

**FAYETTEVILLE CITY COUNCIL
REGULAR MEETING MINUTES
COUNCIL CHAMBER
SEPTEMBER 24, 2018
7:00 P.M.**

Present: Mayor Mitch Colvin

Council Members Katherine K. Jensen (District 1); Daniel Culliton (District 2); Tisha S. Waddell (District 3); D. J. Haire (District 4) (departed at 8:18 p.m.); 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) (via telephone)

Others Present: Douglas Hewett, City Manager
Brandon Christian, Police Attorney
Kristoff Bauer, Deputy City Manager
Jay Reinstein, Assistant City Manager
Telly Whitfield, Assistant City Manager
Gerald Newton, Development Services Director
Sheila Thomas-Ambat, Interim Public Services Director
Kevin Arata, Corporate Communications Director
Taurus Freeman, Planning and Zoning Manager
Craig Harmon, Senior Planner
Tracey Broyles, Budget and Evaluation Director
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 Pastor Michael Mathis, Mission Field Ministries.

3.0 PLEDGE OF ALLEGIANCE

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

4.0 ANNOUNCEMENTS AND RECOGNITION

Mr. Gerald Newton, Development Services Director, provided an update on Hurricane Florence recovery and stated with technology improvements we have surveyed areas of danger to evaluate the extent of the problematic areas.

Mayor Colvin announced debris clean-up began today. Residents interested in working as a sub-contractor for debris clean-up, please contact the City.

Council Member Dawkins thanked many for their Hurricane Florence efforts.

Council Member Jensen introduced Ms. Kennedy Williams, Fayetteville-Cumberland Youth Council Member.

Mayor Colvin presented a proclamation to Ms. Mary John Williams and Ms. Connie Guzman proclaiming September 2018 as PACE (Programs of All-inclusive Care for the Elderly) Month.

5.0 APPROVAL OF AGENDA

MOTION: Council Member Haire moved to approve the agenda with the stipulation that public hearing Item 8.02 be the first public hearing to be heard with Item 8.01 being second.
SECOND: Council Member Crisp
VOTE: UNANIMOUS (10-0)

6.0 CONSENT AGENDA

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

6.01 Approval of Meeting Minutes:
September 4, 2018 - Work Session
September 6, 2018 - Special

6.02 P18-24F. Rezoning of property from MR-5 Mixed Residential to CC Community Commercial Zoning, located at 229 McIver Street (Tax Map Number 0437-33-1921) near the intersection of McIver and German Streets, containing 0.12 acres and being the property of CHARLESTON SEVEN GROUP LLC.

6.03 Adopt Capital Project Ordinance 2019-17 (Airport Runway 4/22 and General Aviation Ramps Pavement Crack Sealing)

Capital Project Ordinance 2019-17 will appropriate \$100,000.00 for pavement crack sealing on runway 4/22 and the general aviation ramps at the Fayetteville Regional Airport.

6.04 P18-28F. Rezoning of property from MR-5 Mixed Residential to OI/CZ Office and Institutional/Conditional Zoning, located at 6590 Cliffdale Road (Tax Map Number 9497-96-6108) near the intersection of Cliffdale and Bunce Roads, containing approximately 1.27 acres and being the property of BOXWELL, DEW EVANS & WIFE.

6.05 Capital Project Ordinance 2019-16 for the FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG)

Capital Project Ordinance 2019-16 will appropriate \$106,531.00 of federal grant funds, awarded by the U.S. Department of Justice, for the FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. No local match is required. The grant provides \$65,000.00 for a training simulator system, \$39,800.00 for six portable fingerprint reader systems, and \$1,731.00 for camera equipment.

6.06 CDBG-DR Sub-Recipient Agreement between the NC Department of Commerce, NC Department of Public Safety, Division of Emergency Management and the City of Fayetteville

The City of Fayetteville is currently a sub-subrecipient to Cumberland County for the CDBG-DR program through a grant executed on December 1, 2017. Cumberland County executed a sub-grant agreement with the City of Fayetteville on April 3, 2018, to award a portion of the County's grant (\$15,325,000.00) to the City. The current arrangement for the City as a sub-subrecipient to the County has inadvertently slowed down both the reimbursement and rehabilitation process for our residents. Each reimbursement request must first be sent to the County for approval, and once approved, the County must reimburse the City prior to receiving a reimbursement from the State. It is a rather cumbersome process and the State agrees. Cumberland County and the City of Fayetteville now wish to dissolve their April 3, 2018, sub-grant agreement, and the County wishes to dissolve its December 1, 2017, grant agreement with NCEM, and in place of these agreements, the City wishes to enter into this agreement directly with NCEM to allocate the City's portion of the County award.

6.07 Uninhabitable Structures Demolition Recommendations

6502 Portsmouth Drive - District 7

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. 6502 Portsmouth Drive, PIN # 0407-03-5315. ORDINANCE NO. NS2018-017

1932 Progress Street - District 2

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. 1932 Progress Drive, PIN # 0436-03-4857. ORDINANCE NO. NS2018-018

6.08 Bid Recommendation - Relocation of Electric Transmission and Distribution Facilities - US 401 (Raeford Road) to Lee Electrical Construction, Inc., Aberdeen, NC, the lowest responsive, responsible bidder in the total amount of \$12,024,969.25.

Bids were received on August 28, 2018, as follows:

Lee Electrical Construction, Inc., Aberdeen, NC . \$12,024,969.25
Linetec Services, LLC, Alexandria, LA \$13,071,088.00

6.09 Bid Recommendation - Cross Creek Water Reclamation Facility Influent Pump Station Rehab to Crowder Construction Company, Apex, NC, the lowest responsive, responsible bidder in the total amount of \$8,582,000.00.

Bids were received on August 23, 2018, as follows:

Crowder Construction Company, Apex, NC \$8,582,000.00
TA Loving Company, LLC, Alexandria, LA \$10,378,147.50

6.010 Bid Recommendation - 27 kV Class, 1200 AMP Feeder Vacuum Circuit Breakers to ABB Inc., Lake Mary, FL, the lowest responsive, responsible bidder in the total amount of \$597,862.00.

Bids were received on August 30, 2018, as follows:

Siemens Industry, Inc., Wendell, NC \$597,862.00
ABB, Inc., Lake Mary, FL \$616,400.00

6.011 Bid Recommendation - Highway #401 North Water Improvements: Contract 1 to Sanford Contractors, Inc., Lemon Springs, NC, the lowest responsive, responsible bidder in the total amount of \$1,363,575.17.

Bids were received on August 23, 2018, as follows:

Sanford Contractors, Inc., Lemon Springs, NC \$1,363,575.17
Odell Smith & Sons Construction, Spring Lake, NC . \$1,571,836.00
Wells Brothers Construction, Turkey, NC \$1,587,918.48
Sandy's Hauling & Backhoe Service, Roseboro, NC .. \$1,710,652.50
S & L Contracting, Wadesboro, NC \$1,808,239.50

7.0 REPORTS FROM BOARDS AND COMMISSIONS

7.01 2018 Annual Report of the Wrecker Review Board

Ms. Gina Hawkins, Police Chief, presented this item and stated over the past year 29 wrecker companies have applied to be placed on the rotation wrecker list, of those 26 were accepted and 3 were denied

for various reasons. The Wrecker Review Board meets on a quarterly basis, and this past year there have been three separate appeal hearings.

Discussion ensued.

MOTION: Council Member Dawkins moved to accept the Annual Report of the Wrecker Review Board.

SECOND: Council Member Haire

VOTE: UNANIMOUS (10-0)

8.0 PUBLIC HEARINGS

8.02 P18-26F. Rezoning of property from MR-5 Mixed Residential to LC Limited Commercial Zoning, located at 2101, 2103, and 2105 Murchison Road (Tax Map Numbers 0428-85-4488, 0428-85-5420, and 0428-85-5382) near the intersection of Murchison Road and Pennsylvania Avenue, containing 1.5 acres and being the property of ESTELLE MCNEILL, HEIRS. [Appealed on August 24, 2018]

This item was moved before Item 8.01.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable conditional zoning districts in accordance with Section 30-2.C. This request is for a straight rezoning from Mixed Residential 5 (MR-5) to Limited Commercial (LC). The MR-5 District is "established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of this Ordinance". The purpose of the LC District is to "accommodate a wider range of moderate-intensity general retail, business, and service uses that serve groups of neighborhoods instead of just an individual neighborhood, for example, grocery stores, drugstores, large restaurants, gas stations, and higher order retail uses like specialty stores. The district is not intended to accommodate intensive commercial or other business uses. Residential uses are encouraged on the upper floors of nonresidential establishments". The reclassification of land to a straight zoning district allows all of the business/office uses that are shown on the attached Use Table taken from the UDO. The City Council may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations that are applicable. In December 2007 the City of Fayetteville commissioned land design and project partner Basile Baumann Prost Cole and Associates (BBPC) to prepare a land use and economic development plan for the Murchison Road corridor and respective study area. The entire study area covers approximately 4,071 acres, extending from downtown and Martin Luther King Jr. Freeway (US 401) to Fort Bragg and the future I-295 Fayetteville Outer Loop corridor extension.

Mr. Harmon stated it is recommended that the City Council move to deny the requested rezoning to LC Limited Commercial Zoning, as presented by staff. The amendment is not consistent with applicable plans because (1) the City's existing Land Use and Economic Development Plan: Murchison Road Corridor Plan calls for this area to be used for single-family residential purposes; (2) the uses surrounding this property are mostly incompatible with the proposed zoning; and (3) the proposed zoning is not reasonable and is not in the public interest because the proposed zoning does not fit with the character of the development in this area.

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

Mr. Thelberry Torrey, 2101 Murchison Road, Fayetteville, NC, appeared in favor and stated he is one of the property owners.

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

Discussion ensued.

MOTION: Council Member Haire moved to approve the rezoning request from MR5 Mixed Residential to LC Limited Commercial.
SECOND: Council Member Waddell
VOTE: PASSED by a vote of 8 in favor to 2 in opposition (Council Members Culliton and Crisp)

MOTION: Council Member Dawkins moved to excuse Council Member Haire for the remainder of the meeting; not for conflict of interest or financial interest.
SECOND: Council Member Waddell
VOTE: UNANIMOUS (9-0)

8.01 P18-21F. Rezoning of property from SF-10 - Single Family Residential to OI - Office and Institutional Zoning, located at 2005 Hope Mills Road (tax map number 0416-12-4622-) near the intersection of Hope Mills and Ashton streets, containing 0.24 acres and being the property of Jeffrey Bryant.

This item was moved after Item 8.02.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the request is for a straight rezoning from Single Family 10 (SF-10) to Office and Institutional Zoning. The purpose of the SF-10 District is to "accommodate principally single-family detached residential development at low densities, and to accommodate flexibly-designed residential development that provides variable housing types and arrangements that respond to environmental and site conditions". The purpose of the Office and Institutional District is to "accommodate a mix of small-scale, low-intensity professional and business offices and institutions, together with limited personal service and supporting retail uses (See 30-4.D Accessory Uses) , single-family detached, single-family attached, and multi-family residential uses in close proximity to one another, subject to design and compatibility standards. The districts are generally near residential neighborhoods and often serve as a buffer or transition between neighborhoods and more intense business districts". The reclassification of land to a straight zoning district allows all of the business/office uses that are shown on the Use Table taken from the UDO. The City Council may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations that are applicable. The City Planning staff recommends approval of the map amendment to OI based on the following:

- (1) This proposed zoning map amendment implements the policies of the adopted Hope Mills Corridor Plan, including the land use classification of the property on the future land use map, as amended;
- (2) The uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified due to the future land use plan for this area and the existing zoning and uses surrounding this property;
- (3) The proposed change is in accord with any existing or proposed plans for providing public schools, streets, water

supply, sanitary sewers, and other public services and utilities to the area since the corridor plan was developed after the widening of Hope Mills Road and due to most of the surrounding lands having already been developed; and

- (4) There are no other factors which will substantially affect the public health, safety, morals, or general welfare.

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

Mr. Jeffrey Bryant, 2659 Lakeview Drive, Fayetteville, NC 28306, appeared in favor and asked for approval of the rezoning request.

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

Discussion ensued.

MOTION: Council Member Crisp moved to approve the requested rezoning to OI Office and Institutional Zoning. The amendment is consistent with applicable plans because (1) the City's existing Hope Mills Road Corridor Plan calls for this area to be used for office and institutional purposes, (2) that the uses surrounding this property are all 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 the development in this area.

SECOND: Council Member Dawkins

VOTE: UNANIMOUS (9-0)

8.03 P18-27F. The issuing of a Special Use Permit to allow a recycling center to be located at 260 Tolar Street (Tax Map Number 0437-30-4579) near the intersection of Barnes and Winslow Streets, containing approximately 5.4 acres and being the property of B/T STORAGE LLC.

Mr. Craig Harmon, Senior Planner, presented this item with the aid of a PowerPoint presentation and stated the property in question is located near the edge of the City's downtown area, near the Martin Luther King Jr. Freeway/Highway 87. The owner proposes to locate a transfer recycling center at the location. This facility will divert metal, plastics, aggregate, wood, cardboard, carpet, and drywall from construction sites. This property is just over five acres and currently has several large vacant buildings and one small vacant building on it. Some of the existing buildings are dilapidated. One building has suffered major fire damage and another building has a missing roof and some walls. This property will require a major mitigation. A business on this property should greatly improve the aesthetics and safety issues that are currently present. A Special Use Permit (SUP) shall be approved only upon a finding that all of the following standards are 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; and
- (8) The special use complies with all other relevant City, State, and Federal laws and regulations.

This SUP must comply with any and all City, State, and Federal laws and regulations to remain in business.

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

Mr. Greg Spears, 2829 Briar Creek Place, Fayetteville, NC 28304, appeared in favor and asked for approval of the Special Use Permit.

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

Discussion ensued.

MOTION: Council Member Dawkins moved to approve the Special Use Permit (SUP) to allow a recycling center to be located on this property, as presented by the 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 City's existing Massey Hill Community Redevelopment Plan calls for this area to be used for Industrial purposes, (2) that the uses surrounding this property are all compatible with the proposed SUP, and (3) the proposed SUP is reasonable and in the public interest because the proposed SUP does fit with the character of the development in this area. This Special Use Permit shall become effective ten days after its approval by the City Council, which is October 4, 2018. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

SECOND: Council Member Culliton

VOTE: UNANIMOUS (9-0)

9.0 ADJOURNMENT

There being no further business, the meeting adjourned at 8:43 p.m.