

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, November 4, 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 Charles Taylor delivered the invocation.

**PUBLIC COMMENT**

Patrick Alston, residing at 184 Castleberry Road, signed up to speak. He said today he would like to address some concerns involving some students and some parents about their constitutional rights that were violated along with some state and federal laws by a city employee in a school administrative hearing. City Attorney Susan Patterson told Mr. Alston that the public comment period does not allow speakers to speak about matters which might be closed session items including information regarding personnel. She said Mr. Alston might want to direct his comments to the city manager. Mr. Alston said he has addressed it to the city manager and it has been almost three weeks now. Mr. Alston said, "I was made to understand that there is a judge's order in question to this. I have come here to speak about this almost three weeks ago and postponed that to have this conference with you and him. Like I said, I was under the impression that there is a judge's order mandating this and I requested that and today I do not have it. I received a piece of paper about information sharing and I am not disputing that; what I am disputing about is what happened inside that meeting and rights and privileges that were violated. There is such things as public information and I don't mind that public information being shared. What the problem is the information that was shared that had to be released by a court order." Attorney Patterson stated that he was entitled to anything that is public information and that will be provided to him if he has made a request for it. However, this board does not get involved with matters of personnel because employees are under the supervision of the City Manager. If you are going to talk about city personnel, you should direct your comments to the city manager. City Manager Hal Hegwer advised that what Mr. Alston is referring to is a school board administrative hearing and he thought it was a closed session meeting. Mr. Hegwer stated that what happened in that meeting and what transpired at that meeting were not anything under his control. Mr. Alston said it was if it was a violation of federal law or their constitutional rights. Mr. Hegwer said it was his understanding that it was a school board administrative hearing and we were required to attend by law. One of our police officers was in attendance at the hearing and that is the reason for our presence. City Attorney Patterson stated that is a matter within the purview of the personnel statutes and this board should thank Mr. Alston for

his comments and direct him to a more appropriate forum. Mayor Olive said that forum would be the city manager. Attorney Patterson replied yes. Mr. Hegwer said he has spoken with Mr. Alston by phone and wrote him a letter including some information as to why our police officer was present at a hearing that was involved with the school board. Mr. Hegwer said the police officer was required by law to attend the meeting. He said he did not have any information about what transpired at that meeting and no knowledge of it; it is part of an investigative report.

Mayor Olive asked if it would be appropriate if, at some point, Council had a closed session meeting where Mr. Alston could address them or is that still in the purview of the city manager. Mr. Alston said he would like it if a closed session meeting could be held because when he came here to speak before, a comment was made to him – to prevent him from embarrassing himself and embarrassing the city – that is what he thinks this is about. Mr. Alston said, “My problem is this; facing this is that if the powers that be can break the laws and policies, then what messages are we sending to everybody out here. It is not easy for me to come up here today and face you all with this concern.” Mr. Hegwer said Mr. Alston’s concern is more of a legal matter; we complied with what the law directed us to do and that is all we did. Mr. Alston stated that General Statute 132.1.4 that says records of criminal investigations conducted by law enforcement agencies are not public records and records of criminal investigations conducted by public law enforcement agencies may be released by order of a court competent jurisdiction. He felt there was a conflict. Attorney Patterson told Mr. Alston she would be glad to meet with him after the meeting or tomorrow.

#### **APPROVAL OF AGENDA**

On motion of Council Member Steve Brewer, seconded by Council Member Charles Taylor, the agenda was approved.

#### **CONSENT AGENDA**

Approval of September 2, 2008, City Council Minutes - (Filed in Minute Book 70)

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

Approval of October 7, 2008, City Council Minutes – (Filed in Minute Book 70)

Approval of October 15, 2008, Law and Finance Committee Minutes – (Filed in the City Clerk’s Office)

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

#### **SPECIAL AGENDA**

Presentation of Farm-City Week Proclamation – (Exhibit A)

Mayor Cornelia Olive read a proclamation proclaiming National Farm-City Week from November 21-27, 2008.

### **DECISIONS ON PUBLIC HEARINGS**

Petition by Roy E. Mashburn - to rezone from HC, Highway Commercial and RR, Residential Restricted districts to C-2, General Commercial district 1.26+/- acres; 0.29 of an acre is located in the northwestern quadrant of Pendergrass Road (SR1334) & Westover Drive (SR 1333) and 0.97 of an acre is located in the northwestern quadrant of the intersection of Pendergrass Road (SR1334) & Jefferson Davis Hwy/US Hwy 1, contingent upon approval of annexation. The property is the same as depicted on Tax Map 9631.02, Tax Parcel 9631-55-2915-00 and a portion of Tax Parcel 9631-56-1399-00 Lee County Land Records Office. – (Exhibit B)

Assistant Community Development Director Marshall Downey advised that the Planning Board discussed this petition at its October 21, 2008, meeting and recommended unanimously to approve the rezoning petition.

- Approval of Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit C)

Council Member Steve Brewer made the motion to adopt the Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

Petition by Roy Harrington of Harrington Companies, LLC - to rezone from LI, Light Industrial district to C-2, General Commercial district 2.41+/- acres located in the southeastern quadrant of the intersection of Broadway Road (SR1579) and Cox Mill Road (SR1529). The property is the same as depicted on Tax Map 9662.04, a portion of Tax Parcel 9662-71-7813-00 Lee County Land Records Office.- (Exhibit D)

Assistant Community Development Director Marshall Downey advised that the Planning Board discussed this petition at its October 21, 2008, meeting and recommended unanimously to approve the rezoning petition.

- Approval of Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit E)

Council Member Linwood Mann made the motion to adopt the Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina. Seconded by Council Member Charles Taylor, the motion carried unanimously.

Petition by James D. Cox of J.D. Cox & Associates, LLC and Mark Lyczkowski of CRD Investors, LLC - to rezone 141.05+/- acres annexed into the corporate city limits on October 7, 2008 from the current RR, Residential Restricted and RA, Residential Agricultural districts to Barrington Park South Conditional Zoning District, an area of land located along the southwest side of NC Hwy 87 South, adjoining the area approved for development as Barrington Park North. The conditional zoning district will include a mix of single-family detached homes, townhomes, apartments, as well as non-residential uses such as office-institutional and retail commercial uses. The property is the same as depicted on Tax Maps 9660.01& 9650.02, Tax Parcels 9650-96-8137 -00, 9660-36-8707-00 and ROWY-36-2073-00 Lee County Land Records Office.- (Exhibit F)

Assistant Community Development Director Marshall Downey advised that this is Barrington Park South. This is the expansion of the existing conditional zoning district. The petitioner has presented property that was recently annexed – another 130 plus acres just south of the larger 300 plus acres Barrington Park project. The Planning Board discussed this petition at its October 21, 2008, meeting and recommended unanimously to approve the rezoning petition. The typical conditions that were pointed out at the public hearing will apply since this is a conditional zoning. If Council approves this petition, they will have to come back to Council with specific preliminary plats, site plans, etc., for the actual project.

Attorney Patterson clarified that it is one of the Council's new regulations under the law that they determine whether this is in accordance with the existing Land Use Plan. Attorney Patterson asked Mr. Downey if it is true this may deviate from the 2020 Land Use Plan but that has been further identified that the area would be allowed in accordance with the zoning that was approved adjacent to it. Mr. Downey replied that is true and it is in the ordinance.

- Approval of Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit F)  
Council Member James Williams made the motion to adopt the Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina. Seconded by Council Member Steve Brewer, the motion carried unanimously.

## **REGULAR AGENDA**

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

## **OTHER BUSINESS**

City Manager Hal Hegwer stated that that U. S. House of Representatives passed a Job Creation and Unemployment Relief Act in September 2008. The Senate has not taken any action on this bill. What is important about this bill is that it includes \$30 billion for programs within the jurisdiction of the committee on transportation and infrastructure, which includes highways and bridges, \$12.8 billion transit, \$4.6 billion rail, and \$500 million aviation, etc. The point is there is a good possibility that some type of stimulus funding will come down and we could be a recipient of this funding. He said they estimate \$30 billion will sustain or create more than 834,000 jobs. Priority for the funds will be given to those that can be awarded based on bids within 120 days of enactment.

Mayor Olive announced that there will be a meeting with information provided regarding All America City competition on Tuesday, November 18, at 10 A.M. and the public is invited to attend.

**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 Mike Stone, the motion carried unanimously.

Respectfully submitted,

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CORNELIA P. OLIVE, MAYOR

ATTEST:

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BONNIE D. WHITE, CITY CLERK