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 18, 2005, at 7:00 P.M. The following people were present:

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

Mayor Hester called the meeting to order. Mayor Pro Tem Joseph Martin delivered the invocation.

APPROVAL OF AGENDA

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

CONSENT AGENDA

Approval of January 4, 2005, City Council Minutes – (Filed in Minute Book 62)

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2004-2005 – (Exhibit A)

Ordinance was approved to appropriate within the Fire Department $605 received through the sale of safety seats for the purchase of the same and within the Solid Waste Division to recognize $96,251 received from installment purchase proceeds for the purchase of a Knuckleboom Truck; within the Water Construction & Maintenance Division, a re-appropriation of $7,600 for funds received from the insurance company for the purchase of a vehicle to replace a wrecked 1998 Dodge Pickup Truck and a transfer of $4,400 from Contingency to appropriate additional funds required for the replacement of the wrecked vehicle.

Approval of Resolution Supporting and Authorizing the Submittal of a Historic Preservation Fund Grant Application to the North Carolina State Historic Preservation Office – (Exhibit B)

Resolution was approved for Council's support and authorization for the submittal of a Historic Preservation Fund grant application from the State Historic Preservation Office. Annually, states award monies to Certified Local Governments (CLG) for the purposes of historic preservation. This year's funding is approximately $60,000. Grants range in the amount of $1,500 to $15,000. Grant funds represent up to 60 percent of the total project cost with local matching funds required at 40 percent. Applications are due January 31, 2005. If awarded, all projects must be completed by August 31, 2006. Anticipated cost of the project is $12,500; therefore, the City would apply for approximately $7,500 in Historic Preservation

Funds and use $5,000 in the Commission's Professional Service funds in the budget to pay for the required local government match.

Approval of Award of Bid for Sewer Rehabilitation Cured-In-Place Pipe Liners and Manhole Rehabilitation – (Exhibit C)

AM-Liner East, Inc, from Sterling, Virginia, was awarded the low bid of $838,100 for installation of approximately 28,000 LF of cured-in-place liners; mostly in the Little Buffalo drainage basin (East Sanford) along with rehabilitation of 107 manholes.

Approval of Ordinance Amending Chapter 38 Utilities Section 38-137 (Revised City of Sanford Water and Waste Water Extension Reimbursement Policy) – (Exhibit D)

Ordinance was approved to amend the reimbursement policy. It was amended that the City will collect and make reimbursements for a period beginning from acceptance of the line by the City, and ending at the end of the tenth full fiscal year thereafter, or until the reimbursable portion is paid in full, whichever comes first.

The City will discontinue collecting reimbursements on the existing contracts after the second five years.

Council Member Clawson Ellis requested that Item E - Approval of Proposal to Serve Sewer to American Molding and Millworks and Portions of Chatham County be removed from the Consent Agenda for discussion. The amended consent agenda items were approved upon motion of Council Member Walter McNeil, Jr. Seconded by Council Member James Williams, the motion carried unanimously.

CASES FOR PUBLIC HEARING

Petition by Nottingham Property Associates, LLC. - to rezone from Highway Services (HS) district to Residential (R-12) district approximately 0.25 acre of land within the 300 block of Robin Hood Lane. The property is the same as depicted on Tax Map 9643.01, a portion of Tax Parcels 9643-46-1727-00 and 9643-36-9525-00, Lee County Land Records Office. – (Exhibit E)

Planner I Amy Bean explained that Nottingham Property Associates, LLC, is the applicant and property owner and would like to rezone a portion of Lots 15 and 58 with the Nottingham Subdivision from Highway Services (HS) district to Residential (R-12) district. The adjacent zoning is Highway Services (HS) and Residential (R-12).

Ms. Bean advised that the applicant owns and has developed Nottingham Subdivision. The applicant's representative has stated that he has two lots within a residential neighborhood which have a portion of each zoned Highway Services (HS). This rezoning would make both lots completely Residential (R-12).

The existing zoning was established in April of 2001, when Nottingham Property Associates, LLC petitioned to rezone approximately 13 acres from Residential (R-12) and Residential (RA-20) to Highway Service (HS). At the time, the petitioner submitted a sketch plan illustrating the proposed Nottingham Subdivision as a mix of residential and business type uses. The final design of the residential area of the subdivision included a very small portion of

the commercially zoned area Highway Service (HS) contained within Lots 15 and 58. This rezoning would make both lots completely zoned Residential (R-12) and simply clean-up the zoning districts within the subdivision.

The 2020 Land Use Plan has identified this property as low to mid-density residential. This classification designates land which is appropriate single-family homes, duplexes, and townhomes.

Ms. Bean stated that the petitioner is requesting to rezone to Residential (R-12) to be consistent with the rest of Nottingham Subdivision.

Mayor Hester opened the public hearing. Van Groce, Jr., spoke on behalf of Nottingham Property Associates, LLC, in favor of the petition. He stated that the rezoning is being requested to clean up the lots and make them Residential (R-12). When they drew up the lots and rezoned in 2001, they did not have a complete lot layout and they would like to have these portions of two lots rezoned to R-12.

No one spoke in opposition. The public hearing was closed.

Petition from Downtown Sanford, Inc. - to amend the City of Sanford Code of Ordinances Chapter 42 Zoning Ordinance, Article III, Districts Established; Permitted Uses, Section 42-171 Districts Established; Description of Districts (10) *Central Business District: CBD.* Also, to amend the City of Sanford Zoning Ordinance, Article III, Districts Established; Permitted Uses, Section 42-173, Table of Residential Uses. Also, to amend the City of Sanford Zoning Ordinance, Article III, Districts Established; Permitted Uses, Section 42-174, Table of Business Uses. Also, to amend the City of Sanford Zoning Ordinance, Article V, Special Requirements for Certain Uses Permitted By Right. Substantial changes may be made to the proposed amendment after the public hearing.- (Exhibit F)

Assistant Community Development Director Marshall Downey advised that this public hearing is for a text amendment to the zoning ordinance that would allow mixed use, including residential uses, in the Central Business District (CBD). Downtown Sanford, Inc. submitted the request for the amendment. This was discussed at the Law and Finance Committee meeting on Wednesday, January 12. Staff has discussed this with City Attorney Susan Patterson and Executive Director David Montgomery.

Mr. Downey presented the key points of the proposed amendment. Chapter 42, Section 42-171 would allow for mixed use in the Central Business District with the first or ground floor being used for commercial and higher floors available for residential units. Section 42-259 would allow for certain design standards for the mixed occupancy in Downtown and Central Business District. Each dwelling unit will require at least one off-street parking space. This would ensure that the landlords maintain off-street parking for each of the proposed tenants. Staff felt that the existing City zoning ordinance language would work *for enforcement purposes*. They included that a copy of a lease agreement be submitted to staff. Building owners will be responsible for trash disposal of all dwelling units in conjunction with the commercial establishments on the first floor. No clotheslines will be permitted on the outside of the building

and no outside storage will be permitted. No pets will be allowed to reside within any of the dwelling units on the second floor and higher.

Council Member Ellis asked if there is any language that prohibits a business from being on the second or third floor. Mr. Downey replied no. In discussion with Downtown Sanford, Inc. and Mr. Montgomery, he did not believe there was a desire to necessarily prohibit a business on the second floor.

Mr. Downey stated that each dwelling unit will require at least one off-street parking space. The off-street parking requirements may be met on-site at a distance of up to one thousand (1,000) feet from the permitted use. Off-street parking spaces to be used to satisfy this requirement must be such that the same parking space cannot already be in use for another dwelling or land use, unless the typical dual use of the parking area occurs at different time periods (i.e. used by business during day, by dwelling tenant at night). Mr. Barefoot asked about the language that refers to the dual use of the parking area occurs at different time periods. He felt that you could easily have a tenant that could be a night shift person and works during the day and that would be a conflict between dual use. Mr. Downey replied that it would have to be a staff level review on a case-by-case basis. It would have to be something that they could verify that the use would not be conflicting. The approval would only occur once, and the tenants will change as often as necessary. Mr. Downey replied that is true. The attempt was to try to provide additional flexibility, and the language can be removed. Attorney Patterson pointed out that it calls for typical dual use of the parking area occurs at different time periods. It does not say it has to be one during the day and one during the night; it would be that you would not have a space dedicated to different uses at the same time. It could be the tenant during the day and the business at night. Mr. Barefoot felt that staff should consider them having a lease for that tenant; they could not say this person does not work. The City should not be in the business of having to check behind changing tenants. Mr. Downey replied it would definitely be difficult to administer. Council Member Ellis asked who would administer the leases if they change from tenant to tenant. Mr. Downey replied his staff would. Typically, they would try to set it up so that you would not have dual use but in the event somebody wanted to use this provision it would be something that they would have to look at each tenant. Staff would not approve the lease but have a copy of the lease so that staff knows it has been executed and the landlord has the available off-street parking. Staff would have the City Attorney to check it out to make sure it is an appropriate lease agreement.

Council Member Mann asked about where would a family with children play. Mr. Montgomery replied that from the DSI Board that there is an extreme interest in mixed use housing downtown from the property owners and from possible tenants. He noted that there could be children in an apartment. Mayor Pro Tem Martin felt it would be a personal opinion if they want to locate in the apartments. Council Member McNeil asked if language could be added that you could not rent the apartments if you had children. Mr. Bridwell replied that the intent of DSI is to allow for the ability to have residential quarters Downtown to help produce the viability in Downtown. Trying to regulate children out of these units would be difficult and may be legal challenges. It would give the ability of the Downtown property owners and developers to provide for a type of housing that does not exists today in our Downtown. The

City needs to be sure that the quality of housing is good when it is initially constructed or renovated.

City Attorney Patterson stated that pets can be excluded. She checked with the lawyers at the Institute of Government on the prohibition of pets in any zoning category. You have to remember that this is a zoning category; whatever the lease the landlord would have with the tenants could have whatever provisions they put in that are legal. As a zoning category, pets can be limited and they can be excluded in a zoning category. This is for a special mixed residential use category in the CDB District only. Mr. Barefoot stated that if a resident had a pet in the apartment, it would cause the landlord to violate the terms of a special use permit. For violators, Mr. Downey stated that it would be treated as a zoning violation.

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

The Planning Board retired to the West End Conference Room.

DECISION ON PUBLIC HEARING: *(Item Tabled at January 4, 2005 Council Meeting)*

Consider Motion to Take From the Table Petition by Choplin Marine, LLC for Discussion.

Mayor Pro Tem Joseph Martin made the motion to take from the table the petition by Choplin Martin, LLC for discussion. Seconded by Council Member Cornelia Olive, the motion carried unanimously.

Petition by Choplin Marine, LLC - to rezone from Residential (R-20) district, to General Business (GB) district, approximately 1.38 acres of land located at the intersection of Cotten Road and Beechtree Drive and addressed as 3007 Beechtree Drive. The property is a portion of a newly recombined parcel depicted on Tax Map 9644.01, Tax Parcels 9644-45-7044-00 and 9644-45-6399-00, Lee County Land Records Office.

Planner I Amy Bean informed Council that she was at Choplin Marine this afternoon. She has walked around the property and approximately 75 percent of the landscaping has been installed. The street trees are in and a considerable amount of the buffering is in that is required between the residential zoning district and the commercial districts. Mr. Pilson has a lot of shrubs stored behind the building. Ms. Bean added that she spoke with the landscaper today and he assured her that it was definitely a work in progress. He could not plant anything right now to finish the project because the ground is frozen and the plants would die with the current weather. Once it warms up, the project will be back on and complete. The landscaper will call her to make sure everything is in place and complete.

- Consider an Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit G)

  Mayor Pro Tem Martin made the motion to adopt the Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina and approve the petition. Seconded by Council Member Linwood Mann, the motion carried unanimously.

REGULAR AGENDA

Consider Green Valley Phase V Statutory Annexation – (Exhibit H)

Planner II Liz Whitmore advised Council that they had received a revised booklet regarding the Green Valley Phase V Statutory Annexation (Lots 15, 16, 17, and 18) and explained the information concerning the annexation in detail. She noted that the purpose of the annexation is corrective in nature because these four lots are surrounded by the City. This creates inefficiencies in services especially when it comes to fire and police services. It is of utmost concern that this donut hole (four lots) be corrected to ensure that all the homes in the Green Valley Subdivision receive the same services. The lots are served by City water and sewer. Ms. Whitmore detailed the statement showing that the proposed annexation meets legislature standards.

The Resolution of Intent is a resolution stating the intent of the City of Sanford to consider annexation of the area herein and fixing the date of a public informational meeting and a public hearing on the question of annexation. The public informational meeting will be held on Thursday, March 10, 2005, at 7:00 P.M, in the West End Conference Room at the Sanford Municipal Center. A public hearing on the question of annexing the four lots will be held on Tuesday, April 5, 2005, at 7:00 P.M., in the Council Chambers at the Sanford Municipal Center. The effective date of annexation will be at least one (1) year from the date of the passage of the annexation ordinance which will be June 30, 2006. There is no problem with extending City services to the four lots, and these services will require no additional personnel.

- Consider Adoption of Resolution Stating the Intent of the City of Sanford, North Carolina, to Consider Annexation of the Area Described Herein and Fixing the Date of a Public Informational Meeting and a Public Hearing on the Question of Annexation – (Exhibit I)

  Council Member Phil Dusenbury made the motion to adopt the Resolution Stating the Intent of the City of Sanford, North Carolina, to Consider Annexation of the Area Described Herein and Fixing the Date of a Public Informational Meeting and a Public Hearing on the Question of Annexation. Seconded by Mayor Pro Tem Joseph Martin, the motion carried unanimously.

- Consider Adoption of the Annexation Report for Green Valley Phase V (Lots 15, 16, 17, and 18) Statutory Annexation

  Council Member Phil Dusenbury made the motion to adopt the Annexation Report for Green Valley Phase V (Lots 15, 16, 17, and 18) Statutory Annexation. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

OTHER BUSINESS

Approval of Proposal to Serve Sewer to American Molding and Millworks and Portions of Chatham County – (Exhibit J)

Council Member Phil Dusenbury stated he was the Council's representative to the Lee County Economic Development Corporation (EDC). The EDC has worked with American Molding since they came to Sanford three to four years ago. Lee County Economic Development Director Bob Heuts has shown this company every available building in Lee

County and they were not able to find one that suits their needs. They have found one in Chatham County, and he is in favor of American Molding hooking onto the City's sewer system. Council Member Mann asked if they are moving from Broadway Road to Chatham County. Mr. Heuts replied that American Molding is in a leased building, and they are interested in going into a larger facility. The building in Chatham County is about 200,000 SF (old Keyser Roth Building in Goldston). The building they are in now is about 80,000 SF. If business is good, they may need both buildings. It depends on the contracts they have. Mr. Heuts added that they employ approximately 80 people now. Council Member Olive asked if there was not a building in Lee County that could be modified to accommodate them that already has sewer. Mr. Heuts replied that they looked at a number of facilities and nothing appealed to them as the building in Goldston. It is a growing company. Mr. Heuts stated that he did not want to lose the building; however, Goldston is nearby, and people from Lee County and Sanford will be working at the facility within 25 miles away. He said it was an opportunity for people in Lee County to have an employment opportunity.

Council Member Olive asked why the leap from discharging a flow of 5,000 gallons per day to 100,000 gallons per day. Mr. Heut replied that this business does not use much sewer beyond use for domestic services. Council Member Olive asked if we committed to 100,000 GPD of sewer to this project, what would happen if a major industry decided to locate here and required a large capacity of discharge. City Manager Leonard Barefoot replied that he and Public Works Director Larry Thomas did some calculations today, and the City's current capacity at the waste treatment plant could handle an additional 25,000 residents to the City of Sanford for domestic sewer. The City would control the allocated capacity. Mr. Martin asked when will the City start the process of building another sewer plant. Mr. Thomas replied that when we reach 80 percent of the City's capacity, we will start making plans such as seeking an engineer and drawing plans. In past years, the 80 percent is a combination of what the City discharges and what is promised for allocation.

Council Member Olive stated that she has spoken with the Mayor of Goldston and he had never been invited to participate in any discussions about this, but they were anticipating the need to develop a sewer system because they have such a problem with saturated soils and sewage problems. If that is what we are looking and developing a sewage system for Goldston, she did not understand why that would require a commitment of 100,000 GPD; but is it practical to look at providing sewer service for Goldston when we have people in Sanford who do not have sewer service and need it. Mr. Thomas replied that we are not using the capacity now and there is 30 percent of the population in the City that does not have sewer. Residents would have to extend the lines to use the system and they have not chosen to do so. The City is paying for the capacity now, and we are looking for someone to help pay for it. Mr. Thomas felt it would be several years before the City would need to expand the plant. There are some people that need it but we also have this capacity we need to sell. It will be several years before we need any additional capacity.

Mr. Thomas stated there are two things they are requesting. One being the 5,000 GPD for the industry and they are not going to use any of the City's sewer lines except for the one close to the plant. They will maintain all the lines and we will get 150 percent of the inside city rates *which is* the same as the outside rate. Mr. Thomas advised that Chatham County's rate

will change yearly for the 100,000 GPD capacity. As long as Chatham County reserves the capacity, they will pay a portion of the debt the City incurs for the treatment of sewer. Mr. Thomas explained what a force main is that Chatham County plans to install.

Council Member McNeil asked about developers in Chatham County tapping onto the sewer line. Mr. Thomas replied that he has told Chatham County that developers could only tie onto the sewer line for domestic sewer without the City's permission. The 100,000 gallons is for domestic sewer only. An industry wishing to tie on will need the City's approval. Mr. McNeil expressed concern about developers tying onto the line due to the saturated soils.

Council Member Ellis stated that he has concerns about cleaning up the waste for people who do not live in the City of Sanford with City taxes. Council Member Mann felt that we stand to gain more than Chatham County. We are in a good position for trade and sales taxes.

Council Member Olive could not understand why they need to reserve 100,000 GPD because 200 people at work would not be using as much facilities as the people that live there; there are fewer than 400 people that live in Goldston. Mr. Thomas stated that the industry is going to pay approximately $13,200 each year. To reserve the 100,000 GPD capacity, is about $12,000 to $13,000. Mr. Thomas noted that Tony Tucker, the Director of the EDC in Chatham County, stated that the 100,000 gallon figure may be lowered. He expressed that Chatham County is probably thinking toward the future. Mr. Barefoot stated that Chatham County Manager Charlie Horne's letter states that "they anticipate the industry to have a total flow of 5,000 gallons. There is also a potential for additional flows that could be generated by the Goldston community. Chatham County estimates that the total flows for the industry and the Goldston community would be approximately 100,000 GPD."

Tony Tucker, Director of the EDC in Chatham County, informed Council that American Molding and Millwork has told them that they are going to maintain a presence in Sanford and are going to make an expansion somewhere; it will be in a county in North Carolina or in another state. Mr. Tucker stated that Mr. Heuts is right when trying to keep the business close to Lee County. The 100,000 figure was a figure that came up in discussions; there is nothing magical about it. When Chatham County starts looking at the numbers and figures, they might change it. Goldston has approximately 150 households and they do not anticipate that all of these homes would tap on. They do not know what the flow is. They are guessing at this point and may want to reduce this figure from 100,000 to 50,000 GPD. It would be good for Goldston and the plant is driving this proposal. If American Molding decides to move to somewhere else, the project will not be done. This would be very beneficial to Goldston if everyone could work together and tie it into the existing building. If the industry does not locate there, it won't work because they are going to rely on grants and so forth to try to run the sewer line from Sanford to Goldston. The estimated cost is $1,000,000 to run the line. They would appreciate Council's consideration. Mayor Pro Tem Martin stated that he had some of the same concerns as Council Members Ellis and Olive; however, the City is not delegating any tax money from Sanford to service this line; we are not jeopardizing the sewer system and he felt it would be important to say thank you to American Molding and help them stay in Lee County and as close as possible to Lee County; and also to be a good neighbor to Chatham County. Council Member Mann said

that it seems that Sanford is gaining an industry without offering a lot of incentives and not costing the City any money.

Mayor Pro Tem Martin made the motion to approve the proposal to serve sewer to American Molding and Millworks and Portions of Chatham County. Seconded by Council Member Mann, the vote was five to two to approve the proposal with Council Members Clawson Ellis and Cornelia Olive casting the dissenting votes.

Mayor Pro Tem Martin asked what the sound barrier will be going beside the highway at Pathway Drive. Planner II Liz Whitmore stated that it will be concrete barrier. Mr. Martin asked if the City could ask for the barrier to be brick instead of concrete. Mr. Bridwell stated that the City is going to ask for brick. Mr. Martin wanted to go on record so that it is in the minutes that anytime we do anything like this around our area, that we recommend brick. If Cary and Raleigh can get it and they can win national awards by using brick on the sides of their roads, and with the City being the Brick Capital of the USA, that we need to use brick as much as possible in these type issues.

Mr. Ellis asked for an update on the lack of work being done with the project on Wilkins Drive. Mr. Bridwell responded that staff has contacted Mr. Simpson. Their response is that they are waiting on the market to pick up. Mr. Bridwell noted that the developer is aware of Council's concerns. Mr. Barefoot stated that we need to make sure that they are complying with sedimentation and erosion control measures.

Council Member Olive asked for an update on animal control. Mr. Barefoot replied that staff is working on this proposal and it will take some time.

Attorney Patterson gave an update on the City of Durham charging impact fees. Durham County charged impact fees without legislative approval, and the County will have to reimburse those fees.

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

ADJOURNMENT

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

Respectfully submitted,

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WINSTON C. HESTER, MAYOR

ATTEST:

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BONNIE D. WHITE, CITY CLERK