

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 15, 2008, at 7:00 P.M. The following people were present:

Mayor Cornelia P. Olive	Council Member Linwood S. Mann, Sr.
Mayor Pro Tem Joseph Martin	Council Member James G. Williams
Council Member Charles Taylor	Council Member Walter H. McNeil, Jr.
Council Member Mike Stone	Council Member Steve Brewer
City Manager Hal Hegwer	City Attorney Susan C. Patterson
City Clerk Bonnie D. White	

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

Mayor Olive recognized Boy Scout Troop 907 in the audience with Scout Leader Harry Stryffeler.

APPROVAL OF AGENDA

On motion of Council Member Steve Brewer, seconded by Council Member James Williams, the agenda was approved.

CONSENT AGENDA

Council Member Mike Stone requested to remove Item 4E. - Approval of Amendments to System Plast Contract from the Consent Agenda and add it to the Regular Agenda.

Approval of Amendment to City Council Minutes Dated December 4, 2007 - (Filed in Minute Book 68)

Approval of Law and Finance Committee Meeting Minutes

- November 28, 2007 – (Filed in City Clerk’s Office)
- December 12, 2007 – (Filed in City Clerk’s Office)

Approval of City Council Minutes Dated December 18, 2007 – (Filed in Minute Book 68)

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2007-2008 – (Exhibit A)

Ordinance was approved to amend the budget to pay for the FICA expense for IRS Audit of 2005 in the amount of \$2,011.

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2007-2008 – (Exhibit B)

Ordinance was approved to amend the budget to pay for the purchase of a portable radar unit in the amount of \$4,815.

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

CASES FOR PUBLIC HEARING: held jointly with the Planning Board.

Petition by Brick Capital Community Development Corporation - to rezone 0.29 +/- of an acre from Residential Mixed (R-6) district to LHHH II Conditional Zoning district. (LHHH II is an acronym for Lee-Harnett-Haven Housing.) The property requested for rezoning is three undeveloped tracts located in the northwestern corner of the intersection of Saunders Street and S. Vance Street. The property is the same as depicted on Tax Map 9642.07, Tax Parcels 9642-57-9774-00, 9642-67-0712-00 and 9642-57-9675-00 Lee County Land Records Office. – (Exhibit C)

Planner II Amy McNeill advised that Brick Capital Community Development Corporation (BCCDC) is requesting to rezone this property on behalf of the City of Sanford, who currently owns the property, because Brick Capital is in the process of purchasing the property. The development plans have been created, and Brick Capital would like to move forward with the rezoning in order to assist in securing financing for the project.

Ms. McNeil explained that the property consists of three vacant tracts of land, totaling approximately 0.29 acre. The property is located in the northwestern corner of the intersection of Saunders Street and S. Vance Street. Plans are to recombine the three lots into one corner lot.

She stated that the petitioner has indicated that the purpose of the rezoning is to allow for the construction of one, six-unit apartment building on the site. Currently, the property is zoned Residential Mixed (R-6). This is established to provide higher density residential living opportunities with compact development consisting of the full spectrum of residential development styles.

The petitioner is proposing to rezone to a Conditional Zoning District. The specific designation of that district is LHHH II Conditional Zoning District, Type 1. LHHH II is an acronym for Lee Harnett Haven Housing. This is a stand-alone district with its own unique conditions which will allow the site to be developed as illustrated on the maps (Exhibit C). If approved, these plans would be legally binding on the land even in the event of the transfer of ownership. The front of the building will face South Vance Street.

The 2020 Land Use Plan Map does not identify a specific land use for the subject property. When considering the zoning of this property, current development trends and the surrounding zoning of the neighborhood should be considered.

Staff recommends that the Planning Board and the City Council support the petition to rezone from Residential Mixed (R-6) to “LHHH II Conditional Zoning District, Type 1.” This recommendation is based on the existing residential development patterns in the vicinity and the availability of public utilities. However, information as presented at the public hearing may provide additional information that should be considered regarding a final decision on the requested zoning map amendment.

Mayor Olive opened the public hearing. Kate Rumely, Executive Director of Brick Capital Community Development Corporation, spoke in favor. She stated that they are planning on building some additional supportive housing for people who are disabled.

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

The Planning Board retired to the West End Conference Room.

Public Hearing on the Closeout of the Year 5 CDBG Revitalization Strategies Program

Patt Crissman from The Wooten Company stated that she has worked under a contract with the City of Sanford for the last five years. She outlined the activities that were accomplished in Year 5 of the program.

Mayor Olive opened the public hearing. Kate Rumely, Executive Director of Brick Capital Community Development Corporation, spoke in favor. Ms. Rumely stated that she has been deeply involved in this project and thanked Council for its support.

Patt Crissman summarized the accomplishments in the last five years of the project. There was a total of \$1.95 million spent in the Wicker School community. Of that amount, \$1.75 million was from the Community Development Block Grant that was awarded from the federal government through the state. Lee County contributed \$200,000 also to help fix up the W. B. Wicker School. Accomplishments include completion of the park; street improvements (drainage) on Summerset Place; \$1.1 million spent on the structure of the school; and an additional \$5 million that Ms. Rumely could tell you about the sources of that money. The total cost of the W. B. Wicker renovations was \$6.1 million. There were some additional funds spent on site work, parking lot, and machinery and equipment to outfit the building. They had a capital revolving loan fund for new businesses, and some supportive housing units were built close to the area on Saunders and Vance Street. The City contributed \$50,000 to the total cost of the housing units.

The public hearing was closed.

- Consider Authorization for the Mayor to Execute Closeout Documents - (Exhibit D)

Council Member Walter McNeil, Jr., made the motion to authorize the mayor to execute the closeout documents. Seconded by Council Member Mike Stone, the motion carried unanimously.

ADDITION TO REGULAR AGENDA

Council Member Charles Taylor requested to add the following two items to the regular agenda: (1) Consider a Proposal to Institute a Survey to Assess the Performance of the City Manager which would be a survey that can be filled out by the City Council, as well as the City Manager, department heads, and City of Sanford government; and (2) to Implement a survey that will allow employees of the City of Sanford to participate in a confidential, anonymous survey that would consist of a battery of questions, that will be administered by an independent source and would be an item that would carry an expenditure.

City Manager Hal Hegwer stated that these items should have been added to the agenda at the Approval of the Agenda. Attorney Patterson advised that these items can be added for discussion under Other Business. She asked Mr. Taylor for clarification if these are things that do not need to be taken care of tonight, but items that need to be done in the future. Mr. Taylor replied that he would like to add them tonight; it was his fault they were not added. He stated that usually it is asked if there are any additional items to the agenda. Mr. Taylor said that he heard the mayor ask for approval of the agenda; he did not hear any offering of new items to the agenda. Council Member Williams commented that Council evaluates the manager. Mayor Pro Tem Joseph Martin stated that he did not feel it is appropriate to discuss it now according to parliamentary procedures referencing Robert's Rules of Order. He felt it was permissible to bring it up as a business matter at the end of the meeting just as a point of discussion. Mr. Martin felt no action could be taken because it was not added to the agenda. Attorney Patterson commented it was a unanimous vote for approval of the agenda. She asked Mr. Taylor if he would add the items for discussion and to be an action item at another meeting. Mr. Taylor said he did not hear the opportunity to add additional agenda items. Mr. Taylor agreed to add the two items under Other Business.

REGULAR AGENDA

Consider Resolution Supporting and Authorizing the Submittal of a Historic Preservation Fund Grant Application to the North Carolina State Historic Preservation Office - (Exhibit E)

Downtown Executive Director David Montgomery explained that this is a resolution supporting and authorizing the submittal of a historic preservation fund grant application to the North Carolina State Historic Preservation Office. This is an annual grant that they offer and is a result of the National Historical Preservation Act of 1966 authorizing matching federal funds to states. Ten (10%) percent of that funding to states is to be allocated to certified local governments which Sanford has been since 1997.

Mr. Montgomery advised that the total amount of funding allocated this year is between \$70,000 and \$90,000. Grants range in the amounts of \$1,500 to \$15,000. Grant funds may represent up to 60 percent of total project costs and certified local governments need to match at least 40 percent of the total project costs. The application is due January 31, 2008. Mr. Montgomery explained the eligible projects as listed on Exhibit E. All projects must be completed by August 31, 2009.

Mr. Montgomery stated that the City of Sanford Historic Preservation Commission is recommending City Council submit a grant application to help hire a consultant to prepare a National Register Nomination to the National Parks Service for an historic area located in East Sanford consisting of approximately 160 to 185 structures. This is a National Register Nomination not a local district; so there will not be any local review by the Historic Commission; it is just a National Register. We have four National Register Districts; two of which are local – Downtown and the Rosemount McIver District. The proposed boundary of the district is primarily along McIver Street from First Street to Seventh Street and Third Street from Charlotte Avenue to Goldsboro Avenue. This is based upon the study list and recommendation of the State Historic Preservation Office which he has met with. Staff anticipates costs of the project to be \$16,500. The City of Sanford would apply for \$9,900 in

Historic Preservation Funds from the State and the City of Sanford's match would be \$6,600. If the grant is received, staff would bid it out and the cost could be less.

Mr. Montgomery stated there are three benefits of the grant. One of them is recognition of the neighborhood on a local and national level. East Sanford is probably our most historic neighborhood. Wall Street would also be an opportunity to do it in the future. The second benefit would be the eligibility for state and federal tax credits for incoming producing properties, being commercial and rental properties. There is a 20 percent federal match and a 20 percent state match. For example, if you spent \$10,000, you will get \$4,000 back in tax credits. There are certain thresholds you have to meet. There is a certain amount you have to spend; it is typically more than \$10,000. Owner-occupied property would be eligible for a 30 percent state credit; there is no federal match for non-income producing properties.

He asked Council to be aware that there is consideration in federally-funded projects. One of the reasons that the National Historic Preservation Act was developed was because in the 50s and 60s, they were building highways through neighborhoods. One of the things they wanted to do was what is the impact *of the project*, so any type of federally-funded project would go through an environmental review for the impact on those projects, whether it is a highway, cell tower, or a Community Development Block Grant we could possibly receive.

Council Member Stone asked why is it not considered on a local board but on a national board. Mr. Montgomery replied that typically local commissions follow suit with the national register nominations. What happens in the national register nomination is there is a survey of the properties, listing what period they were built in and the architectural integrity. Then they do the deed work and a history and submit it to the park service as to what makes this district architecturally significant and culturally significant. This is how the boundary is drawn. Then it is up to the local governments to say is this a right fit for local review. Some neighborhoods are suited for local review more than others. Mayor Olive asked if he knew what percentage of the homeowners live there. Mr. Montgomery replied that he did a bigger area last year and it was about 65 percent rental and 35 percent owner.

Council Member Linwood Mann made the motion to adopt the Resolution Supporting and Authorizing the Submittal of a Historic Preservation Fund Grant Application to the North Carolina State Historic Preservation Office. Council Member Mike Stone seconded the motion, and it carried unanimously.

Consider Agreement with James H. Bost for the Sale and Purchase of Water and Sewer Services
– (Exhibit F)

City Manager Hal Hegwer advised that the agreement is between the City of Sanford and James H. Bost. Mr. Bost's property lies outside the city's corporate limits and he is requesting water and sewer service. The contract states that the city will provide the service upon the five conditions being met as outlined in Exhibit F. The main point of the condition is that the property owner would petition for annexation into the City on or before Year 2013, which is five years. The City would have the right, if the property owner does not petition for annexation by that time, to discontinue water service and sewer service to the property.

Council Member Stone asked questions of Public Works Director Larry Thomas. Mr. Stone expressed concerns about Mr. Bost's using well water and city water in his operation. Mr. Thomas said it had been done for the Mormon Church because of their beliefs in a two-water system and for some in the County who had wells before hooking onto the City system. These wells could not be hooked to the house once they went on City water, but could be used for watering gardens, etc. He is not aware of any others. City residents are not allowed to have wells.

Council Member Martin asked about the probability of Mr. Bost's well water going into our system. Mr. Thomas said they would have to review his water system. Mr. Hegwer said we have technical reviews in place and there would be a period of review with any issues concerning contamination worked out before service is connected. Whether he is allowed to use wells will be determined by the review. Mayor Olive mentioned the problem of backflow just from watering lawns. Mr. Thomas said there have been problems with backflow into an owner's own system, but not to ours.

Council Member McNeil said these were two separate operations. Mr. Thomas said they would make sure it is not cross-connected. Mr. Hegwer said that we were aware of his intentions, but regardless, state laws and rules and regulations would have to be followed. Several agencies will be involved in the review. Council Member Williams said there would be a meter at the plant to monitor the water going to the plant. Mr. McNeil said that Mr. Bost had said that he would not be able to use chlorinated water for cooking unless he changed his operation, and for the present time, he will not be using the chlorinated water for cooking. He was assured that he is dealing with two separate systems and it would be hard for them to co-mingle. Mr. Thomas said there was a cross-connection program and they go out and inspect those businesses and they are constantly monitored.

Council Member Stone said he was concerned that the City cannot make Mr. Bost come into the City in five years; we can cut his water off, but not force him into the City. He said he doesn't know if Mr. Bost will sell. Mr. Stone says according to his calculations, the City will lose \$8,000 a year (\$40,000 in five years) in revenue. He finds it hard to compromise on revenue. He says he wants to be more of a board that operates by policy, not emotion, and policy is that we generally bring these businesses into the City. He referenced a senior citizen who came before Council with a tap-on fee she felt she could not afford, and Council could not help her due to policy.

Mr. Hegwer said that due to the urban nature of the property, it would not meet annexation criteria if we wanted to annex it. Our ordinance dictates this process. City Attorney Patterson read the pertaining ordinance which requires Mr. Bost to state that he will petition for annexation on a date certain. In the event that he does not, Attorney Patterson explained, we would be able to turn off his water and sewer services and sue him for breach of contract. Mr. Hegwer said the policy as stated provides for council discretion on these matters. Mayor Pro Tem Martin stated that it is a unique situation and we got more good than bad. He does not believe a policy can be set that will have everything for everybody all the time.

Council Member Linwood Mann made the motion to approve the Agreement with James H. Bost for the Sale and Purchase of Water and Sewer Services; seconded by Council Member Williams, the motion passed five to two with Council Members Charles Taylor and Mike Stone casting the dissenting votes.

Consider Agreement with Triple J Associates, LP, for the Sale and Purchase of Water Services – (Exhibit G)

City Manager Hal Hegwer said this agreement is the same as for Mr. Bost above with the exception that we are only talking about water service. Council Member Steve Brewer made the motion to approve the Agreement with Triple J Associates, LP, for the Sale and Purchase of Water Services from the City; seconded by Council Member McNeil, the motion passed five to two with Council Members Taylor and Stone casting the dissenting votes.

Approval of Amendments to System Plast Contract – (Exhibit H)

Council Member Stone expressed concerns about the agreement moving the money to a new location. Mr. Stone says he is looking for a great incentive. He says his worry is if we are giving the incentive because we have to or because we can. His question is if we need to give the incentive to a company that is already up and running; he thought incentives were meant to either lure businesses here or help them expand. This company has already done both.

Lee County Economic Development Corporation Director Bob Heuts explained that the EDC is recommending that we amend the contract in three places as set forth in Exhibit H. The changes involve new location and date changes. Mr. Heuts reminded Council that when the item first came to their attention the company was considering other locations as well as Sanford with the intent of consolidating operations into one location. It is still an economic development project.

Council Member Brewer said no one likes incentives, but we do give them to people to help them grow as well as get businesses to locate here. It is not giving away tax dollars, but just taking less for a few years.

Mr. Heuts clarified that the policy is not EDC policy, but rather Lee County-Town of Broadway-City of Sanford policy. The EDC applies the policy.

Council Member Williams remembered when Sanford only had textile plants. People graduated from high school and went to other towns to work. Other industries were recruited to diversify. Now, when one plant closes down, the others can handle those employees. The things we are doing help to supply those jobs and he supports EDC. Mr. Stone said that 70 percent of Lee County businesses are small businesses. He wanted to remind Council those little guys are paying the incentives for the larger businesses.

Mr. Heuts asked to be placed on the agenda for Council's next retreat in order to get into the math of incentives. Mayor Olive said that everyday 10,000 people outside of Lee County come into Lee County to work.

Council Member Brewer made the motion to approve the Amendments to the System Plast Incentive Agreement; seconded by Council Member Linwood Mann, the motion passed six to one, with Council Member Stone casting the dissenting vote.

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

OTHER BUSINESS

Consider a Proposal to Institute a Survey to Assess the Performance of the City Manager Which Would be a Survey that can be Filled Out by the City Council, as Well as the City Manager, Department Heads, and City of Sanford Government.

Council Member Taylor apologized for being out of order; he says he would like to present some ideas to the Law and Finance Committee at its next meeting.

Implement a Survey that will Allow Employees of the City of Sanford to Participate in a Confidential, Anonymous Survey that Would Consist of a Battery of Questions that will be Administered by an Independent Source and Would be an Item that Would Carry an Expenditure.

Council Member Taylor requested to have this survey completed; he will place this item on the next agenda for Law and Finance.

Council Member Brewer thanked the Community Police officers for assistance in some neighborhoods for which he had concerns.

PUBLIC COMMENT

Mr. Hugh Spinks of Cool Springs Road in Sanford spoke about his experience with Charter Communications. In the early years, he found their service to be good. He feels that the service is now substandard or intermittent or no service at all to its high-speed customers. Mr. Spinks says that he develops software and that he is an expert in high performance network systems and is very familiar with the technical challenges Charter has to deal with. He does not feel that the problem with Charter is a technical problem, but rather a management problem. He referenced an excerpt from a report on the Better Business website concerning Charter services which says Charter has an unsatisfactory record due to a pattern of complaints and failure to correct the underlying reason for the complaints, noting improper billing practices, poor customer service, misleading advertising, defective cable/internet performance, and others. He detailed his personal service experience with Charter.

City Attorney Susan Patterson advised Mr. Spinks that the NC Attorney General's office now takes complaints about cable concerns.

Mayor Pro Tem Martin inquired if Mr. Spinks had tried other service providers. Mr. Spinks said that he had tried that, but he has not found an alternative that fits his needs.

City Manager Hegwer reminded Board that the next meeting is Law and Finance which will be held on January 30, 2008 at 1:00 P.M. He asked for feedback from Council on the upcoming council retreat—issues, concerns, dates, etc. in order to plan the schedule.

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 James Williams, the motion carried unanimously.

Respectfully submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK