

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, June 5, 2012, at 7 P.M., in the Council Chambers. The following people were present:

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

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

PUBLIC COMMENT – (Exhibit A)

Alexis Aguirre, residing at 2826 Kendale Drive, spoke about a noise complaint regarding the Las Palmas Night Club located at 2613 Lee Avenue, a club he and his father operate. He said that his family moved here from California in 1975. He is a graduate from Lee County High School – Class of 2006. They have operated the club for the past eight years. In addition to operating the club, his father is head of the soccer league that plays on the southend of Kendale Shopping Center. They have twenty teams and each team is composed of twenty players. On July 7, they will be holding a big tournament and the head man from the Mexican consulate will be in town to watch the games. They also operate the Taco Stand on Horner Boulevard located across from Godfrey's Body Shop.

Mr. Aguirre said that a couple of years ago there were complaints about the noise from the club and they worked really hard to suppress the noise. They added sound buffers and thought the problem was resolved. They interviewed the residents who were living in the houses behind the club at the time and to his knowledge, the problem had been solved. On Monday, Council Member Jimmy Haire called his father and talked to him about the complaint they had on Saturday night. Mr. Haire asked to meet with them and he and his father went to Mr. Haire's studio and talked for over an hour. Mr. Haire told them about the lady who lives on Raleigh Street and he apologized to her because they thought the problem was resolved with the noise. At the meeting, they told Mr. Haire about the work they had done but since this complaint has come about, they are going to work this week; they have an event Saturday night and invited Mr. Haire to come out and see what they have done to suppress the noise. He has agreed to come to the club. Mr. Haire has his and his father's cell phone numbers and asked him to give it to the lady complaining. If she has any more problems, she can call them so they can get it under control.

They have the signatures from the residents they interviewed in 2009 when they completed the work to suppress the noise.

APPROVAL OF AGENDA

Mayor Pro Tem Sam Gaskins made the motion to approve the agenda. Seconded by Council Member L. I. “Poly” Cohen, the motion carried unanimously.

City Attorney Susan Patterson advised that at the last Law and Finance Committee meeting, Mr. Gaskins said something about adding the information regarding the policy for non-profits on the agenda and it has been placed at Council’s seats but it was too late to add to the agenda. She asked if it needed to be added or if Council would like to take it up at its next meeting. There would need to be a motion to take it from the table before you can discuss it.

Mayor Pro Tem Sam Gaskins made the motion to modify his last motion to approve the agenda as written and modify it to approve the agenda with the addition of the policy for funding non-profits for charitable organizations. Council Member Cohen seconded the motion and the motion carried unanimously.

CONSENT AGENDA

Approval of City Council Meeting Minutes Dated May 1, 2012 – (Filed in Minute Book 77)

Approval of Special City Council Meeting Dated May 9, 2012 – (Filed in Minute Book 77)

Approval of Law and Finance Committee Meeting Dated May 9, 2012 – (Filed in Vault)

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2011-2012 – (North Plank Road Water Line) - (Exhibit B)

Approval of Resolution to Temporarily Close Clark Circle – (Exhibit C)

Resolution was approved to temporarily close Clark Circle on June 16, 2012, from 10 A.M. until 2 P.M.

Approval of Request to Legislature for a Local Bill to Authorize Assessment of an Occupancy Tax – (Exhibit D)

This item was removed from the agenda.

Approval of Request to Legislature for a Local Bill to Authorize the City to Negotiate Private Sale of Real Property – (Exhibit E)

Approval of Ordinance Establishing No-Parking Zones Along Portions of Oddfellow Street and Dudley Avenue – (Exhibit F)

Ordinance was approved to establish no-parking on the south side of Dudley Avenue beginning 100 feet east of the intersection of South Vance Street and continuing eastward to the intersection of Oddfellow Street. This request was made by the Sanford Housing Authority.

Approval of Resolution in Support of the Temporary Closure of a Portion of Oakdale Street for the Purpose of a Church Bazaar – (Exhibit G)

Resolution was approved to temporarily close a portion of Oakdale Street from Boykin Avenue to Vance Street for the purpose of a church bazaar (New Bethel Freewill Baptist Church) on June 23, between the hours of 7 A.M. and 8 P.M.

Approval of Ordinance Establishing No-Parking Zones Along a Portion of West Pearl Street – (Exhibit H)

Ordinance was approved to establish no parking on a portion of West Pearl Street on the north side of West Pearl Street between Horner Boulevard and South Steele Street.

Approval of Ordinance Amending the Annual Operating Budget for Fiscal Year 2011-2012 – (Plumbing Repair Project at Central Fire Station) - (Exhibit I)

Ordinance appropriates \$60,000 for plumbing repair work at Central Fire Station.

Approval of Ordinance Amending the Annual Operating Budget for Fiscal Year 2011-2012 – (Funding of Pedestrian Signalized Crosswalk at Main Street and Woodland Avenue) - (Exhibit J)

Ordinance appropriates \$15,000 to install Pedestrian Signalized Crosswalk at Main Street and Woodland Avenue.

Approval of Community Development Block Grant Program Project Ordinance Amendment – (Exhibit K)

Ordinance amends the Community Development Block Grant Program Project Ordinance to appropriate \$15,000 for pedestrian signalized crosswalk at Main Street and Woodland Avenue, as part of the Autumn Oaks Project.

Approval of Actuarial Consulting Services Contract – (Exhibit L)

Approval to award J. G. Gaston and Associates, Inc., the Actuarial Consulting Services Contract for Other Post-Employment Benefits (OPEB).

Council Member Charles Taylor made the motion to remove Item F - Approval of Request to Legislature for a Local Bill to Authorize Assessment of an Occupancy Tax from the Consent Agenda because a consensus vote was taken and this request was sent to the General Assembly for presentation and we have received an answer. It is a mute point for us to take another vote on something we have already received an answer on. City Attorney Susan Patterson explained that it was simply put on the agenda as ratification that we have already sent it and have an answer and will explain it at the end of the meeting. It was done so that the documentation was placed in Council's record. Seconded by Mayor Pro Tem Sam Gaskins, the motion carried unanimously to remove Item F from the Consent Agenda.

Council Member Rebecca Wyhof made the motion to approve the amended consent agenda. Seconded by Mayor Pro Tem Sam Gaskins, the motion carried unanimously.

CASES FOR PUBLIC HEARING

Public Hearing on Financing Agreement for Street Resurfacing – (Exhibit M)

Financial Services Director Melissa Cardinali explained that the public hearing needs to be held to give the public an opportunity to speak on the proposed financing terms for the street resurfacing in the amount of \$950,000. The terms are ten years with BB&T at 2.09 percent.

Mayor Olive opened the public hearing. No one spoke in favor or in opposition. The public hearing was closed.

- **Consider Adoption of Financing Proposal for Street Resurfacing and Resolution Approving Financing Terms – (Exhibit N)**

Mayor Pro Tem Sam Gaskins made the motion to accept and adopt the Financing Proposal for Street Resurfacing and Resolution Approving Financing Terms. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

- **Consider Adoption of Resolution on Authorizing the Filing of an Application for Approval of a Financing Agreement Authorized by North Carolina General Statute 160A-20 – (Exhibit O)**

Financial Services Director Melissa Cardinali stated that this resolution authorizes the filing of the installment purchase application with the Local Government Commission. This is our statement as a city that this financing will not increase taxes; that this is the least expensive financing route that we can take; that we have followed all of our appropriate policies and procedures in regard to debt; and we are doing our due diligence in that area.

City Attorney Susan Patterson advised that on this resolution, Number 8 of the assurances says that the attorney has rendered an opinion; however, she would like for it to be amended to say that the attorney has or will render an opinion because she has not written it yet and she will do that tomorrow.

Council Member L. I. “Poly” Cohen made the motion to adopt the Resolution on Authorizing the Filing of an Application for Approval of a Financing Agreement Authorized by North Carolina General Statute 160A-20. Seconded by Mayor Pro Tem Sam Gaskins, the motion carried unanimously.

Public Hearing on the Proposed Annual Operating Budget for the City of Sanford FY 2012-2013 Budget

Mayor Olive said that we are not through with our budget; however, we can receive comment from the public regarding the proposed operating budget.

Mayor Olive opened the public hearing. No one spoke in favor or in opposition. The public hearing was closed.

City Manager Hal Hegwer stated that the budget is on line and available. We have had several budget sessions that have been televised and they are shown on Channel 11.

REGULAR AGENDA

Consider Curbside Recycling Roll-Out Cart Grant Program – (Exhibit P)

Public Works Administrator Laura Spivey advised that since the last Law and Finance Committee meeting, staff has discussed the application to get the grant for the roll-out carts. She wanted to give some more information to Council regarding the RFID tags. Some internet research and some recent waste and recycling articles revealed some possible concerns with RFID tags installed in the carts for some North Carolina cities. The RFID tag is a passive chip; it cannot tell what goes in your cart such as what type of soda you drink or what type of magazines you read. All it knows is where it lives and when it has been emptied. This RFID tag is not a GPS device. It is not going to track you or where you are at any location. It is basically a tool for helping your recycling program be better.

Mr. Hegwer said he wanted Council to be aware of this situation because he has seen some other municipalities (one specifically near Charlotte) that removed their RFID tags and had to turn down their grant. There have been some concerns and we wanted to eliminate them the best we can.

Mr. Hegwer said staff would like to get a consensus or vote to move forward with the purchase of the carts. He stated that Laura Spivey and he worked together and talked with two of the waste providers to see if there were any issues by us moving forward with recycling with a larger bin and changing the program with our existing vendor and would it cause any problem in terms of competition in the future. Mrs. Spivey replied that they said, "Absolutely not." One of them stated there could be some disruption because it would go to bi-weekly and a new vendor in 2013 could do something different.

Council Member Taylor made the motion that we proceed with the RFP and RFQ process for the purchase of 95-gallon recycling carts. Seconded by Council Member Cohen, the motion carried unanimously.

Resolution Establishing a Policy for Requests for Funding From Community Charitable Organizations – (Exhibit Q)

Mayor Pro Tem Gaskins stated that this policy provides Council with the opportunity to evaluate any agency that might be asking for funds from the City. It would give Council guidelines on which to treat each organization equitably and, at the same time, give them the opportunity to refuse.

City Attorney Susan Patterson said that we need a motion to take it from the table. Mayor Pro Tem Sam Gaskins made the motion to take from the table discussion regarding the Resolution Establishing a Policy for Requests for Funding From Community Charitable Organizations. Seconded by Council Member Rebecca Wyhof, the motion carried unanimously.

Mr. Gaskins stated there are a number of things at which he would like to look at before they evaluate different organizations and one of them is how they contributed to the city. He did not feel a detailed document telling how much money they received was needed, but certainly from the examples they have had – Temple Theatre being the primary example receiving the greatest number of funds. He read that 65 percent and historically, very close to 70 percent of

the people who go to the Temple Theatre come from outside Lee County and that is a contribution to the businesses Downtown. The Boys and Girls Club, who came once with a request for money, had nearly 14,000 kids go through the club and the only four kids that had arrests were four that were appointed to them by the court system. They have helped our police force quite a bit and that is commendable. We would see where these organizations have made a direct contribution to the city. Two years ago when this came up, the CUOC came to Council requesting funds. All 501(c)(3)s are by their nature, doing something good and charitable for the community, but we had no way of differentiating other than our own opinions, and with a document like this, while CUOC does wonders for people inside Sanford, that type of funding comes from the County – Social Services; we do not furnish anything like that from the City. This gives us a way to discriminate among them and also gives us an opportunity to look at their financial records. He would hate for someone to come in here with a terrible need and also a need that is only going to last a month or two before it folds.

Mayor Olive asked if there would be a cap on how much we would be spending in this particular budget? Mr. Gaskins replied no; there was nothing in this policy which had any restrictions on dollars. Attorney Patterson stated there is no set dollar amount. The policy says decisions on funding would be within the discretion of the City Council and within funds available.

Council Member Taylor said he thought it would be an appropriate time to also make it adaptable for use of the golf course. It may be an acceptable time to alter this current document to include provisions on the use of the golf course.

Council Member Wyhof asked if there are any legal concerns about having a policy or not having a policy in general and any concerns counsel may see about this policy. Attorney Patterson replied there are concerns. She said that without a policy in place, you could have a charge that you discriminated in how you determine who gets what. With a policy in place, you are limited in exercising your discretion on who to fund or when to fund. This Council, for the last fifteen years, has been prudent and conservative in what they choose to spend the taxpayer's money on. They try to cover the City services as required by statute and law and provide the tools necessary for the City departments to do their jobs. In the past fifteen years, there has not been a policy for opening up our budget to requests from non-profits for grants. We have; however, undertaken over the past budget cycles only certain quality-of-life organizations to which small contributions were made. In fact, some people who have benefitted from the largess of the City, have said the City has not gone up in twenty years. The point being, of course, that fiscal conservativeness has reigned. She does have concerns with this policy because it is a lot of work. It is also an expectation that would open up the budget to requests from anyone that would meet the criteria of carrying out a public purpose. It would also take scrutiny of material received from the non-profits. It was drafted based on what was requested from this Council. If this Council would tell her what they would like in the policy, she could draft it in different ways. It was simply modeled on many different towns who do undertake grants to non-profits to assist them. One thing in the policy she does like is that it says it is for various non-profits which assist the City with carrying out its mission by meeting a public need of the residents of the City of Sanford, which is not addressed by the City services, or which supplements an existing service provided by the City; thereby, relieving the City the cost of

providing that service. It has to be a non-profit agency that carries out a public purpose which is basically within the authority of the City of Sanford to fund.

Attorney Patterson said that the way this is designed, there is a great deal of work keeping track of and evaluating the non-profits. There is a form to help evaluate non-profits on a one through ten scale on different items. She has been involved with United Way on their funding committee and they have different committees evaluate to see if a charity put in all the documentation necessary; have they provided their by-laws; have they provided their tax forms that show they are a non-profit; have they got a budget on what they intend to spend; and is there a request for capital items or operating expenses. She said that taxpayer money is not supposed to inure to the benefit of any particular person; it is supposed to help carry out objectives or carry out a mission to accomplish activities for which the City of Sanford is enabled to fund. It is a great deal of work for someone to have to gather all this information, to evaluate it, and then to make a decision. No matter what steps you take, the Council still decides whether to fund or not. You have done that very prudently in the past and very rarely. This would open it up for more people to ask; you will get more requests. Attorney Patterson explained the policy in detail.

Mayor Olive stated that we need a workshop on it or a Law and Finance Committee meeting. We need to look at it in the meantime to have more knowledge on it before action is taken on it.

Mr. Taylor said since Council is looking at passage of a budget on June 19, it would be prudent to put this on Law and Finance for Wednesday.

Mr. Haire clarified how many requests have been received. Mayor Olive said there is one from the Temple Theatre, Railroad House, and the Arts Council.

Mr. Hegwer said staff needs direction. Mayor Olive felt it should be on the Law and Finance Committee meeting agenda.

Mayor Pro Tem Sam Gaskins made the motion to table the vote for two weeks so it will come before Council on June 19 and in the interim, it will be open for discussion during the Law and Finance meeting and any modifications that might be made, then the overall policy would be voted on June 19. Council Member Taylor asked for clarification on the motion that if Council is prepared to vote on a budget on June 19, you would want this voted on prior to the budget. Mr. Taylor said if Mr. Gaskins would amend his motion, he would second the motion. Mr. Gaskins amended his motion for it to be voted on prior to the budget. Mr. Gaskins said that the only thing he is asking to be tabled is that the actual vote on the drafted policy be held on June 19 prior to the budget and allow it to be available for discussion and modifications prior to that vote during the Law and Finance meeting. Mr. Taylor seconded the motion.

Council Member Cohen pointed out that we are elected by the citizens of Sanford and if you think they want you to give away their money, that is one thing or do you want them to think that we are going to be very frugal and give a little bit away to very needy people, that is a different story. He did not think he was elected to give away the money to charitable

organizations. We need to be frugal and look at this long and hard before we start giving away a lot of money from the City.

The vote was unanimous in favor of Mr. Gaskins' amended motion.

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

OTHER BUSINESS

Mayor Pro Tem Gaskins said that prior to this meeting, he attended the induction of seventeen trainees at Caterpillar for an outstanding program. It is a bold venture by Caterpillar, Central Carolina Community College and Lee County School System to prepare young people for life and for working in a manufacturing operation. He commended the three entities and the young people who are stepping forward into this excellent program.

Council Member Taylor stated that he would like to get an update on the Central Fire Station project so far as taking care of the other things he mentioned in the Law and Finance Committee meeting the other day.

Mr. Taylor said that troubling numbers came out today regarding workplace injuries and fatalities. The Police and Sheriff Departments came in at #10 – most dangerous jobs. The troubling thing to him was there was a 40 percent increase over 2009. It is the second highest non-fatal injury rate in the country.

Mr. Taylor said he had the opportunity to go and see the live burn last night. It is amazing to see the exercises that go on and hats off to the men and women that serve, not only in the Fire Department, but serve in any public capacity in our City.

Mr. Taylor said the mayor appointed a committee to study radios. He said they did get together and got an agenda so far as structured environment that we have submitted to the city manager; that will entail the input as well as total vetting. He said there is a lot of misconception and misinformation out there. He felt we need a communication plan; that is a consensus that several of us share, not just for the Fire Department but for other departments – the Police Department and Public Works. Mr. Taylor said he looks forward to working through this and totally vetting and making sure at the end of the day, that each one of you, in whatever capacity you serve, are protected.

Mr. Taylor said that regarding the updates that Council had requested as far as budget is concerned, he wanted to make sure Council has a summary session where they can wrap up the budget. The budget process has been a thorough process and he appreciates staff and the time they put in making it easier for Council to understand.

Mayor Olive asked what is the update on the status of the Fire Station? Mr. Hegwer replied that Council approved a budget ordinance for the funding of the plumbing repair at Central Fire Station. As far as the bathrooms and the roll up doors, they are looking at these requests. They have to get quotes from contractors to make the repairs.

City Attorney Patterson explained that Items F and G on the Consent Agenda regarding the request to the Legislature for a local bill to authorize assessment of an occupancy tax and the request for a local bill to authorize the City to negotiate private sale of real property were basically the memorialization of the requests. The request to the Legislature did explain that there were only six out of seven votes for approval of the request for the occupancy tax; however, the response that was received was that there was not full support of our representatives, so it was not introduced before the local bill deadline.

Attorney Patterson stated that regarding the local bill to authorize the City to negotiate private sale of real property, our legislator and senator did introduce a bill for this; however, it was modified with changes in it putting additional requirements on the City before we could ever engage in private sale; requiring us to solicit sealed bids by advertisement in the newspaper three times prior, advertising ten days prior to the opening of bids. The request was for all sites that the City might own on the inactive hazardous waste sites list for the North Carolina Department of Environment and Natural Resources. Mayor Olive asked if we were told about the amendments before they were introduced. Attorney Patterson replied no. She has called the senator and representatives' offices and has been unable to speak directly to our representatives. This would require us to sell to the highest bidder, taking away our statutory authority to reject any or all bids. It also would require us to do this prior to ever entering into negotiated private sale. The purpose of the request was for us to gain additional authority that we did not currently have under the law to sell this piece of property and work directly with a redeveloper with a plan for redevelopment to bring jobs to the area and to make it a productive piece of property. What was introduced on our behalf ended up becoming a requirement that we go through three sealed bid processes and that we must sell to the highest bidder. She had a conversation with the legislative assistant, who told her that our representative was interested in transparency in the process, but she did not think the request for the private negotiation and sale was going to take anything out of the transparency realm. It was to give us additional authority to sell in a manner which we did not have. We currently have the ability to sell by sealed bids and we would not need this law to do this. We have had a tax foreclosure sale on the courthouse steps already, but there were no bidders. We have been working with two potential redevelopers with the State Environment and Natural Resources Department trying to have a Brownfields agreement in place to help limit liability on purchases. There are people who are interested, but they want to have an assurance that they are going to be able to get the property and not be outbid by someone else. We asked for it to be for any properties the City would own on the Inactive Hazardous Waste Site list, which would limit this to very few numbers of properties, but would allow us some ability to negotiate with someone who might clean it up and make it more profitable and create more jobs. What ended up being introduced would apply only to the Whitin-Roberts property. She is currently trying to speak with our elected officials to see if we could have it changed in some way to help us accomplish what we need, or else to stop it.

City Manager Hal Hegwer mentioned that during the budget process, there was an extensive amount of questions and we thought it would be possible to have them answered tonight but we were not able to complete them. He said some of the answers are detailed and, hopefully, this will address some of the concerns, but if it does not, council members can call or we can discuss them again at the next Law and Finance meeting.

He referred to the handout (Exhibit R) and explained the proposed changes to the budget.

Mr. Hegwer said that after our next City Council meeting on June 19, our next Council meeting is scheduled for Tuesday, July 3. What we normally do this time of year is, any items we would like to try and clean up at the end of the year, such as budget amendments, fuel shortage, etc., staff would like to hold that Council meeting on Wednesday, June 27, which is our normal Law and Finance Committee meeting day. It is possible that we may only need a Council meeting; however, we could hold both meetings that day if necessary. He asked Council if they would be in agreement with changing the City Council meeting date to June 27 and cancel the City Council meeting on July 3. Council members were in agreement to change the meeting to June 27.

Mr. Hegwer announced that Town Hall Day is tomorrow and some of them will be going to meet our delegate at the Legislature and if there is anything the public wants us to pass along, let him know.

ADJOURNMENT

With no further business to come before the council, the meeting was adjourned on motion of Council Member Walter McNeil, Jr., seconded by Mayor Pro Tem Sam Gaskins, the motion carried unanimously.

Respectfully submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK