

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, October 5, 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 Philip E. Dusenbury	Council Member Walter H. McNeil, Jr.
Council Member Cornelia P. Olive	City Clerk Bonnie D. White
City Manager Leonard Barefoot	

Absent:

Council Member Clawson Ellis  
City Attorney Susan Patterson

Mayor Hester called the meeting to order and delivered the invocation.

**APPROVAL OF AGENDA**

On motion of Council Member Walter McNeil, Jr., seconded by Council Member Philip Dusenbury, the agenda was approved.

**CONSENT AGENDA**

City Manager Leonard Barefoot stated that since there was no Law and Finance Committee meeting, the City Clerk and he decided to put some items on the Consent Agenda. He briefed Council concerning the below listed items.

Approval of September 21, 2004, City Council Minutes - (Filed in Minute Book 62)

Approval of Sub-Recipient Agreement Between the City of Sanford and Brick Capital CDC for Year 3 of the Revitalization Strategies Program—W. B. Wicker Project – (Exhibit A)

Sub-Recipient agreement was approved between the City of Sanford and Brick Capital CDC for Year 3 of the Revitalization Strategies Program – the W. B. Wicker Project. This is required for each year of funding.

Approval of Petition by Forbes Real Estate Corporation and the City of Sanford Requesting Contiguous Annexation of Approximately 25.92 Acres of Property Accessed via Bristol Way and Brownstone Drive, Which are Public City Streets Within the Brownstone Subdivision, Located West of Petty Road and Identified as a Portion of Tax Parcel 9623-94-6775-00, Lee County Land Records Office - (Exhibit B)

Petition was approved to annex 25.92 acres of property within the Brownstone Subdivision. This annexation petition is the third phase of the Brownstone Subdivision. Two annexation petitions have been approved previously.

- Approval of Resolution Directing Clerk to Investigate a Contiguous Annexation Petition Received Under G. S. 160A-31 - (Exhibit C)  
Resolution was approved directing the City Clerk to investigate a contiguous annexation petition by Forbes Real Estate Corporation.

Approval of Ordinance to Erect Stop Signs Within the City of Sanford, Chapter 26, Traffic Code of Ordinances – (Exhibit D)

Ordinance was approved to erect stop signs within the Westlanding Subdivision (Phase III).

The consent agenda items were approved upon motion of Mayor Pro Tem Joseph Martin. Seconded by Council Member Cornelia Olive, the motion carried unanimously.

**CASES FOR PUBLIC HEARING**

Public Hearing on Petition by San-Lee Builders to Annex 11.72 Acres of Contiguous Property Located North and Northwest of the Intersection of Woody Hill Lane and Green Valley Drive. (Map and Annexation Report Included) - (Exhibit E)

Planner II Liz Whitmore presented Council with a voluntary annexation petition submitted by San-Lee Builders to annex 11.72 contiguous acres located north and northwest of the intersection of Woody Hill Lane and Green Valley Drive, excluding lots 15 through 18. She pointed out that the surveyor discovered a very minute error in the previous map that was presented to Council previously. The change includes three-hundredths of an acre from the original submission of 11.69 acres to 11.72 acres, which is an additional 142.2 square feet. A corrected map was included in Council's packet.

Ms. Whitmore explained that Council received the Certificate of Sufficiency from the City Clerk on September 21, 2004, and also adopted a resolution setting the date for the public hearing on the question of annexation of the property for October 5, 2004 at 7: P.M. The public hearing was advertised in the *Sanford Herald* on September 24, 2004. The property owners were sent a copy of the notice on September 22, 2004. No additional costs to the City are anticipated to serve the annexation area in its undeveloped state.

Mayor Pro Tem Martin asked if Lots 15 through 18 were withheld because they are already in the City limits. Ms. Whitmore replied that they are not in the City limits; they were somehow left out. Staff is already in the process of proceeding to have those lots annexed into the City limits. Council Member Mann asked if City sewer is close to this property. City Engineer Vic Czar replied yes, and sewer has been extended to these lots.

Mayor Hester opened the public hearing. No one spoke in favor or in opposition. The public hearing was closed.

- Consider Adoption of Ordinance To Extend the Corporate Limits of the City of Sanford - ( Exhibit F)  
Council Member Walter McNeil, Jr., made the motion to adopt the ordinance and extend the corporate limits. Seconded by Council Member Linwood Mann, the motion carried unanimously.

Public Hearing on Brownfields Assessment Grant Application – (Exhibit G)

Community Development Director Bob Bridwell explained that staff is in the process of making application to the Environmental Protection Agency for a Brownfields Assessment Grant to assess the potential environmental hazards on a number of properties as part of the urban redevelopment process in Downtown. There are two applications; one is for hazardous materials and the other is petroleum. The differentiation between the two is that one is for service stations in the Downtown Redevelopment Area and the other is for projects that are basically industrial.

The sites targeted for inclusion in the application are King Roofing and Singer Furniture, the old Father George Cotton Mill, Industrial Rubber and Plastic on Brown Road, the tobacco warehouses on S. Third Street, and National Textile. Projects for petroleum assessment funding would include former service stations located at Hawkins Avenue and Charlotte Avenue, Wicker Street and S. Horner Boulevard, Wicker Street and Carthage Street, and Diffie Street and Carthage Street. These projects are in the redevelopment area for Downtown and staff is trying to assess the environmental contaminants that are in these sites so they can be marketable for other uses as well.

Eric Oltman, consultant with Concurrent Technologies, informed Council that they work with a nonprofit economic consulting firm which works on projects in the Carolinas and Georgia. He stated there are 400 to 500 projects going on around the country, and there are 15 to 20 similar projects in the State of North Carolina. Two grant applications will be prepared. They are taking a community-wide approach because there is more than one site to be looked at. Mr. Oltman advised that these grants are for \$200,000 each. They are to be used for community outreach and to conduct environmental assessments - Phase I where a book study is done and Phase II - environmental assessments where soil samples and groundwater samples are taken. Community outreach involves getting input from the public on what needs to be done. The public hearing tonight is a requirement and is part of community outreach. The grants will be available for review in Mr. Bridwell's office until a week before the grants are due. The grants are due November 12 at EPA's offices in Atlanta, Georgia and also to DENR.

Beverly Williams, from Region IV EPA Brownfields Office in Atlanta, Georgia, stated she has toured Downtown to see redevelopment going on and is very impressed. She noted that her role, as an EPA employee is as recipient of the proposals due November 12. Ms. Williams added that they do an in-depth review of the proposals. She showed a booklet of guidelines that is used to review the proposals. A Brownfields law was passed on January 11, 2002, which is the reason the proposal guidelines are so thick (72 pages), and the reason the process is very competitive. All the proposals are competitive on a national basis. The proposals are reviewed on two sets of criteria, fresh-hold criteria which is criteria where they can ask questions from the applicant about site eligibility - making sure of community notification such as the public

hearing tonight and a state letter that acknowledges the City is submitting the proposal. They do this review at the regional office. If you pass this criteria, the next step is that there are ranking criteria that have actual points that are scored for specific questions that are asked about community notification, community involvement; what the sites are that will be assessed; what kind of threats to human health and environment might be attributed to the sites that are being dealt with; and how the City proposes to assess them and clean them up. This criteria is ranked by other regions in the country. Other regions will be reviewing the proposals which have to be very clear and have to be as though people know nothing about the City's projects. She felt the City had a very good chance of receiving grant money with what the City has going on. It is called SEED money and will help us attain other types of grant funding from other federal sources of funding.

Daphne Oshelski from the State's Brownfields Program stated they have been around since 1996. The Spring Lane Cinemas that were built on the old Sanford Waste Water Treatment Plant site is the one and only site in Lee County that has gone through this process. She stated that they interface with the federal program but is a totally separate program. They work with sites that are either abandoned, idled, or under utilized that either have contamination or expected to have contamination. They only deal with non-responsible parties. These are people that are not responsible for any contamination that took place. They are not a remediation program or regulatory program where you would be required to totally assess the contamination. They try to get a snapshot of worst case scenarios and try to protect the environment and the people that might be using it for the intended reuse. In order to help with expenses with the assessment and sometimes remediation, the Department of Revenue provides them with a tax incentive which is the difference between the property before it was redeveloped and the property afterwards. For example, the Spring Lane Cinemas was basically bare land and then you build a multi-plex theatre on top of it, you have a big difference between the tax value when it will be reassessed in January. Over a five-year period, they have an exclusion so the first year you would only pay 10 percent of the difference of that value. Usually that backend tax exclusion would be enough to pay for anything you have to do up front.

Eric Oltman spoke again and stated that last year, one out of twelve grant applications were funded and there were over 1,200 applications. There is no local match. Council Member Olive stated that it is SEED money. Mr. Oltman replied that the SEED money starts the program. There is money available from EPA for cleanup and also revolving loan funds and other pots of funds to help get sites cleaned up and redeveloped. Council Member Olive asked if the City were fortunate enough to get the grant, would we be on the fast track for a cleanup grant? Mr. Oltman replied that based upon his experience, the City would have a greater likelihood of getting grant funds for cleanup. As part of the Brownfields partnership, there are other federal agencies that will give you funds but they want to see if you have gotten environmental assessments and followed proper procedures for the grant. It is a strategy for layering your funding. Ms. Olive stated that if we fail to get the grant since we have identified these areas, are we going to be responsible for cleaning them up quickly. Mr. Bridwell replied no. Ms. Olive asked if any property owners are expected to participate in the funding of these projects. Mr. Bridwell replied that with assessment the answer is no; however, there is a possibility with the cleanup. One of the objectives of the program is to make the properties more marketable.

Council Member McNeil stated that the City was given some land around the National Textile property fifteen or more years ago and he thought it was cleaned up then because we leased the land to the church for parking. Mr. Bridwell will research this request.

Mayor Hester opened the public hearing. No one spoke in favor or in opposition. The public hearing was closed.

- Consider Approval of Grant Application  
Council Member James Williams made the motion to approve the grant application. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

### **DECISIONS ON PUBLIC HEARINGS**

Petition by James A. Wicker & Charles A. Mathis -- to rezone from Residential (R-12) district to Office & Institutional (O&I) zoning district approximately 0.84 acre of land located at 905 Spring Lane, Sanford, NC. The property is the same as depicted on Tax Map 9643.03, Tax Parcel 9643-12-6270-00, Lee County Land Records Office - (Exhibit H)

Assistant Community Development Director Marshall Downey stated that a public hearing was held on September 21, at which time the Planning Board met and discussed this petition. He reminded Council that staff received a valid official Rezoning Protest Petition in opposition to the petition. Therefore, a zoning amendment ordinance for this rezoning petition shall not become effective except by favorable vote of three-fourths of all the members of the Council. It would take six votes to approve the petition. The Planning Board recommended by a four to two vote that Council deny the petition to rezone the property. The Planning Board noted that several people spoke in opposition at the public hearing and that even more people stood in opposition. There was discussion regarding the difficulty in maintaining the use of this property as residential because of its location. However, the Board also commented on the concern regarding traffic issues in this area, as well as the concern of the potential business encroaching into a well-established residential neighborhood to the south and to the east.

Mayor Hester asked Mr. Downey that since a council member was absent, what would be the super majority. Mr. Downey replied that you would need six votes to approve the petition.

- Consider Adoption of an Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit I)  
Council Member Phil Dusenbury made the motion to deny the petition and not approve the ordinance. Seconded by Council Member Cornelia Olive, the motion carried unanimously.

Petition by Angela O. Kelly – to rezone from Residential (R-12) district to Office & Institutional (O&I) zoning district approximately 0.36 acre of land located at 506 W. McIntosh Street, Sanford, NC. The property is the same as depicted on Tax Map 9652.13, Tax Parcel 9652-04-3200-00, Lee County Land Records Office - (Exhibit J)

Planner I Amy Bean advised that a public hearing was held on September 21, at which time the Planning Board met and discussed this petition. The Planning Board unanimously recommended that Council approve the petition.

- Consider Adoption of an Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit K)  
Council Member Walter McNeil, Jr. made the motion to go along with the Planning Board’s recommendation to approve the petition and adopt the ordinance. Seconded by Mayor Pro Tem Joseph Martin, the motion carried unanimously.

Petition by Christians United Outreach Center of Lee County—to rezone from Central Business District (CBD) zoning district to General Business Conditional (GB-C) zoning district approximately .20 acre of land located at 222-228 E. Main Street, Sanford, NC. The property is the same as depicted on Tax Map 9652.19, Tax Parcel 9652-51-6614-00, Lee County Land Records Office - (Exhibit L)

Assistant Community Development Director Marshall Downey stated that a public hearing was held on September 21, at which time the Planning Board met and discussed this petition. The Planning Board unanimously recommended that Council approve the petition to rezone the property.

- Consider Adoption of an Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit M)  
Council Member Linwood Mann made the motion to approve the petition and adopt the ordinance. Seconded by Council Member Cornelia Olive, the motion carried unanimously.

## **REGULAR AGENDA**

Consider an Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2004-2005 - (Exhibit N)

Budget Director Barbara Cox explained that the ordinance would authorize the funding for the Federal Fire Grant that the City recently received in the amount of \$165,780 with a City match of \$18,420 from the City’s Contingency Fund for a total of \$184,200. The funds would be expended for generators and vehicle exhaust system at each fire station. Funds are included for six portable radios, two thermal imagers, and rapid intervention team equipment. Council Member Cornelia Olive made the motion to adopt the ordinance amending the annual operating budget. Seconded by Mayor Pro Tem Joseph Martin, the motion carried unanimously.

Consider Approval of an Amount for a Surety Bond to Cover the Cost of the Removal of a New Telecommunications Tower at 216 Harvey Faulk Road - (Exhibit O)

Assistant Community Development Director Marshall Downey advised that on June 22, 2004, the Board of Adjustment approved the location of a new 225’ monopole telecommunications tower on property located at 3306 NC Highway 87 South owned by William T. And Patricia W. Adams. As part of this procedure, the zoning ordinance requires that a performance bond be posted for the life of the tower. The surety bond is in the amount of

\$150,000 to cover the removal. The bond is valid for one year and would be automatically renewed annually with provisions for an increase based on the consumer price index. The term of the bond is based on the lease agreement which is for 25 years. Council Member Phil Dusenbury made the motion to accept the surety bond. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

Consider Matters Relating to Depot Park, Phase I

Downtown Executive Director David Montgomery said that the irrigation system is for Phase II for Depot Park using CDBG funds. Three proposals were received. San-Lee Irrigation submitted the lowest bid of \$8,250. Community Development staff recommend awarding the contract to San-Lee Irrigation. San-Lee Irrigation has done work for the City previously.

- Award of Bid for Landscape Irrigation – (Exhibit P)  
Council Member Phil Dusenbury made the motion to award the bid to San-Lee Irrigation in the amount of \$8,250. Seconded by Mayor Pro Tem Joseph Martin, the motion carried unanimously.
  
- Adoption of Resolution Authorizing the Mayor to Execute on Behalf of the City of Sanford a Contract and Any Change Orders Within the Budgeted Amount With San-Lee Irrigation for the Project Known as Landscape Irrigation of Depot Park – (Exhibit Q)  
Based upon the award of the landscape irrigation bid to San-Lee Irrigation, the resolution gives the mayor authorization to sign the contracts with the company pending the approval of the North Carolina Department of Transportation. The D.O.T. requires this before they sign off on the contract. Council Member Phil Dusenbury made the motion to adopt the resolution. Seconded by Council Member Linwood Mann, the motion carried unanimously.
  
- Award of Bid for Sod – (Exhibit R)  
Downtown Executive Director David Montgomery said that they had Operations Manager Tim Shaw to obtain a cost estimate for sod in Phase II of the Depot Park. The only responsive bidder was John Deere Landscape in Fayetteville, North Carolina, for a bid of \$3,735. If the pallets are returned to the company, we will be reimbursed \$210 in cash. Mr. Shaw recommended this company as Public Works has used them before, and they were the only company that could guarantee the sod in the time frame needed. Council Member James Williams made the motion to approve the bid. Seconded by Mayor Pro Tem Joseph Martin, the motion carried unanimously.

Mr. Montgomery noted that he received the warranty for the Depot Park benches.

Consider a Preliminary Subdivision Plat for Ridgefield Development Subdivision, a Residential Major Subdivision to be Located Off of Cemetery Road (SR 1131). The Developer is Castle Ridge Development of Sanford, NC - (Exhibit S)

Planner I Amy Bean advised that the zoning is Residential (R-12). There are approximately 17 acres and 41 lots proposed for the entire subdivision. Lots 1 -20 comprise Phase I and Lots 21-40 comprise Phase II. One entrance drive is proposed to serve the

development. The road is proposed as a public street with a 50 ft. right-of-way to be constructed to City standards and dedicated to the City for maintenance. The total linear feet of street within the subdivision is 1,891. Public water and sewer will be extended to serve all the lots.

Ms. Bean explained that the property is located within the City of Sanford's Extra-Territorial Jurisdiction (ETJ), but not within the City's corporate limits. The developer will be required to annex the property into the City's corporate limits prior to recording a final plat as a condition of preliminary plat approval. In order to receive City services, they would be required to be annexed. The developer is not proposing to change the zoning once the property is annexed; he is developing the site as it is under R-12 District standards.

The Planning Board recommended approving the preliminary plat contingent upon the following conditions: that Lots 11 and 12 be eliminated due to the proximity of the existing pond dam and the topography of the property would not allow these to be buildable lots. They also propose that an easement be dedicated around the pond dam to allow for maintenance and repair of the dam. These conditions were agreed upon by the developer. Staff would also add that the preliminary plat be approved conditionally upon the developer petitioning for annexation.

Council Member Mann expressed concern about the subdivision having only one entrance and one exit. Mr. Bean stated that the plat has gone before the Technical Review Committee. She added that the Fire Department does like to have two means of entrance and exit. With the configuration of the land, however, the developer could not design it with two entrances and two exits, so he designed it with a stub to the property located to the south in an effort to have two entrances to the property in the future. Council Member Mann stated that with the school located below the proposed development, the road cannot handle the traffic now. It is a disaster waiting to happen. Mr. Bean replied that it is a State street, and the NC Department of Transportation would have to approve the driveway. Mr. Mann stated that the traffic is tremendous in the morning between the hours of 7:30 A.M. to 8:00 A.M. He felt that each council member should ride out and look at the site. Council Member Olive asked if staff had a traffic count in that area. Ms. Bean replied no.

Mayor Hester asked if there was any way of exiting off of the extension of the cul-de-sac. Ms. Bean replied not at this time. Mayor Pro Tem Martin added that you cut down on so much of traffic from other neighborhoods with this design. You do not have to worry about everybody else coming in their neighborhoods due to interconnections. Mr. Martin said he understood Mr. Mann's concerns. Mr. Bridwell responded by saying that in dealing with this isolated piece of property, staff tries to encourage some form of street connectivity. The land is very narrow, and this is the only way you can develop it. Mayor Pro Tem Martin questioned whether Council has the legal right to turn down the plat. Mr. Martin said that developers are going to get as many lots as they can, however, can we suggest changing the zoning of the property? City Manager Leonard Barefoot replied that this should be done before the developer brings the plan. The property is zoned Residential (R-12), and you have an adopted subdivision ordinance which Council adopted and follows. The question is does the developer meet the standards. As far as the traffic goes on Cemetery Road, it is no different from Spring

Lane where the new movie opened up. It could just as easily have been an apartment with 80 units. Mr. Bridwell stated that the developer has followed the rules. Council Member Mann stated that he did not know why Council is discussing the plan if they cannot make any changes on the plan. He thought Council looked at it to see if everything is right and safe. Mr. Barefoot stated that with this land, it appears that you could not get a second entrance on the property so he felt Council would run a risk of the "taking the property" in not letting the developer develop the property under the rules adopted by Council. Mr. Barefoot asked if the ordinance has a maximum length for a cul-de-sac. Ms. Bean replied yes; it is 800 feet. Mr. Barefoot asked what the length of the street is to the cul-de-sac. Ms. Bean replied approximately 1,891 LF. Ms. Bean stated that technically there is no cul-de-sac; a street is required to either terminate in a cul-de-sac or stub to the property line. Technically, the street is stubbing to the property line. It is not a true cul-de-sac. Mr. Bridwell commented that connectivity will always be an issue. Council Member James Williams asked Fire Chief Wayne Barber could he turn a fire truck around in the subdivision. Fire Chief Wayne Barber replied not very easily but with the design of the street and bump out, it could be done. Mr. Williams asked if EMS could turn around in the stub out in the street. Chief Barber replied if they do not allow parking on the street. Council members discussed the issue at length.

Council Member Mann made the motion to table the issue until the next meeting so that Council can visit the site. Seconded by Council Member James Williams, the motion carried unanimously.

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

### **OTHER BUSINESS**

City Manager Leonard Barefoot commented that staff has been receiving calls as to whether Halloween will be observed on Sunday night or moved to Saturday night. He stated that the ordinance calls for the observance of Halloween to fall on October 31. In 1999, Council voted to leave the observance as is and not move it to Saturday due to the fact that a lot of citizens may not be aware of the change and trick-or-treaters will be going to houses on Saturday and Sunday. Council members were in consensus to observe Halloween on Sunday, October 31.

### **ADJOURNMENT**

With no further business to come before the council, the meeting was adjourned on motion of Council Member James Williams; seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

Respectfully submitted,

---

WINSTON C. HESTER, MAYOR

ATTEST:

---

BONNIE D. WHITE, CITY CLERK

