

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
CITY HALL COUNCIL CHAMBER
NOVEMBER 26, 2012
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); Wade Fowler (District 8); James W. Arp, Jr. (District 9)

Others Present:

Ted Voorhees, City Manager

Kristoff Bauer, Assistant City Manager

Karen McDonald, City Attorney

Brain Meyer, Assistant City Attorney

Dana Clemons, Assistant City Attorney

Patricia Bradley, Police Attorney

John Kuhls, Human Resource Development Director

Scott Shuford, Development Services Director

Craig Harmon, Planner II

Russ Rogerson, Fayetteville-Cumberland County Chamber of Commerce

Pamela Megill, City Clerk

Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Reverend Bernard Jones, Prayer Minister, Christ Gospel Church.

3.0 PLEDGE OF ALLEGIANCE

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

RECOGNITION

Mr. George Breece, Chair of the Veterans Day Parade Committee, presented a plaque to the City and a plaque to Erica Brady, Parks and Recreation Special Events Coordinator, on behalf of the Veterans Day Parade. He also gave recognition to several City staff for their concerted efforts with making the parade a great event. Mr. Ted Voorhees, City Manager, further stated the Veterans Day Parade exemplified what Fayetteville was all about.

4.0 APPROVAL OF AGENDA

MOTION: Council Member Bates moved to approve the agenda.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (10-0)

5.0 CONSENT

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

SECOND: Council Member Crisp

VOTE: UNANIMOUS (10-0)

5.1 Amendment to City Personnel Ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 19, PERSONNEL, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2012-027.

5.2 Budget Ordinance Amendment 2013-8 (General Fund – Community Development).

The amendment appropriated \$125,000.00 from the General Fund balance to provide funding for a Business Assistance Program.

5.3 Capital Project Ordinance Amendment 2013-21 (Building Maintenance Projects).

The amendment appropriated \$179,850.00 for building maintenance projects to fund the space needs analysis and renovations.

5.4 Case No. P12-51F. Request for rezoning from SF-10 Single Family Residential to NC Neighborhood Commercial or to a more restrictive district on property located at 2016 Hope Mills Road. Containing 0.28 acres more or less and being the property of Alternative Investment Holdings, Inc.

5.5 Case No. P12-52F. Request for rezoning from AR Agricultural Residential to CC Community Commercial or to a more restrictive district on property located at 2254 Gillis Hill Road. Containing 10.46 acres more or less and being the property of Barker Partners.

5.6 Approval of three-year lease with NCI Information Systems, Inc., in the Festival Park Plaza Building.

The City Manager was authorized to enter into a three-year lease with NCI Information Systems, Inc., beginning December 1, 2012, with an annual rental rate of \$66,310.00 the first year, \$68,299.30 the second year, and \$70,348.28 the third year and to do any and all things necessary to implement the lease consistent with the City Council's authorization.

5.7 Resolution to convey Washington Drive and Blue Street parcels to Fayetteville State University Foundation, Inc.

RESOLUTION TO CONVEY REAL PROPERTY TO FAYETTEVILLE STATE UNIVERSITY FOUNDATION, INC. RESOLUTION NO. R2012-045.

5.8 Approve meeting minutes:

- August 22, 2012 - Agenda Briefing**
- August 27, 2012 - Discussion of Agenda Items**
- August 27, 2012 - Regular Meeting**
- September 4, 2012 - Work Session**
- September 10, 2012 - Discussion of Agenda Items**
- September 10, 2012 - Regular Meeting**
- September 11, 2012 - Special Meeting**
- September 19, 2012 - Agenda Briefing**
- September 20, 2012 - Special Meeting**
- September 24, 2012 - Discussion of Agenda Items**
- September 24, 2012 - Regular Meeting**

5.9 Bid recommendation to award contract for underground primary power cable, PWC Stock 1-065-522, to Stuart C. Irby, Rocky Mount, NC, lowest responsible bidder, in the amount of \$159,600.00.

Bids were received as follows:

Stuart C. Irby (Rocky Mount, NC).....	\$159,600.00
CME Wire & Cable (Suwanee, GA).....	\$162,097.00
HD Supply Power Solutions (Wake Forest, NC).....	\$167,256.00
WESCO (Raleigh, NC).....	\$187,800.00
Shealy Electrical Wholesalers, Inc. (Greenville, SC).....	\$193,920.00
Mayer Electric (Fayetteville, NC).....	\$238,200.00

5.10 Bid award – Contract for Grove Street/Eastern Boulevard water main replacement to Sandy’s Hauling and Backhoe Service, Roseboro, NC, lowest responsive, responsible bidder, in the amount of \$1,401,868.70.

Bids were received as follows:

Sandy’s Hauling & Backhoe Service (Roseboro, NC).....	\$1,401,868.70
Utilities Plus, Inc. (Linden, NC).....	\$1,584,371.12
State Utility Contractors, Inc. (Monroe, NC).....	\$2,292,851.00

5.11 Bid recommendation to award contract for water and wastewater chemical to Southern Ionics, West Point, MS, low bidder, in the amount of \$94,050.00.

Bids were received as follows:

Southern Ionics (West Point, MS).....	\$94,050.00
JCI Jones Chemicals (Charlotte, NC).....	\$99,990.00
PVS Chemical Solutions (Detroit, MI).....	\$127,875.00

5.12 PWC Financial Matters: Project Fund Budget Amendments

The following PWC Project Fund Budget Amendments were approved:

- 1.Series 2009B Revenue Bond Capital Project Fund, Amendment #2, sent the remaining bond funds of \$4,231,677.00 to the Annexation Phase V, Areas 8-13, Capital Project Fund.
- 2.Annexation Phase V, Areas 8-13, Capital Project Fund, Amendment #3, received proceeds from Series 2009B Revenue Bond Capital Project Fund in the amount of \$4,231,677.00 and refunded that amount previously advanced from the Annexation Phase V Reserve Fund.
- 3.Electric Utility System Rate Stabilization Fund, Amendment #15, increased the loan amount for Annexation Phase V Reserve Fund to \$15,000,000.00.
- 4.The Annexation Phase V Reserve Fund, Amendment #7, received funds from the Annexation Phase V, Areas 8-13, Capital Project Fund (\$4,231,677.00), to budget an advance from the Electric Rate Stabilization Fund up to \$15,000,000.00 and remove the bond proceeds that would not be issued this fiscal year (\$25,000,000.00).

5.13 Special Revenue Fund Project Ordinance Amendment 2013-6 (Appropriation of Federal Forfeiture and State Controlled Substance Tax Funds for Law Enforcement purposes).

The amendment appropriated \$625,253.00 in controlled substance tax revenues, federal forfeiture funds, and associated investment income to increase resources for law enforcement purposes.

6.0 PUBLIC HEARINGS

6.1 Economic Development Incentives for Sykes Enterprises through Reaford Road, LLC.

Mr. Russ Rogerson, Executive Vice President for Economic Development, Fayetteville-Cumberland County Chamber of Commerce, presented this item and stated Council was being asked to approve the economic development incentives agreement with Reaford Road, LLC, to support the new business of Sykes Enterprises Incorporated.

This is the advertised public hearing set for this date and time. The public hearing was opened. Ms. Andrea B. Thomas, Director of Marketing Communications, Sykes Enterprises Incorporated, 400 North Ashley Drive, Suite 2800, Tampa, FL 33602, appeared in favor and stated Sykes Enterprises Incorporated was a provider of call center services and had applied for economic development incentives through the Joint City/County Economic Development Incentives Program administered by the Chamber of Commerce through the Alliance organization. She reviewed the following incentives:

- 50 percent property tax grant back for five years based upon the creation of 150 full-time jobs and \$12,500.00 in investment.
- 50 percent property tax grant back for an additional two years if 300 full-time jobs were created and maintained by year five.

Reviewing the agreement terms, Ms. Thomas stated the incentive application was anticipating the construction of a new building in the City of Fayetteville to house the services provided by Sykes Enterprises Incorporated and would be constructed within the City by Raeford Road, LLC, a limited liability corporation created specifically for that purpose. She further stated Sykes Enterprises Incorporated would execute a lease with Raeford Road, LLC, that would hold the ownership of the building. She advised the economic development incentive agreement would be written to award the tax grant back to Raeford Road, LLC, based upon the performance of Sykes Enterprises Incorporated. She further advised the benefit of the incentives would flow from Raeford Road, LLC, to Sykes Enterprises Incorporated through the terms of the lease.

She explained over the seven year potential term of the grant back incentives, Raeford Road, LLC, was estimated to make property tax payments of \$377,600.00 on the new building and equipment added to the tax rolls by the project. She further explained the incentive would call for \$188,800.00 of the taxes to be rebated back to Raeford Road, LLC.

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

MOTION: Council Member Davy moved to direct the City Manager to draft and execute an economic development incentives agreement authorizing the execution of the

economic development incentives agreement with Raeford Road LLC for the benefit of Sykes Enterprises.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

6.2 Case No. P12-53F. Request for Special Use Permit to construct a Cellular Communication Tower on property located at 1363 Hoke Loop Road. Containing 0.25 acres more or less of 37 acres and being the property of James, Hazel, and Harlee Evans.

Mr. Craig Harmon, Planner II, presented this item. Mr. Harmon showed vicinity maps and gave overviews of the current land uses, current zonings, surrounding land uses and zonings, and 2010 Land Use Plan. He stated the owners of the property requested the approval of a Special Use Permit (SUP) to construct a cellular communication tower on property at 1363 Hoke Loop Road. He advised the Zoning Commission and staff recommended approval based on (1) the site plan and (2) the preliminary findings indicating the new structure would not create new impacts or compatibility issues and with the following conditions:

- 1.The proposed tower shall be capable of accommodating one additional collocation of either cellular/PCS/broadband service;
- 2.The facility shall comply with City codes regarding screening and buffering;
- 3.The tower will comply with the City setback requirements or be certified by a North Carolina Registered Professional Engineer that the tower will meet the specific breakpoint technology setback requirements;
- 4.The applicant shall provide documentation that the facility will comply with all FCC rules regarding interference to other radio services;
- 5.The applicant will request and obtain the required electrical permitting from the City needed for service;
- 6.The facility shall be constructed so that access is only attainable by qualified personnel;
- 7.The property shall not be used for storage or an employment center for any worker;
- 8.All support structure penetration ports are to be sealed in a manner to prevent wildlife access and or internal nesting; and
- 9.The applicant shall submit to the City upon completion of construction a certification from North Carolina Registered Professional Engineer that the structure as built and to include planned future installations has been constructed under the IA/TIA-222 G standards (as amended) for Cumberland County, North Carolina.

Mr. Harmon further advised the Special Use Permit shall be approved only upon a finding that all of the following are met:

- 1.The special use complies 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.

This is the advertised public hearing set for this date and time. The public hearing was opened. Mr. Thomas H. Johnson, Jr. Attorney with Nexsen Pruet, 4141 Parklane Avenue, Suite 200, Raleigh, NC 27612, appeared in favor and stated he was representing Graham Herring Real Estate. He provided a power point presentation and stated more people with smartphones

using data intensive applications were creating a demand for more cell towers. He stated existing towers were reaching carrier capacity and creating demands for more cell towers. He stated 50 percent of United States citizens owned smartphones. He stated the average smartphone user accounted for 11 times more traffic than the average non-smartphone user. He stated as of June 2011, there were 96 million wireless-only Americans (31 percent of U.S.). A brief question and answer period ensued regarding multiple carriers. Mr. Johnson stated all towers had multiple carriers as required by ordinance.

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

MOTION: Council Member Fowler moved to approve the request for a Special Use Permit for a cellular tower as presented by staff, subject to the conditions described by staff and based on the findings of fact listed.

SECOND: Council Member Bates

VOTE: UNANIMOUS (10-0)

6.3 Public Hearing to discuss "Citizen Review Board".

Ms. Katherine Bryant, Interim Chief of Police, presented this item with the aid of a power point presentation and stated the formation of a Citizen Review Board would require two separate actions. She explained the Council would need to approve an ordinance empowering the Board and guiding its activities and text for such an ordinance was included in the packet provided for Council's information. She further explained in order for the Board to become fully effective, there would need to be authority granted by the State legislature for Board members to review protected personnel information--the investigative file--as part of the Board's deliberations. She stated this would require a local bill. She advised if, after the public hearing, Council wanted to proceed, then staff would prepare a final enabling ordinance for Council consideration with a July 1, 2013, effective date. She further advised this would provide time to recruit and select Board members and obtain enabling state legislation.

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

Ms. Wendy Michener, 223 Hillside Avenue, Fayetteville, NC, appeared in opposition and expressed concern that creating the Citizen Review Board would result in less transparency.

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

Council Member Haire inquired if the attendance requirement for the Citizen Review Board members would be the same as required for all other City Boards and Commissions. Ms. Bryant responded in the affirmative.

Council Member Bates inquired who he would report a complaint to if he had one as of today.

Ms. Bryant responded depending on the seriousness of the complaint, it could be reported to the Office of Professional Standards at the Police Department.

Further discussion ensued regarding the required training.

MOTION: Mayor Pro Tem Arp moved to direct staff to prepare a final City ordinance creating a Citizen Review Board with an effective date of July 1, 2013, as long as State enabling legislation has been obtained, and to request enabling State legislation be drafted and entered on the City's behalf.

SECOND: Council Member Fowler

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

7.0 OTHER ITEMS OF BUSINESS

7.1 Uninhabitable Structures Demolition Recommendations

Mr. Scott Shuford, Development Services Director, presented this item and stated staff recommended adoption of the ordinances authorizing demolition of the structures. He reviewed the following demolition recommendations:

834 Brewer Street

Mr. Shuford stated the structure was a vacant residential home that was inspected and condemned as a blighted structure. He further stated the executor for the owner's estate attended the hearing and a subsequent hearing was held in which an order was issued to repair or demolish the structure within 90 days. He noted to date there were no repairs to the structure

and the utilities were disconnected in December 2009. He further noted within the past 24 months there had been no 23 calls for 911 service and 1 code violation with no pending assessments. He advised the low bid for demolition of the structure was \$1,500.00.

1203 West Drive

Mr. Shuford stated the structure was a vacant residential home that was inspected and condemned as a blighted structure. He further 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 noted to date there were no repairs to the structure and the utilities were disconnected in November 2007. He further noted within the past 24 months there had been 7 calls for 911 service and 5 code violations with a pending assessment of \$288.92 for a lot cleaning. He advised the low bid for demolition of the structure was \$1,500.00.

721 Wilma Street

Mr. Shuford stated the structure was a vacant residential home that was inspected and condemned as a blighted structure. He further stated the executor for the owner’s estate attended the hearing and a subsequent hearing was held in which an order was issued to repair or demolish the structure within 90 days. He noted to date there were no repairs to the structure and the utilities were disconnected in September 2009. He further noted within the past 24 months there had been no 27 calls for 911 service and 1 code violation with a pending assessment of \$157.99 for a lot cleaning. He advised the low bid for demolition of the structure was \$1,500.00.

Council Member Haire commended the Development Services Department for all of their hard work and accomplishments with the program. Mr. Shuford thanked Council Member Haire for his comments and stated 80 percent of the cases were generated by Code Enforcement staff. Council Member Fowler inquired if research could be conducted to investigate the amount of excessive 911 calls as it related to excessive false burglar alarms which imposed a fine. Mr. Ted Voorhees, City Manager, responded that staff would research the request.

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 (834 BREWER STREET, PIN 0428-96-4925). ORDINANCE NO. NS2012-042.

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 (1203 WEST DRIVE, PIN 0438-32-7592). ORDINANCE NO. NS2012-043.

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 (721 WILMA STREET, PIN 0438-07-0097). ORDINANCE NO. NS2012-044.

MOTION: Council Member Bates moved to approve the demolitions by adopting the ordinances.

SECOND: Council Member Fowler

VOTE: UNANIMOUS (10-0)

8.0 ADMINISTRATIVE REPORTS

8.1 Monthly statement of taxes for October 2012.

2012 Taxes.....	\$8,099,780.73
2012 Vehicle.....	410,274.85
2012 Taxes Revit.....	15,772.07
2012 Vehicle Revit.....	386.15
2012 FVT.....	46,130.34
2012 Transit.....	46,130.36

2012 Storm Water.....	223,485.86
2012 Fay Storm Water.....	446,971.82
2012 Fay Recycle Fee.....	423,645.44
2012 Annex.....	0.00
2011 Taxes.....	30,461.69
2011 Vehicle.....	63,038.67
2011 Taxes Revit.....	102.71
2011 Vehicle Revit.....	0.00
2011 FVT.....	9,023.84
2011 Transit.....	9,023.86
2011 Storm Water.....	929.50
2011 Fay Storm Water.....	1,858.98
2011 Fay Recycle Fee.....	3,039.25
2011 Annex.....	0.00
2010 Taxes.....	4,021.66
2010 Vehicle.....	2,491.27
2010 Taxes Revit.....	52.65
2010 Vehicle Revit.....	0.00
2010 FVT.....	677.26
2010 Transit.....	677.28
2010 Storm Water.....	92.69
2010 Fay Storm Water.....	185.38
2010 Fay Recycle Fee.....	255.53
2010 Annex.....	0.00
2009 Taxes.....	1,190.20
2009 Vehicle.....	538.59
2009 Taxes Revit.....	0.00
2009 Vehicle Revit.....	0.00
2009 FVT.....	204.94
2009 Transit.....	204.96
2009 Storm Water.....	24.00
2009 Fay Storm Water.....	48.00
2009 Fay Recycle Fee.....	76.00
2009 Annex.....	0.00
2008 and Prior Taxes.....	490.88
2008 and Prior Vehicle.....	2,186.70
2008 and Prior Taxes Revit.....	0.00
2008 and Prior Vehicle Revit.....	0.00
2008 and Prior FVT.....	436.78
2008 and Prior Transit.....	87.13
2008 and Prior Storm Water.....	84.00
2008 and Prior Fay Storm Water.....	72.00
2008 and Prior Fay Recycle Fee.....	84.00
2008 and Prior Annex.....	0.00
Interest.....	13,802.63
Revit Interest.....	10.84
Storm Water Interest.....	154.78
Fay Storm Water Interest.....	236.18
Annex Interest.....	0.00
Fay Recycle Interest.....	371.05
Fay Transit Interest.....	1,184.60
Total Tax and Interest.....	\$9,859,998.10

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:13 p.m.