

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, February 16, 2010, at 7:00 P.M. The following people were present:

Mayor Pro Tem Mike Stone	Council Member Linwood S. Mann, Sr.
Council Member Sam Gaskins	Council Member James G. Williams
Council Member Charles Taylor	Council Member Walter H. McNeil, Jr.
Council Member L. I. (Poly) Cohen	City Attorney Susan C. Patterson
City Manager Hal Hegwer	
City Clerk Bonnie D. White	

Absent:

Mayor Cornelia P. Olive

Mayor Pro Tem Mike Stone called the meeting to order. Council Member Charles Taylor delivered the invocation.

PUBLIC COMMENT

No citizens signed up to speak.

APPROVAL OF AGENDA

City Manager Hal Hegwer requested to add an item to the Special Agenda - Special Recognition by the Sanford Police Department and under the Regular Agenda – Consideration of a Fit Community Grant.

On motion of Council Member Charles Taylor, seconded by Council Member James Williams, the amended agenda was approved.

CONSENT AGENDA

Approval of Law and Finance Committee Minutes Dated November 23, 2009 - (Filed in Minute Book 73)

Approval of Law and Finance Committee Minutes Dated January 13, 2010 – (Filed in Minute Book 73)

Approval of City Council Retreat Minutes Dated January 20, 2010 – (Filed in Minute Book 73)

Approval of City Council Minutes Dated February 2, 2010 – (Filed in Minute Book 73)

The consent agenda items were approved upon motion of Council Member Walter McNeil, Jr. Seconded by Council Member Linwood Mann, the motion carried unanimously.

SPECIAL AGENDA

Sanford Police Chief Ronnie Yarborough stated that he wanted to take the opportunity to welcome back Officer Scott Norton to work. Today was his first day back to work performing light duty. Officer Norton, in the early morning hours on December 20, 2009, while working a high crime area in Sanford, was shot four times and Captain Genthe was with him on that occasion. They were fired at and Officer Norton was struck four times. He wanted to acknowledge the work that these gentlemen have done and the dangers that they put themselves in daily for the citizens of Sanford. He was working an area where there were reported armed robberies. He said that these gentlemen are the only line of defense that the public has from violent criminals that commit criminal acts in Sanford. Officer Norton was in the hospital for a while and received severe injuries. Chief Yarborough said that he was very proud of these gentlemen and of the work they do. Council gave a standing ovation.

CASES FOR PUBLIC HEARING

Petition by Carlos Calleb Villalobos of Ministerio Bethel, Inc. - to rezone 5.09 acres+/- developed as Bethel Ministries Church and addressed as 622 Bragg Street from Residential-Mixed (R-12) Zoning District to Office & Institutional (O&I) Zoning District. The property is the same as depicted on Tax Map 9652.06, as Tax Parcel 9652-29-9489 Lee County Land Records. The property is also the same as the 5.09 acre lot illustrated on "Survey for Mennonite Church" recorded in Plat Cabinet 9, Slide 25F, Lee County Registry of Deeds. – (Exhibit A)

Planner II Amy McNeill advised that in January of 2010, Mr. Carlos Villalobos approached planning staff on behalf of Bethel Ministries Church inquiring into the regulations regarding the installation of a new sign. They would like to install a changeable copy electronic reader board at the church. Staff informed Mr. Villalobos that the church property was zoned Residential-Mixed (R-12) and that permitted the church but it did not permit the type of sign he was interested in. Since the site was already developed as a church (which is not a residential use) and given the large amount of commercial zoning in the area (which includes two adjoining lots zoned Office & Institutional), staff presented the option of requesting that the property be rezoned to a more appropriate zoning district. After reviewing the information provided and consulting with planning staff regarding the rezoning process, Mr. Villalobos decided to pursue the rezoning of the property.

The area requested for rezoning is a triangular shaped parcel of land located opposite the intersection of Bragg Street & Clearwater Drive. The lot is approximately five (5.09+/-) acres in size with 735.43 feet of road frontage on Bragg Street. The site is developed with one building that is addressed as 622 Bragg Street, which serves as Bethel Ministries Church. She referred Council to the map created by staff in their agenda packets and on the screen behind the Council Members for clarification.

The adjacent zoning to the North is General Commercial (C-2); to the South is Residential-Mixed (R-12); to the East is General Commercial (C-2) and Office & Institutional (O&I); and to the West is Office & Institutional (O&I).

Ms. McNeill explained that the site has access to public utilities and is currently zoned R-12 which permits a wide variety of residential uses and also permits churches. Regarding

public utilities, a 16-inch public water main and an 8-inch public sanitary sewer main are located in the right-of-way of Bragg Street in the area of the subject property. A list of permitted uses for the Residential-Mixed (R-12) District is included within Council's agenda on Pages 29 and 30 for Council's reference.

The request is to rezone to Office & Institutional (O&I) District, which is established to provide for a wide variety of office institutional type uses. A list of permitted uses for the Office and Institutional (O&I) zoning district is included on Pages 30 -34 of Council's 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.

Planning staff recommends that the Planning Board and City Council support this rezoning petition. This recommendation is based on the fact that the site is already developed as a church (which is not a residential use) and given the large amount of commercial zoning in the area (which includes two adjoining lots zoned Office and Institutional) and would therefore continue an established pattern of commercial zoning that exists on surrounding properties. 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 Pro Tem Mike Stone opened the public hearing. Mr. Carlos Villalobos, pastor of the church spoke in favor of the petition. He lives at 214 First Street in Broadway, North Carolina. He said he was present to answer any questions Council may have.

Council Member Williams asked if the site is used for anything else other than a church and a soccer field. Mr. Villalobos replied that they want to erect a new sign to let the community know what is being offered. The church has different programs for children such as a soccer tournament for children, ESL classes (English as a Second Language), and has a food bank that is offered to the community.

Council Member Taylor asked if they have any long-term plans for building purposes and any expansion anticipated in the near future. Mr. Villalobos replied yes; they would like to build a second educational building for Sunday School classes within the next year or so.

No one spoke in opposition. Mayor Pro Tem Stone closed the public hearing.

The Planning Board retired to the West End Conference Room.

Public Hearing Regarding Participation in the Extended Urban Archery Season Within the City of Sanford City Limits – (Exhibit B)

Mayor Pro Tem Stone stated that the public hearing is regarding participation in the Extended Urban Archery Season within the City of Sanford city limits. Mayor Pro Tem Stone opened the public hearing.

Joseph Nabonne, residing at 604 Hawkins Avenue, spoke in favor of participation. He said that he was a wildlife biologist at the Fort Bragg Wildlife Branch. He is also a hunter education instructor for the State of North Carolina. Mr. Nabonne stated that bow hunting for deer is a viable and ethical means of controlling deer population. They use deer spot light counts to establish the size of their deer herds. With the implementation of hunter education, they have shown that there is a reduction in hunting accidents over the years. He felt that a proficiency test showing competency with a bow would be a great means of controlling the deer population within the City of Sanford.

Randall Byrd, residing in Lillington, spoke in favor of participation. He is a corporal with the Harnett County Sheriff's office. He owns approximately sixteen acres of land in Sanford and leases 76 acres in Sanford. He has been hunting in Sanford for approximately eight years. Mr. Byrd said that he was very responsible and never had a complaint with hunting. He felt there should be a minimum size to the land to be hunted, probably eight to ten acres. Mr. Byrd said that it would be appropriate to have some guidelines for a permit to be issued.

Willard Garren, residing at 700 North Franklin Drive, spoke in favor of participation. He said that he has a herd of deer in his neighborhood. There have been between eleven and thirteen in his yard at one time. They rarely see one deer at a time but maybe six. They are accustomed to humans and are hard to scare away. The deer just stand and look at him; they have even snorted at him. He has tried to have a garden; however, last year, he did not harvest any fruit or vegetables except for peppers. He is concerned about disease, safety, and destruction of his property. He has contacted the Wildlife Commission, the city manager, N. C. Biologist and the mayor each year. Mr. Garren stated that he has tried all home remedies to keep the deer away and nothing works. He would appreciate any consideration given to remedy the deer population.

Ken Coldren, residing at 912 Botany Woods Drive, spoke in favor of participation. He has been a hunter for 27 years. The damage from the deer is in the high numbers because the shrubs and flowers are not cheap. The only thing keeping the deer out of his back yard is his dogs. It is a small area to hunt. If you can be in an elevated position, you can take and legally harvest the animal correctly. There will be issues with the animal running into somebody else's property to pass away. There will also be an issue with cleaning the deer inside the city limits. Deer are smarter than people think. He felt if the season can be extended it would be great.

David Eades, residing at 1113 Pendergrass Road, spoke in favor. He is with the F. L. Knight Hunting Club and there are about fifty members that own property inside and outside the city limits and they are for this proposal. He is a licensed North Carolina Safety instructor. He felt it would be ethical. Most hunters are hunter safety certified and had all their classes and permits; they are pretty familiar with the safe hunting practices of today's modern archery.

Joel Thomas, residing at 230 Temple Avenue, spoke in favor of participation. He is a certified hunter safety education instructor. Mr. Thomas said that he spoke with a gentleman today that hunted in Pittsboro and the gentleman said there were too many regulations on the extended urban archery season. Mr. Thomas stated that the hunter's certification should be the only qualification that a hunter needs to hunt. The law already exists to have written permission. He said that at the past wildlife district meeting, there was a proposal brought forth that if you do

not participate in the extended urban archery season, and you want decimation tags, then you have to have a written permit from the city manager to fill out and state why not. This is something council may want to consider. If you want a stipulation that would help get rid of the deer, then forbid the shooting of antler bucks, not does.

Mark Brady, residing at 1885 Airport Road, Whispering Pines, North Carolina, spoke in favor. He is the owner of Adrenalin Outdoors located at 2711 Jefferson Davis Highway. He is an archery shop owner and fishing goods retailer. He felt it is a good way to control the deer herd within the city limits. The archery equipment is advanced to the point where you can ethically take a deer. He said that the regulations in Pittsboro are way too stringent. Mr. Brady said that if a proficiency test is required, he would be glad to help out if we send people to his store.

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

Mayor Pro Tem Stone thanked the hunters for coming out tonight to speak. He said that he hoped that Council can render a decision in two weeks.

Council Member Taylor thanked the hunters also. He said that he has heard an enormous amount of experience in the safety realm and he would like to see a place at the table for some of these people that can provide the safety element of this extended urban archery program. He hoped that as guidelines are drafted, that we will seriously take into consideration having some of these gentlemen that have spoken tonight represented there to help offer more additional input, if needed.

Council Member Sam Gaskins thanked the hunters for their input. He stated that the recommendations for the proficiency test, the minimum area to hunt, and the recommendation for elevated hunting are things he needs to hear. Mr. Gaskins added that he does not know this information and he needs to if he is going to make these decisions. He said that their education would help him immensely, especially, if he can learn more about herd size. He read the articles about Pittsboro and the Governor's Club and stated that when you only remove six deer from Pittsboro, it seems like what is the point. He told the hunters to call him or email him because he needs their information.

Council Member Williams said he would be interested to know the herd size in Sanford as Joseph Nabonne in Fort Bragg spoke about earlier. Mr. Nabonne replied that they do spot light counts starting in August; they start about 9 P.M. – 10 P.M. and run to about 2 A.M. They count the number of deer in an area that they see and that helped establish their population. They use that information to determine how many bucks they wanted to take or how many does hunters can take. Bucks should not be a concern in this program. If you are going to allow archery hunting in the city limits, the focus should be on hunting does.

City Manager Hal Hegwer stated that the original draft is an ordinance that would allow participation in the Extended Urban Archery Season. It was written with very limited regulations and that was the way we started. We wanted input tonight. We also want to touch base again with the Wildlife Commission and get their input and come back with a

recommendation. If anyone wants to provide any additional input, to feel free to send those to the City and we will take it all into account.

REGULAR AGENDA

Consider Ordinance to Erect Stop Signs on Golden Horseshoe Lane at Quartermaster Drive and on Golden Horseshoe Lane at Quartermaster Drive - (Exhibit C)

City Engineer Paul Weeks explained that the ordinance allows stop signs to be erected within the Carthage Colonies Phase 4B at the intersection of Golden Horseshoe Lane and Quartermaster Drive.

Council Member Walter McNeil, Jr. made the motion to adopt the Ordinance to Erect Stop Signs on Golden Horseshoe Lane at Quartermaster Drive and on Golden Horseshoe Lane at Quartermaster Drive. Seconded by Council Member Linwood Mann, the motion carried unanimously.

Consideration of a Fit Community Grant – (Exhibit D)

Public Works Administrator Laura Spivey reminded Council that she came before them on December 9, 2009, with a preliminary application for the Fit-Community Grant. It is a \$60,000 grant; \$30,000 per year and it has a physical project component and a programs component. In December, she told Council that we were proposing to do a crosswalk and a sidewalk from the Nash Street and Bragg Street intersection at Lee Senior High School down to the entrance of O. T. Sloan Park on Bragg Street. That part of the project is still in place. She sent in the preliminary grant application and we were advised by the Health and Wellness Trust Fund that they did like our project and they wanted us to send in a final grant application. Directly after that, they wanted to do a conference call to go over the project and during that conference call, they decided that the Boys and Girls Club, being a private entity with a membership, they did not want to give State funding to the Boys and Girls Club for that reason. The State funding needs to be used for the entire community. At that point, it was either don't send in the application or start again. They talked with Lee County Parks and Recreation Director John Payne to see if he had any programs that would complement the sidewalk from Bragg Street to the opening of O. T. Sloan Park. Lee County Parks and Recreation Department has quite a few programs that they can build up or add to that would complement the use of this sidewalk to help the students that use the park; to help the citizens that use the park; the East Sanford neighborhood, and to help anyone that uses that dirt path that has been there for years.

Mrs. Spivey said that John Payne and she have been working together since February 8 to get some new things in with this grant. The grant is due February 24 and the final grant application requires that the mayor and city manager sign an agreement that says the Council and the Board is okay with this grant application. It is not set in stone; they still have the option of saying whether they like our project or not.

There is no match for this grant. It is a \$60,000 grant and they will only let you put up to \$45,000 or 75 percent of the grant on the physical portion of the project, which would be the sidewalk. The remaining \$15,000 has got to go toward policy change, programs, preparation and promotions of that collaborative project. She is proposing to send in the final grant application with hopes that they will fund this project.

City Manager Hal Hegwer stated that the total cost of the sidewalk at this point with the crosswalk will cost around \$60,000; so if we receive this grant, \$45,000 of the \$60,000 could be used to offset that \$60,000. We would have approximately \$15,000 invested in the project even though it is not a match. We would be required to contribute the \$15,000 towards the project.

Lee County Parks and Recreation John Payne stated that Mrs. Spivey presented him this opportunity and there are a number of things they can do such as promote tennis and do some other programs at the park. They have tried promoting tennis in the past but with improved access and a little more promotion, they can get a grassroots program going. They can do Frisbee, kickball, and dodge ball. They can come up with the activities to get people involved. Mr. Payne said that they can do some activities that would tie the school, the park, and East Sanford neighborhood together.

Mr. Hegwer added that the benefit that Lee County can bring to this project is we do not have the ability for programming; we are not in that business and we do not have staff to perform that and that is where the work is.

Council Member Cohen added that the sidewalks would really help this out because the kids can walk there much easier not getting into the Bragg Street and Horner Boulevard traffic.

John Payne said that they will be doing a site master plan for O. T. Sloan Park. They got a gift of an additional 9.5 acres at the park with the 55 foot right-of-way from the extension of Nash Street to give a lighted entrance into the O. T. Sloan Park. The long-range plan includes putting a new drive that will go through the signal entrance at the high school, which will be a great benefit.

Council Member Taylor asked how many feet of sidewalk will be done through the grant and what is the projected cost per linear foot and what is the width? Mrs. Spivey replied that the sidewalk is about 1,020 linear feet; it is a five-foot sidewalk. She said that the figure came out to be about \$58,000 with the signal light and the striping on the road. They will give us the money until July of this year. Mr. Taylor asked if we have approached the county commissioners about augmenting some of the \$15,000. Mrs. Spivey replied no; the commissioners are for the project. They have sent a letter of agreement agreeing to take part in the project. The \$15,000 of the grant has to go towards programs and it may take more than \$15,000 for Mr. Payne's staff to do the programming. It is a two-year program and it will have to be sustained thereafter for it to even be a viable project for the grant people to look at.

Council Member Cohen said that he would like to discuss the idea of extending the sidewalk from where it ends down Horner Boulevard to the motel.

Council Member Walter McNeil, Jr., made the motion to approve the grant application. Seconded by Council Member L. I. (Poly) Cohen, the motion carried unanimously.

Council Member Williams asked Mr. Payne to bring Council up to date on the skate park issue. Mr. Payne advised that the Parks and Recreation Advisory Board met and as a part of that

the long-range plan for O. T. Sloan Park, they have designated an area for a skate park that will be incorporated into the master plan. They designated the area so that if the skate park interest came up with the funding, they could take that element and proceed with it because they know where they are going to put it. It will basically be located at the base of the stairs coming down from the tennis complex. The advantages to that location are that they won't disturb the neighbors and there is plenty of parking there. Mr. Williams asked if there are any grant monies available for the skate park. Mr. Payne replied that they have begun some investigation but the only thing with grant money is that matching grant funds are required. The Tony Hawk Foundation can provide up to \$25,000, but there are some stipulations for this funding. There are four times as many requests as they have funds available. The overall cost is approximately \$40 to \$50 per square foot. A 4,000 square foot building would cost approximately \$160,000 for a top rate facility. Mayor Pro Tem Stone said it is going to be a topic at the retreat next week.

Council Member Linwood Mann asked if they have addressed the issue on insurance. Mr. Payne replied yes; the General Assembly addressed this issue for local governments several years ago. If we have an unmanned facility, our requirements are that signage is posted at the site that people that use the facility at their own risks. The State recognizes that and BMX bike riding as high-risk sports and if a municipality builds a facility and has signage posted on site, then it does not have to be manned. The signage would require protective equipment be worn when they are there and inspections would be made from time to time, but it would not be manned. If they put in a manned facility, then their liability escalates because with somebody onsite, he has to ensure that every person that comes in has their safety equipment on. He has spoken with directors around the state. The director in Asheville said at their facility in Asheville, the kids would wait until after hours and scale the fence so they could do their skating without the pads. He is leaning toward signage and an unmanned facility.

Mr. Taylor added that since the General Assembly took action, if you go back and look at the skate parks prior to that action and the skate parks post that action, you will see a major increase in skate parks, especially in the heavily traveled areas such as Wilmington, Greenville, and Myrtle Beach (which also pursued similar legislation). It has made it very enticing as an element that is not very costly. You can do some very good parks for \$100,000 to \$150,000. He was glad that the General Assembly saw fit to relieve municipalities of that liability.

OTHER BUSINESS

Council Member Taylor said that he is receiving a lot of comments and questions regarding potholes in the City. He felt there was a need for us to communicate to the citizens on how to report potholes, who they report them to, and the phone number to report them. He asked that it be put on public service announcements and possibly the newspaper.

Mayor Pro Tem Stone announced that the Council will hold the second half of its retreat on Wednesday, February 24, 2010, 8:00 A.M. to Noon, in the West End Conference Room. He asked council members if they have any items for discussion, to please let Mr. Hegwer know.

Mr. Stone reminded everyone that the mayor has been sick for the last couple of weeks and she is doing a lot better.

Mr. Hegwer advised that the information regarding the potholes is on the City's television station and also on the website. He said if there is a pothole on the City's street, they will take care of it within a few days. Many of the potholes are on the state-maintained roads. Mr. Stone stated that we should send a list of potholes to the NC Department of Transportation.

CLOSED SESSION

City Attorney Susan Patterson advised that a motion needed to be made to go into closed session in accordance with N.C.G.S. 143-318.11(a) (1) and (3) to prevent the disclosure of information that is privileged or confidential pursuant to the law and to consult with an attorney employed and retained by the public body in order to preserve the attorney-client privilege.

Council Member Linwood Mann made the motion to go into closed session for the reasons stated above. Seconded by Council Member Charles Taylor, the motion carried unanimously.

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

RETURN TO REGULAR SESSION AND 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 Charles Taylor, the motion carried unanimously.

Respectfully submitted,

MIKE STONE, MAYOR PRO TEM

ATTEST:

BONNIE D. WHITE, CITY CLERK