

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER, CITY HALL
JANUARY 9, 2023
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Shakeyla Ingram (District 2) (via telephone); Mario Benavente (District 3); D. J. Haire (District 4); Johnny Dawkins (District 5); Derrick Thompson (District 6); Brenda McNair (District 7); Courtney Banks-McLaughlin (District 8) (arrived at 7:42 p.m.); Deno Hondros (District 9)

Absent: Council Member Katherine K. Jensen (District 1)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Adam Lindsay, Assistant City Manager
Kelly Olivera, Assistant City Manager
Jeff Yates, Assistant City Manager
Kemberle Braden, Police Chief
Jodi Phelps, Chief of Staff
Sheila Thomas-Ambat, Public Services Director
Daniel Edwards, Assistant Public Services Director
Paul Allen, Assistant City Attorney
Lachelle Pulliam, Assistant City Attorney
Kecia Parker, Real Estate Manager
Pamela Megill, City Clerk
Members of the Press

1.0 CALL TO ORDER

Mayor Colvin called the meeting to order.

2.0 INVOCATION

The invocation was offered by Council Member Haire.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 ANNOUNCEMENTS AND RECOGNITIONS

Council Member Thompson announced mental health and suicide are prevalent throughout the community and there is help; family, friends, counselor, a pastor. Hope, Help, and Happiness are a phone call away.

Mayor Colvin announced the MLK Prayer Breakfast will be taking place on January 16, 2023, at 10:00 a.m. at the Crown Exposition Center.

5.0 CITY MANAGER REPORT

There was no report for this meeting.

6.0 APPROVAL OF AGENDA

MOTION: Council Member Hondros moved to approve the agenda.

SECOND: Council Member McNair

VOTE: UNANIMOUS (9-0)

7.0 CONSENT AGENDA

MOTION: Council Member Benavente moved to approve the consent agenda, with the exception of Item 7.06 - table to

January 26, 2023, and Items 7.02 and 7.04 - pull for presentation and separate vote.

SECOND: Council Member McNair

VOTE: UNANIMOUS (9-0)

7.01 Approval of Meeting Minutes:

December 5, 2022 - Work Session

December 12, 2022 - Discussion of Agenda Items

December 12, 2022 - Regular

7.02 Pulled for presentation and separate vote.

7.03 Authorization of Condemnation of Easements on the Properties Needed for Sunbury Drive Drainage Project

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA AUTHORIZING THE CONDEMNATION ACTION ON REMAINING PARCELS FOR NEEDED STORMWATER EASEMENTS FOR SUNBURY DRAINAGE PROJECT. RESOLUTION NO. R2023-001

7.04 Pulled for presentation and separate vote.

7.05 Adoption of Budget Ordinance Amendment 2023-9 and Capital Project Ordinance 2023-12 to Purchase a Replacement Aircraft Rescue and Firefighting Vehicle

Adoption of Budget Ordinance Amendment (BOA) 2023-9 and Capital Project Ordinance (CPO) 2023-12 for the purchase of a replacement Aircraft Rescue & Firefighting (ARFF) vehicle for Station 10 at the Fayetteville Regional Airport. CPO 2023-12 will appropriate \$1,071,326.00, funded by \$371,326.00 of Airport Operating Fund net assets provided through BOA 2023-8 and \$700,000.00 of current Passenger Facility Charge (PFC) revenues.

7.06 Request for Legal Representation of City Employees

Tabled to the January 26, 2023, City Council regular meeting.

7.07 Request for Legal Representation of City Employee

Authorizing the City to provide legal representation for Tawanda Murphy in the matter of *Geraldine Sheffield v. Tawanda Murphy, City of Fayetteville, d/b/a Fayetteville Area System of Transit, and Fayetteville Area System of Transit d/b/a FAST*.

7.08 Bid Recommendation - Power Transformers for Multiple

Approval of the bid recommendation to award the purchase of the three (3) 67K Delta to 13.08y/7.56KV WYE with LTC 24/35.8/44.8MVA Power Transformers for Multiple Substations to Virginia Transformer Corp., Roanoke, VA, the lowest responsive, responsible bidder in the total amount of \$4,596,699.00.

7.09 Bid Recommendation - One (1) Generator Step-Up Transformer for BWGP

Approval of the bid recommendation to award the purchase of one (1) Generator Step-Up (GSU) Transformer for Butler Warner Generation Plant to Pennsylvania Transformer Technology, Inc., Canonsburg, PA, the lowest responsive, responsible bidder in the total amount of \$2,055,305.00.

7.010 Authorization to Accept NC Department of Environmental Quality Recycling Project Grant and Adoption of Special Revenue Fund Project Ordinance 2023-10

Authorizing the acceptance of the NC Department of Environmental Quality Recycling Project Grant and adopt Special Revenue Fund Project Ordinance 2023-10. The award provides \$11,500.00 of state grant for

outdoor recycling bins installed in the downtown area, as awarded by the NC Carolina Department of Environmental Quality. The grant requires a local match of \$2,300.00 to be provided by a General Fund transfer (\$1,150.00) and a Solid Waste Fund transfer (\$1,150.00).

The total recycling project is estimated to cost \$15,210.00 with grant funds and local match providing \$13,800.00 and a General Fund transfer and Solid Waste Fund transfer of each \$705.00 providing the remaining \$1,410.00.

7.011 Second Amendment to Lease of Suite 102 of R. C. Williams Building

RESOLUTION OF THE CITY COUNCIL TO APPROVE LEASE AMENDMENT FOR R.C. WILLIAMS BUILDING. RESOLUTION NO. R2023-002

7.02 P22-48. Rezoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) of 12.23 acres ±, located at 0 Drive off of Rim Road (REID # 9487860537000), and being the property of Leisure Living CB LLC, represented by June Cowles of WithersRavenel

Mr. Craig Harmon, Senior Planner, provided an overview of the item. Council Member Banks-McLaughlin expressed concerns regarding traffic issues in this area.

MOTION: Council Member Banks-McLaughlin moved to deny the request for rezoning.

SECOND: Council Member McNair

Discussion ensued. Council Member Banks-McLaughlin withdrew her motion.

MOTION: Council Member Benavente moved to call for a public hearing for this item; P22-48.

SECOND: Council Member Haire

VOTE: UNANIMOUS (9-0)

7.04 Adopt a Resolution Authorizing the Conveyance of a Water and Sanitary Sewer Easement to the City of Fayetteville by and through Fayetteville Public Works Commission on the Murchison Road Catalyst Site

Ms. Kecia Parker, Real Estate Manager, provided an overview of this item.

Discussion ensued.

A RESOLUTION AUTHORIZING THE CONVEYANCE OF AN EASEMENT TO THE CITY OF FAYETTEVILLE BY AND THROUGH THE FAYETTEVILLE PUBLIC WORKS COMMISSION FOR THE WATER MAIN ENCASEMENT PROJECT ON BRUNER STREET AND MOORE STREET. RESOLUTION NO. R2023-003

MOTION: Council Member Haire moved to adopt the resolution.

SECOND: Mayor Pro Tem Dawkins

VOTE: UNANIMOUS (9-0)

8.0 PUBLIC FORUM

Ms. Anne Schrader, 223 Stedman Street, Fayetteville, NC, provided an overview of the 2019 Sustainability Plan.

Mr. Rick Iwanski, 2308 Colgate Drive, Fayetteville, NC, expressed concerns regarding mental health and police accountability.

Mr. Jose Cardona, 233 Addison Street, Fayetteville, NC, thanked the City Police and the Cumberland County Sheriff's Department for their exceptional coordination of the funeral held for former Cumberland County Deputy Oscar Yovani Bolanos-Anavisca, Jr.

Ms. Savonia Akins, 604 Duggins Way, Apt. C, Fayetteville, NC, expressed her desire to bring the community to work together.

Mr. Chilleko Hurst, 1485 Wayside Drive, Cumberland County, NC, expressed concerns regarding homelessness.

Mr. Shaun McMillian, 6024 Goldenrain Drive, Fayetteville, NC, expressed concerns regarding the death of Mr. Jason Walker and requested the Council initiate an Office of Community Safety, Legislative CRP, and Mental Health Response.

Ms. Angela Tatum-Malloy, 404 Pilot Avenue, Fayetteville, NC, expressed concerns regarding the Shotspotter program.

Ms. Demetria Murphy, 632 Old Wilmington Road, Fayetteville, NC, expressed concerns regarding supporting and funding non-profit organizations.

9.0 PUBLIC HEARINGS (Public & Legislative Hearings)

9.01 P22-45. Rezoning from Agricultural Residential (AR) and Limited Commercial (LC) to Community Commercial (CC) of 4.4 acres ±, located at 0 Hazelwood Drive, 1611, 1620, and 1631 Ferndell Drive, and 7818 Raeford Road (REID #s 9486360554000, 9486269516000, 9486267506000, 9486266471000, and 94862654449000), being the property of Gillis Development Corp Inc. and Joseph H. Gillis.

Ms. Heather Eckhardt, Planner II, presented this item with the aid of a PowerPoint presentation and stated the majority of the subject properties are currently zoned Agricultural Residential (AR); however, the property at 7818 Raeford Road is currently zoned Limited Commercial (LC). The property owner is requesting to rezone all properties to Community Commercial (CC). Due to the surrounding zoning and uses, Planning staff recommends the more restrictive Limited Commercial (LC) zoning district.

The Zoning Commission held a legislative hearing on November 8, 2022. Two motions were made; however, both motions failed due to a tied vote. Hence, this request is being forwarded to City Council as a public hearing for a decision to be rendered.

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

Mr. Joseph Gillis, 7818 Raeford Road, Fayetteville, NC, stated he is the property owner and appeared in favor.

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

MOTION: Council Member McNair moved to approve the map amendment/rezoning to a more restrictive zoning district based on the evidence submitted and finds that the map amendment/rezoning would be consistent with the Future Land Use Plan and an amended consistency and reasonableness statement.

SECOND: Mayor Pro Tem Dawkins

VOTE: UNANIMOUS (9-0)

9.02 Public Hearing to Consider Closing a Portion of Butler Street

Ms. Kecia Parker, Real Estate Manager, presented this item and stated N.C.G.S. § 160A-299 gives authority and procedures for the City to be able to close a city street or alley. The City received a petition to close an approximately 11,354.78 square feet portion of an unopened portion of Butler Street from an adjacent property owner.

The property owner owns both sides of the unopened portion and would like to combine his parcels.

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

A RESOLUTION AND ORDER CLOSING AN UNOPENED PORTION OF BUTLER STREET. RESOLUTION NO. R2023-004

MOTION: Council Member Hondros moved to adopt the resolution and Order closing an unopened portion of Butler Street.
SECOND: Council Member Benavente
VOTE: UNANIMOUS (9-0)

9.03 Public Hearing on Solid Waste Ordinance Amendments

Mr. Daniel Edwards, Assistant Public Services Director, presented this item with the aid of a PowerPoint presentation and stated as staff reviews best practices and peer city comparisons, we seek Council and public input on several recommended changes/updates to the current ordinance. Staff seeks concurrence to modify Chapter 22 to include updated definitions and service level changes for carts, yard waste, limbs, and below-standard/unmaintained streets. The options presented will bring consistency, predictability, and enforceability to the solid waste services for the City of Fayetteville.

On October 4, 2020, the Solid Waste Division discussed with Council how the Solid Waste Ordinance, service levels, and other considerations regarding municipal Solid Waste collection operations needed revisions. The Solid Waste Division emphasized how the City of Fayetteville has endured a steady increase of blight and non-compliant code violations; litter; illegal dumping; and other public nuisances regarding blight and trash. Also highlighted was Chapter 22, Municipal Solid Waste, which has not been updated in several years. The ordinance lacks the definition of clearly defined processes and procedures used by the Division. Additionally, the ordinance does not clearly describe customer type, services, and code enforcement. The Solid Waste Division recommended to Council to allow us to revise Chapter 22 of the Municipal Ordinance and consider substantive changes in a presentation to Council for discussion and approval.

Staff has previously provided Council Peer City comparisons showing the frequency and quantity of the service delivered by our sister cities. The comparisons have shown that Solid Waste Services for the City of Fayetteville are equal to, and in many instances, greater than our peers.

Changes included in the ordinance but not in the presentation are updated definitions, authority and designee, ownership of materials, cart size, and updated terminology.

On October 4, 2021, Solid Waste presented the first approach to reducing enforcement and providing consistency and predictability by recommending every other week collection of bulky and limb services. This practice has begun and is successful, albeit with periodic challenges on service delivery due to weather, and fleet and personnel resource availability.

Now we are presenting recommendations of the completed ordinance including new service limits.

As a core City service of a City of over 200,000 residents, we are proud of the fact that the weekly collection of solid waste and every other week collection of recycling materials is a huge success with very few complaints and uncorrected mistakes. The demands to deliver services, including costs related from human and vehicle capital, continue to rise as do the challenges to overcome the shortages to find and maintain these two critical resources. In short,

money alone is not going to fix the challenges. Expectations must be level set and we seek to do that through this discussion and ordinance update. As staff weighs the perceived interests of the Council regarding solid waste we more often hear of the negative experiences. Sometimes, complaints are driven by expectations and practices that are not sustainable when contrasted with the ordinance and peer cities. However, we know how important it is to have policies and practices that enhance and maintain the aesthetics and health and safety of the community. Sometimes, less is more when it comes to providing the extra services, as some large cities limit or do not even provide limb, bulky, and yard debris.

While we are not recommending any drastic reductions in services at this time, our aim is to share with you a few recommended changes to areas within the ordinance that have been topics of complaint or frustration from citizens. The intent is to align the ordinance based on affordable available resources while providing predictable, consistent, and enforceable services.

These topical areas include (1) rollout carts, (2) yard waste and large limbs, and (3) collection along privately owned and managed streets that have fallen into disrepair. Our intention is to clarify the rules and, while reducing the level of service in some cases, improve the ability to enforce and manage expectations.

We appreciate the support and input from SPA, Public Services, Parks & Recreation, and Developmental Services, as we explored and discussed challenges, inconsistencies, and opportunities to ensure that we can provide a level of service that is acceptable and affordable to Fayetteville.

At this time there is no budget impact from these recommended ordinance changes. However, the demands on our service delivery and the cost to provide these services will need to be discussed in greater detail. Policies related to the service levels and the fees to pay for these service levels are not on a sustainable trajectory.

Discussion ensued.

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

Question and answer session ensued regarding the type of carts, the trucks used for pickup, and the process for the education phase.

MOTION: Council Member Banks-McLaughlin moved to accept the recommendations on the proposed ordinance revisions for operations.

SECOND: Council Member Hondros

VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Mayor Colvin)

10.0 EVIDENTIARY HEARINGS

10.01 SUP23-01. Special Use Permit to allow a religious institution to reduce the required 500-foot distance separation between adult entertainment, bars, nightclubs, and a religious institution to be located at 929 Bragg Boulevard (REID # 0437172966000), zoned as Community Commercial (CC), totaling 1.15 acres ± and being the property of Peter Stewart, Paula Stewart, George Stewart III, Richard Gochbauer, Richard Bleakley Jr, Catherine Groschan, Louise Barrett, John Stewart, Mary Stokes, Peter Stewart, John Kirkman Trustee, Sandra Kirkman Higgins Trustee.

Mr. Craig Harmon, Senior Planner, presented this item and stated this request is not to approve the use as religious institutions are allowed by right in the Community Commercial (CC) zoning district; however, a distance of 500 feet is required between a religious

institution and a bar/nightclub. This is a request for a Special Use Permit to allow a religious institution to reduce the required 500-foot distance separation between the religious institution and an existing bar/nightclub to 185 feet. The lot is located south of Bragg Boulevard and west of Martin Luther King Jr. Freeway.

The SUP must meet the following findings of facts:

- (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.

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

Ms. Stephanie Davis, 4004 Trista Lane, Fayetteville, NC, stated she is an applicant and appeared in favor.

Mr. Sammy Davis, 4004 Trista Lane, Fayetteville, NC, stated he is an applicant and appeared in favor.

Mr. Peter Stewart, property owner, appeared in favor.

Mr. Bobby Wiggs, 911 Carolina Avenue, Fayetteville, NC, stated he is opposed to the Special Use Permit request.

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

Discussion ensued.

MOTION: Council Member Ingram moved to approve the Special Use Permit (SUP) to allow a religious institution to reduce the required 500-foot distance separation between adult entertainment uses and bars, nightclubs, and a religious institution from 500 feet to 300 feet as indicated by the supplied site map subject to all other conditions identified in and conforming to the current Unified Development Ordinance standards as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Community Commercial zoning district, (2) this use complies with the findings listed,

and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area.

If approved, this Special Use Permit shall become effective upon the approval of the Order of Findings of Fact by the City Council. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Thompson

VOTE: UNANIMOUS (9-0)

10.02 SUP23-02. Special Use Permit to allow Two- to Four-Family Dwellings (1 triplex) in a Single-Family Residential 6 (SF-6) zoning district, to be located at 206 Post Ave. (REID # 0439705376000), totaling 0.38 acres ± and being the property of Tammy and Tyrone Lock, represented by Lori Epler of Larry King and Associates.

Mr. Craig Harmon, Senior Planner, presented this item and stated the owner is requesting to construct one triplex (3 units) on one lot. Properties to the north, west, and east are all zoned SF-6 - Single Family 6. These properties are being used as single-family residential lots. The properties to the south are zoned LC - Limited Commercial, with some being used commercially and some being vacant.

In the City's Unified Development Ordinance (UDO) triplexes are defined as a Dwelling, Two- to Four-Family, which is a building containing two, three, or four individual dwelling units located on a single lot. Such units may be part of a single structure, or may be attached by one or more common walls.

The SUP must meet the following findings of facts:

- (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.

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

Ms. Lori Epler, 1333 Morganton Road, Fayetteville, NC, stated she is representing the property owner and appeared in favor.

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

MOTION: Council Member Ingram moved to approve the Special Use Permit (SUP) to allow Two- to Four-Family Dwellings (1 triplex) in a Single-Family Residential 6 (SF-6) zoning district subject to the conditions identified and the submitted site plans and conforming to the current Unified Development Ordinance standards as depicted on the attached site plan, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because (1) the development is located in a Single-Family 6 (SF-6) zoning district, (2) this use complies with the findings listed, and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area.

If approved, this Special Use Permit shall become effective with the approval of the Order of Findings by the City Council. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Benavente

VOTE: UNANIMOUS (9-0)

11.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:54 p.m.