

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, March 17, 2009, 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 White	

Mayor Cornelia Olive called the meeting to order. Council Member Walter McNeil, Jr. delivered the invocation.

PUBLIC COMMENT- (Exhibit A)

Keith Clark of 233 Chris Cole Road spoke. He said he is concerned about a series of events regarding the responsiveness and accountability of the administration of county government, of city government, and of the chief of police, in particular. He said he had information directly from the Board of Elections in regard to the complaints for the perjury matter, and he said “she” [meaning Attorney General Susan Doyle] asked him to deliver it to the appropriate law enforcement authorities in this county. He said he had previously sought, and had no success, with obtaining any meeting with the chief of police. He said he shared the nature of the information with the mayor; the mayor requested a meeting; she was turned down; she had dealt with the secretaries and she went back and dealt with the personnel directly, and the chief of police told the mayor no, he would not participate in such a meeting. Mr. Clark said that he realizes that he reports to the city manager, but he cannot imagine why a city manager would allow any department head to refuse to meet with the mayor and a private citizen and at least listen to what it was he had to say.

Secondly, Mr. Clark said he had a conversation—a conversation shared with him by the chairman of the county commissioners in regard to 911 issue in which your chief said that the county’s idea of having a review board for people with appeals was a bad one if it included any elected officials from anywhere. Mr. Clark says there is an attitude of disrespect towards elected officials when it is not possible for the mayor or city manager to allow him to ask him to attend a meeting. Mr. Clark says that he is served by that 911 system and he cannot get a meeting with him. Mr. Clark said relating the matter in which the chief of police is supervised by the city manager is a matter of some controversy about which his blog has been contacted by numerous people and they are undertaking a new in-depth investigation.

He said he wanted to know simply who was responsible for the vetting of the candidates which you considered for city council. Mr. Clark said he called Mr. Brewer; he has only refused to meet with him and proceeded to call him names and other matters.

Mayor Olive advised Mr. Clark that his time had expired. Mr. Clark said he would be back, and folks, stay tuned in for these three-minute commercials will continue. For clarification, Mayor Olive said that she had not spoken with Chief Yarborough; it was Mr. Hegwer, the city manager who relayed that information to her.

APPROVAL OF AGENDA

City Manager Hegwer requested to add two items to the agenda. The first is a presentation by the Police Department under Item C in the Regular Agenda; the second one is a closed session under attorney-client privilege. Mayor Olive said the presentation by the Police Department would be Item 8-C and the Closed Session would follow Other Business.

On motion of Council Member Charles Taylor; seconded by Council Member Mike Stone, the amended Regular Agenda was unanimously approved.

CONSENT AGENDA

Approval of City Council Minutes Dated January 28, 2009 – (Exhibit B).

The January 29, 2009 Council minutes were approved.

Approval of Law and Finance Committee Minutes Dated January 28, 2009 – (Exhibit C)

The January 28, 2009 Law and Finance Committee Minutes were approved.

Approval of Law and Finance Committee Minutes Dated February 11, 2009 – (Exhibit D)

The February 11, 2009 Law and Finance Committee Minutes were approved.

Approval of City Council Minutes Dated February 17, 2009 – (Exhibit E)

The February 17, 2009 City Council minutes were approved.

Approval of Law and Finance Committee Minutes Dated February 25, 2009 – (Exhibit F)

The February 25, 2009 Law and Finance Committee minutes were approved.

Approval of City Council Minutes Dated March 3, 2009 – (Exhibit G)

The March 3, 2009 City Council minutes were approved.

Approval of Documents Related to N. C. Housing Finance Agency 2009 Single Family Rehabilitation Program

- Approval of City of Sanford Resolution Authorizing the Execution of Documents for the NC Housing Finance Agency 2009 SFR Project – (Exhibit H)
- Approval of Lee County Assistance policy for the 2009 Cycle of the Single Family Rehabilitation Program – (Exhibit I)
- Approval of City of Sanford 2009 North Carolina Housing Finance Agency Single Family Rehabilitation (SFR) Program – Grant Project Ordinance – (Exhibit J)
- Approval of Lee County Assistance Policy for the 2009 Cycle of the Single Family Rehabilitation Program – Procurement Policy (Exhibit K)

The documents related to North Carolina Housing Finance Agency 2009 Single-Family Rehabilitation Program were approved.

Approval of Resolution in Support of Widening NC Highway 78 to SR 1001 to the City Limits- (Exhibit L)

The resolution in support of widening NC Highway 78 to SR 1001 to the City Limits was approved.

Upon motion of Mayor Pro Tem Joe Martin and seconded by Council Member Linwood Mann, the Consent Agenda was approved unanimously.

CASES FOR PUBLIC HEARING: to be held jointly with the Planning Board

Petition by Aja McLeod on Behalf of Works for Christ Christian Center, Inc.- (Exhibit M) –to rezone 2.00± acres addressed as 1395 Fire Tower Road from the current R-12 Residential-Mixed Zoning District to O&I Office and Institutional Zoning District. The property is the same as depicted on Tax Map 9642.03, as Tax Parcel 9642-30-7258-00 Lee County Land Records Office – (Exhibit M)

Planner II Amy McNeill directed Council’s attention to the application received by Aja McLeod on behalf of Works for Christ Christian Center, Inc. to rezone 1395 Fire Tower Road from Residential R-12 to O&I; to the program description of the Open Door Therapeutic Day Treatment Program; and to a letter of support from Works for Christ Christian Center.

Ms. McNeill explained that this property is one piece of land of approximately two acres. It is developed with a church and is zoned Residential R-12. Within the area, there are several different developments including Carthage Colonies residential subdivision, the forestry fire tower, and Central Baptist Temple. Mainly the area is residential development with a few churches. There are public water and sewer on the site. The streets are NCDOT maintained. The rationale for this rezoning is that the petitioners indicated to staff that the intent of this request is to allow a day treatment center to locate on this site within an existing building that is owned and currently utilized by the church. A day treatment center provides mental health and/or substance abuse interventions which focus on achieving functional gains and reintegrating the child back into school or transitioning into employment. If this were a use typically associated with the church, such as a volunteer group or church allowing someone to meet there on a regular basis, it would be considered a use that is typically associated with the church and rezoning would not be required. However, since this particular applicant would like to operate a private business at this church and the church would actually lease or rent this space to the private business, then that use would not be allowed at this location because of the R-12 zoning district; it would require the OI (office and institutional) type zoning. Residential (R-12) is primarily for houses and things associated with homes, such as the churches. Office and Institutional zoning (O&I) is established to provide for agencies and offices rendering specialized services and traditional institutional functions—both public and private.

The 2020 Land Use Plan map has identified this property as residential/agricultural. This zoning typically is associated with land use classification with a minimum lot size of 20,000 square feet and development that consists primarily of single-family development/agricultural

uses. It should be noted that the majority of the property in the immediate area is zoned R-12 as opposed to RA as is noted in the 2020 Land Use Plan. The residential-mixed district has been developed with a variety of uses in this area. When considering this zoning, current development trends and the surrounding zoning of the neighborhood should be considered, as well as if this property is successfully rezoned all of the uses that are permitted in the O&I zoning district would be permitted at this location, not just the specific day treatment program use, which the petitioner would like to place at this church.

Having said that, Ms. McNeil explained that the planning staff does not support this proposed rezoning based on the following rationale: The intent of this request to rezone from R-12 to O&I is to allow private business to locate on the site of and within an existing building owned and utilized by the church. The development of the site in a commercial-business manner would not be in harmony with this area, which is predominantly developed with residential uses and churches. A private business use would be more appropriately located within an existing commercial zoning district, and if rezoned, all of the uses permitted with an O&I zoning district would be legally permitted at this location—not just the specific use proposed at this time. However, information presented at the public hearing may provide additional information which should be considered regarding final decision on the requested zoning map amendment. Ms. McNeil directed Council's attention to the list of permitted uses in an O&I district listed in Exhibit M.

Mayor Olive opened the public hearing.

Council Member Taylor asked what happens if the church moves or decides to go in a different direction. Ms. McNeil responded that the zoning stays with the land. Staff did not recommend conditional zoning in this case because conditional zoning is intended more for the development of an overall property like a shopping center or a subdivision; it is not a way to specifically allow one use on one piece of land. Mr. Taylor asked if this option could be explored. Assistant Community Development Director Marshall Downey explained that they could sit down with the applicants and move toward that if that is what is desired. He said that part of the reason they generally steer clear of that, in this case, it is a lease situation. They have not had any discussions with the church, itself, to know if they would be comfortable putting these restrictions on their property. Community Development Director Bob Bridwell clarified that staff does not generally recommend conditional zoning just to accommodate a particular individual; it is most often used as a way to get a better design.

Donald M. Aytch of 5001 Bridgewood Drive in Durham, North Carolina, spoke in favor of the rezoning. He stated that he is a licensed psychologist and a clinical director for VC & Associates, the party making this petition. He said they are requesting the rezoning because they are very interested in providing therapeutic services to children and adolescents in this area. They operate an outpatient facility here in Sanford, but they have noticed over the past few years that there have been an increased number of children and adolescents who are experiencing extreme mental health issues that primarily manifest themselves in conduct disorder; one of the primary objectives of this program which would be relatively small—no more than about 12 individuals—would be to provide them with a very intensive therapeutic milieu that is empirically based, based on techniques that have been developed based on research. They

believe that this program would provide a service to the community in a sense that these children would be better adjusted in school and in the community, and there will be a significant reduction also with regard to police and court contacts related to juvenile justice.

Mayor Pro Tem Martin asked Mr. Aytch where his facility is located that is operating in Sanford at this time. Mr. Aytch said it is at 137 Carbonton Road, but that facility is not conducive to a day treatment program. The proposed facility would not operate at night, but mainly during school hours. It is a self-contained facility. Short periods of recreation may be provided in close proximity to the church. Council Member Linwood Mann inquired about his funding. Mr. Aytch said the funding comes from the State of North Carolina provided by mental health services primarily for patients who have Medicaid. Council Member James Williams asked what level of treatment would be provided. Mr. Aytch responded primarily skill-building—helping them develop the skills they need to meet the demands of day-to-day life. In addition, Mr. Aytch said he is a licensed psychologist and they have psycho therapy and group therapy that will occur daily. There is also one psychiatrist and one physician's assistant who would also provide medical evaluations, primarily psychotropic medication for alleviation of behavioral issues mostly related to attention deficit disorder, oppositional defiant disorder, and conduct disorder. Mr. Aytch said he would be on site most days, but as it stands now, they are only planning to operate two days a week. Students would be selected by referrals from teachers; from the Department of Juvenile Justice and Delinquency Prevention; and from parents and other interested parties. Council Member Williams asked if this could become a fenced facility. Mr. Aytch said that some provision could be made for a fence. He said their plans are to provide residence-based therapeutic intervention inside of the facility which is self-contained. Everything is inside—cafeteria, classrooms, etc. They would like the opportunity for the children to be outside the facility for small breaks, but the maximum time that they can keep a child there during any one day would be four hours. They can never stay longer than four hours. Mayor Olive asked for what other uses the facility would be used. Mr. Aytch responded that they anticipate starting with six children, but could expand to two groups a day. They do not anticipate any other types of services there.

Council Member Stone asked how Mr. Aytch would feel about a conditional use zoning permit. He said he thought it would be acceptable because they are only planning to provide this type of service at this particular facility. They know what they want to do—it is very structured and there is a high degree of limitations in terms of what the children can and cannot do.

No other person spoke in favor of the petition and no one spoke against it.

The Planning Board retired to the West End Conference Room.

DECISIONS ON PUBLIC HEARINGS

REGULAR AGENDA

Consider Request for Waiver of Water and Sewer Taps at Six Units of Supportive Housing for Persons with Disabilities at South Vance and Saunders Streets – (Exhibit N)

City Manager Hegwer said that Council had discussed this at length at the last Law & Finance meeting. The total cost is about \$6,231. The major cost would be the fire protection

water connection. Council Member Taylor stated that when we made the conveyance of the property, the request on Ms. Rumely's original letter was to also request that the City of Sanford waive the water and sewer taps. Mr. Taylor said he did not see anywhere in the contract where that commitment was made. He asked for clarification for why that commitment was not made at that time. Mr. Hegwer said that with the fire protection, this is a little unique. He said we have a long-standing partnership with them. This is a six-unit structure, and we usually deal with one structure at a time. Mr. Taylor said that he appreciates the work Brick Capital does in the community; the main concern he has is other non-profits coming before the Board asking for similar situations. He asked if a precedent had been set for this. Mr. Hegwer said there have been some precedents set for Brick Capital, Habitat for Humanity, and the Housing Authority. Brick Capital had been formed in part by the City to propel affordable housing in the community. City Attorney Patterson said there was a house at this site that was torn down, so presumably there might have been a water or sewer tap at that site. The reason why it was not in the minutes, the motion made no reference one way or the other on waiving the taps. Mayor Pro Tem Martin said precedents has been set for Brick Capital, Habitat for Humanity, and Housing Authority to receive free taps. He says that this is an isolated incident because it is so involved, but he doesn't think they have to come back and ask that each time, because he thought Council had set that as policy after a big round of discussion. Mr. Hegwer said it is not unusual for cities to take on such affordable housing initiatives. Mr. Martin said that Brick Capital is an extension of the City, and he is proud of their work as well as the work done by Housing Authority and Habitat for Humanity. He sees this as an overlooked issue. He supports this because Brick Capital was started through the City and the impact that it has on the community and the impact that it has for the City in receiving grants; he thinks it is a necessity that we participate.

Council Member Walter McNeil made a motion to waive the fees for the water and sewer taps for the six units of supportive housing for persons with disabilities at South Vance and Saunders Streets; the motion was seconded by Council Member Linwood Mann.

Discussion followed. Council Member Taylor asked if a precedent had been set for Habitat for Humanity. Mr. Martin said that Habitat was issued the same rights as Brick Capital and Housing Authority. Mayor Olive asked City Attorney Patterson if this is correct. City Attorney Patterson said she would not characterize it as precedent-setting, but a policy was developed for those re-developers in which the City partners. This refers to redevelopers who come into blighted areas and redevelop them into affordable housing. The City has identified three of those in our community who take on that task—Brick Capital, Habitat for Humanity, and the Housing Authority. Habitat for Humanity has worked with the City on price of lots. Council Member Stone said he appreciated the work done by Kate Rumely and all the money she brings to Sanford with her building projects. He said that what makes this project different is that it is not a one-house home ownership project for the needy but a housing complex for the needy. He felt that the money for taps could have been taken from the grant money received for the project. He feels that with the economy the way it is, he has concerns with how they hand out money. Council Member Williams said that perhaps the television audience needed clarification. He stated that Brick Capital has built an apartment house where there was a house before and the water and sewer taps were already there, but the building code has changed and they have to put in a sprinkler system which requires another tap. This was not foreseen when they got the grant money. They are asking us to waive the fees for that extra tap. Mr. McNeil

said this is not a new venture for Brick Capital. He said the first venture they had with Brick Capital was apartments on Dalrymple Street. Council Member Brewer said this project does for Sanford what all their projects do. It takes a blighted area and reconditions that area. It will serve as a home for six people with disabilities and will add to the tax base. Mr. Williams complimented the manner in which Brick Capital homes are maintained. Mayor Olive said consideration goes to them for what they have added to the tax base through home ownership and for the materials that are bought locally. She complimented how they are maintained. Mr. Mann said the key issue here has been avoided. He said the fact that it is supportive housing for people with disabilities is what makes it valid. He feels we need to support it.

Following the discussion, the motion passed five to two, with Council Members Stone and Taylor casting dissenting votes.

Consider Time Limit Extension for Mayberry Subdivision – (Exhibit O)

Planner II Amy McNeil stated that the planning staff has received a formal written request from Mr. Charles M. Brittain, an attorney representing the developers of Mayberry Subdivision to extend the time for expiration of the approved preliminary plat for this subdivision. Mayberry Subdivision is a 72-lot residential neighborhood to be developed on 49± acres zoned R-20. The minimum lot size is almost half an acre. The largest lot size is almost three acres. It is to be served by public water, public sewer, and public streets. The property is located north of Whip-poor-will Lane and south of Kelly Drive. Approximately half of this tract is located within the corporate limits of the City of Sanford and half of this tract is located within the City's Extra-Territorial Jurisdiction (ETJ). The design as proposed appears to meet all the development standards of the UDO, with the exception of the required second entrance for all major residential subdivision of thirty or more lots. The developer, at the time of approval, addressed this issue by presenting to Council a copy of an agreement between the adjoining property owners and the developer for the construction of a road which would connect this subdivision to Kelly Drive and thus create the second entrance. Subsequently, the preliminary plat for Mayberry Subdivision was approved by the Sanford City Council on April 3, 2007, conditional upon all of the property proposed as part of the subdivision be successfully annexed into the corporate city limits and that the road across the Campbell property, which creates the connection to Kelly Drive, be bonded or installed prior to the final plat for the subdivision being recorded.

Ms. McNeil further explained that a preliminary plat is valid for two years after the approval date. If the final plat is not approved by staff and recorded with the Lee County Register of Deeds Office within this time period, the approval will become void. To this date, the final plat for this subdivision has not been recorded and the preliminary plat will expire on April 3, 2009. There is a provision within the UDO which allows the City Council to grant an extension to be made upon receipt of a written request that states the reason(s) that the applicant/developer has been unable to proceed within the period of the original expiration date. The extension period requested must be no longer than the original period of time granted (in this case, two years) and the governing body shall determine whether any applicable changes in land use regulations have occurred which would impose new requirements with respect to such action. The subdivision regulations do not appear to have been amended in any way that would

affect the design of this preliminary plat. Copies of the formal written request and the approved preliminary subdivision plat are contained in Exhibit O.

Developer of the Subdivision, Israel Lucas of 4432 Fox Run Road, apologized to Council for having to ask for this extension. The major condition for completing the subdivision that he has been unable to meet is the secondary road. He thought he had it addressed when he and his partner Stephen Cox purchased the land from the Campbell family. The family promised that if he purchased the land at their price, they would build him a road. They still own the land that adjoins his, and their land goes to Kelly Drive. He had their word, a handshake, and their signature that if he paid them in full, they would build the road within a completion time of last September. He has written them letters as far back as two years ago after they had been paid in full, telling them the developers were ready for the road. He said his letters have been ignored. He sent certified letters and had local attorney, April Stephenson, send a letter. There has been no response. As the deadline approached, he was able to track down Mr. Robbie Campbell and Mr. Campbell assured him that it would get done—that his brother was just waiting to the last minute. It did not get done, and Mr. Lucas stated he has done everything he knows to get the road in. He asked them for his money back or to put the road in. Mr. Lucas has hired an attorney and filed suit. He does not know why they have not put the road in. He is hoping for an extension. He expects the trial date to be sometime in the summer. He is hoping that the Campbells will put the road in or that the courts will make them put the road in. He would like to be in the position that if the road is put in, he would have the option to go ahead and start construction. He assured Council that he has full intentions of putting the subdivision in and he has the resources; he just didn't have another road to get out. He said he would understand if Council denied his request, but he would appreciate a two-year extension. Hopefully, during that time the road would be put in.

Mayor Pro Tem Martin said he was sorry that Mr. Lucas had to be here tonight and he is sorry that happened to him; Mr. Martin hopes things work out for him.

Council Member Charles Taylor made a motion to extend the time limit two years for Mayberry Subdivision; seconded by Council Member Mike Stone, the motion passed unanimously.

Consider Presentation by the Sanford Police Department

Major Kevin Gray introduced a new program in the Sanford Police Department that is being launched tonight. He referenced the crime line that was established in the 1980s and was developed for citizens to call the Police Department and give information on crimes. Over the years, it has dwindled down. The new program is text messaging to the Police Department and it is 100 percent anonymous. Major Gray located a company, Tip 411, in St. Paul, Minnesota, called Citizen Observer. Major Gray says that posters and business cards will be distributed with this information. He explained the process for sending the text message. On the first line, you would type in "TIP411" or 847411. On the next line, you would type 919SPD or 919773. Then you put your message in and transmit it. The message goes to the Citizen Observer data base in St. Paul, Minnesota, instantly. The data base picks up the information, reads where it is supposed to go, removes any information of the sender, and instantly sends a designated email that a text message has come in. The Police Department will go to the data base with a password

and pick up the information, read it, and write back with questions to the sender if they are willing to receive it. If not, then they cannot ask questions. The sender has the option of responding back to the Police Department as many times as they wish. He played the commercial, narrated by Police Officer Marshall Cameron, for Council to view. The TIP411 line is not intended for an emergency in progress. This is just for relaying information on something that has happened earlier. Major Gray emphasized that the number to dial for emergencies is still 911.

Council Member Taylor asked if Citizen Observer would send us monthly numbers about use. Major Gray said he should be able to provide that information. City Manager Hegwer stated that he thought this was a program many people who would not make a phone call might use to give information on a crime.

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

OTHER BUSINESS

Council Member Taylor thanked the Police Department for their assistance in an incident in Ward 2. He feels their response time saved someone's house from being broken into.

Mayor Olive said that the new U. S. Attorney General has a billion dollars in grant money to pay for 5500 more police officers, and he is encouraging city leaders to apply on line at the Justice Department website. The grants pay up to three years for a new police officer. Mayor Olive said she would pass the information on to Major Gray or the Chief of Police.

City Manager Hegwer stated that the Housing Board of Appeals did make a decision to grant a sixty-day extension on the issue involving a gentleman who was cited for having chickens on his property.

Council Member Brewer asked if council could decide by their next meeting if we want to pursue chickens or not. He thinks a consensus is needed on which way we want to go. Mayor Olive stated that it would be on the agenda.

CLOSED SESSION

City Attorney Susan Patterson read the motion to go into closed session in accordance with North Carolina General Statutes 143-318.11a(3) to consult with the attorney to preserve the attorney-client privilege.

Council Member Steve Brewer made the motion to go into closed session. Seconded by Council Member Walter McNeil, the motion passed unanimously.

RETURN TO REGULAR SESSION AND ADJOURNMENT

Following the closed session and with no further business to come before the council, the meeting was adjourned on motion of Mayor Pro Tem Joe Martin; seconded by Council Member Steve Brewer, the motion carried unanimously.

Respectfully submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

Bonnie D. White, City Clerk