

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, April 3, 2012, at 7 P.M., in the Council Chambers. The following people were present:

Mayor Cornelia P. Olive	Council Member L. I. (Poly) Cohen
Mayor Pro Tem Sam Gaskins	Council Member James Williams
Council Member Walter H. McNeil, Jr.	Council Member Rebecca Wyhof
Council Member Jimmy Haire	City Clerk Bonnie D. White
Council Member Charles Taylor	City Attorney Susan C. Patterson
City Manager Hal Hegwer	

Mayor Cornelia Olive called the meeting to order. A moment of silence was observed. The Pledge of Allegiance was recited.

PUBLIC COMMENT - (Exhibit A)

Annie Akers, residing at 1534 Clearwater Drive, invited the council members and the public to an event at Depot Park on Sunday, April 15, at 4 P.M. She is the pastor's wife and administrator at First Apostolic Church. She reminded everyone of the tornado that came through Sanford and many residents suffered devastation. Their church served over 1,500 bagged lunches and water to the residents and workers. The First Apostolic Church is sponsoring a memorial event at Depot Park to recognize and to remember those people who were devastated by the tornado and bring them hope. Mayor Olive will be speaking on a time of reflection. The manager of Lowes Hardware will also be attending.

Bruce McInnis, residing at 515 Hawkins Avenue, spoke on prayer at council meetings. He is the pastor of Turner's Chapel Church. He urged council members to open the meetings in prayer to God in the name of his Son, Jesus Christ, because we need God's help. Pastor McInnis said that God has promised to give wisdom to those who ask for it. God's word says that if you ask anything in my name, I will hear you and will do it. He stated that you can have a moment of silence, and that is what you will get from Heaven and that is silence. He said that he knew sometimes there is a fear that as we have seen in other counties, the ACLU could send a letter. He received one years ago and did not do anything more than what a piece of paper would do. They could sue you and then you would have to go to court but you do not have to spend a dime in the court of law to stand up and say what your God-given inalienable rights are. He asked Council to reconsider and do that which we need.

APPROVAL OF AGENDA

Council L. I. "Poly" Cohen made the motion to approve the agenda. Seconded by Council Member Rebecca Wyhof, the motion carried unanimously.

CONSENT AGENDA

Approval of Award of Bid for 2012 Custom Rescue Truck for Fire Department - (Exhibit B)

The award of bid in the amount of \$289,886 by CW Williams and Company from Rocky Mount, North Carolina, for a 2012 Custom Rescue Truck for the Fire Department was approved.

Approval of Resolution to Temporarily Close Streets in Support of the East Sanford Cleanup and Block Party – (Exhibit C)

Resolution to Temporarily Close Streets in Support of the East Sanford Cleanup and Block Party was approved. The resolution temporarily closes McIver Street between Third Street and Seventh Street and closes Fifth Street between McIver Street and Maple Avenue between the hours of 8 A.M. and 4 P.M. on April 28, 2012.

Approval of Ordinance to Temporarily Repeal a Portion of Section 36-115(a)(1) of the City of Sanford Code of Ordinances – (Exhibit D)

Ordinance was approved extending the temporary repeal of two-hour parking on Steele Street from Gordon Street to Cole Street until June 30, 2012.

Council Member Walter McNeil, Jr. made the motion to approve the consent agenda. Seconded by Council Member L. I. “Poly” Cohen, the motion carried unanimously.

DECISIONS ON PUBLIC HEARING

Application by George R. Smith and Brian W. Smith of Smith Investments, LLC - to rezone one 0.22 acre +/- tract of land addressed as 221 N. Horner Blvd, located in the southwestern quadrant of the intersection of N. Horner Blvd and Green Street, from Residential-Mixed (R-6) Zoning District to Office & Institutional (O&I) Zoning District. The property is the same as depicted on Lee County Tax Map 9643.19, as Tax Parcel 9643-50-5513-00 Lee County Land Records. – (Exhibit E)

Assistant Community Development Director Marshall Downey explained that a public hearing was held on March 20 and the Planning Board voted unanimously to recommend approval of the rezoning request.

- Consider Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit F)
Mayor Pro Tem Sam Gaskins made the motion to approve the Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina. Seconded by Council Member James Williams, the motion carried unanimously.

Application by Rex H. Todd of The Landmark Group/Landmark Asset Services, Inc. - to rezone two tracts of land located west of the intersection of Bragg Street and Nash Street, totaling 5.14 acres +/-, with one lot being vacant and one lot addressed as 1614 Bragg Street, from the current Residential-Mixed (R-12) Zoning District to Multi-family (R17) Conditional Zoning District to allow for the development of a multi-family apartment community. The property is the same as depicted on Tax Map 9652.10, as Tax Parcels 9652-45-3495-00 and 9652-45-5078-00 Lee County Land Records. – (Exhibit G)

Assistant Community Development Director Marshall Downey explained that a public hearing was held on March 20 and the Planning Board voted unanimously to recommend approval of the rezoning request.

- Consider Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina – (Exhibit H)
Council Member Walter McNeil, Jr. made the motion to go along with the Planning Board's recommendation and adopt the Ordinance Amending the Official Zoning Map of the City of Sanford, North Carolina. Council Member Cohen seconded the motion. City Attorney Patterson asked if this is in accordance with the Comprehensive Plan, since there has been a court case that says you have to have a finding in accordance with the Comprehensive Plan. Attorney Patterson asked Mr. Downey if he wanted to amend the ordinance and add the language. Mr. Downey replied yes and it was accidentally omitted in the ordinance. Council Members McNeil and Cohen accepted the amendment in their motion. The vote was unanimous to adopt the amended ordinance.

REGULAR AGENDA

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2011-2012 – (Exhibit I)

Financial Services Director Melissa Cardinali explained that this ordinance relates to the subject that City Engineer Paul Weeks brought to Council last week at Law and Finance and the topic was the original budget calling for \$1.1 million to be borrowed for the City to use for paving. However, there is a potential that if all the paving funds are borrowed, the bank may request to put an entire lien on the golf course. Paving the cart paths is only a small portion of the total so staff recommended last week, that the City borrow the funds needed for the street paving which would be about \$950,000 and then use fund balance to pay for the paths at the golf course. This would also accomplish two other things that were mentioned. One is that you would be able to take advantage of the offer from Caterpillar, which would potentially save about \$50,000 should Council decide to do so, and give our financing timeline more flexibility to send notification to the Joint Legislative Committee which adds an additional 45 days to our financing calendar. The ceiling for that Legislative Committee is \$1 million, so the \$950,000 would put us under that amount. The recommendation from staff was to borrow \$950,000 in installment purchase proceeds for street paving and then to use fund balance to repair the cart paths at no more than \$150,000. She said she would be coming to Council at the next Law and Finance to proceed with the financing, the steps, and the installment purchasing financing.

Mr. Taylor said that a couple of weeks ago, he requested some information regarding when the bid was put out originally for paving, that we asked that it be highway certified vendors. He never heard an answer back. He is very disappointed that we were able to mysteriously find a way to spend \$950,000 when we are looking at our ad valorem taxes potentially be taken away. Mr. Taylor said we need to be more prudent with our money and he was disappointed he did not receive a response on that. As you are aware, it was able to cut six vendors in Lee County by having that certification. Mr. Taylor said with no answer on that and now we are having the opportunity to pave it, he wonders if we going to hold them to the same standards so far as highway certified.

Mr. Hegwer said that Caterpillar would like to utilize some of their machinery to work at the golf course. When we bid that project out, it would be a completely different project.

City Attorney Patterson said that she discussed this issue with the Public Works Director and the City Engineer. There is a bonding requirement when work is done on City property that

certain qualifications of the contractor have to be met in order to do that work. She understood from them that the highway paving/commercial limitation is part of the contractor's licensing requirements. It is necessary to do work on government property. This will be in excess of \$30,000 which requires a more advance contractor's license to do the work. She understood that is part of the requirement. She could not speak specifically on this type of job and she did not want to misquote the engineers. There is a requirement of the licensing to do the work to have that qualification.

Mr. Taylor said he owes them an answer because he put the question out and never received a response on it and now we are able to circumvent and do some paving without that same criteria that we put out for bid. Mr. Hegwer said what they were trying to do was to follow the law and the way that they had framed the bid. There was no intention to eliminate a contractor for a competition. This is about whether or not we want to borrow those funds and whether we want to break the golf course out. The other option is to borrow it all and include the golf course in it.

Mayor Olive said she thought the amount to be borrowed for the golf course project was going to be amended because of the work to be done by Caterpillar. Mrs. Cardinali replied that we can do whatever Council wants to do. The budget was originally adopted for \$1.1 million with \$100,000 to \$150,000 in golf cart paths so you can either spend \$150,000 and get \$200,000 worth of work, or you can spend \$100,000 and get \$150,000. It is how ever you want to maximize the contribution that Caterpillar would be making but the budget did state that we would spend no more than \$150,000 in whatever combination; that will only pave a small portion of the golf cart paths.

Mr. Hegwer stated that breaking the project out, it makes more sense to break that into a completely different project. Caterpillar would utilize their machinery; they would mill up the existing asphalt and we would work on that with some construction equipment – either the contractor or the paving contractor. We would then have a separate paving contractor who would handle the smaller paths. It is two separate projects.

Council Member Charles Taylor made the motion to table this item until further discussion on Wednesday's meeting. The motion died for the lack of a second.

Council Member Williams said that we normally do not put this much money into paving and where would this put us as far as going forward. Mr. Hegwer replied normally we budget around \$600,000 to \$700,000 annually; however, we did not do this in the past year. Mrs. Cardinali stated that we have not spent more than \$300,000 to \$350,000 in the last four years and one of the last four years, we have spent nothing.

Mayor Olive said that before we do anything with the bids for the golf cart paths, she would like to know how many feet or distance of cart paths and how much will this amount of money address. Mrs. Cardinali replied they will get this information to them.

Council Member James Williams made the motion to adopt the Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2011-2012. Seconded by Mayor Pro Tem

Sam Gaskins, the motion carried six to one with Council Member Taylor casting the dissenting vote.

Petition Requesting Contiguous Annexation of Approximately 47.38 Acres of Property Owned by Bobby A. Branch and wife, Elizabeth Branch; BA Branch Properties; Camel Saddle Properties, LLC; ACA/PJA, LLC; and Kevin H. Wind, located at the Intersection of Tramway Road and Jefferson Davis Highway.

- Receive Certificate of Sufficiency for Voluntary Annexation – (Exhibit J)
City Clerk Bonnie White stated that the certificate of sufficiency was investigated and found valid.
- Resolution Fixing the Date of Public Hearing for Voluntary Annexation – (Exhibit K)
The resolution sets the date of the public hearing for voluntary annexation on Tuesday, April 17, at 7 P.M. Council Member Walter McNeil made the motion to adopt the resolution. Seconded by Mayor Pro Tem Sam Gaskins, the motion carried unanimously.

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

OTHER BUSINESS

Mayor Pro Tem Sam Gaskins said that he spoke with the county manager earlier today and found that he needed to make some corrections to his comments at yesterday's meeting. He said first and foremost, his information was incorrect that the county manager did not receive a \$20,000; he received a one-time bonus of \$10,000 and a housing allowance of \$750 per month which was for six months only; that amounts to a total of \$14,500 and is not recurring. With the increased cost of medical insurance, the county manager, as is the case with most of our workforce is actually realizing a lower net income. I am sorry for having given incorrect information. The county manager's income should not have been discussed; this is especially true since it detracts from the more important issue that he was trying to make that the county commissioners had been willing to find new ways to spend money as with the \$140,000 spent on Evergreen Solutions and they are wishing to bring the Economic Development Corporation under County control and foregoing Sanford and Broadway financial contributions. Both of these expenditures dwarf the county manager's bonus and housing allowance. The reduction from 35 percent to 27 percent of the sales tax revenues, which would account for an 8 percent drop in revenues to the City of Sanford or \$1,340,000, is actually a greater drop than 8 percent. According to the county manager, the total sales tax revenues are estimated at \$13.3 million. His calculations using the \$1,340,000 having been 8 percent indicated that the totals would have been closer to \$16,750,000. According to the county manager, the breakdown is that the County receives 66 percent and the City receives 32 percent. With the lower sales tax revenues, the dollar amount lost by the City would actually be a significantly larger percentage loss. Mr. Gaskins said that when he estimated that the recommendations from Evergreen Solutions, outside the redistribution of funds from the City of Sanford and the school system, would only amount to \$200,000 to \$300,000 – and he was very nearly on the money. Mr. Gaskins stated that he was informed that the actual recommendations amounted to \$340,000 on a budget of \$62 million. Running a budget with about one-half of \$.01 margin for improvement is pretty remarkable and should be commended; this correspondence to a savings potential of about \$165

for a household budget of \$30,000 from an audit which you would have paid \$68. He wonders if you would pay \$68 to have someone tell you that you might save \$165 a year.

Council Member Taylor said he would like to look at for Wednesday's meeting to have an update on our policy regarding unclaimed property; in particular, House Bill 692 that was passed in the North Carolina Legislature dealing with unclaimed property at the golf course. He said Mr. Cohen was kind enough to point out last week all the gift cards and prizes not claimed at the golf course. Mr. Taylor said we have to fall under legal obligation to report that information. He wants to have the assurances that we are doing everything we should be doing.

Mr. Taylor said he would like to have an update from Public Works on the storm drains with all the storms we have been having lately. There have been several areas that we had to do some cleanout such as Valley Road.

Mr. Taylor stated that we talked about the public information officer's position last year and budgeted it in the budget for this year. He said in October that December will come and go and we will not have anybody in place and it is April 2 and we still do not have anybody in place. We budgeted that position to be half-time position - \$25,000 or \$28,000 and we have not been very prudent with that money. He would like an update. He could ask for these items individually but he felt it was important that the entire council hear the updates.

Mr. Taylor would like to have a resolution for the National Day of Prayer for Wednesday's Law and Finance meeting from the City Council.

Mr. Taylor said he was unable to attend the meeting yesterday but he would like to point out that Council's first obligation is to the taxpayers of this community to represent their money. We have an obligation to our employees to provide a safe and conducive working environment and to make sure our employees are equipped and need things. At the same time, he has not heard one time entering into this argument of how we can come back and cut expenditures. The immediate response he heard from this group was that we are going to have to raise taxes six cents. When we were able to repeal the business privilege tax, it was told that we would not be able to survive without that tax; a couple of years later and we are still doing fine without the \$250,000. He would like to see more creative thinking and outside the box rather than immediately throwing up the flag that we need to raise taxes; we need to be prudent with our money.

Mr. Taylor said that he does not agree with everything the Lee County Board of Commissioners do, but at the same time, they are elected to represent the County and Council is elected to represent the City. The constant jabs that Council is delivering to commissioners are not very warranted and are very shallow. It shows shallow thinking when it comes time to making comments and references to taxes when we do not even know the facts and a little research will show that it is not the person that we keep on referring to. He disagrees with Mr. Womack on a lot of issues, but at the same time, he is elected to serve the county. He hopes Council can keep that in a professional light.

Mayor Olive expressed condolences to the family of Margaret Hester, the widow of former Mayor Winston Hester.

Mayor Olive reminded everyone that on Wednesday, April 11, at 2:30 p.m., we have invited the Lee County Board of County Commissioners to join Council in a meeting to discuss the sales tax distribution.

Mowing Agreement with Department of Transportation

Mr. Hegwer made Council aware that we have an ongoing agreement since 2009 with the North Carolina Department of Transportation so that we mow the right of way within the City limits. They pay us \$29,371.62 and this is what they are anticipating next year. It makes sense for us to mow the D.O.T. streets because we are driving up and down those streets as we mow. There is not an agreement to sign; he can send a letter to the D.O.T. that we are willing to do this year. It is the typical standard of agreement that we have been utilizing since 2009.

ADJOURNMENT

With no further business to come before the council, the meeting was adjourned on motion of Council Member Walter McNeil, seconded by Council Member L. I. "Poly" Cohen, Jr., the motion carried unanimously.

Respectfully submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK