

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
SEPTEMBER 26, 2016
7:00 P.M.**

Present: Mayor Nat Robertson

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)

Others Present: Douglas Hewett, Interim City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Rochelle Small-Toney, Deputy City Manager
Jay Reinstein, Assistant City Manager
Ben Major, Fire Chief
Cheryl Spivey, Chief Financial Officer
Scott Shuford, Planning and Code Enforcement Services Director
Kevin Arata, Corporate Communications Director
Rob Stone, Engineering and Infrastructure Director
Victor Sharpe, Community Development Director
James Palenick, Economic and Business Development Director
Randy Hume, Transit Director
Kecia Parker, Real Estate Manager
Mark Brown, PWC Customer Relations
Austin Campbell, FACT Chair
Jane Starling, Deputy City Clerk
Jennifer Ayre, Senior Administrative Assistant
Members of the Press

1.0 CALL TO ORDER

Mayor Robertson called the meeting to order.

2.0 INVOCATION

The invocation was offered by Reverend Corey Little of Evans Metropolitan AME Zion Church.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 ANNOUNCEMENTS AND RECOGNITION

Council Member Hurst announced the City of Fayetteville wants citizens to be a part of the 2016 Citizens' Academy this fall. Classes begin October 6, 2016, at 6:00 p.m. and are held for seven Thursday nights through November 17, 2016. The Citizens' Academy is free of charge.

Council Member Hurst announced the OutFront Community Meeting will take place on September 29, 2016, at 6:00 p.m. at Fellowship Hall of Lewis Chapel Missionary Baptist Church on Raeford Road.

Mr. Kevin Brooks announced the 9th Annual "Gotcha-Back Backpack Giveaway" that recently took place in Festival Park was a success and 1,600 backpacks were given away.

Council Member Hurst presented a certificate of appreciation to the Fayetteville Terry Sanford High School Student Government

Association for the organization volunteering their time to paint 19 flower pots along the downtown area on September 17, 2016.

Colonel Karl A Schmitkons presented an award to the City of Fayetteville from 440th Airlift Squadron, Airforce Reserve Unit, and stated the unit is inactivating September 30, 2016. The unit wants to show appreciation and thank the City of Fayetteville and its leaders for all of the support they have received from the City over the past nine years they have been located here.

Fire Chief Benjamin Major and Mr. Phil Harris, Executive Director of Red Cross, presented a Red Cross National Video. Chief Major stated on September 10, 2016, in combination with the Highland Chapter of the Red Cross, 300 volunteers and firefighters installed over 1,000 smoke detectors. The smoke detectors were installed in the Montclaire, Bonnie Doone, and Shaw Heights subdivisions and other communities. Mr. Harris stated the Red Cross prepares, responds, and recovers.

5.0 APPROVAL OF AGENDA

MOTION: Mayor Pro Tem Colvin moved to approve the agenda with the exception of Item 6.08, tabled to the November 14, 2016, regular meeting.

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

6.0 CONSENT

MOTION: Council Member Mohn moved to approve the consent agenda

SECOND: Council Member Wright

VOTE: UNANIMOUS (10-0)

6.01 P16-21F. The rezoning of property from OI Office and Institutional to CC/CZ Community Commercial Conditional, located at 2897 Village Drive, and being the property of Jamie M. Keith.

6.02 Approval of Municipal Certificates for Speed Limit revisions on Ramsey Street

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1062357. [FROM 0.39 MILE SOUTH OF SR 1726 TO 0.10 MILE NORTH OF SR 1750] ORDINANCE NO. NS2016-022

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1062358. [FROM 0.10 MILE NORTH OF SR 1750 TO 0.02 MILE NORTH OF SR 1610] ORDINANCE NO. NS2016-023

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1070896. [BETWEEN TOKAY DRIVE AND 0.67 MILE NORTH OF TREE TOP DRIVE] ORDINANCE NO. NS2016-024

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 107089. [BETWEEN 0.67 MILE NORTH OF TREE TOP DRIVE TO 0.04 MILE NORTH OF SR 1610] ORDINANCE NO. NS2016-025

6.03 Approval of Municipal Certificates for Speed Limit revisions on Rosehill Road

CERTIFICATION OF MUNICIPAL DECLARATION TO ENACT SPEED LIMITS AND REQUEST FOR CONCURRENCE. CONCURRING STATE ORDINANCE NO. 1010419. [SR 1615 FROM US BYPASS NORTH TO THE NORTHERN CORPORATE LIMIT, APPROXIMATELY 0.30 MILE SOUTHEAST OF SR 1614] ORDINANCE NO. NS2016-026

6.04 Approval of Speed Ordinance Revision on McPherson Church Road

AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES AND TRAFFIC, OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES. ORDINANCE NO. NS2016-027

6.05 Approval of No Parking Ordinance on Blue Street

AN ORDINANCE AMENDING CHAPTER 16, MOTOR VEHICLES AND TRAFFIC, OF THE CITY OF FAYETTEVILLE CODE OF ORDINANCES. ORDINANCE NO. NS2016-028

6.06 Resolution to Authorize the Condemnation on Remaining Parcels for Centre City Business Park

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, AUTHORIZING THE CONDEMNATION ACTION ON REMAINING PARCELS FOR THE CENTRE CITY BUSINESS PARK. RESOLUTION NO. R2016-065

6.07 Resolution Declaring 2021 Newark Avenue Surplus and Authorizing Sealed Bid Sale of Said Property

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY BY ADVERTISEMENT FOR SEALED BIDS. RESOLUTION NO. R2016-066

**6.08 Uninhabitable Structure Demolition Recommendations
220 S. Eastern Boulevard, District 2**

This item was tabled to the November 14, 2016, regular meeting.

7.0 REPORTS FROM BOARDS AND COMMISSIONS

7.01 Fayetteville Advisory Committee on Transit (FACT) Annual Report

Mr. Austin Campbell, FACT Chair, presented the FACT annual report. Mr. Campbell provided an overview and update of the Committee's activities this past year. FACT was established by City Council to address the public transportation needs of the City in a proactive way by providing recommendations to City Council, management, users and the general public in an effort to create a comprehensive and cohesive transit system that responds to the community's present and future needs. FACT meets regularly on the third Tuesday of each month at the Transit offices located at 455 Grove Street. FACT has nine voting members appointed by City Council consisting of a regular bus rider, two ADA rider/representatives, a FAST driver/operator, two City residents, a City resident who lives outside the FAST service area, a local community business representative, and the designee of the Fayetteville Area Metropolitan Planning Organization. FACT met 12 times in the past year including 11 regularly scheduled meetings and 1 special meeting.

Mayor Robertson and Council thanked Mr. Austin for his report.

8.0 PUBLIC HEARINGS

8.01 P16-22F. The issuing of a Special Use Permit to install an electric fence on property within the CC Community Commercial District, located at 3506 Bragg Boulevard, and being the property of FAYETTEVILLE B R LLC.

Ms. Karen Hilton, Planning and Zoning Manager, presented this item with the aid of a PowerPoint presentation and stated in 2012 City Council amended its development code to allow electrified fencing under certain circumstances in the CC Community Commercial zoning districts. The application meets the standards for such uses. The

applicant asserts that this type of security fencing is needed where their business is located. There have been 33 police incidents at this location over the past five years. Most of these incidents were for larceny and burglary, with other crimes such as vehicle theft, trespass and vandalism being also included. This property has a drive on Bragg Boulevard but otherwise is an interior parcel with low visibility, making security more challenging. A privacy fence already exists around this property, separating it from the single-family residential in the rear. The design required by the UDO for these types of fences substantially lowers the visibility of such fences. Ms. Hilton reviewed the City Code requirements for such fences.

Ms. Hilton further stated when allowed as a Special Use in the CC District, a monitored electrified fence shall be limited to enclosing permitted outdoor storage areas or warehouse type uses or upon determination of site-specific characteristics, such as compatibility with adjacent uses, preponderance of criminal activity, site design issues such as isolated location or easy access to building entry, or criminally-targeted uses involving indoor storage of chemicals, pharmaceuticals, and similar materials that require the specialized protection of an electric fence. All other standards in this section shall be met. On August 9, 2016, the Zoning Commission held a public hearing regarding this case. There was one speaker in favor and none in opposition to this request. The Commission voted unanimously to recommend approval. Ms. Hilton stated the Special Use Permit must meet the following findings of fact:

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 time and date. The public hearing was opened.

Mr. Will Bennet, 3506 Bragg Boulevard, Fayetteville, NC, appeared in favor and stated he is the General Manager for Gerber Collision.

Ms. Carol Balsinger, Columbia, SC, appeared in favor and stated she is representing Electric Guard Dog of South Carolina.

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

MOTION: Council Member McDougald moved to approve the Special Use Permit (SUP) for Monitored Electrified Fencing, as presented by staff, 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 heavy commercial district, (2) this use complies with the eight findings of fact, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. This SUP shall become effective ten days after its approval by the City Council, which is October 6, 2016. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

8.02 P16-23F. The issuing of a Special Use Permit to install an electric fence on property within the CC Community Commercial District, located at 5110 Bragg Boulevard, and being the property of A B & W R CARR LLC.

Ms. Karen Hilton, Planning and Zoning Manager, presented this item with the aid of a PowerPoint presentation and stated in 2012 City Council amended its development code to allow electrified fencing under certain circumstances in the CC Community Commercial zoning districts. The application meets the standards for such uses. The applicant asserts that this type of security fencing is needed where their business is located. This use is compatible with adjacent uses since it is an isolated use. It is the only business on its block. The site is also designed with easy access to building entry since it is completely surrounded by streets and paved parking. There have been 17 police incidents at this location over the past five years. Most of these incidents were for larceny and burglary, with other crimes such as vehicle theft, trespass and vandalism being also included. The design required by the UDO for these types of fences substantially lowers the visibility of such fences. Ms. Hilton stated the Special Use Permit must meet the following findings of fact:

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 time and date. The public hearing was opened.

Mr. Will Bennet, 3506 Bragg Boulevard, Fayetteville, NC, appeared in favor and stated he is the General Manager for Gerber Collision.

Ms. Carol Balsinger, Columbia, SC, appeared in favor and stated she is representing Electric Guard Dog of South Carolina.

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

MOTION: Council Member McDougald moved to approve the Special Use Permit (SUP) for Monitored Electrified Fencing, as presented by staff, 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 heavy commercial district, (2) this use complies with the eight findings of facts, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area. This SUP shall become effective ten days after its approval by the City Council, which is October 6, 2016. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Mayor Pro Tem Colvin

VOTE: UANIMOUS (10-0)

8.03 P16-24F. The rezoning of property from MR-5 Mixed Residential to LI/CZ Light Industrial Conditional District, located at 2848 Enterprise Avenue, and being the property of John Degreef.

Ms. Karen Hilton, Planning and Zoning Manager, presented this item with the aid of a PowerPoint presentation and stated the property in question is located on Enterprise Avenue, between light industrial (JD Vending Storage) and mixed residential (low-income housing) uses. In 2012 this same applicant rezoned the adjacent property to the west from heavy industrial to light industrial. Due to the proximity to residential development, it is staff's opinion that many of the uses allowed in the LI district are too intense. The owner has accepted the City staff's suggestions that the following uses be conditioned out of the table of allowed uses on this property:

1. Correctional facility
2. Passenger terminal, surface transportation
3. Adult entertainment
4. Parking structure
5. Parking Tractor Trailers etc.
6. Bar, nightclub, or cocktail lounge
7. Tattoo parlor/body piercing establishment
8. Flea market
9. Electronic gaming operation
10. Aircraft parts, sales, and maintenance
11. Automotive wrecker service
12. Transmission shop
13. Truck stop
14. Extractive Industry
15. Fuel oil/bottled gas
16. Heavy equipment servicing and repair
17. Laundry, dry cleaning, and carpet cleaning plants
18. Machine shop
19. Parcel services
20. Truck or freight terminal
21. Incinerator
22. Land application of wastes
23. Landfill, land clearing and inert debris or construction debris
24. Landfill, sanitary
25. Recycling center
26. Tire disposal or recycling
27. Waste composting

Ms. Hilton further stated on August 9, 2016, the Zoning Commission held a public hearing on this case. There was one speaker in favor and four in opposition. Those in opposition spoke of the compatibility issues between Enterprise Avenue and the adjacent single-family residential neighborhood. Most of those in opposition spoke about the loud noise and traffic that is already generated by the industries on Enterprise Avenue. The Commission denied this rezoning request. The applicant/owner has filed an appeal to be heard by the City Council.

Council Member Crisp asked if the clearing of trees have been authorized by the City. Ms. Hilton responded no specimen trees have been removed and said she was not aware if the City authorized the removal of the trees.

Council Member Wright asked if only residential can be placed in the wooded area if the Special Use Permit is denied. Ms. Hilton responded it is generally residential.

Council Member Jensen asked about the illegal dumping. Ms. Hilton responded that is why the trees were removed, as people can easily hide construction materials and furnishings they are illegally dumping behind trees.

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

Mr. John DeGreef, 210 Marshall Road, Fayetteville, NC, appeared in favor and provided Council with a packet of information and photographs. He stated he has a vehicle light-repair business located at the site, and further stated the illegal dumping on his property is a big and expensive problem.

Mr. Henry Davis, 2763 Eldorado Road, Fayetteville, NC, appeared in opposition and stated the residents of Eldorado Road respectfully request the City Council deny the request for the Special Use Permit and to replace the trees and shrubbery that were removed. He further stated he has not noticed any illegal dumping. Mr. Davis submitted a petition requesting denial of the Special Use Permit.

Council Member Jensen asked if the Special Use Permit is denied if the property owner would be permitted to continue to cut down trees and erect fencing around the area. Ms. Hilton responded that the property owner would need a permit for any additional clearing.

Ms. Swindell Anderson, 2903 Eldorado Road, Fayetteville, NC, appeared in opposition and stated the junk yard is located in her neighborhood which she has lived in for 48 years.

Discussion ensued.

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

MOTION: Council Member McDougald moved to table this item to allow for both parties to continue negotiations toward a favorable outcome for both parties (owner and neighborhood residents); asking both parties to be reasonable. No additional costs associated with this request to the owner when the item comes back to Council.

SECOND: Mayor Pro Tem Colvin

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

9.0 ADMINISTRATIVE REPORTS

9.01 Monthly Statement of Taxes - August 2016

2016 Taxes	3,050,515.79
2016 Vehicle	789.89
2016 Taxes Revit	6,834.40
2016 Vehicle Revit	0.00
2016 FVT	0.00
2016 FTT	0.00
2016 Fay Storm Water	578,246.54
2016 Fay Solid Waste Fee	153,559.55
2016 Annex	0.00
2015 Taxes	52,712.88
2015 Vehicle	0.00
2015 Taxes Revit	152.85
2015 Vehicle Revit	0.00
2015 FVT	0.00
2015 FTT	0.00
2015 Storm Water	2,010.18
2015 Fay Storm Water	4,020.38
2015 Fay Solid Waste Fee	3,838.64
2015 Annex	0.00
2014 Taxes	5,268.08
2014 Vehicle	0.00
2014 Taxes Revit	0.81
2014 Vehicle Revit	0.00
2014 FVT	0.00
2014 FTT	0.00
2014 Storm Water	178.48
2014 Fay Storm Water	321.26
2014 Fay S Waste Fee	435.94
2014 Annex	0.00
2013 Taxes	1,907.09
2013 Vehicle	244.59
2013 Taxes Revit	0.95
2013 Vehicle Revit	0.00
2013 FVT	49.82
2013 FTT	49.82
2013 Storm Water	72.00
2013 Fay Storm Water	144.00
2013 Fay S Waste Fee	228.00
2013 Annex	0.00
2012 and Prior Taxes	1,721.27
2012 and Prior Vehicle	2,136.11
2012 and Prior Taxes Revit	0.00
2012 and Prior Vehicle Revit	0.00
2012 and Prior FVT	396.96
2012 and Prior FTT	229.64
2012 and Prior Storm Water	53.18
2012 and Prior Fay Storm Water	106.37
2012 and Prior Fay S Waste Fee	136.69
2012 and Prior Annex	0.00
Interest	6,526.50
Revit Interest	11.47
Storm Water Interest	205.81
Fay Storm Water Interest	405.05
Annex Interest	0.00
Solid Waste Interest	446.67
Fay Transit Interest	122.72
Total Tax and Interest	\$4,329,080.38

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:45 p.m.