

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER, CITY HALL
OCTOBER 24, 2022
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Shakeyla Ingram (District 2) (arrived at 7:19 p.m.); Mario Benavente (District 3); D. J. Haire (District 4); Johnny Dawkins (District 5); Derrick Thompson (District 6); Brenda McNair (District 7); Deno Hondros (District 9)

Absent: Council Member Courtney Banks-McLaughlin (District 8)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Adam Lindsay, Assistant City Manager
Michael Gibson, Interim Assistant City Manager
Kelly Olivera, Interim Assistant City Manager
Gina Hawkins, Police Chief
Jodi Phelps, Chief of Staff
Jody Picarella, Chief Financial Officer
Rob Stone, Construction Management Director
Chris Cauley, Economic and Community Development
Director
Tyffany Neal, Transit Director
Sheila Thomas-Ambat, Public Services Director
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 Pastor Archie Barringer, Hope Mills Presbyterian.

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

Mr. Douglas Hewett, City Manager, announced the City of Fayetteville has been recognized by the Government Finance Officers Association for an outstanding budgeting presentation and document.

Council Member Ingram announced Fayetteville State University will soon have a Chick-fil-A and Starbucks and announced the renaming of Bronco Square to Bronco Midway.

Council Member Benavente wished everyone a Happy Diwali.

5.0 CITY MANAGER REPORT

No report was provided.

6.0 APPROVAL OF AGENDA

MOTION: Mayor Pro Tem Dawkins moved to approve the agenda.

SECOND: Council Member Jensen

VOTE: UNANIMOUS (9-0)

7.0 CONSENT AGENDA

MOTION: Council Member Hondros moved to approve the consent agenda.
SECOND: Mayor Pro Tem Dawkins
VOTE: UNANIMOUS (10-0)

7.01 Proposed 2023 City Council Meeting Dates Calendar

RESOLUTION OF THE CITY COUNCIL, CITY OF FAYETTEVILLE, NORTH CAROLINA TO ADOPT THE 2023 CITY COUNCIL MEETING DATES CALENDAR TO CLARIFY THE TIME AND LOCATION OF THE CITY COUNCIL REGULAR MEETINGS. RESOLUTION NO. R2022-037

7.02 SUP22-06. Order of Denial - Findings of Fact: Special Use Permit to allow three Two-Family Dwellings (duplexes units) in a Single-Family Residential 10 (SF-10) zoning district, to be located at 2417 and 2421 Colgate Drive (REID #s 0426650150000 and 0426558132000), totaling 1.94 acres ± and being the property of Military Standard Construction, LLC.

7.03 P22-37. Rezoning from Single-Family Residential 6 (SF-6) and Light Industrial (LI) to Community Commercial (CC) of .82 acres ±, located at 2604 Southern Avenue (REID # 0426709965000), and being the property of Rapha Ministries Family Center Inc.

7.04 Approval of a Memorandum of Understanding Among Public Transportation Providers in the Fayetteville, North Carolina, Urbanized Area

Federal Transit Administration (FTA) apportions funding from FTA's formula grant programs to the Fayetteville urbanized area. The City/FAST has been designated by the governor as the designated recipient for FTA funding for the Fayetteville area. These funds are to be made available to other providers that provide public transportation services within the urbanized area. In 2017, FAMPO approved a methodology for allocating funds to Cumberland, Harnett, and Hoke Counties.

In past years, FAST sub-allocated the funds to NCDOT who in turn was responsible for preparing and submitting grant applications to FTA on behalf of these counties. In late 2021, NCDOT notified transit systems around the state that NCDOT would no longer apply and administer grants for urban areas. Cumberland, Harnett, and Hoke Counties have elected to become grant subrecipients of the City who will now apply and administer grants on their behalf as the City has done in the past for other FTA grant programs.

Council approved the Memorandum of Understanding.

7.05 Award Consolidated Contract for the Purchase of Fleet Storage, Taser, and Body Worn Cameras/Upgrades

Authorizing the City Manager to execute the contract with AXON to purchase fleet storage, taser, and body worn cameras/upgrades per the Sourcewell Solicitation Number RFP#010720. The City plans annually for fleet storage, taser, and body worn cameras/upgrades. The body worn cameras are currently due for replacement. This proposed project will fund current replacements, along with full replacement of the body worn camera twice during the five-year planning period. This ensures that current technology will be deployed.

7.06 Uninhabitable Structures Demolition Recommendations

**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 COUNCIL. Orange Street, District 2, PIN _____.
ORDINANCE NO. NS2022-035**

**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
COUNCIL. 1416 Coley Drive, District 2, PIN _____.
ORDINANCE NO. NS2022-036**

7.07 Request for Legal Representation of City Employee

Authorization from the City Council to provide legal representation for City employee Christopher Biggerstaff in the matter of William R. Harris, Individually and as Administrator of the Estate of Christine Alease Harris v. Jonathon Ramon Fambro, NC Special Police LLC, Christopher Biggerstaff and the City of Fayetteville. The employee was acting within the scope and course of his employment with the City when the alleged incident occurred.

8.0 STAFF REPORTS

8.01 Murchison Choice Neighborhood Plan Update, Authorization of Housing Plan Memorandum of Understanding, and Gateway Improvement Resolution

Mr. Chris Cauley, Economic and Community Development Director, presented this item and stated The Choice Planning Grant is near completion of a two-year process that has seen marked success in achieving the goals of a collaborative planning process. Staff will provide a status update of the work to date and outline the expected milestones moving forward. The Housing plan requires a tri-party Memorandum of Understanding (MOU) and staff is requesting Council adopt a resolution asking the North Carolina Department of Transportation to review a proposal for gateway improvements. Council is asked to receive the report and authorize the Housing Plan MOU as well as the Gateway Improvement Resolution.

Discussion ensued.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE,
NORTH CAROLINA, SUPPORTING THE INSTALLATION OF PUBLIC ART ON DOT
BRIDGE 51 AT MURCHISON ROAD AND MARTIN LUTHER KING JR FREEWAY.
RESOLUTION NO. R2022-038**

MOTION: Council Member Haire moved to receive the staff report and authorize the Housing Plan Memorandum of Understanding, and adopt the Gateway Improvement Resolution.
SECOND: Council Member Ingram
VOTE: UNANIMOUS (9-0)

9.0 PUBLIC HEARINGS

9.01 P22-30. Rezoning from Mixed Residential 5 (MR-5) to Limited Commercial (LC) of 5.91 acres ± located to the north of Raeford Road and east of Cliffdale Road (REID # 9476879366000), being the property of Robert Gregory Family LLLP, represented by Charles Morris.

Ms. Heather Eckhardt, Planner II, presented this item and stated the applicant is seeking to rezone 5.91 acres ± of a 27.02 acre ± property from Mixed Residential 5 (MR-5) to Limited Commercial (LC). The entire parcel is currently undeveloped. The property is currently split zoned with LC along Raeford Road and MR-5 in the rear.

The LC zoning district is established and intended to accommodate a wider range of moderate-intensity general retail, business, and service uses that serve groups of neighborhoods. The Zoning Commission held a legislative meeting on August 9, 2022. The Zoning Commission voted unanimously 5 to 0 to recommend approval of the proposed map

amendment. This case was on the consent agenda for the September 26, 2022, City Council meeting and was pulled for a public hearing.

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

Mr. Charles Morris, 831 Arsenal Avenue, Fayetteville, NC 28305, stated he is representing the property owner and appeared in favor.

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

MOTION: Council Member Hondros moved to approve the map amendment to Limited Commercial.
SECOND: Council Member Thompson
VOTE: UNANIMOUS (9-0)

9.02 P22-33. Rezoning from Agricultural Residential (AR) to Limited Commercial (LC) 1.94 acres ±, to be rezoned, located to the north of Raeford Road and west of Hoke Loop Road (REID #s 9476572873000 and 9476574127000), and being the property of Palmer Williams of Sycamore Corner LLC and represented by Lori Epler, Larry King & Associates

Mr. Craig Harmon, Senior Planner, presented this item and stated the applicant is seeking to rezone 1.94 acres ± of a 20.56 acre ± parcel from AR - Agricultural Residential to LC - Limited Commercial. The parcels are currently undeveloped. These properties sit at the northwest corner of the intersection of Hoke Loop and Raeford Roads. Originally part of a larger 25 acre ± lot that was rezoned and subdivided in 2018. A portion of the site was developed as the Fresenius Kidney Care - Rockfish Dialysis Center. Now the owners wish to rezone for possible development of the section of this property bordering Raeford Road.

The LC zoning district is established and intended to accommodate a wider range of moderate-intensity general retail, business, and service uses that serve groups of neighborhoods. On August 9, 2022, the Zoning Commission held a legislative hearing regarding this case. There was one speaker in favor and none in opposition. The Commission voted 5 to 0 to recommend approval. This item was originally on the September 26, 2022, consent agenda, but was pulled for a Legislative Hearing.

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 Hondros moved to table this item to the November 14, 2022, City Council meeting agenda.
SECOND: Council Member Ingram
VOTE: UNANIMOUS (9-0)

9.03 P22-36. Conditional rezoning from Single-Family 6 (SF-6) to Mixed-Residential 5 Conditional Zoning (MR-5/CZ), for no more than 160 units, located at the following property: 7009 Fillyaw Road (REID # 9499918931000), containing a total of 15.14 acres ± and being the property of Alternative Investment Holdings, INC and represented by R. Jonathan Charleston, Esq.

Mr. Craig Harmon, Senior Planner, presented this item and stated the owners have submitted a request to conditionally rezone 15.14 acres from Single-Family 6 (SF-6) to Mixed Residential 5 Conditional (MR-5/CZ).

The various owners have submitted rezonings for this property twice in the past. Both of these rezonings, first in 2012 and again in 2014, were denied. In 2019, the owners once again tried unsuccessfully to rezone this property to MR-5, however, the City Council did approve a rezoning to SF-6 at that time. The MR-5 zoning district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types.

On August 9, 2022, the Zoning Commission held a legislative hearing regarding this case. There were two speakers in favor and two in opposition. Those in opposition cited the following concerns:

- Fillyaw Road is the only way in and out of the proposed development.
- There are currently traffic issues regarding this property being in a double-blind curve.
- There is a creek on the west side of the property and flooding occurs from this creek on roads in the neighborhood.
- The additional density will have an effect on traffic and flooding.
- There are four apartment complexes already on Fillyaw Road.
- During freeze rain and snow, Fillyaw Road is sometimes closed from Dandridge Drive to Jones Park.

At the close of the hearing, a motion to deny the request failed 2 to 3. After discussions, the owner offered to amend the conditions of the application, lowering the proposed density from a maximum of 160 units to 125 units. A motion to recommend approval with the amended condition was then made and passed 5 to 0.

This item was pulled from the September 26, 2022, consent agenda and set for a Legislative Hearing.

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

Mr. Johnathan Charleston, 201 Hay Street, Fayetteville, NC, stated he is representing the owners and appeared in favor.

Mr. William Fisher, 711 Dandridge Drive, Fayetteville, NC, stated he was originally in opposition, but now the owner has agreed to reduce the proposed density from 160 units to 125 units, he is no longer in opposition.

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

MOTION: Council Member Haire moved to approve the map amendment to MR-5/CZ with the amended condition to limit density to no more than 125 units.

SECOND: Council Member Ingram

VOTE: UNANIMOUS (9-0)

9.04 TA22-05: Text amendments to Article 30 of the Unified Development Ordinance to address feather flags.

Ms. Heather Eckhardt, Planner II, presented this item and stated according to the current sign section of the Unified Development Ordinance, Section 30-5.L.1, motions signs are not considered a viable signage option in the City of Fayetteville. Since, feather flags are

technically considered a motion flag or motion signage, this type of signage is prohibited.

This text amendment is not to allow all motion signage, but specifically address the usage of feather flags as a form of advertising for new and existing businesses within the City of Fayetteville.

This item was presented to the Planning Commission on August 16, 2022. Following comments provided by the Planning Commission, the Professional Planning staff has reviewed and revised the proposed text amendment regarding feather flags. Planning staff has made revisions to allow for additional feather flags to be placed on a single parcel.

This item was amended and sent back to the Planning Commission on September 20, 2022. At this meeting, the Planning Commission made a motion to recommend the adoption of the proposed amendment with revisions. The Planning Commission conditioned that the text amendment state that there be no setback requirement for feather flags and that a one-time permit be obtained.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING VARIOUS SUBSECTIONS OF SECTION 30-5.L., SIGNAGE, OF ARTICLE 30-5, DEVELOPMENT STANDARDS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2022-031

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING ARTICLE 30-9, DEFINITIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2022-033

MOTION: Council Member Haire moved to adopt the proposed amendments and require that a one-time permit be obtained.
SECOND: Council Member Hondros
VOTE: UNANIMOUS (9-0)

9.05 Water Supply Watershed Management and Protection Text Amendments

Mr. Adam Lindsay, Assistant City Manager, presented this item and stated staff seeks concurrence from City Council on the proposed text amendments to the Water Supply Watershed Management and Protection Ordinance. The proposed amendments were presented at the October 3, 2022, City Council work session and received consensus to move forward with a public hearing on October 24, 2022.

The proposed amendments are presented in conjunction with the Fayetteville Public Works Commission's request to update the Ordinance to improve clarity, mirror the State's model Water Supply Watershed Management Ordinance, and increase runoff control requirements in the identified WS-IV Critical Area (WS-IV-CA)

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 OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 29 WATER SUPPLY WATERSHED MANAGEMENT AND PROTECTION, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA. ORDINANCE NO. S2022-032

MOTION: Council Member Hondros moved to adopt the proposed text amendments as written in the file *Water Supply Watershed Management and Protection Ordinance Proposed Text Amendments*.
SECOND: Council Member Benavente
VOTE: UNANIMOUS (9-0)

10.0 OTHER ITEMS OF BUSINESS

10.01 North Carolina History Center Foundation Report and Adoption of Budget Ordinance Amendment 2023-7

Mr. Mac Healy, North Carolina History Center Foundation President, presented this item and respectfully requested the City Council honor their previous commitment.

In 2018, the City donated 17 parcels to the North Carolina Civil War and Reconstruction History Center Foundation. That action and others have supported the Foundation's effort to develop a state-supported history center in Fayetteville. Since that time, the Foundation has received further support from the State of North Carolina and completed several phases of the masterplan. The NC History Center project was recently approved for funding by the Cumberland County Board of Commissioners for \$7.5 million. In order to access this funding, the History Center Foundation must receive \$6.6 million from the Fayetteville City Council.

Foundation members will provide a report on their efforts and answer any questions from Council. In making the presentation, it is also anticipated that the Foundation will seek support for funding the remaining \$6.6 million from the City's earlier pledge of \$7.5 million.

Discussion ensued.

MOTION: Council Member Benavente moved to direct the City Manager to sign the agreement with the NC History Center Foundation Board, which will require \$6.6 million from the City of Fayetteville be only spent on the construction of the center, and the foundation board agrees the City Council will have a representative on the Foundation board (and later the NC History Center Advisory Board or Council, thereafter), and the present and future stories and exhibits in the NC History Center will not glorify the "Lost Cause", but will all be able to show the impact on African-Americans and their families. If these stipulations are agreed to, in writing, by the Chairman or President of the Foundation board, on their behalf, then the City Manager will bring a Budget Ordinance Amendment to the City Council on November 14, 2022, to appropriate \$3.3 million. Upon completion of the Annual Comprehensive Financial Reports, the City Manager will bring a Budget Ordinance Amendment to the City Council to appropriate the remaining \$3.3 million of funding for this project, so long as the appropriation does not cause the unassigned fund balance percentage to fall below the Council's established policy of 10 percent.

SECOND: Mayor Pro Tem Dawkins

VOTE: UNANIMOUS (9-0)

11.0 ADMINISTRATIVE REPORTS

11.01 Street Name Change from Filter Plant Road to Bronco Village Way - Administrative

Mayor Colvin presented this item and stated on behalf of Fayetteville State University, the Council considered their request for a street name change of Filter Plant Road to Bronco Village Way. Cumberland County Planning oversees the addressing database, assigns names to new streets and converts existing rural route and box numbers to street addresses for the entire county. It involves, among other things, that residents on the street be notified and that most agree to the change. It can take two to three months for the request process to be completed and the change to be official.

Discussion ensued.

MOTION: Council Member Ingram moved to direct the City Manager to submit the application to the County for the renaming of Filter Plant Road to Bronco Village Drive.

SECOND: Council Member Jensen

VOTE: PASSED by a vote of 8 in favor to 1 in opposition (Council Member Haire)

11.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:00 p.m.