

# DRAFT

**FAYETTEVILLE CITY COUNCIL  
REGULAR MEETING MINUTES  
COUNCIL CHAMBER  
JANUARY 22, 2018  
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Tyrone Williams (District 2); Tisha S. Waddell (District 3); D. J. Haire (District 4); Johnny Dawkins (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, City Manager  
Karen McDonald, City Attorney  
Kristoff Bauer, Deputy City Manager  
Jay Reinstein, Assistant City Manager  
Telly Whitfield, Assistant City Manager  
Gina Hawkins, Police Chief  
Gerald Newton, Development Services Director  
Rob Stone, Public Services Director  
Victor Sharpe, Economic and Community Development Director  
Cindy Blog, Economic and Community Development Director  
Kevin Arata, Corporate Communications Director  
Marsha Bryant, Development Advocate  
Mark Brown, PWC Customer Relations  
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 Associate Pastor John Adderley of Covenant Love Church.

## **3.0 PLEDGE OF ALLEGIANCE**

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

## **4.0 ANNOUNCEMENTS AND RECOGNITION**

Mayor Colvin presented the Key to the City to Mr. Victor Sharpe, Economic and Community Development Director, in recognition of his service to the City and his forthcoming retirement from the City of Fayetteville. Mr. Sharpe received a standing ovation from all in attendance at the meeting.

Mayor Colvin thanked the City Road Crews, Police, Fire, and all other employees that worked additional shifts and hours to keep our citizens safe during the harsh freezing winter temperatures we recently endured.

Council Member Jensen introduced Mr. Allan Williams, Senior Student at Cumberland Poly-Technical High School, representing the Fayetteville-Cumberland Youth Council.

## **5.0 APPROVAL OF AGENDA**

**MOTION: Mayor Pro Tem Mohn moved to approve the agenda with the addition of Item 6.07, request for legal representation of City employees.**

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

## 6.0 CONSENT AGENDA

MOTION: Council Member Waddell moved to approve the consent agenda with the exception of pulling Item 6.03 for discussion and separate vote.

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

### 6.01 Uninhabitable Structures Demolition Recommendations

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY 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 (919 Carver Street, PIN 0428-92-9759). ORDINANCE NO. NS2018-001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY 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 (350 Dick Street, PIN 0437-62-0045). ORDINANCE NO. NS2018-002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY 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 (211 Jasper Street, PIN 0428-96-0289). ORDINANCE NO. NS2018-003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY 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 (1810 Slater Avenue, PIN 0428-94-7706). ORDINANCE NO. NS2018-004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY 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 (1812 Slater Avenue, PIN 0428-94-6870). ORDINANCE NO. NS2018-005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY 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 (1355 Taylor Drive, PIN 0438-63-3863). ORDINANCE NO. NS2018-006

### 6.02 Rescind Demolition Ordinances (507 Murchison Road and 138 Andover Road)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, RESCINDING DEMOLITION ORDINANCE NO. NS2017-009. RESOLUTION NO. R2018-001

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, RESCINDING DEMOLITION ORDINANCE NO. NS2016-037. RESOLUTION NO. R2018-002

### 6.03 This item was pulled for discussion and separate vote.

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### **6.04 Addition of Pinewood Terrace and Siple Avenue to the City of Fayetteville System of Streets**

Approval of the inclusion of Pinewood Terrace and Siple Avenue to the City of Fayetteville system of streets.

### **6.05 Bid Recommendation - Spruce Street Phase 2 Drainage Improvements, award contract to Smith-Rowe, LLC, Mt. Airy, NC, the lowest responsive, responsible bidder in the total amount of \$969,602.00**

Bids were received on November 16, 2017, as follows:

|                                        |                |
|----------------------------------------|----------------|
| Utilities Plus, Inc., Linden, NC ..... | \$710,000.00   |
| Smith-Rowe, LLC, Mt. Airy, NC .....    | \$969,602.00   |
| Wells Brothers, Turkey, NC .....       | \$1,289,504.00 |
| T.A. Loving, Goldsboro, NC .....       | \$1,575,000.00 |

### **6.06 Stadium Construction Manager At Risk ("CM@R") Contract With Barton Malow Second Amendment**

Authorizing the City Manager to execute the second contract amendment with Barton Malow.

### **6.07 Request for Legal Representation of City Employees**

Authorizing the City Attorney to provide legal representation for two City employees.

### **6.03 Consideration of an amendment to the Community Housing Development Organization's (CHDO) project for Habitat For Humanity's Oakridge Estates Single-Family Affordable Housing Development to reallocate the funds for the construction of 10 houses in the B Street Target Area Revitalization Program area.**

Mr. Victor Sharpe, Economic and Community Development Director, presented this item and stated Habitat for Humanity, the City's only active Community Housing Development Organization (CHDO), is in the process of constructing Oak Ridge Estates, a 49-unit single-family affordable housing development on Bunce and Old Bunce Roads. The City's 2017-2018 Annual Action Plan allocates \$400,000.00 to construct ten houses in the Oak Ridge Estates subdivision. Habitat's request to reallocate the funds for the construction of seven houses in the B Street Target Area Revitalization Program area is consistent with the program's goals. Each house will be funded at \$36,500.00 totaling \$255,500.00. The remaining \$144,500.00 will allow for four additional houses at \$36,125.00 each to be constructed at Oakridge Estates, once the infrastructure work has been completed. There is additional funding that was made available in the 2016-2017 Annual Action Plan for the construction of 15 houses for Oakridge Estates. These funds will also be available once the construction of the infrastructure has been completed. It is anticipated that the infrastructure will be completed by the end of the summer of 2018.

Discussion ensued.

**MOTION:** Council Member Waddell moved to approve the amendment to reallocate \$255,000.00 to Habitat for Humanity from the Oak Ridge Estates Project in the 2017-2018 Annual Action Plan to construct seven houses in the B Street Target Revitalization Program area.

**SECOND:** Council Member Haire

**VOTE:** UNANIMOUS (10-0)

## **7.0 PUBLIC HEARINGS**

### **7.01 P17-31F The amendment of an existing Special Use Permit (issued by Cumberland County) to expand a daycare center (Cherubs Daycare Center) located at 2113 Rim Road near the intersection with**

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**Debbie Street, consisting of 0.46 acres and being the property of GEISIS ARIAS.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated this is a request to amend an existing Special Use Permit (SUP) (issued by Cumberland County prior to annexation by the City) to allow an expansion of an existing daycare center. The owner of this facility wishes to increase their capacity to ten additional children (currently 39 are allowed) and add one additional staff member (currently there are five employees). The Agricultural-Residential (AR) District is established to accommodate rural uses, including agricultural uses, uses that complement or support agricultural uses, and very low-density residential uses. It encourages residential development that preserves farmland and other open space through flexibly-designed conservation subdivisions. While most of the properties surrounding this one are also zoned AR, they are also almost all developed as half-acre single-family residential lots. The size and use of the surrounding properties is not typical of lots in AR zoned areas. Daycare centers are highly regulated through the State's child care laws and rules. The North Carolina Department of Health and Human Services Division of Child Development and Early Education (DCDEE) is charged with the review and approval of new or expanding daycare centers. The approval of the SUP by the City is one of the first steps in this process. The final approval of the size of the facility and number of children that may be cared for is made by the State after they have reviewed current sealed drawings from an architect or engineer showing all of the space within the facility. The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards. The following eight findings must be met:

- (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;
- (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. Daniela Jacobs, 2115 Rim Road, Fayetteville, NC 28314, appeared in favor and asked Council for approval of the request for a Special Use Permit.

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

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Discussion ensued.

**MOTION:** Council Member Wright moved to approve the Special Use Permit (SUP) to amend an existing Special Use Permit to expand a daycare center, as presented by staff, with the condition the daycare must meet the playground buffering requirements from the UDO for daycare centers, 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 residential district, (2) this use complies with the findings presented, 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, which is February 1, 2018. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

**SECOND:** Council Member Haire

**VOTE:** UNANIMOUS (10-0)

**7.02 P18-09F The rezoning of property from SF-10 Single-Family Residential to LC/CZ Limited Commercial Conditional Zoning District located at 7376 Stoney Point Road near the intersection of Stoney Point and Dundle Roads, being the property of KAZI HASIBA BURNS.**

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the properties in question are located at the intersection of Dundle and Stoney Point Roads. Currently, the property is zoned SF-10 and undeveloped. A series of rezoning petitions have been seen over the years. A rezoning request to change the zoning on these properties from R10 to C1 was denied by the City Council in 2009. Other rezoning efforts have also been denied. An application for a straight rezoning on this property was first heard by the Zoning Commission in May of 2017, subsequently the City Council then held a public hearing regarding this case in August of 2017. At that August meeting, the Council voted to table the item for 90 days to allow the owner and the neighbors to hold discussions regarding the future use of this property. That meeting occurred. On November 27, 2017, the City Council was updated on the progress of this item since the 90-day tabling period had passed. Council Member Crisp moved to deny the request for rezoning and waive the one-year waiting period to allow the property owner to immediately apply for conditional rezoning and to return this item to Council in January 2018. A friendly amendment was offered by then Mayor-Elect Colvin to include no fees be charged for the re-filing of a conditional use rezoning. The denial and waiving of the cool-down period was approved 10 to 0, thus allowing the application in front of the City Council to begin. On January 9, 2018, the Zoning Commission held a public hearing regarding a new rezoning request to conditional zoning on this property. There was one speaker who came in favor of the rezoning and none in opposition. The Commission voted 5 to 0 to recommend approval of this item. This item is now recommended for approval by both the Zoning Commission and the City's staff.

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

Mr. Jonathan Charleston, 201 Hay Street, Fayetteville, NC, stated he is the attorney representing the applicant and requested approval of the rezoning request.

Ms. Debbie Liebers, 3439 Dundle Road, Fayetteville, NC 28306, appeared in opposition and requested denial of the rezoning request.

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

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Discussion ensued.

**MOTION:** Council Member Crisp moved to approve the rezoning to LC/CZ Limited Commercial Conditional Zoning District, as presented by the staff, with the November 27, 2017, Memorandum 42 terms listed in the application. The amendment is consistent with applicable plans because (1) the City's 2030 Growth Vision Plan calls for development intensity to match that of the surrounding area, (2) the uses and zoning near this property are a mix of commercial and residential property which is compatible with the proposed zoning, and (3) the proposed zoning is reasonable and in the public interest because the proposed zoning does fit with the character of most of the development in this area.

**SECOND:** Council Member Jensen

**VOTE:** UNANIMOUS (10-0)

## **7.03 Maurice Grady's Appeal of the Planning Commission's Decision to Deny a Neighborhood Compatibility Permit to Allow Parking of a Two-Axle Trailer in the Front Yard Driveway at 791 Hedgelawn Way Street.**

Ms. Marsha Bryant, Development Advocate, presented this item with the aid of a PowerPoint presentation and stated the property owner is appealing the Planning Commission's decision to deny the request for a Neighborhood Compatibility Permit (NCP) to allow a two-axle trailer to be parked in the front yard driveway where the Code requires that two-axle trailers be parked in the rear yard. The Planning Commission decided the case on November 21, 2017. On September 15, 2015, Council adopted an ordinance amendment to allow parking of recreational vehicles, campers, and single-axle boat and utility trailers under certain conditions in residential districts and on an approved surface. Multi-axle trailers are not allowed to be parked in the front yard unless approved through the Neighborhood Compatibility Permit. On July 13 and August 13, 2017, Mr. Grady received notices of violation from the City Code Enforcement Department. On October 18, 2017, Mr. Grady applied for a Neighborhood Compatibility Permit requesting that the enclosed two-axle trailer be allowed to be parked in the front yard. On November 21, 2017, the Planning Commission held a public hearing to review the request. The Planning staff recommended approval of the request. The applicant presented his case at the Planning Commission hearing and the adjacent property owner presented his case in opposition to the request. After hearing from the opposition and issues with past code violations, the Planning Commission voted 5 to 2 to deny the request. The zoning ordinance requires two-axle trailers be parked in the rear yard unless a Neighborhood Compatibility Permit is approved.

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

Mr. Maurice Grady, 775 Magellan Drive, Fayetteville, NC, stated he is appealing the Planning Commission's denial of the neighborhood compatibility permit.

Mr. Walter Moorman, Jr., 2209 Morganton Road, Fayetteville, NC 28303, appeared in opposition.

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

Discussion ensued.

**MOTION:** Council Member Waddell moved to uphold the Planning Commission's decision and deny the Neighborhood Compatibility Permit.

**SECOND:** Council Member Crisp

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**VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Colvin and Wright)**

### **7.04 Text Amendment to align the City Subdivision Code with the recent change to the North Carolina General Statutes regarding subdivision review.**

Ms. Marsha Bryant, Development Advocate, presented this item and stated the N.C. General Statutes has been amended to include one additional subdivision exemption allowance and an expedited subdivision review allowance. The proposed text amendment will align the City Subdivision Code with the amended State Statute. The City Code must be consistent with the NC General Statutes. The State Statutes were recently amended. The proposed text amendments are (1) the allowance of a fifth type of land subdivision to be exempt from the subdivision regulations and the subdivision review process and (2) the allowance for an expedited land subdivision review/approval process when the subdivision complies with specific criteria. The expedited review allows for specific types of land subdivision to be approved with a final plat review only; the subdivision is exempt from the normal subdivision review process but must comply with the subdivision regulations. Text amendments are required by the Code to be reviewed by the Planning Commission and forwarded to City Council for final disposition. The Planning Commission recommended approval of the proposed text amendment at their December 19, 2017, meeting. The proposed text amendments align the City Subdivision Code with the NC General Statute regulations regarding subdivision exemptions and creates one expedited review allowance.

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

**MOTION: Council Member Haire moved to approve the amendment to align the City Subdivision Code with the NC General Statutes.**

**SECOND: Council Member Wright**

**VOTE: UNANIMOUS (10-0)**

### **8.0 OTHER ITEMS OF BUSINESS**

#### **8.01 Adoption of Budget Ordinance Amendment 2018-13 (Stormwater Management Fund) to Appropriate Funding for Contracted Engineering Evaluations of Privately Owned Dams Damaged During Hurricane Matthew**

Mr. Rob Stone, Public Services Director, presented this item and stated on October 30, 2017, Council provided consensus direction to move forward with engineering evaluations of four private dams damaged during Hurricane Matthew (Strickland Bridge Dam, Rayconda Upper Dam, Rayconda Lower Dam, and Arran Lakes Dam). Council also directed staff to conduct additional outreach to private dams to ensure all had an opportunity to receive assistance. Two additional petitions were received (Lorraine Lake Dam and Cottonade Dam). Budget Ordinance Amendment (BOA) 2018-13 will appropriate \$116,080.00 to fund those evaluations from Stormwater Management Fund fund balance. Staff is requesting that Council authorize the City Manager to execute a contract with Freese & Nichols, Inc. (FNI) to complete the engineering evaluations of these dams.

Discussion ensued.

**MOTION: Council Member Dawkins moved to table this item until after the City Council Strategic Planning meeting (February 2-3, 2018).**

**SECOND: Council Member Waddell**

**VOTE: FAILED by a vote of 4 in favor to 6 in opposition (Council Members Colvin, Jensen, Williams, Haire, Crisp, and Wright)**

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Discussion ensued.

**MOTION:** Council Member Crisp moved to adopt Budget Ordinance Amendment 2018-13 for the dam evaluations and authorize the City Manager to execute the contract for professional services for the engineering evaluation of the four private dams, and bring this item back to Council for further discussion at the February work session.

**SECOND:** Council Member Wright

**VOTE:** PASSED by a vote of 7 in favor to 3 in opposition (Council Members Mohn, Dawkins, and Waddell)

## 9.0 ADMINISTRATIVE REPORTS

### 9.01 Monthly Statement of Taxes - December, 2017

|                                      |               |
|--------------------------------------|---------------|
| 2017 Taxes .....                     | 14,030,341.28 |
| 2017 Vehicle .....                   | 592.60        |
| 2017 Taxes Revit .....               | 39,439.93     |
| 2017 Vehicle Revit .....             | 0.59          |
| 2017 FVT .....                       | 20.00         |
| 2017 FTT .....                       | 20.00         |
| 2017 Storm Water .....               | 2,133,037.12  |
| 2017 Fay Solid Waste Fee .....       | 852,737.66    |
| 2017 Annex .....                     | 0.00          |
| 2016 Taxes .....                     | 19,912.23     |
| 2016 Vehicle .....                   | 13.54         |
| 2016 Taxes Revit .....               | 9.77          |
| 2016 Vehicle Revit .....             | 0.00          |
| 2016 FVT .....                       | 0.00          |
| 2016 FTT .....                       | 0.00          |
| 2016 Storm Water .....               | 2,161.03      |
| 2016 Fay Solid Waste Fee .....       | 1,288.83      |
| 2016 Annex .....                     | 0.00          |
| 2015 Taxes .....                     | 2,046.60      |
| 2015 Vehicle .....                   | 0.00          |
| 2015 Taxes Revit .....               | 0.00          |
| 2015 Vehicle Revit .....             | 0.00          |
| 2015 FVT .....                       | 0.00          |
| 2015 FTT .....                       | 0.00          |
| 2015 Storm Water .....               | 68.42         |
| 2015 Fay Storm Water .....           | 136.82        |
| 2015 Fay S Waste Fee .....           | 156.68        |
| 2015 Annex .....                     | 0.00          |
| 2014 Taxes .....                     | 449.53        |
| 2014 Vehicle .....                   | 0.00          |
| 2014 Taxes Revit .....               | 0.00          |
| 2014 Vehicle Revit .....             | 0.00          |
| 2014 FVT .....                       | 0.00          |
| 2014 FTT .....                       | 0.00          |
| 2014 Storm Water .....               | 15.00         |
| 2014 Fay Storm Water .....           | 27.00         |
| 2014 Fay S Waste Fee .....           | 0.00          |
| 2014 Annex .....                     | 0.00          |
| 2013 and Prior Taxes .....           | 1,627.59      |
| 2013 and Prior Vehicle .....         | 729.48        |
| 2013 and Prior Taxes Revit .....     | 0.00          |
| 2013 and Prior Vehicle Revit .....   | 0.00          |
| 2013 and Prior FVT .....             | 143.25        |
| 2013 and Prior FTT .....             | 58.25         |
| 2013 and Prior Storm Water .....     | 33.44         |
| 2013 and Prior Fay Storm Water ..... | 66.89         |
| 2013 and Prior Fay S Waste Fee ..... | 29.91         |
| 2013 and Prior Annex .....           | 0.00          |



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|                                                 |                     |
|-------------------------------------------------|---------------------|
| Fay Interest .....                              | 3,773.48            |
| Revit Interest .....                            | 0.16                |
| Storm Water Interest - 2015 and Prior .....     | 37.03               |
| Fay Storm Water Interest - 2015 and Prior ..... | 73.19               |
| Storm Water Interest - 2017 .....               | 0.00                |
| Storm Water Interest - 2016 .....               | 212.84              |
| Annex Interest .....                            | 0.00                |
| Solid Waste Interest .....                      | 187.26              |
| FTT Interest .....                              | 32.64               |
| <br>Total Tax and Interest .....                | <br>\$17,089,480.04 |

10.0 ADJOURNMENT

There being no further business, the meeting adjourned at 9:54 p.m.

Respectfully submitted,

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PAMELA J. MEGILL  
City Clerk

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MITCH COLVIN  
Mayor