project Ordinances 2018-1 through 2018-12 and Capital Project Ordinance Amendments 2018-1 through 2018-12 as presented.

SECOND: Council Member Wright

FRIENDLY AMENDMENT:

Council Member Arp made a friendly amendment to (1) direct staff to visit with the City of Concord regarding their solid waste management efficiencies and (2) direct staff to expend the storm water funds and if they cannot do it internally, they hire a consultant/organization to help address our storm water fees.

Council Members Crisp and Wright accepted the friendly amendment.

VOTE: UNANIMOUS (10-0)

8.04 PUBLIC HEARING - Economic Development Incentive for eClerx in the amount of \$37,500.00 for Job Creation

Mr. Robert Van Geons, President and CEO, FCEDC, presented this item and stated he is requesting approval of an economic development incentive grant in the total sum of \$37,500.00. He stated Cumberland County approved a similar grant earlier this month.

This is the advertised public hearing set for this date and time. There being no one to speak, the public hearing was opened and closed.

MOTION: Council Member Jensen moved to approve the Economic Development Incentive Grant in the sum of \$37,500.00 for eClerx.
SECOND: Council Member McDougald
VOTE: UANIMOUS (10-0)

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 10:13 p.m.