

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

The City Council reconvened the budget workshop at the Sanford Municipal Center, 225 E. Weatherspoon Street, on Friday, May 28, 2010, at 10 A.M. The following people were present:

Mayor Cornelia P. Olive Council Member Sam Gaskins
Mayor Pro Tem Mike Stone (arrived at 10:25 A.M.)
Council Member L.I. "Poly" Cohen Council Member Walter H. McNeil, Jr.

City Manager Hal Hegwer Asst. Financial Services Director Beth Kelly
City Attorney Susan C. Patterson City Clerk Bonnie D. White
Financial Services Director Melissa Cardinali

Absent:

Council Member Linwood Mann
Council Member Charles Taylor
Council Member James G. Williams

Mayor Olive asked Attorney Patterson that since several council members are absent and this is a recessed meeting; do we have to have a quorum present this morning. Attorney Patterson replied that if a quorum is present when the meeting was established, simply leaving does not destroy the quorum. This is a recessed meeting from Wednesday, May 26, and there was a quorum present at that meeting. This is a continuation of the meeting from Wednesday; therefore, a quorum does not have to be present to continue this meeting. We could wait for one to arrive if we wanted to.

Mayor Olive stated that council had stopped at Page 110, the Police Department budget on Wednesday, May 26. She asked if the salaries assume that the two front desk positions are unfrozen in the budget. Mrs. Cardinali replied yes; it is noted on Page 109. Mr. Cohen said that the Police Department is increased by 10.9 percent. Mrs. Cardinali replied that the increase is due to the normal rotation of buying new patrol vehicles.

Mr. Gaskins asked if the four officers covered by the stimulus funds were included in the salaries. Mrs. Cardinali replied yes; there is a revenue offset reflecting that grant under general revenue.

Mr. Gaskins asked about the increase in contractual services. Mr. Hegwer replied that we have new fingerprint equipment that is tied to the FBI data base and there is on-going maintenance for all the different modules associated to the MDTs and mobile data terminal computers (maintenance also); all the OSSI software; mug shots, license requirements, etc. The software is very expensive. Mrs. Cardinali added that for the first year you have a warranty on the equipment and when the maintenance contract goes out, you purchase an on-going maintenance contract.

Mayor Pro Tem Stone stated that in referring to the laptops, have we made it available for those officers to take those computers out of the cars for updates and reports. He added that one

of the big complaints he gets from the police officers is that when they have an accident, they have to go in the hospital or emergency room, and they still take everything down on a piece of paper because they cannot take the laptops out of the car. We are paying them to do the work twice when the technology is there to do it once. Mr. Hegwer replied that he is not sure but how they are installed is to protect the officer because there have been some accidents and deaths with those computers becoming dislodged during an accident. He will check into it. Mr. Stone advised that some of the state troopers have the capability of taking their laptop computers in and doing the same work.

Mayor Olive asked, in referring to Page 129 of the Inspections Budget regarding the two positions frozen at a cost of \$95,518, if this figure includes what they would have had in a matching 401K fund, insurance, and other benefits? Mr. Hegwer replied yes, it includes everything. These two positions are an inspector's position and an administrative position. Mr. Hegwer said that if the economy improves, we would ask for these positions to come back.

Mr. Gaskins said that in looking at this department, it is the issue that has continued throughout the various departments. The employee training, printing, advertising, departmental supplies, and miscellaneous line items have increased dramatically and it does not follow with what has been going on with the economy. He said it really looks like padding. Mr. Hegwer stated that whether the economy is good or bad, you still have to train your employees.

On Page 133 under the Street Department budget, Mr. Gaskins asked what is in the departmental supplies and utilities. Mr. Hegwer replied sand, salt, and cold patch, etc. is in departmental supplies; the utilities are the street lights. He presented an analysis of resurfacing and patching (Exhibit A) for the last five years and also a Powell Bill Reporting sheet (Exhibit B).

Mayor Olive questioned the training in the Street Department. Mr. Hegwer replied that there will be times when employees do not have their CDLs – depending on the turnover; pesticide training; tuition, immunization; and tuition reimbursement. Mrs. Cardinali stated that there is an employee in this department that wants to advance their education. The City has a program where the employee is reimbursed for tuition if it is preapproved. We encourage employees to get a higher education and that is reflected in the training line item. She said that, in instances, this is used to advance their careers because there are education requirements; this affords them the opportunity to stay with the City and advance internally. You have to be preapproved and it needs to be an educational degree that would benefit the City, as well as yourself. The employee has to front the money and the employee has to turn in evidence of their grade and that they have paid the tuition. The City does not pay for any fees; it is tuition only. The employee has to buy their books and pay all kinds of fees associated with the training. Mr. Hegwer added that there is a time requirement that you cannot leave the City after that or you have to pay the money back.

Mr. Gaskins asked what the contractual services consists of in the Solid Waste Division. Mrs. Cardinali replied that contractual services directly relate to the number of grindings that they do at the compost facility. We are also mandated by the state to begin computer and television recycling and it is reflective in this budget as well. Mr. Hegwer advised that the inmates we are utilizing is new also; we started it a few years back. Mr. Hegwer explained that in 2009, there was legislation changed to where the City could be charged \$150 per day. He has

not had time to research it during this budget but it is something we are looking at. That has not been passed along to us. We purchased an extra vehicle to accommodate that and we have a staff member that has associated the items to pick up the debris; it was a new program we added. The benefits outweigh the costs.

Mr. Hegwer advised that the Community Development Department (Page 145) is shared with the County. At the end of the year, we balance it out and if there are costs, they are allocated to each entity. Mr. Stone asked who is receiving the auto allowance. Mr. Hegwer replied it goes to the Community Development Director Bob Bridwell, who is one of four receiving an allowance. He works between both buildings. Mr. Stone asked for a list of employees the City is giving an allowance. Mr. Hegwer replied that City Attorney Susan Patterson, Community Development Director Bob Bridwell, Public Works Director Vic Czar, and he receive an auto allowance.

Mayor Pro Tem Stone asked why are we paying for an attorney to attend the Historic Preservation Commission meetings when we have an attorney on staff. Mr. Hegwer replied because we have too many meetings and they take a lot of time and effort. Mr. Stone asked what is the attorney's fee for one of those meetings? Attorney Patterson replied that she explained this the other day; we have a temporary arrangement with a very experienced local government-trained attorney. There is a current temporary arrangement of \$1,500 that covers all the work that the attorney does for the month including attending the meeting; there is no travel expenses paid. Attorney Patterson advised that there are processes involved in the quasi-judicial hearing and there are reasons why it might be a conflict of interest with what she is doing. The attorney has not been to that many meetings this year. Mr. Stone said that would be \$18,000 each year. Attorney Patterson explained that there is quite a bit of work that is involved when she represents the City Council, the staff, the Police Department, the Board of Adjustment, and the Board of Housing Appeals. The Historic Preservation Board has not been under her assigned duties in the past other than advising the staff in working with the guidelines that go before the council. However, in the event there is an appeal from this board, it will go to the Board of Adjustment who she does represent. She has talked with the city manager and the finance department about expanding her department and allowing her to hire an on-staff attorney and it was determined that it was more cost-effective to contract it out at this point. Attorney Patterson explained that we are at the point where we could actually hire two attorneys for her department.

Mr. Stone asked who sat in on the HPC meetings as the attorney last year, when we did not have one last year. Mr. Hegwer replied that an attorney was not there at every meeting. Mr. Hegwer stated that he started noticing some of the problems associated with that and some of those meetings are very long and detailed and they are quasi-judicial meetings. He felt we needed somebody there at the meetings to deal with some of those situations.

Mr. Stone asked does the state require an attorney to be there. Attorney Patterson replied there is no requirement but it is very prudent for this Council to have its quasi-judicial meetings attended to by counsel. You can handle it in different ways. The manager thought it was the most prudent for us to be taking it on in this fashion. In the past, they have gotten some legal advice that was not from a retained attorney; it was just someone interested in the Historic Preservation area. Mr. Stone said that in business, we do it a little different because when we have questions for the attorney, we go sit down with the attorney. He did not know why we are taking the attorney to the meeting; they may not even have questions for you. Attorney

Patterson replied that it is a matter of procedure and due process. Mr. Stone said that they can do due process 8 A.M. to 5 P.M. Mr. Hegwer commented that it opens you up for potential lawsuits. The whole process is accurate, completed, and assessed as possible. Attorney Patterson advised that quasi-judicial means that there is a property interest that the applicant has and that due process during the hearing must be ensured. Mr. Stone asked if we allow the people from HPC to come and sit in the city manager's office, city attorney's office, mayor's office or council members. He asked would that not give them the representation they need without costing the City another \$20,000 each year; this is the point he is getting at. We are not denying the process; we are opening the doors.

Attorney Patterson explained that it is not the matter of advice and consent; it is the matter of due process during the applicant's hearing or the application for Certificate of Appropriateness. They have a hearing like a court hearing. Mr. Stone asked can this not be done between 8 A.M. to 5 P.M. if possible. They have the hearing at the Historic Preservation Commission's regular board meeting. The board members hear the hearing. Mr. Hegwer stated that we have to get the work accomplished; if council felt that legal counsel is not needed at these meetings, that is something we do not have to do. Mayor Olive commented that we can do it, but we need to know about it before it happens rather than afterward. Mr. Hegwer advised that part of it was covering some of the existing meetings where she was not available and we felt it was prudent going into this year that we have legal staff present.

Council Member Cohen added that when he was chairman of the compensation committee for a certain bank, he was instructed by a law firm to hire a lawyer to sit in on every meeting and take the minutes and make sure they did everything according to the law, so that they would not have to hire a lawyer to defend them. It cost a lot more to hire a lawyer to defend them for one case than they would spend on a lawyer for five to six years.

Mayor Olive stated that she felt one of the reasons the question has risen is because it is not something we required in the past and if it is prudent now, the council should know about it. Mr. Stone commented that he did not think at every meeting you have, there is going to be an opportunity to have an attorney present when we provide one on staff. He understands in banking, some do and some don't; he guesses it depends on how risky your operation is as well. The point he is getting at is there is ample opportunity to use the individual we have on staff. At every meeting we have, we cannot afford to put an attorney in that room and there are important decisions made at every committee the City has. He said the real question is are we setting up our rules and regulations and guidelines through those meetings to make it feasible for them to come back to the city manager and city attorney, or are we just going to keep hiring more individuals to sit in on the meetings and expand the City's cost. The truth of the matter is hiring more people is easy; that would be the easiest solution for all of us to do. The real hard work would be to sit down and figure out how we are going to fix the problem without expanding. He said that we are hiring attorneys in a down economy.

Council Member Williams stated that if our city attorney said it was under her budget before, he did not see where we expanded anything if we were paying already. He said that council's job as a governing body is to set policy. Council hired the city manager and the city manager hires the staff. Council is not here to micro-manage the city; that is the city manager's job. Mr. Williams added that at some point in time, we have to get to the point to where we have professional people on staff and we have to trust their judgment at some point in time. He is

satisfied with our attorney saying that this money was already under her budget so it is not any new money. As a City, we need to be the best we can be and if they think we need an attorney at these meetings, he is in favor of having one.

Mr. Hegwer stated that sometimes you need an outside attorney for various reasons. We retained the expertise of an outside attorney for some of the issues we have dealt with this year. We feel it is prudent to try and make those decisions and they are pretty complicated decisions sometimes as to when we do it, etc. Council has been made aware of those situations.

Mr. Stone clarified that those attorneys we used this year were provided by the League of Municipalities. Mr. Hegwer and Attorney Patterson replied no, not all of them.

Mr. Stone questioned what the General Fund Reimbursements (Page 164) of \$759,000 makes up. Assistant Financial Services Beth Kelly replied that this is the interfund reimbursements where the utility fund pays back the general fund for departments such as finance, legal, and administration. Such as the Finance Department, staff does the payroll and payable checks for all of utility fund and general fund. We charge back a portion of our actual expenditures for each department in the general fund that does utility fund work. The difference in the fluctuation from 2009 to 2011 is due to the development of the General Services Department. Mr. Stone asked for a breakdown of these charges because this is the way if we are not careful, the extra expenditures from the utility fund could be passed on to the general fund. This went up \$200,000 and now we are facing the same increases with our billing and water. This money is coming out of the utility fund and we are looking at rate increases in our utility fund and this is increasing \$160,000. The real question is he did not know how much more of \$160,000 we do now than we did two years ago. Mrs. Kelly advised that the mayor asked for this information yesterday and staff is pulling this together and will provide it to them. Mrs. Kelly stated that the change is in the general fund and what the general fund is charging to the utility fund. It is the change where we picked up the general services department in the general fund and that is causing the increase.

Mr. Hegwer stated that each unit is paying its way. If he is in the utility fund and if the general fund was not there to support the utility fund and those endeavors, they would have to have their own attorney, their own human resources person, etc.; they would have those same costs and those are reflective. Mr. Stone asked for a breakdown of the \$165,000 increase.

Mr. Gaskins questioned the professional services line item under the wastewater treatment plant budget. Mr. Hegwer replied that as part of the wastewater treatment plant expansion, there is some stream mitigation fee; \$48,600 for the water quality monitoring due to Patterson Creek. As part of siting the new wastewater treatment plant, the state was concerned about whether it would require the additional long-term effects on the receiving stream and concerned about requiring us to be in a stormwater plan to mitigate effects on the Deep River. The streams that are flowing into the Deep River, which the main stream is Patterson Creek, we are having to monitor that stream in lieu of placing the stormwater standards citywide. As we monitor it, it is substantially cheaper than instituting a stormwater program citywide. He said that the \$89,700 is a stream mitigation project. It is a creek at the wastewater treatment plant facility. Part of the expansion is going to conflict with an existing stream or wetland area that has to be mitigated. Mitigation takes place prior to construction of the plant. Mr. Hegwer stated

that there is a monitoring cost for nitrates; fish and aquatic surveys that will have to be conducted at a cost of \$16,200. Mr. Hegwer said that he would get them a detailed sheet.

Mayor Olive said that there are concerns about reducing the appropriation for Downtown Sanford, Inc. She asked Mr. Hegwer to explain the debt retirement. He said that last year, we contributed \$50,000 toward Downtown and part of that contribution was for the retirement of the debt associated with the Depot. Since that debt had been reduced this year, the final payoff was much lower, so we budgeted less. He said that the concerns, which have been echoed, is that Downtown Sanford is concerned they have other capital projects they think are necessary and they felt the \$30,000 should be contributed towards their department so it can be utilized for some type of a capital project.

Mayor Olive suggested that, hopefully, we can find somewhere in the budget to put an intern from the youth council to work next summer. Our youth council does some good projects and has been very successful. She would like to see an internship available. We paid an intern a couple of years ago about \$300 per week for 8 weeks. The City paid for one intern and the County paid for one. Both of the interns that worked, changed their college majors because they were so impressed; one intern went into public administration and the other in political science.

Mayor Olive said that Mr. Hegwer and she have discussed applying some money to clean up the gateways into Sanford and also to some plantings/beautification to those gateways. We are going to be promoting Sanford as a retirement community and we need to be attractive to people that visit.

Council Member Cohen said that he would like to see council appropriate some money to give away but he does not know how or what to some non-profits but we do not have a policy. Attorney Patterson replied that she has looked at policies from other jurisdictions and has some analysis from both council members and manager. She did not think she would have it by Tuesday night because there are some parts of it that need additional input. She needs to know what council wants in a policy; whether they want it to go through an outside agency to help administer it, or whether they want a staff committee to make recommendations. This council will have to decide who to fund, or if you want an application process for people to provide you information and analyze those applications to make your own discretionary appropriations. We can have guidelines and a process or we can have an actual policy that says if everybody meets this criteria, they receive (x) number of dollars.

Council Member McNeil said that he would like to see council table that policy right now and fund the three non-profits we have committed to over the years and give them time to research a policy that the council might want to do with the addition to do something for the Boys and Girls Club. Mr. McNeil stated that he understands that the County is coming up with a figure to contribute to the Boys and Girls Club and he felt the City should match what the County contributes.

Mr. Gaskins commented that there is \$100,000 in contingency and we do not have to give that money away on July 1. He felt Council should relax, take time to develop a policy and put it in place, and work from there. Mr. McNeil said that we do not have to have a policy. Mr. Cohen said it should be at the discretion of this council. Mr. McNeil said that if you have a policy, that means everybody will come out here and request money. Mr. Gaskins replied that is

precisely why we need the policy so everybody does not come in front of council; they have to qualify based on the restrictions.

Mr. McNeil said that this council has the discretionary concerns about what we give away and what we can afford to give away; we should not start clouding everything with policies. Mayor Olive said that she did not want a plan from the contingency that would have everybody in town applying for funds. She would like to see it narrowed down. Mayor Olive said that she would like to see the same three entities that have been funded in the past to be funded this year (Temple Theatre, Arts Council and the Railroad House) before we have a policy. She did not think they needed to take on anything new; she felt it should come after the policy is adopted.

Mayor Olive asked for a consensus on funding the three non-profits as in the past. Mr. Cohen stated that Mr. McNeil said to fund the three non-profits that have been funded in the past and include money for the Boys and Girls Club. Mayor Olive asked for a consensus vote on the funding of the three non-profits (Temple Theatre, Arts Council, Railroad House) and put money in for the Boys and Girls Club.

The consensus was three to two to fund the three non-profits and include money for the Boys and Girls Club. Council Members L. I. "Poly" Cohen, Walter H. McNeil, Jr., and James Williams voted to fund the four organizations and Council Members Sam Gaskins and Mike Stone voted in opposition. It was the consensus to fund the three non-profits and come up with a figure at some point to fund the Boys and Girls Club.

City Attorney Patterson advised that in 1995 before she was city attorney, there was a deed made by the City of a conveyance of land to Get Smart. Get Smart put its facility on that piece of land. The statute that allows you to do property transfers to a non-profit for a public purpose has a requirement of covenants or restrictions so that, basically, it is held for a public purpose. The way this deed was drawn says that as long as they continue to carry out the duties of their charter, they can have the property. Get Smart needs a bank loan and the bank has had difficulty with that restriction in the deed conveyance and they are asking for relief from that; however, the law requires that there be some sort of limitation on transfers. Get Smart went to Representative Jimmy Love because he was the city attorney at the time and drew up the deed. He went through several attempts trying to determine whether we could release that restriction, and because it is in the law, we could not. He has worked with counsel in the legislature to authorize the city to convey, by private sale, any remaining interest we might have in that parcel to that non-profit (Exhibit A). If it passes through the legislature, it would allow us to do a quitclaim deed to release any of these restrictions in order to allow Get Smart to seek the funding they need at this time. It has not passed yet, but she will keep council informed as to the status of the bill.

Mr. Gaskins said that before the final budget came in, he was hoping we could trim some of those items that seem to be raised disproportionately to the economy. We are looking at a \$1.1 million addition going into the surplus and another \$300,000 because of the lower estimate on the appraised evaluations. Council might want to consider putting in a tax reduction for the citizens of Sanford. Mr. Stone said that he would support this. Mrs. Kelly replied that the actual fund balance appropriation is \$2.110 million; because the \$1,130,308 that was in council's book did not include the \$979,900 debt payoff, but that has been adjusted and staff passed an

amended budget ordinance and that figure is reflected in it. Mr. Hegwer added that if revenues came in exactly what we budget and you spent everything in your budget, you would spend in theory \$2.1 million of fund balance. Hopefully our revenues will come above what we project and certainly, if it is typical, we would spend less than what we have budgeted for our expenditures.

Mayor Olive asked will council have the information before Tuesday night regarding the questions that have been posed by council that have not been answered. She said that she has raised the question about paying off two of the three loans and the prudence of paying off that debt in the current economic situation. Mrs. Kelly stated that she did not hear a recommendation for a cut of the one loan. Mr. Williams said that he was under the impression that we could save \$25,000 by paying off the loans. Mr. Hegwer replied that would be for all three loans.

Mr. McNeil said that he would like to reduce property taxes but he did not think it would be prudent for council to reduce them not knowing where we are going to have money coming from; we just cut out \$285,000 to \$295,000 from the privilege tax that was repealed. He said if we spend that money, where are you going to get the money from because people are still looking for the same services and we are still trying to give those same services. If you keep reducing the fund balance down, you are not going to have anything to fall back on.

Mr. Stone commented that he thinks the citizens in the last year have absorbed an overwhelming amount of punishment beyond our control due to the economy. He felt that as leaders, we have sit here and managed to obtain a fund balance in excess of \$10 million, sometimes up to \$12 million to \$14 million. The rate is never consistent and is always allowed to change, but good leadership, as they fund the Temple, the Boys and Girls Clubs, and helping in the community, also looks out at a vast majority of people that are hurting. A one cent tax reduction would cost the city \$206,000 next year. It is an opportunity with a \$10 million savings account to help out people. Part of being good leadership and good management is not only helping your community but helping all the citizens. This is one way we can directly correlate helping our citizens.

Mr. Williams said that we have finished going over the budget but if we still have some questions, we can still bring them up before we adopt the budget. Mayor Olive replied yes, because council has to pass this budget by July 1. Council has two meetings before July 1 and staff will be bringing back to council with answers to the questions that have already been posed.

Council members questioned various line items within the departments throughout the budget meeting.

ADJOURNMENT

Council Member Walter McNeil, Jr. made the motion to adjourn the meeting. Seconded by Council Member James Williams, the motion carried unanimously.

Respectfully submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK