

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 17, 2009, at 7:00 P.M. The following people were present:

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

Absent:

Council Member Linwood S. Mann, Sr.

Mayor Olive called the meeting to order. Council Member James Williams delivered the invocation.

**PUBLIC COMMENT** – (Exhibit A)

Donnie Oldham, residing at 2412 Brookwood Trail spoke. He is concerned over the possibility of the way the award will be handled on the Endor Iron Trail Furnace. On behalf of the many employees he has that live in Sanford, he appreciates the opportunity to speak. Mr. Oldham said that he met with City Attorney Susan Patterson, Public Works Director Vic Czar but he has not been able to speak with everyone on the Council. There has been a lot of talk about how the apparent low bidder was pre-qualified by the State. The facts are the City of Sanford bid this project not the North Carolina Department of Transportation (NCDOT). The request of bids came from the City of Sanford. The requirements in the bid documents are the requirements that the City of Sanford makes, not the NCDOT. Mr. Oldham stated that the NCDOT rules, as far as the awards go, do not apply to this situation. The DOT is a funding source for the project but it is not acting as the owner; the City of Sanford is acting as the owner. Mr. Oldham added that if this was a D.O.T. project, the requirements that the D.O.T. has, if you do not follow those requirements, your bid is rejected. He said it has happened to them. Mr. Oldham said that Mr. Weeks said in last week's Law and Finance Committee meeting, that the Authorization to Execute, which is what the low bidder did not turn in, was a requirement. Mr. Oldham advised that on page 8 of the bid form, it states that these are attachments to this bid; the following documents are attached to and made a condition of the bid which are: Section 340 Non-Collusion Affidavit, Section 350 – Authorization to Execute Contract, Section 420 – Bidder's Qualification Forms, Section 430 – Bid Bond, and 430 Power of Attorney for Bid Bond. The part of the bid documents that the apparent low bidder did not turn in is the Section 350 – Authorization to Execute Contract. The City at the bid opening had a checklist and in the checklist there is a check for Authority to Execute the Contract. Mr. Oldham asked, "Does the City of Sanford and Council follow the rules that you make and do the requirements that are requirements, whether it be a bid bond or anything else, do they stay a requirement throughout

the process or if it's convenient or beneficial to the City do they suddenly become an irregularity or informality.”

### **APPROVAL OF AGENDA**

Mayor Pro Tem Joseph Martin requested to consider a possible resolution in support of the Endor Iron Furnace as a State Park to the regular agenda. On motion of Council Member Charles Taylor, seconded by Council Member Mike Stone, the amended agenda was approved.

### **CONSENT AGENDA**

Approval of Law and Finance Committee Minutes Dated September 30, 2009 – (Filed in Minute Book 72)

Approval of Law and Finance Committee Minutes Dated October 14, 2009 – (Filed in Vault)

Approval of City Council Meeting Minutes Dated October 20, 2009 – (Filed in Minute Book 72)

### **Approval of Capital Project Ordinance Amendment to Close Sewer Capital Project – (Exhibit B)**

Capital Project Ordinance Amendment was approved to close the sewer rehabilitation capital project. This appropriates the final interest income of \$613 and transfers the remaining balance of \$2,434 to the Little Buffalo Capital Project. This amendment closes this project on the books.

### **Approval of Capital Project Ordinance Amendment to Close Little Buffalo/Northview Lift Station Improvements Project - (Exhibit C)**

Capital Project Ordinance Amendment was approved to close the Little Buffalo Northview Lift Station Project and this reflects the \$3,047 coming from the closeout of the sewer rehab project and reduces the Utility Fund contribution. This amendment closes this project on the books.

### **Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 – (Exhibit D)**

Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 was approved. The ordinance appropriates \$17,454 received for the 2009 JAG Grant NO. 2009-DJ-BX 1474. The funds will be used to purchase strobe lights for unmarked police vehicles and training for the City and County of Lee will receive \$8,727 to purchase laptop computers and portable printers. It also appropriates insurance funds received in the amount of \$32,616 for wrecked and total loss vehicles. This money will be used for repair of damaged vehicles and purchase of new vehicle to replace a total loss vehicle.

### **Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 – (Exhibit E)**

Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 was approved to appropriate revenue received for fence repair at the WWTP.

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 – (Exhibit F)

Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 was approved to appropriate \$60,000 required for legal fees for various projects.

Approval of Municipal Agreement with Department of Transportation for Inspection of Bridges on the Municipal Street System – (Exhibit G)

Municipal Agreement with Department of Transportation for Inspection of Bridges on the Municipal Street System was approved. The agreement is for inspection of two bridges in the city limits at an estimated cost of \$520 per structure, totaling \$1,040.

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 – (Exhibit H)

Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 was approved to appropriate \$5,500 for renovation of two existing brick “Sanford” signs.

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 I)

County Extension Director Susan Condlin introduced Katie Heldt, a member of the 4-H Barn Busters and Larry Long, Chairman of Farm City Week and past president of the Kiwanis Club of Sanford.

Ten-year old Katie Heldt spoke about why agriculture is important to the North Carolina economy. She advised that agriculture, including timber, is North Carolina’s top industry. Farmers feed families fresh fruits, vegetables, cheeses, milk, and meats. They also provide lumber for our homes and jobs in many rural communities. She gave a breakdown of how every dollar a person spends on food is broken down – 19 percent goes to the farmer; 38.5 goes to labor; 12 percent goes to advertising; 7.5 goes to transportation; and 23 percent goes to other.

Larry Long invited Council Members to the Farm-City banquet on Monday night and to a tour of a couple of farms on Tuesday morning at 7:30 A.M., meeting at the McSwain Center.

Mayor Olive read the proclamation proclaiming Farm-City Week November 20-26.

**CASES FOR PUBLIC HEARING**

Petition by Phu Tran, Faye Cameron of Broadway Realty and Peggy G. Sorrell - to rezone 14.78+/- acres at 2631, 2633 & 2639 Mt. Pisgah Church Road from Residential Single-family (R-20) district to Light Industrial (LI) district. The property is the same as depicted on Lee County Tax Map 9661.02 & 9662.04, Tax Parcels 9661-89-4926, 9661-89-3883 and a portion of 9661-89-6644 Lee County Land Records. The property is also all of Lots 1 & 2 of the “Survey for Tom Hardy & Grace Hardy” recorded in Plat Cabinet 5, Slide 123, Lee County Registry of Deeds and a portion of Tracts 1 & 2 and Lots 3, 4 & 5 as illustrated on the “Survey for Bobby F. Sorrell” recorded in Plat Cabinet 7, Slide 51F, Lee County Registry of Deeds. – (Exhibit J)

Planner II Amy McNeill explained that in October of 2009, Mr. Phu Tran approached planning staff regarding an interest in purchasing 2631 & 2633 Mt. Pisgah Church Road with the intent to develop a commercial business at one or both of these locations. Staff advised Mr. Tran that both tracts would be required to be rezoned in order to be redeveloped in the manner proposed.

Also around this time, a local realtor interested in marketing 2639 Mt. Pisgah Church Road contacted planning staff regarding the dual zoning of the property. Upon consideration of the information provided by planning staff, the property owner (Ms. Peggy Sorrell) decided to join Mr. Tran's request to rezone the property; thereby creating one request to rezone a total of 14.78+/- acres from Residential Single-family (R-20) to Light Industrial.

The subject property is comprised of three separate tracts of land located west of Mt. Pisgah Church Road and east of Cox Mill Road, which total 14.78+/- acres. Tract #1 (9661-89-4926) is a 1.54 acre lot with approximately 151 feet of road frontage on Mt. Pisgah Church Road and is developed with a single-family residence addressed as 2631 Mt. Pisgah Church Road. Tract #2 (9661-89-3883) is a 1.24 acre lot with approximately 117 feet of road frontage on Mt. Pisgah Church Road and is developed with a single-family residence addressed as 2633 Mt. Pisgah Church Road.

Tract #3 (9661-89-6644) is a 14.42 acre lot with approximately 488 feet of road frontage on Mt. Pisgah Church Road and 492 feet of road frontage on Cox Mill Road. This property is developed with a tobacco warehouse, which is addressed as 2639 Pisgah Church Road and is currently in use. Please note that even though this lot totals 14.42 acres, there is 1.22+/- acres of this parcel already zoned Light Industrial and is therefore, not included within the rezoning request. Also, 1.28 acres is located within the jurisdiction of Lee County and is therefore, not included within this rezoning request.

The site is currently served by public water & private septic systems. Public sanitary sewer is in the area and may be extended by the developer in the future.

The subject property is currently zoned Residential Single-family (R-20), which is established to provide areas for low-density single-family uses. It includes density and minimum lot size requirements in order to allow for market and design flexibility while preserving the neighborhood character.

The request is to rezone to Light Industrial, which is established to provide for areas that contain a mix of light manufacturing uses, office park and limited retail & service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible with adjoining uses. The Light Industrial districts should include areas which continue the orderly development and concentration of light industrial uses and should be located so as to have direct access to or within proximity to a major or minor thoroughfare. A list of permitted uses for the Light Industrial zoning district is included within the agenda for Council's reference.

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 held a neighborhood meeting on November 5, 2009, to allow discussion of this proposed rezoning. Five neighbors attended the meeting and posed various questions; however the only concern noted was to verify with planning staff that when/if the property is rezoned, there will be landscaping.

Ms. McNeill advised that staff recommends that the Planning Board & City Council support the petition to rezone from Residential Single-family (R-20) District to Light Industrial (LI) District. This rezoning request appears to be reasonable and in the public interest based on the proximity of other industrial uses in the area (such as Moen & Coty); the proximity of the site to US Hwy 421 (which is a major thoroughfare); the fact that there is an existing warehouse already developed on the site of 2639 Mt. Pisgah Church Road; and the fact that 1.22 acres of tract 3 is already zoned Light Industrial. However, information as presented at the public hearing may provide additional information that should also be considered regarding a final decision on the requested zoning map amendment.

Mayor Olive opened the public hearing. Faye Cameron, operator of Broadway Realty, spoke in favor. She has been a part of the Twin City Warehouse since they purchased the property in 1982. When the City annexed them in, a portion of their warehouse became Light Industrial and they thought it was all zoned LI and they would like to bring all the property into one conforming use. Mr. Sorrell passed away in April and his widower, Peggy Sorrell, would like to start marketing the property and it would be advantageous to her for it to be rezoned the same.

Phu Tran, residing at 311 West Hampton Avenue in Broadway spoke in favor. He has two lots, 2631 and 2633 Mt. Pisgah Church Road, that he would like to be rezoned to Light Industrial. He wants to open a machine shop.

With no one speaking in opposition, the public hearing was closed.

Petition by Mark Lyczkowski of CRD Investors, LLC - to rezone 251.5+/- acres from the current Barrington Park Conditional Zoning District (Design #3) to Barrington Park Conditional Zoning District (Design #4) an area of land located along the southern side of Commerce Drive in the South Park business park. The conditional zoning district will include a mix of single-family detached homes, town homes, apartments, as well as non-residential uses such as office-institutional and retail commercial uses. The property is the same as depicted on Tax Map 9660.01, as Tax Parcels 9660-18-0558-00, 9660-18-4369-00, 9660-37-6982-00 (part of), 9660-16-7151-00, 9660-15-0255-00, 9650-97-8129-00, 9660-17-4311-00, 9650-98-9031-00, 9660-07-7574-00, Lee County Land Records Office.- (Exhibit K)

Planner II Amy McNeill explained that the developer is proposing to revise the Zoning Master Plan for the Barrington Park Conditional Zoning District. This is a site plan specific zoning district; therefore, all changes to the master plan must be approved by the City Council.

This rezoning petition requests to revise the approved design for the “North” part of the project only and adds no additional acreage to the overall approved development.

Specifics regarding the changes to the design within each tract are provided on page 51 of your agenda. In summary, there is less acreage now dedicated to the smaller residential lot sizes and more acreage now dedicated to the larger residential lot sizes. There is approximately the same amount of acreage dedicated for development as offices, institutional, neighborhood commercial, assisted living, retirement community, townhomes, and multi-family residential. There are now 6+/- acres added to the open space and recreation areas. The main change appears to be the redesign of the entryway off of Commerce Drive into the development, which eliminates the “Village Green” concept and replaces it with a traffic circle/round-about design.

She explained that the 2020 Land Use Plan Map has identified this area for “Industrial-Commercial-Office” and “Industrial Park”. The development of this site as a mixed-use project with a significant portion set aside for residential use and would deviate from the recommendations of the 2020 Land Use Plan; however, as indicated in the prior rezoning reports for the Barrington Park Conditional Zoning District, there appears to be a persistent lack of interest in industrial development in this area since the original approval of the South Park Center Business Park in 2000.

Staff recommends that the Council & Planning Board support the petition, as it appears that the developer is attempting to refine the concept that was previously approved. Staff makes this recommendation with the condition that no development shall occur unless or until the developer submits modified conditional zoning petitions with specific design standards identified for the individual phases within the project.

This conditional zoning request appears to be reasonable and in the public interest based on the information/conditions as presented in the conditional zoning petition. As noted in the prior rezoning reports, the request does appear to deviate from the recommendations of the 2020 Land Use Plan; however, the petitioner has indicated that the conditional zoning project as requested is the highest and best use based on current market trends and due to prolonged lack of interest in industrial/business development in this park.

As a reminder, the conditional zoning process is a negotiated zoning process and, as such, the Council and/or Planning Board may request that certain conditions be considered or altered. However, the petitioner must accept such conditions before inclusion in the conditional zoning district.

Also, information 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.

Norman Block, representing CRD Investors, spoke in favor. Mr. Block explained that the reason they are back tonight with some proposed changes, is that since January, their

development team has worked with more than a half of a dozen banks trying to secure a Phase I development loan for the project. Phase I, as is currently approved, calls for them to build a considerable portion of the Office and Institutional Commercial property during Phase I of residential. In talking with the banks that they have spoken with this year, they have found out that the rules of development and banking have changed dramatically. Four of the banks they talked to voiced a very strong opinion to them that there was a problem with their first phase plan in that there was approximately \$2 million of road construction to build what they have called Barrington Parkway. They deal with commercial loans and development all the time and they say, in their opinion, there is not going to be a market for commercial office or retail in the near term. He attended a conference in Raleigh a week ago in which the economist of the Triangle Region were saying it is going to be at least 2012 before commercial property and retail property comes back. The banks have said to them that there would not be a significant demand for retail and commercial at the Barrington Park site until the properties that are already in existence in front of Wal-Mart have been sold and developed and until the 421 Bypass has been completed. By the Department of Transportation's current plan, it is going to be mid 2012 at best before the bypass will be tied in. The banks are saying and the bypass is saying there is not going to be a demand for retail, commercial, and office before the completion of the bypass in 2012. Therefore, they cannot finance the \$2 million worth of construction to begin that bypass. Mr. Block said that they have all told them if they want to begin the project, they have to go back and redesign Phase I to focus on the residential setting.

Mr. Block said they have made the change by having an entry off of Commerce Drive. They have taken this project to several consultants that are nationally respected and met with some very experienced developers that have done a lot of mixed-use projects. They have changed and moved the entry way from almost two acres of lawn area as you come into the project and replaced with a traffic circle which is sketched as shown on the maps. The feedback from the developers and consultants in regards to safety said it was an inappropriate place to put the lawn area because it was in the middle of the main entry road coming into the residential section. They painted a picture for them of children trying to cross the street and mothers with small children trying to cross the street for a ball getting loose and rolling into a very busy road. They were against that design element. If you look at the overall sketch proposed, they have taken the lawn area in the Village Green and moved it to be beside the pool and recreation area. This new plan has more open space and park area than the original plan and added larger lots. Regarding density and change in concept, there has been no change in concept. They are trying to deal with the reality of the new financing situation. The essence of the redesign is only the portion off of Commerce Drive coming in from Commerce Drive to the recreation center and branching the parkway off from there. They have lined the entryway up with the entryway into the rehabilitation center that is directly across the street. They have designed the entry boulevard so that there are no houses or driveways backing up to that important corridor and facilitate safety with crosswalks and landscaping. It still has the same number of lots as approved in Phase I.

With no one speaking in opposition, the public hearing was closed.

*The Planning Board retired to the West End Conference Room.*

**REGULAR AGENDA**

**Consider Waiver of Informality and Adoption of Resolution to Award Endor Iron Furnace Trail Project – (Exhibit L)**

City Engineer Paul Weeks explained that on October 22, they opened bids for the Endor Iron Trail Furnace project. Narron Contracting was the apparent low bidder. Staff reviewed all of the references of Narron Contracting and found them to be acceptable. They reviewed the bid package and found one inconsistency being as they did not submit an Authority to Execute as required by our bid documents. Staff contacted the Department of Transportation (DOT). This project is funded mainly in part by the DOT and Federal Highway. It also has ARRA funds involved in it as well. The DOT requires that all contractors be pre-qualified; it is a DOT requirement. That prequalification step serves as an Authority to Execute. The officer listed in that procedure is authorized to sign a contract with DOT. Therefore, because the contractor is pre-qualified by DOT, we feel that our requirement for Authority to Execute is redundant and unnecessary. We also feel that it should be waived as an informality. Our specifications allow us to waive informalities in any case that are beneficial to the City and where it does not provide a material benefit to the contractor. This resolution is to award the Endor Iron Furnace Trail project to Narron Contracting and affirm the decision to waive the informality.

Mayor Olive asked what was the low bid? Mr. Weeks replied it was \$1,207,152.18.

Council Member Stone stated that he would like to say that they have all struggled this week as they have went forward with this particular bid because it touches so many people in our local community. He read the contracts and he found Article 19 that says the owner also reserves the right to waive all informalities not including price, time, changes in work, and negotiating contract terms with the successful bidder. He said everybody in the room also feels that we need to put our local people to work and he is concerned about the timeline. He asked what is the timeline? Mr. Weeks replied that we have to have a project that has been awarded by December 31. The overall timeline is that once Council approves a contractor for this particular project, we will submit all our information to the DOT. We will only enter into a resolution to award contingent upon DOT approval. The DOT will review the package and make a recommendation as well and theirs will be final. If they approve it, all we have to do is enter into the contract. We have until December 31 to enter into a contract and issue a Notice to Proceed to the Contractor; otherwise, we could lose the ARRA funding.

Mr. Stone asked what was the difference between the low bid and the second bid. Mr. Weeks replied the difference between Narron Contracting and second low bid was \$194,623.22. Mayor Olive asked Mr. Weeks if he had any ideas to why there was such a broad separation. Mr. Weeks replied that we they looked at the itemized bid tabulation, the big difference fell in the structures. We have some concrete culverts, a bridge, and a retaining wall.

Mr. Williams asked what is the City's portion to fund. Mr. Weeks replied \$170,000. To date, we have spent \$65,000, most of that is reimbursable. At this point in time in budget, we have approximately \$1,290,000.

Council Member Mike Stone made the motion to waive the informality and award the contract to Narron Contracting. Seconded by Council Member Walter McNeil, Jr., the motion carried with a five to one vote. Mayor Pro Tem Joseph Martin cast the dissenting vote.

Consider a Possible Resolution in Support of the Endor Iron Furnace as a State Park – (Exhibit M)

Mayor Pro Tem Joseph Martin and Council Member Mike Stone have talked about this issue before the meeting. They felt it would be appropriate to pass a resolution in support of the Endor Iron Furnace Trail being a state park. Mayor Olive commented that Worth Pickard has worked tirelessly on this issue to preserve this rare monument.

Mayor Pro Tem Joseph Martin made the motion to adopt a resolution in support of the Endor Iron Furnace as a State Park and have staff to draw up the resolution in support. Seconded by Council Member Steve Brewer, the motion carried unanimously.

Recognition of Mayor Pro Tem Joseph Martin and Council Member Stephen Brewer for Their Service to the City of Sanford

Mayor Olive read the plaques that were presented Mayor Pro Tem Joseph Martin and Council Member Stephen Brewer plaques for their service to the City of Sanford. Mr. Martin thanked the citizens for allowing him to serve the City of Sanford for the last sixteen years and thanked his family and council members for their support during his tenure. He said the City of Sanford has some of the most dedicated employees that anybody could have.

Mr. Brewer also thanked all the employees, his wife, and his family for their support. He stated that he appreciated all the Council Members and was glad to be a part of the Council.

Mayor Olive announced that a reception will be held in the lobby for Mr. Martin and Mr. Brewer immediately following the Council meeting.

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

**OTHER BUSINESS**

Council Member Walter McNeil announced that the City of Sanford has won another award for its participation in National Night Out. This year, 36.7 million people from 50 states were involved with National Night Out. He thanked staff, Council Members, and City Clerk Bonnie White for the work that was put into making National Night Out a success.

Council Member Walter McNeil thanked Mr. Martin and Mr. Brewer for their service on the Council. Mr. Stone echoed Mr. McNeil's comments.

Council Member Charles Taylor mentioned that Council Members McNeil and Council Member James Williams, Mayor Olive, and City Manager Hal Hegwer and he attended the National League of Cities show last week. He is looking forward to present some of the results from the seminars and presentations. Mr. Taylor echoed Mr. McNeil and Mr. Stone's

comments. Mayor Olive asked the families of Mr. Martin and Mr. Brewer to stand in the audience. She recognized former City Manager Leonard Barefoot in the audience also.

Attorney Patterson thanked Mr. Martin and Mr. Brewer for the opportunity to serve this Council while they were members. She stated that much of the improvements to the City have their fingerprints on them. Mrs. Patterson added that no one member accomplishes anything but the Council as a whole does, but their service and ability to bring forth things that have allowed the citizens to improve their quality of life are appreciated.

City Manager Hal Hegwer announced that the Law and Finance Committee meeting will be held Monday, November 23, at 1 P.M., in lieu of Wednesday, November 25 due to the Thanksgiving holiday. He also announced that the City Council, the Town of Broadway Board of Commissioners, and Lee County Board of Commissioners will meet with the Lee County Economic Development Board on Thursday, November 19, at 6:00 P.M., at the Ruby and Ernest McSwain Extension and Education Agriculture Center to discuss the EDC's role in the City and County in the future.

Mr. Hegwer stated that it has been very rewarding to work with Mr. Martin and Mr. Brewer and appreciated their support for staff and him.

**ADJOURNMENT**

With no further business to come before the council, the meeting was adjourned on motion of Mayor Pro Tem Joseph Martin; seconded by Council Member Steve Brewer, the motion carried unanimously.

Respectfully submitted,

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CORNELIA P. OLIVE, MAYOR

ATTEST:

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BONNIE D. WHITE, CITY CLERK