

MINUTES OF MEETING OF THE  
CITY COUNCIL OF THE CITY OF SANFORD  
SANFORD, NORTH CAROLINA

The City Council met at the Sanford Municipal Center, 225 E. Weatherspoon Street, on Tuesday, January 6, 2004, at 7:00 P.M. The following people were present:

Mayor Winston C. Hester	Council Member Linwood S. Mann, Sr.
Mayor Pro Tem Joseph E. Martin	Council Member James G. Williams
Council Member Clawson Ellis	Council Member Walter H. McNeil, Jr.
Council Member Cornelia P. Olive	Council Member Philip E. Dusenbury
City Manager Leonard Barefoot	City Attorney Susan C. Patterson
City Clerk Bonnie D. White	

Mayor Hester called the meeting to order. Council Member James Williams delivered the invocation.

**APPROVAL OF AGENDA**

Mayor Hester stated that three contracts needed to be added to the Regular Agenda as 7C – Consider Legally Binding Commitments between Progressive Development Company, L.L.C. and the City of Sanford. On motion of Council Member James Williams, seconded by Council Member Walter McNeil, Jr., the amended agenda was approved.

**CONSENT AGENDA**

Approval of December 16, 2003, City Council Minutes- Filed in Minute Book 61

The consent agenda item was approved upon motion of Council Member Phil Dusenbury. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

**REGULAR AGENDA**

Consider Order Finding Charter Communication's 2003-2004 FCC1240 Basic Service Tier and FCC1205 Installation Rates Comply with the FCC's Rules and are Subject to the Condition Stated Herein – (Exhibit A)

City Attorney Susan Patterson advised that the City received information from its cable consultant that Charter Communication has filed with the FCC information to substantiate an increase in basic service tier rates. The basic service tier rate will increase from \$9.95 to \$10.92. The City's consultant has reviewed all the information and has found that Charter has justified and substantiated the rate increase. Attorney Patterson stated that the information indicates that this is the first increase in four years for the basic service tier. Over the past three years, the cost of programming has increased 34 percent which justifies the increase. She advised that the City is required to have public comment on this order and before this order is enacted, the City is required to make the findings of fact. Attorney Patterson read aloud the findings of fact listed on the order. She explained that passing this order is the City's ability to continue to regulate Charter's cable service as a franchise in the City limits. The City's action is basically pro-forma because Charter has proven to the FCC and to the City's consultants that they substantiated their cost increase. Mayor Hester added that the City does not have control over Charter's rates.

Attorney Patterson commented that is correct. Council Member Clawson Ellis stated that he could not recommend to the people in the City of Sanford to keep paying these increases in prices. Council Member Ellis noted that he subscribed to Dish Network and they have excellent service. Council Member Cornelia Olive asked if the City has received any complaints recently about Charter. City Manager Barefoot replied that City Clerk Bonnie White logs all complaints received. City Clerk Bonnie White stated that a few complaints have been received; however, Charter took care of the complaints immediately.

Mayor Hester asked if the audience had any comments concerning the order. No one came forward to speak. Council Member Phil Dusenbury made the motion to approve the findings of fact and the order. Council Member James Williams seconded the motion. The vote was six to one with Council Member Walter McNeil, Jr. casting the dissenting vote.

Consider a Revised Preliminary Subdivision Plat for Olde Jonesboro Subdivision, Phase VI, a residential major subdivision to be located near the intersection of Cemetery Road (SR 1131) and Cherokee Trail (SR 1263). The developer is Mr. Van Harris of Sanford, NC. – (Exhibit B)

Assistant Community Development Director Marshall Downey explained the zoning for the revised preliminary subdivision plat is Residential (R20). The acreage is 63.68 acres. There were 110 lots approved on the prior preliminary plat, and a total of 121 lots are proposed for approval on the revised preliminary plat which is before Council. Mr. Downey referred Council to the maps included in their agenda packet. He noted there was a former pond that has been drained. Mr. Downey added that the proposed revision would add approximately 750 linear feet of street, and they would be built to City of Sanford's specifications. The proposed site would be served by City water and sewer. The developer is requesting to revise the preliminary plat approved by the City Planning Board in November 1999. The configuration of 12 lots is being redesigned to create 23 new lots.

The City of Sanford annexed this property in November 1996. Residential (R-12) zoning requires lots to be at least 20,000 square feet in size with 100 feet of road frontage. The City Technical Review Committee has reviewed the revised preliminary subdivision plat on December 11, 2003. The consensus of the Committee was favorable for the sketch subdivision plat with the following revisions/comments:

- Planning staff noted that the redesign of Mann Street from a cul-de-sac to a through street creates a street block length of approximately 1,470 feet. As per Section 34-65 of the City of Sanford Subdivision Ordinance, the length of any block shall be no less than 400 feet and no more than 1,200 feet.
- Planning staff also requested that the lot numbers be relabeled to avoid duplicating lot numbers. (For example, relabel from P1 to 110.) Revise the information within the site data block to read "minimum lot width at setback to 100 feet" and to add Phase VI to the title block.
- NCDOT will require lowering the hill at the intersection of Cemetery Road and Cherokee Trail so that it will not obstruct the sight distance. Also an appropriate

sight distance easement (to be determined by NCDOT) will need to be illustrated on the recorded plat.

Mr. Downey advised that the Planning Board reviewed this revised preliminary subdivision plat at its December 16, 2003 meeting and unanimously recommended the City Council approve the revised preliminary subdivision plat of Olde Jonesboro Subdivision subject to the condition that a compaction test of the old pond area be completed by a licensed engineer and submitted to planning staff prior to approve of the final plat.

Council Member Williams asked if Mr. Harris is planning to be build where the old pond was located. Mr. Downey replied yes; six lots are proposed in the pond area and this is the reason the Planning Board requested the condition of the compaction test. Council Member Cornelia Olive stated there is standing water and something that looks like a big creek there now, and asked if there are going to be drainage pipes installed. Council Member Olive added that there is a lot of dampness in that area and asked how is Mr. Harris going to avoid the houses settling? Mr. Downey replied that they will put compacted soils at that location. He commented that there are some issues with drainage because if it is a natural drainage feature, they will have to be sensitive so that they do not create offsite problems with water flow. Mr. Ken Bright, project engineer, was in the audience for questions.

Council Member Cornelia Olive asked Mr. Downey if the pond was a man-made pond or a natural pond. Ken Bright replied that it was a man-made pond and it sprang a leak and Mr. Harris chose not to repair it.

Council Member Linwood Mann made the motion to approve the revised preliminary plat subject to the condition set forth by the Planning Board that a compaction test of the old pond area be completed by a licensed engineer and submitted to planning staff prior to approval of the final plat. Council Member James Williams seconded the motion. The vote was five to two to approve the revised preliminary plat with the condition set forth by the Planning Board. Council Members Clawson Ellis and Cornelia Olive cast the dissenting votes.

Consider Legally Binding Commitments Between Progressive Development Company, L.L.C. and the City of Sanford – (Exhibit C)

Mayor Pro Tem Joseph Martin asked to be recused from voting on the commitments due to his wife being employed with Progressive Development Company. Council Member Walter McNeil, Jr. made the motion to recuse Joseph Martin from voting. Seconded by Council Member Cornelia Olive, the motion carried unanimously.

Community Development Director Bob Bridwell explained that last year, the City received notice from the Division of Community Assistance (DCA) that they had some \$5 million leftover in Community Development Block Grant funds. The DCA looked at using the funds for urban renewal and downtown work. They were looking at some very competitive proposals from various mainstreet cities. Sanford was invited to participate. The City had to come up with a competitive proposal to apply for funds up to \$1 million for blight removal in a short time. One of the predications was that we had to have a private partner. The City was very fortunate in that we had an active contractor, Progressive Development Company, doing

some downtown work in Sanford. Staff approached them and asked if they would be willing to be a partner to get some of their projects moving forward and for the City to get some of its streetscape programs going on downtown. Progressive Development agreed based upon the premise that it is a grant program for them. The application was put together and was successful in being the highest-rated application in the state.

Downtown Executive Director David Montgomery explained that the three Legally Binding Commitments (LBCs) were drafted by City staff and attorneys from Progressive Development to ensure that the responsibility of each entity is understood. The LBCs outline the loan arrangement that we have with Progressive Development. It was originally intended to give this grant outright to the developer; however, when the City was awarded the grant, the State said we could not grant money outright to a private developer. The private developer needs to pay this money back in a long-term, low-interest, deferred loan. Progressive Development has agreed to pay back the amount of money they are using for improvements to their buildings. The improvements are only specifically for certain activities: historical preservation, handicap accessibility and fire and safety issues. The funds cannot be used for upfit purposes; the intent is to bring the building back to some sort of standard so that they can lease it out in the future. The three legally binding commitments are for: 115 Chatham Street (which is the old Buggy factory) - \$412,624; 152 Charlotte Avenue (Montessori School) - \$27,700; and 121 Chatham Street - \$15,200.

Mr. Montgomery advised that the terms of the loan are a 30-year loan with an interest rate of 1 percent (1%) per annum on the unpaid balance until paid or until default. Payments will start after the sixth year of the building being occupied; so, technically, payments will not begin for 115 Chatham Street and 152 Charlotte Avenue until the year 2010. The method they will repay the City is by the following formula: Cost of Improvements paid for by CDBG funds divided by the Cost of the Total Project, and multiplied by the Net Cash Flow for the preceding calendar year. If, in 2040, the money has not been repaid, Progressive will pay back the balance of the loan. The City will be developing a Downtown Revolving Loan Fund which will work the same way. As the money is paid back, Progressive and private developers can tap into these funds and use them in the same manner. The City can loan the money out for a long-term period at a reduced rate below prime so it becomes a self-sustaining program.

Mayor Hester asked if any local funds are being used. Mr. Montgomery replied no; all the funds are coming from the CDBG grant. Council Member McNeil clarified that no one else can use these monies until the money comes in which will be six years or more. Mr. Montgomery replied that is correct. Council Member Linwood Mann asked if there are any established guidelines as to when the project is started and finished. Mr. Montgomery replied they have 365 days from start to finish.

Community Development Director Bob Bridwell explained that one-half of the money is going to Progressive Development, and the other half is going to the streetscape improvements that the City will be making. He advised that one of the main aspects that made this project successful was the fact that City Council agreed to support Downtown Sanford Inc. with the Depot Park project. Council Member Ellis asked what is the hold-up on Depot Park. Mr. Bridwell replied that there have been some weather and contractor issues but the project is

proceeding very rapidly now. About 90 percent of the utilities are already installed underground. Mr. Montgomery replied that the bath house is supposed to be completed by March 1 and the entire park by the end of spring.

With Mayor Pro Tem Joe Martin being recused from voting, the following motions were made. Council Member James Williams made the motion to approve the Legally Binding Commitment Between Progressive Development Company, L.L.C. and the City of Sanford for 121 Chatham Street in the amount of \$15,200. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously. Council Member Phil Dusenbury made the motion to approve the Legally Binding Commitment Between Progressive Development Company, L.L.C. and the City of Sanford for 152 Charlotte Avenue in the amount of \$27,700. Seconded by Council Member Cornelia Olive, the motion carried unanimously. Council Member Clawson Ellis made the motion to approve the Legally Binding Commitment Between Progressive Development Company, L.L.C. and the City of Sanford for 115 Chatham Street in the amount of \$412,624. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

**ALL EXHIBITS CONTAINED HEREIN ARE HEREBY INCORPORATED BY REFERENCE AND MADE A PART OF THESE MINUTES.**

#### **OTHER BUSINESS**

Downtown Executive Director David Montgomery informed Council that a reporter from Mississippi came to Sanford to do an article on Downtown. The reporter informed Mr. Montgomery that their town was just beginning the process of revitalization of Downtown. She was looking for similar cities with historical background like Sanford. The reporter came and spoke with the mayor, Chamber of Commerce President, members of DSI, business owners, and residents. She will be doing a series of articles on the cities she has visited and will send a copy to Mr. Montgomery.

With regards to a sewer spill on Lee Avenue, Mayor Pro Tem Joseph Martin asked if we are evaluating sewer lines as an ongoing project in order to prevent these spills or are they routinely checked. Public Works Director Larry Thomas replied that the City is cleaning the lines on a regular basis, and we are doing an extensive investigation into the system. He stated that we have a time schedule to do this on and once the study is completed, staff will be coming to Council to ask for funds to make repairs.

Mayor Hester asked if the generators have come in. Mr. Thomas replied that the generator for Little Buffalo is in; Carr Creek and the mobile generator will be in by the end of February.

City Manager Leonard Barefoot stated that Ms. White has checked for availability of the meeting room we have used for Council's annual retreat and the best date appears to be Thursday and Friday, March 4 and 5. Mr. Barefoot asked if Council would be in agreement with that date. It was the consensus to hold the retreat on March 4 and 5. He added that if any Council Member could not attend on that date, to please let him know.

City Manager Leonard Barefoot introduced the City's new Human Resources Director Christy Whitley Pickens.

**ADJOURNMENT**

With no further business to come before the Council, the meeting was adjourned on motion of Mayor Pro Tem Joseph Martin. Seconded by Council Member Cornelia Olive, the motion carried unanimously.

Respectfully submitted,

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WINSTON C. HESTER, MAYOR

ATTEST:

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BONNIE D. WHITE, CITY CLERK