

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, May 6, 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. Council Member James Williams delivered the invocation.

APPROVAL OF AGENDA

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

CONSENT AGENDA

Approval of March 12, 2008, Law and Finance Committee Minutes – (Filed in City Clerk’s Office) – (Pages 1 – 4)

Approval of April 8, 2008, City Council Retreat Minutes - (Filed in Minute Book #69) – (Pages 5 – 7)

Approval of April 9, 2008, Law and Finance Committee Minutes – (Filed in City Clerk’s Office) – (Pages 8 – 12)

Approval of April 15, 2008, City Council Minutes – (Page 10 of these minutes – Public Comment Period - was amended) - (Filed in Minute Book #69) – (Pages 13 – 25)

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

Ordinance was approved to amend the annual operating budget to appropriate federal revenue received in the amount of \$22,438 for the 2007 JAG Grant No. 2007-DJ-BX-1240. The grant was applied for through the U. S. Department of Justice.

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

Ordinance was approved to amend the annual operating budget to appropriate funds to different departments as listed due to the increase in fuel cost.

Approval of 2008 Urgent Repair Program Policies – (Exhibit C)

- Assistance Policy
- Procurement and Disbursement Policies
- Local Match of \$2,000
- Authorization for City Manager to sign Post-Approval Documentation

The 2008 Urgent Repair Program Policies were approved. This grant allows up to \$5,000 per home to be spent for urgent repairs. The local match required from the City is \$2,000.

Approval of Grant Project Ordinance – North Carolina Housing Finance Agency – Urgent Repair Program (URP08) – (Exhibit D)

The grant project ordinance was approved for the Urgent Repair Program in the amount of \$75,000 received from the grant and the \$2,000 received from the City's local match.

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2007-2008 (URP08) – (Exhibit E)

The grant project ordinance was approved to amend the annual operating budget to appropriate the \$2,000 local match for the Urgent Repair Program.

Approval of Capital Project Ordinance Amendment – Community Development Land Disposition Project – (Exhibit F)

Capital Project Ordinance Amendment was approved for the Community Development Land Disposition Project in the amount of \$50,000.

Approval of Award of Urban Forestry Grant Rosemount-McIver Historic District – (Exhibit G)

Treefull Communities was awarded the contract in the amount of \$7,843 for the Urban Forestry Grant for the Rosemount McIver Historic District.

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

CASES FOR PUBLIC HEARING

Public Hearing on Assessment Roll and Levying Assessments for McLeod and Currie Drives Sewer Extension

City Engineer Vic Czar explained that a public hearing is being held on the assessment roll for a sewer project on portions of Currie and McLeod Drives. We had a successful petition to run sewer for approximately 1,200 feet to serve nine lots. The project is complete and the cost has been declared.

Council Member Mike Stone asked how many homes were asked to get the 51 percent. Mr. Czar replied the number of lots that were affected in the successful petition was nine. Mr. Stone asked about the cost per lot. Mr. Czar replied that the cost per lot is \$8,039.89. Mr. Stone asked what the interest rate is being charged to the property owners. Mr. Czar replied that if they choose to finance it through the City, the interest rate is 8 percent. Mr. Stone said he wants to treat our citizens as fair as he can treat them. His major concern is that some of

these residents have been paying taxes for twenty to twenty-five years and our assessment is 8 percent. We loaned the airport \$1 million at 5.25 percent. He is trying to balance out an equal opportunity of saying these residents have been supporters of us paying our bills for twenty to forty years. It might be a good idea of charging the same interest rate to homeowners.

City Manager Hegwer explained that this is the Utility Fund, and the rate has been 8 percent for years. That rate is set by state law; 8 percent is the maximum rate you can charge. He added that we encourage them to look at other methods of financing so that we don't have to get into the collection procedures if people do not pay it back. The money loaned to the airport came from the General Fund. If you are borrowing money as general obligation debt, it is backed by the full faith and credit of the city. Enterprise debt is borne through the rate structure. Mayor Pro Tem Martin stated that when this came into play, we had a lot higher interest rate then. The one thing that made it appealing is that they have ten years to pay this back; not many banks are going to loan you money for ten years for this. Mr. Stone said that they are paying for the sewer and are going to be paying more for usage of it. Mr. Hegwer said every assessment that he has been involved in has been at this percentage rate. If you change the rate, you have other individuals already paying at this 8 percent rate.

Mr. Czar stated that in this case there are some procedures you go through to do an assessment, and it has already been established in this case that the rate is going to be 8 percent. It may be something you can look at going forward.

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

- Consider Resolution Confirming Assessment Roll and Levying Assessment – (Exhibit H)
Council Member Linwood Mann made the motion to approve the Resolution Confirming Assessment Roll and Levying Assessment. Seconded by Walter McNeil, Jr., the motion carried unanimously.

Public Hearing Regarding Amendment to the CDBG Grant – (Exhibit I)

Community Development Director Bob Bridwell said Council was informed of this issue at its last Law and Finance Committee meeting. This public hearing is to consider amending the existing grant by allocating unspent funds in the amount of \$98,585 to the project related to the acquisition and demolition of the old Rescue Squad building and the associated building attached to it and also the allocation of the \$33,000 already assigned to the demolition. Mayor Olive asked what happens if the purchase price of these properties does not come in for the amount allocated on the grant and if we have a figure on the demolition costs. Mr. Bridwell replied that the demolition figure still looks good; however, demolition will have to be bid out per requirement of the grant and state law. If the purchase of the properties does not come in under the grant amount, it will have to come back to Council. Mr. Hegwer said if the grant does not cover the amount required to purchase the buildings and demolish them, then Council will have to look at some other option.

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

- Consider Adoption of Amendment
Council Member James Williams made the motion that the amendment be approved and adopted. Seconded by Council Member Charles Taylor, the motion carried unanimously.

Consider Voluntary Annexation of 141.05 Acres by CRD Investors and Coy and Carolyn Broadwell Located 423 Linear Feet South of the Intersection of Commerce Drive and Highway 87 – (Exhibit J)

City Attorney Susan Patterson advised that the applicant withdrew the petition and no public hearing will be held.

DECISIONS ON PUBLIC HEARINGS

Petition by W. Woods Doster - Attorney for Clara Hoke & Callie Waddell, to rezone from R-6, Residential Mixed district to C-1, Light Commercial & Office district 0.81+/- acres addressed as 622 Washington Avenue. The property is the same as depicted on Tax Map 9642-07, Tax Parcel 9642-77-0790-00 Lee County Land Records Office. – (Exhibit K)

Community Development Director Bob Bridwell explained that a public hearing was held on April 15, 2008. The Planning Board met and discussed this petition and recommended unanimously that the City Council approve the petition.

- Consider Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit L)
Council Member Mike Stone made the motion to accept and adopt the Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina. Seconded by Council Member James Williams, the motion carried unanimously.

REGULAR AGENDA

Consider Deed of Subordination for Progressive Development, LLC – (Exhibit M)

Community Development Director Bob Bridwell explained that this issue was discussed at Council's last Law and Finance Committee meeting. The request is from the developer, Progressive Development, LLC, to subordinate the money we have lent them in the amount of \$15,200 so they can proceed to do bank lending for the redevelopment of the properties that are involved.

Mayor Pro Tem Joseph Martin said that in previous votes that have been taken involving Progressive Contracting he has been recused, and he would like to be recused from voting on this issue due to the potential of a conflict of interest, even though his wife does not have anything to gain financially and neither does he. Council Member Mike Stone made the motion to allow Mayor Pro Tem Joseph Martin to be recused from voting on this issue. Seconded by Council Member Walter McNeil, the motion carried unanimously.

Council Member Steve Brewer made the motion to approve the deed of subordination for Progressive Development, LLC. Seconded by Council Member Linwood Mann, the motion carried unanimously.

Consider Development Report – (Exhibit N)

Community Development Director Bob Bridwell gave a summary of development requests as listed on Exhibit N.

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

PUBLIC COMMENT

Roger Darr, spoke in opposition to the business privilege tax. His business is Absolute Computers located at 810 Woodland Avenue. He is opposed to the tax because he says it discriminates against all the businesses in Sanford. He encouraged everyone to read the ordinance as it is written. He said there are a lot of questions that he has as to how it will be enforced. Mr. Darr said he goes from business to business and he constantly sees people coming from outside the city to conduct business within the city limits. He said how would you know he is doing business. Mr. Darr said he could walk into any business and no one would know why he is there. He received his business license in the mail today. He does both sales and service; there is only one category listed on that license and that is services; so if an enforcement official comes in and wants to look at the license and does not see sales on it, he has to defend himself. Mr. Darr requested that Council delay the enactment of the business privilege license until such time all the enforcement policies can be put into effect so that everything can be resolved with it.

Paul Degon, owner of Computer Repair Shop located at 207 S. Steele Street, spoke against the business privilege tax. He received his tax notice; he sells hardware, software, and repairs computers. He assumed the bill would be \$50; however, it was \$100. The \$100 was because he sales hardware and software. He continued that he gathered up all the software and threw it in a box because the mark up is so minimal when competing with Wal-Mart and Office Max. Mr. Degon said it was cheaper for him to throw it out than to pay the tax. He sells very little software. However, he got to thinking about everything that contains software. Inside his hardware is software. He gave examples of items that contain software such as microwaves, dishwashers, tape recorders, cell phones, magazines contain disks, etc. He urged Council to eliminate software from the list and exempt it from the tax.

OTHER BUSINESS

Council Member McNeil thanked the Police Department and Sergeant Reggie Petty for the work they did in cleaning up the Pineland Street area.

Mayor Pro Tem Martin stated that due to the length of the last Law and Finance Committee meeting, that maybe the agenda could be shortened by delaying some items to another meeting. He added that a lot of people that want to serve will say I do not have time and it would encourage people to serve by the meetings not being so long. Mr. Brewer felt that maybe we could have email accounts set up where council members could share information on

a day-by-day basis and would have more time to study an issue and be more educated on it. Attorney Patterson said it would be public record and also there is a requirement that you cannot have an electronic meeting without proper notice, so you would not want to have a blog where everybody is on line at the same time because that would not meet our public record requirements for notice of a meeting. As far as sharing information back and forth by email, that is allowed. Mr. Brewer referred to the information that Mr. Taylor shared with Council about a Triangle J meeting he attended. If Council would have received the information prior to the meeting, maybe Council could ask questions about it. Mayor Olive said she did not want council to appear they are discussing issues privately that should be discussed publicly. Mr. Brewer said he did not mean to discuss; he meant sharing information. Mr. Brewer said there is a difference between letting someone know this is something that is dear to their heart and would like to discuss at the next Law and Finance meeting so you will have time to check the issue out. He wanted to be more educated on the items. Mr. Martin said he just wanted us to be mindful to delay some items if possible until another meeting. Council Member Mann concurred with Mr. Martin's comments.

Council Member Stone said he felt it would help to get the Law and Finance Committee meeting agenda on Monday afternoon; it would help prepare council members and staff to know what is on the agenda before the day of the meeting.

Council Member Brewer said that he has received several phone calls today regarding a building on the corner of Horner Boulevard and Wicker Street that is pink, green, and royal blue. He would like to ask Attorney Patterson to look into what kind of rules and regulations council would need to do to possibly regulate building colors on existing buildings and corridors. He realized it would have to be done through a zoning act. Attorney Patterson advised that the City Council passes regulations which deal with health, safety, and welfare issues. Anything that deals with aesthetics has to come through a zoning ordinance, and she will be happy to work with the Community Development Department to look into any ability we would have to deal with zoning. Usually when you deal with them in zoning, it is tied to a zoning district and the requirements of that district. Paint colors are not usually regulated unless they have some bearing on a zoning district category. She will look into what is available; what is allowable; and what we currently have.

Council Member Charles Taylor thanked the business owners for coming and discussing the inequities of the business privilege tax.

Council Member Taylor stated that this is National Drinking Water Week. It marks the 100th year anniversary of disinfecting of drinking water. He wanted to thank the people who ensure the quality of the city's drinking water.

Council Member Taylor stated that we have had two successful events in our city - the bike race and the pottery festival. He thanked law enforcement, the fire department, and some people from public works for making it successful.

City Attorney Susan Patterson advised that the General Assembly reconvenes May 13. She said we will be looking at what issues are before them and what local bills we will need in

the next session. She stated if anyone has something to come to mind, to please let her know and she will see what needs to be done in order to get local bills put forth.

Attorney Patterson advised that during the time the legislature is not meeting, there was a study committee that has been looking at municipal annexations, and it is going to be recommending very quickly, upon reconvening of the General Assembly, some limitations that would apply to satellite annexations and to non-voluntary annexations by a city. That would directly affect the city's ability to grow and our ability to have those areas which are municipal in character become municipal in fact, including satellites which are requested by developers or owners to be brought into the city limits in order to facilitate growth. She would like to know the consensus of the council as to whether we should ask our legislators to look carefully at this issue and to be opposed to any limitations on our ability to grow.

Council Member Stone commented that it bothers him that the League of Municipalities, which the City sends a large portion of money to each year, came out and made a statement that they were against the moratorium on involuntary annexation. A lot of people in the small communities do not have a fighting chance when some cities annex them and they have no representation, because at that point when they are annexed, they are part of the city. His concern is that we have not done that in the City of Sanford, but he would not deny anyone the right to be heard. He felt there were better ways for the League to use that money.

Council Member McNeil said he represents the League of Municipalities, and it is working on behalf of all the cities of North Carolina. They are fighting the moratorium. If someone wants to come into the city limits, they would not be able to do so because there would be a moratorium on it. The League has been fighting this for the past ten years. It is a way for the City to grow. There is a happy medium out there and that is what they are trying to find.

City Manager Hegwer stated that this issue has city-initiated annexations coupled with voluntary satellite annexations. We have used satellite annexations very routinely and many developers in Sanford have taken advantage of it; it is coupled together with city initiated annexations into one bill. Attorney Patterson added that this is one of the first items they will take up – the study committee's recommendation. Mr. Hegwer said the League has looked at a compromise on some of those issues; the League is not standing firm and saying we will not look at any provisions to the existing annexation statutes. It looks like they are willing to give and take.

Mayor Pro Tem Martin added that Sanford has been very fortunate in that our annexations have been voluntary. He has a problem if the General Assembly is trying to put a moratorium on voluntary annexations. Council Member Brewer said we do not want anybody to take the power away from us to be able to annex anybody. Mr. Martin and Mr. Brewer stated that if residents want to voluntarily be annexed into the city, they should be able to do so. Mr. Brewer said if council votes in support, then we are voting to keep our power to do what we want to do. If we vote the other way, it is saying we do not want to spot satellite.

Attorney Patterson stated that the legislature gives us the authority to annex now and it has been a method that cities have had to hold down taxes, to bring in territory where people can

receive city services in exchange for being in the city limits. She is asking if Council wants her to send our legislators a letter stating our position on it, or how the city views this taking of power from the city, because the select committee's recommendation is that cities no longer be allowed to keep that power which they have been granted for years from the legislature; that is the power to annex property upon request for satellites and for city-initiated non-voluntary annexations.

Mayor Pro Tem Martin stated that we need to send them a message stating that we do not want to give up anything. Attorney Patterson stated that she needed a consensus from Council to send a letter to our legislators requesting that we be allowed to retain our power. Council members were in consensus to send the letter and a copy will be faxed to council members before sending to the legislators.

CLOSED SESSION

City Attorney Susan Patterson entertained a motion to go into closed session in accordance with N.C.G.S. 143.318.11(a)(5) to instruct the public body staff and negotiating agents on the position to be taken for the price or other material terms of a contract for the acquisition of real property. So moved by Council Member Walter McNeil and seconded by Council Member Linwood Mann, the motion carried unanimously.

RETURN TO REGULAR SESSION AND ADJOURNMENT

With no further business to come before the council, the meeting was adjourned on motion of Council Member Mike Stone; seconded by Council Member Charles Taylor, the motion carried unanimously.

Respectfully submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK