

MINUTES OF THE SPECIAL MEETING OF THE
CITY COUNCIL OF THE CITY OF SANFORD
SANFORD, NORTH CAROLINA

A special meeting of the City Council was held at the Sanford Municipal Center, 225 E. Weatherspoon Street, on Monday, April 19, 2010, at 8:30 A.M., to discuss the Lee County Board of Commissioners' suggestions to modify the Lee County Economic Development Corporation. The following people were present:

Mayor Cornelia P. Olive	Council Member L. I. (Poly) Cohen
Mayor Pro Tem Mike Stone	Council Member James G. Williams
Council Member Sam Gaskins	Council Member Walter H. McNeil, Jr.
Council Member Charles Taylor (arrived at 8:50 A.M.)	
City Clerk Bonnie D. White	City Attorney Susan C. Patterson
City Manager Hal Hegwer	

Absent:

Council Member Linwood Mann

Mayor Cornelia Olive called the meeting to order.

ITEM FOR CONSIDERATION

Discussion Regarding the Lee County Board of Commissioners' Suggestions to Modify the Lee County Economic Development Corporation- (Exhibit A)

Mayor Olive read aloud each talking point individually as numbered below.

(1) The Commissioners see value in the Lee County Economic Development Commission. The current relationship is the best organizational arrangement for Economic Development in Lee County (a majority feels this way). However, change need to be made to make this arrangement more effective.

Mayor Olive stated that the Hillsborough City Council and Chapel Hill Council are changing and updating their Economic Development Corporation. Mayor Olive said that there is not a problem with asking for accountability and that is something Council should consider.

Council Member Cohen said that he is on the Lee County Economic Development Board as of right now. The City Manager, the County Manager, the Broadway Town Manager, and the Chairman of the County Commissioners go to the meetings, and sometimes Mayor Olive attends. Every funding body has at least one, maybe two representatives at the meetings. He stated that with this said, Council will see why he is going to make the comments he plans to make. Mayor Olive said that is the point of this meeting, to let Council Members Sam Gaskins and James Williams know Council's feelings on these points, so they can relay them to the committee. (Mr. Gaskins and James Williams volunteered to be the two representatives of the City to meet with the County and discuss the talking points).

(2 The Lee County Board of Commissioners requests that the LCEDC forward its existing strategic plan to the Board within the next 30 days. If a written strategic plan does not exist, the LCBOC requests that the EDC formulate a plan and present this to all the funding agencies prior to June 30, 2010. If the LCEDC holds a planning retreat for the development of the strategic plan, the LCBOC would like to participate in that planning process. The strategic plan should identify all the programs that the LCEDC will be offering to new and expanding businesses.

Mayor Olive stated that if a retreat is held, the City Council should be included. Mayor Pro Tem Stone commented that if we do not help formulate a plan, the County Commissioners will formulate one for us. Mayor Olive said that in January, she asked Council Members about what they wanted to accomplish in their wards and see improved in Sanford this year. This is the same thing they are asking. They are suggesting we have some type of plan. Council Member Cohen stated the EDC has always had a plan. Mr. Stone said that the plan is necessary so we have some sort of accountability. We judge by the incentives we give; we really do not have a measuring tool. He stated that they admitted the plan is twenty years out of date; it should be updated more often. Mr. Stone said that he had a conversation with someone the other day about reformulating the plan and that we are looking at industries. The gentleman said to him that he saw Bob Heuts and Mr. Heuts had been very helpful to him. The gentleman said that Mr. Heuts spoke about his job and asked Mr. Heuts why he was not going for retail. Mr. Heuts replied that he could not do anything because their charter does not allow us them to do anything for retail. John Daniels and Bob Heuts have both said that it is a tool and when you get industry, retail follows. Mr. Stone said he was in Johnston County and Harnett County yesterday. They have all kinds of retail Sanford does not have. Mr. Stone said that we are missing retail. Mayor Olive stated that retail provides jobs. Mr. Stone added that right now, the retail sector has zero incentives. Council Member Cohen added that the problem is we do not have rooftops.

Council Member McNeil also stated that we do not have the rooftops to call for the jobs. Johnston County has I-95 running through there and brings a lot of traffic - that is the reason for the retail. Mr. Stone said that we have U. S. Highway #1 and we do not have the retail on Highway #1. We do not have a corridor plan that should be in existence in that area. Mr. Cohen commented that we are going to have more traffic on U. S. Highway 421. Council Member Gaskins said that we agree we need a plan to pick up the retail businesses along Highways #1 and 421.

Council Member James Williams stated that at the last meeting with EDC and the Lee County Board of Commissioners, the idea of expanding the EDC was talked about. A couple of commissioners said they were against it probably because it is going to cost more money, but there are only two people, Bob Heuts and Jane Haber. If you expand it to recruit retail, Mr. Williams felt Mr. Heuts needs some help.

Council Member Williams informed Council that he had spoken to Mr. Heuts about getting industries that have contracts with the military to come to Sanford (regarding BRAC). Mr. Heuts told Mr. Williams that they had worked on that as a group (the surrounding eleven

counties together). Mr. Williams felt that the commissioners want to expand but do not want to fund it. Mr. Cohen stated that the commissioners want to get away from funding the EDC.

City Manager Hal Hegwer said that he received a budget from EDC (Exhibit B) and a substantial increase was requested. They asked for a budget of \$361,742 for 2010-2011. The City's portion would be \$116,119 - an increase from \$78,849 in the 2009-2010 budget. Mr. Hegwer said that in the preliminary budget, he has trimmed it back to the original budget; that decision is up to Council because it is a recurring expense. Mr. Hegwer gave Council a copy (Exhibit C) of the proposed funding formula for the EDC in 1997.

Council Member Cohen informed Council that the budget Mr. Heuts presented for this coming fiscal year is \$116,119, which is what he would like to get; however, he can live with what they received last year. Mr. Heuts will not be able to do the record-keeping without more help.

Mayor Olive asked if Council felt that a strategic plan was needed and if they have one already, make it available. If not, have a retreat to develop one and Council should participate in it. It was decided that the City needs to be involved in the strategic plan.

Mr. Stone replied that Council should be involved with the strategic plan if the City is helping with the funding and amend it as necessary. It was the consensus of Council to participate with the strategic plan.

(3) Along with the strategic plan, the Board of Commissioners asks the LCEDC to formulate a marketing plan that effectively sells the County to prospective industries. This plan is to be presented to the Commissioners prior to June 30, 2010.

Mr. Cohen said that Mr. Heuts already has a plan and it changes with each industry; the overall plan is the same with all the industries.

Mayor Olive said then we would reply yes. Mr. Gaskins added that the plan is to be presented to the Commissioners and the Sanford City Council prior to June 30, 2010.

(4) Effective May 1, 2010, the Lee County Board of Commissioners requests that a monthly written report be given to the Board to update them on the activities of the EDC. This information is to include the number of requests made to the EDC for RFQ's and RFP's from prospective businesses, the number of client visits made to Lee County, the number of calls made by the EDC on business and industry outside of Lee County, the number of hits on the LCEDC webpage, and any other information the LCEDC feels would be beneficial to the Commissioners and show their effectiveness. In addition on a quarterly basis, the LCBOC requests that the report be given in person by the Chairman and Executive Director of the EDC to the Commissioners at their first meeting of that month. If the information to be presented is of a confidential nature, parts of the report maybe given in executive session of the Board. If the LCEDC needs to meet with the Commissioners on a more frequent basis, then the Board is willing to do this as needed.

Mayor Olive stated and read how number 4 should be written: (4) Effective May 1, 2010, the Lee County Board of Commissioners and the Sanford City Council request that a monthly written report be given to the Board and the Council to update them on the activities of the EDC. This information is to include the number of requests made to the EDC for RFQ's and RFP's from prospective businesses, the number of client visits made to Lee County, the number of calls made by the EDC on business and industry outside of Lee County, the number of hits on the LCEDC webpage, and any other information the LCEDC feels would be beneficial to the Commissioners and Sanford City Council and show their effectiveness. In addition, on a quarterly basis the LCBOC requests that the report be given in person by the Chairman and Executive Director of the EDC to the Commissioners and the Council at their first meeting of that month. If the information to be presented is of a confidential nature, parts of the report maybe given in executive session of the Board and the Council. If the LCEDC needs to meet with the Commissioners and Council on a more frequent basis, then the Board and Council are willing to do this as needed.

Council was in agreement. Council Member Taylor said that he would like to see an annual update before the budget is presented. He would like to see the overall picture what has been done for a year. Mr. Stone said it should be done in person.

(5) LCEDC board agendas, attachments and minutes are to be forwarded to the Lee County Clerk for distribution to the LCBOC. The LCEDC is to notify the County Clerk of all meetings of the LCEDC when they are set in place.

Mayor Olive read the changes as follows: (5) LCEDC board agendas, attachments and minutes are to be forwarded to the Lee County Clerk and City Clerk for distribution to the LCBOC and Sanford City Council. The LCEDC is to notify the County Clerk and the City Clerk of all meetings of the LCEDC when they are set in place.

Council was in agreement.

(6) Effective as soon as possible the Lee County Board of Commissioners would like to change the stated Incentive Policy to the following: "The Lee County Board of Commissioners will consider for incentive grants all economic development projects that create new jobs and new investment in Lee County. The Board, with recommendations from the LCEDC, will review each project and their individual impacts to the county. Incentive Grants will be awarded based on the benefits to Lee County and its citizens." All prospective businesses are to make their initial contact with the EDC. The EDC Director will notify the County Manager of the project who will then notify the Chairman of the LCBOC. The EDC Director will take the project who will then notify the Chairman of the LCBOC. The EDC Director will take the project to the LCEDC Board for a recommendation. All recommendations, favorable or unfavorable will be forwarded to the LCBOC for their consideration.

Mr. Gaskins said that he is not sure we are getting all prospective businesses. We are getting the ones that are looking for incentives, but not all businesses. He has seen the list and it is tremendously long. There are a lot of businesses being formed that Council does not know anything about. Council Member Cohen said that there are some businesses you will never

know who they are due to the project. Mayor Olive stated that Mr. Heuts has always used a code name and that is not a problem. City Manager Hal Hegwer stated staff has had dealings indirectly with Mr. Heuts regarding companies needing information regarding water and sewer, etc. Mr. Stone said that Mr. Heuts could say he has a chemical company acquiring about certain items. Mr. Cohen said that the City is more important than the County because the City provides the services (water and sewer). The City is the most important part of the link even though the County does not think so. Mayor Olive said that the County is important in that they fund the schools and DSS.

Mr. Stone suggested that when we lose a company to another state, he felt that Mr. Heuts should sit down with that company and find out why they did not come to Sanford. Mr. Cohen added that we could put that as a suggestion.

Mayor Olive stated that the sentence listed in Number 6 should read the EDC Director will notify the County Manager and City Manager of the project who will then notify the Chairman of the LCBOC and the Mayor of Sanford.

Council members were in agreement with Number #6.

(7) Going forward, all incentive agreements with Lee County will require both a property tax value increase and a jobs increase component. Incentive contracts will require that the value of the investment be created on the tax scrolls of Lee County and the number of jobs that the company is guaranteeing to be created. The incentives paid will be paid on a 50 percent basis for investment and a 50 percent basis for new jobs created with the investment.

Council Member Taylor said the statement is ambiguous at best. You can create twenty jobs and lay off ten people and you are meeting a job requirement. Mr. Stone said that it has to be more defined; it has to be new jobs and not temporary jobs. Mr. Gaskins stated that we are meeting because Council Member Williams and he are representing the City Council on the proposals that come out for the EDC to follow. He did not feel that this specific document needs to be specific. Mr. Cohen stated that the way the Chairman of the County Commissioners told him was that this is just a list of things the Board came up with and they wanted to get everybody together and see what we are going to keep out of this list, or change in this list. The chairman does not agree with everything in the list, but it is for everybody to approve. Mr. Taylor said that he wants more definition on jobs created; you do not want somebody to hire twenty and layoff ten employees. Mr. Cohen stated that you cannot base the incentives on the number of jobs. Mr. Stone said that when he was on the board, we had three policies; you had to have an investment of \$1 million; you had to pay \$14.75 per hour; and you had to specific how many jobs you create. Mr. Stone stated that you could not count the jobs because of the way it was going. The \$14.75 was a joke because you add in the executives' salaries.

Mayor Olive said that Number 7 is asking us to require both a property tax value increase and a job increase components, and do we want that to happen. The reply from Council was yes.

(8) All tax incentive amounts that are to be paid by Lee County will be paid directly to the business due the incentive. The LCEDC will request the incentive be paid and provide documentation on the number of jobs created by the company. The County Finance Officer will review with the Lee County Tax Office that the investment increase has been created. The County will then issue the check directly to the company.

Council decided to change the wording of Number 8 on Line 3 to read, “ The LCEDC will request the incentive be paid and provide documentation on the net number of jobs created by the company. Mr. Taylor said that it is an important component to say net number of jobs because of companies that hire twenty and lay off ten. Mr. Cohen said that incentives are not based on number of jobs. Mr. Stone said that if incentives are based on investment, then why don't we open the incentive policy to everybody. That is why you have to have job calculation in it or it would not be fair.

It was decided to add the wording “net number of jobs created.”

(9) On an annual basis, the LCEDC will provide an annual report to the Board. This report will take place at a joint meeting of the LCEDC, Lee County, City of Sanford, and the Town of Broadway. The report will contain the LCEDC annual budget request, and any capital requests that the LCEDC may have. The LCEDC will develop a plan of work and make recommendations to the Commissioners for funding.

Council decided that the reading should be (9) On an annual basis, the LCEDC will provide an annual report to the Board and the City Council. This report will take place at a joint meeting of the LCEDC, Lee County, City of Sanford, and the Town of Broadway. The report will contain the LCEDC annual budget request and any capital requests that the LCEDC may have. The LCEDC will develop a plan of work and make recommendations to the Commissioners and City Council for funding.

(10) The LCBOC encourages the LCEDC to raise private funding to help pay for operational and capital expenses. If this arrangement occurs, the County will cap their annual appropriation at the 2010-2011 budget levels. If a private funding plan is not developed, the Commissioners want to discuss funding reallocation with the City of Sanford and the Town of Broadway.

Council Member Cohen said that he was against all of Number 10 because you will not get private people to fund the EDC. Mr. Stone said that he was at an EDC meeting where a gentleman told everybody in there that he could get EDC's budget up to \$3 million. Mr. Taylor stated that there are people on the EDC board that are benefiting from relocation of businesses in Sanford. Mr. Cohen added that the Committee of 100 was formed years ago to help the EDC raise some money that if something came along that they needed money for, and the City and the County could not do it, then they could go to the Committee of 100 to get some money to do some kind of special something to lure a business. Mr. Hegwer said that Lee County is paying 66 percent of EDC's budget; the City of Sanford is paying 32 percent; and the Town of Broadway is paying .01 percent. He referred to the 1997 letter (Exhibit C); that was when the original allocation was set up. It was based on sales tax distribution. Mr. Stone said that it

puts the City taxpayers paying 150 percent. Allocation depends on what your balance sheet looks like; the more money you got, the more they want to allocate your way. Mr. Gaskins added that the City of Sanford is probably a much greater percentage of Lee County now, than it was at that time, so we have fared fairly well considering it was almost 31 percent then and only 32 percent now. Mr. Hegwer informed Council that sales tax distribution is distributed per capita and every year in April, they have an opportunity to make that change to ad valorem. By population distribution, the City receives considerably more money and if Lee County switched to ad valorem, it would hurt the City.

Mr. Gaskins said that they would relay to the committee to encourage private partnership. Council was in agreement.

(11) The LCBOC will make the appointments to the Research Triangle Regional Partnership as outlined in the RTRP bylaws. The Commissioners will seek recommendations on these appointments from the EDC.

Mayor Olive asked if Council wanted to be included in Number #11. Mr. Cohen said he did not know how the law is written on this. Mr. Cohen said he felt they only make one appointment. Mr. Stone said if two appointments are made, then the City should make an appointment. Mr. Cohen thought that John Daniel is the appointee to the Research Triangle Regional Partnership but he was not sure.

(12) All appointees to the LCEDC by the LCBOC will be limited to 3 - 3 year terms. If a member is appointed to 3 terms, then they cannot be reappointed for the next 3 years. After the 3 years, they can be reappointed and if the commissioners so choose, allow that person to serve to another 3 terms before they are not reappointed again.

Council Member Poly Cohen stated that he is against this point. Mayor Olive asked if we want to include ourselves by the City Council's appointees to be limited to 3 - 3 year terms. Council Member Taylor said that you have to understand the rationale; is nine years the duration for continuity sake and policy or where did this originally come from. Mr. Stone said that the County has a policy on the number of times you can serve on a board. Mr. Gaskins asked about the City's policy for reappointment. Attorney Patterson replied that all appointments by the City Council are for a three-year term. It can be reconsidered for reappointment; it currently says that you can serve no more than two three-year terms; however, it can be waived by Council.

Mr. Stone said how do you get diversity and new ideas in a group that has been sitting together forever. Attorney Patterson said the reason for the three-year term is for continuity of the board. Mr. Taylor said that personally, he believed in term limits. Mayor Olive agreed. Mr. Gaskins said he believed in term limits, but do we have people that have been appointed by the City who have stayed on a committee for more than three years. Mr. Cohen said that Albert Adcock is our appointment and he is a good man. Attorney Patterson said that Albert Adcock, Jeremy Hathcock and Buddy Keller are the appointments on the EDC for the City. Mr. Adcock's term expires on June 30, 2010; Jeremy Hathcock in 2011; and Buddy Keller's in June 2012.

Mr. Stone said that he felt that you take away the Council's right to waive it and say you have 3 three-year terms and then you move on. Mayor Olive asked if we have any reporting from the EDC on attendance. City Clerk Bonnie White replied no.

Mr. Taylor stated that it is up to Council to recruit and find people to serve. You do not want to squelch or eliminate creativity and he felt to a certain extent this is done by a long duration term. This is a great way to become stagnant. Mr. Stone said that those appointees are very political. Mr. Gaskins said that his viewpoint is that if we do not have anybody to replace somebody, that would be one legitimate reason for reappointment. Mr. Stone said that people don't apply because they know who is going on the board before the vote ever takes place.

Mr. Taylor stated that you have to listen to the people when they do serve because if you don't, they become weary and they will step out.

Mayor Olive asked Council if they are saying that they want to limit it to two – three year terms. Mr. Gaskins said to maintain our current policy of one term that can be waived, up to a total of two terms.

Mr. Taylor said that he did not know how to say it any differently, he did not know of any African-American who has served, any Latinos, or any females who have served on the EDC Board. He felt that language should be incorporated into the policy to try and recruit minorities to the EDC board. Mr. Cohen said that Edith Edmond from the Employment Security Commission is on the EDC Board. Mayor Olive said Ms. Edmond is not a voting member. Mr. Taylor said that Ms. Edmond is not a resident of Lee County. Mayor Olive said she is a member by virtue of her position. Mr. Stone said she should be a resident of Lee County.

Mr. Stone said that the appointed boards should come back to Council to report on their meetings. Mr. Taylor said that Mayor Olive has asked that when council members serve on a committee, to bring back reports to the City Council. Mr. Hegwer said that the committees can come before Council any time they want. Mayor Olive said that they are not going to make the overture to come; we need to let them know they are welcome and we want them to come.

Mayor Olive asked Council if they agree for the term to be limited to 2 three-year terms with the option to waive the limit from the first year. Mr. Gaskins clarified appointed to two three-year terms and council can waive it one time. Mr. Taylor asked Mr. Gaskins and Mr. Williams to find some way to incorporate minority recruitment.

(13) Interlocal agreements with the City of Sanford and Town of Broadway will outline the funding mechanism for the LCEDC. In addition, these agreements will establish a fast-acting committee with the LCEDC that will be responsible for responding to RFP's in a quick fashion.

Mr. Hegwer stated that the EDC is a non-profit and they can be more flexible than the City can be on how to go about things such as option of property. It sounds like the committee is to be involved in that too. They do not have as many rules to follow. Attorney Patterson said that this means we are contractually obligated to fund. Currently, they make a budget request. Mr. Stone said that everywhere he goes, they know the City has a healthy balance sheet. He

added that it took ten years to build that balance sheet and he is not giving it up in a year or two or three. He has not been to one meeting yet that they did not acknowledge how much money the City had and how they want to do everything in the world with the City's balance of budget. Mr. Gaskins stated that the distinct advantage here is that they have to make the agreement first before we do anything. He did not know what they are offering; it will have to come before Council no matter what.

Mayor Olive said that we would leave this item as questionable.

(14) A new contract with the LCEDC will be developed and signed before June 30, 2010, outlining these points and any others that may be developed in discussions with the economic development partners.

Council Member Taylor said that he did not think parameters should be put on it. Mr. Stone added that the City needs to have its guidelines for EDC incentives ready by June 30, because there are going to be parts of this thing that we are going to be different from the County. Our board stuff needs to be ready to go for July 1. Mr. Cohen added that the County wants to meet within a week to outline the incentive guidelines. He indicated there will be some changes made to the guidelines. Mr. Taylor said that this is a good starting draft but we need to be sure we are providing all of our input. We need to be sure that we have identified the strengths of the EDC and the weaknesses. We are following what they have put in place; we need to state our position to make it our own too. Mr. Hegwer stated that this is more about accountability and what we can do to make it better. Mr. Taylor said that the first step is to identify what the strengths and weaknesses are and what you want to change. Mr. Stone said that he felt the charter needed to be changed to go after more retail companies and why. Right now, they can only go after industry.

Mayor Olive stated that we have talked about strategic planning and reporting - that means transparency, accountability, and structure that may be there and we don't know about it. We have to see the plan so we will know whether we agree or disagree. Mr. Gaskins said that Number 13 and 14 have to come back before Council. Mayor Olive said that we are open on 13 and 14.

Mr. Williams said he would like to know what other economic developments corporations go after retail such as Southern Pines. Mr. Stone said that on retail, you get \$.02 back on every dollar. Mr. Stone said that Applebees, Ruby Tuesday, and Cracker Barrel stated that they had the largest grand openings in the City of Sanford than they have ever had in the company. Mr. Stone said where is a letter stating that to send to Chili's, and other businesses. Mr. Gaskins added that Golden Corral also had its biggest grand opening. Mr. Cohen told Mr. Gaskins and Mr. Williams to negotiate good on behalf of the City Council.

Mr. Stone wanted Mr. Gaskins and Mr. Williams to take to the committee to consider how you get everybody involved to sell EDC. You have to find a way to include small businesses; about 80 percent of the jobs right now are small businesses and they get zero for it. That is the reason to get diversity on that board. Retail needs to be addressed.

Attorney Susan Patterson said that she is not an expert on economic development law, but she has looked over the statutes for fourteen years now. The different case laws state different sorts of activity that the City can and cannot do for economic development. There are things you can do to encourage development and there are things that the City is not able to do. One of the reasons we have not gone after retail in the past is because we are bound by two things. In our policy, we do not have acquisition of real property. Our incentives are tied to payment of taxes and improvement of tax base, and those items limit it to business and industry. It is the law that limits what Mr. Heuts can do, not the Charter of the EDC. The reason it was set up as a non-profit, is because there are things that non-profits can do and can keep quiet that governments' cannot. If there is a company looking at a town, they may want their activity confidential until they make a decision. That is the reason the EDC meets with us in executive session (approved by statute), so we can discuss activities to determine whether it is something you want to pursue. That closed session activity allows it to remain confidential. The EDC exists as a non-profit corporation in order to conduct activities that cities and counties cannot. We can make, under regular statutory law, conveyances to non-profits for certain public purposes; that is the why the EDC is in the middle of it. She discussed the job component and the hourly wage.

Attorney Patterson told Mr. Gaskins and Mr. Williams that she would be glad to meet with them to discuss legal aspects with regards to the proposed suggestions to modify EDC.

ADJOURNMENT

Having no further business to come before the Council, the meeting was adjourned upon the motion of Council Member Sam Gaskins. Seconded by Council Member Charles Taylor, the motion carried unanimously.

Respectfully submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK