

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, October 2, 2012, at 7 P.M., in the Council Chambers. The following people were present:

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

Absent:

Mayor Cornelia P. Olive
Council Member Rebecca Wyhof

Mayor Pro Tem Sam Gaskins called the meeting to order. A moment of silence was observed. The Pledge of Allegiance was recited.

PUBLIC COMMENT - (Exhibit A)

Carol Carlson – residing at 1814 Holiday Road, stated that she is a board member of Downtown Sanford and is a property owner in Downtown. She encouraged Council to move forward with the parking lot improvements on Chatham Street.

Joni Martin – residing at 1313 Bickett Road, spoke on behalf of Downtown Sanford. She said there was a board meeting this morning and all the board members are very anxious to see this project get started as it has been in the works for almost a year. The DSI Board feels it is critical to get it started. It is the first piece of all of the architectural work that has been done. It shows commitment by putting the money towards the design part of it. They hope it will be completed to benefit the Downtown businesses in the Downtown area.

APPROVAL OF AGENDA

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

CONSENT AGENDA

Approval of City Council Meeting Minutes Dated August 21, 2012 – (Filed in Minute Book 78)

Approval of City Council Meeting Minutes Dated September 18, 2012 – (Filed in Minute Book 78)

Approval of Resolution in Support of the Temporary Closure of Portions of Several Streets for the Central Carolina Jaycees 2012 Sanford Christmas Parade – (Exhibit A)

Approval of Waiver of Bidding Procedures (Piggyback) and Award of Contract to Purchase 9,000 Roll Out 96 Gallon Recycling Containers to Cascade Cart Solutions – (Exhibit B)

Approval of Ordinance Amending the Annual Operating Budget for FY 2012-2013 – (Purchase of 9,000 Roll Out 96 Gallon Recycling Containers) - (Exhibit C)

Approval of Grant Project Ordinance Amendment - Sanford Farmers Site Infrastructure Cloverleaf Cold Storage – (Exhibit D)

Approval of Ordinance Amending the Annual Operating Budget for FY 2012-2013 – (Software Modifications) - (Exhibit E)

Approval of Ordinance Amending the Annual Operating Budget for FY 2012-2013 – (Grant Funds From National Association of Drug Diversion Investigators, Inc.) - (Exhibit F)

Approval of Resolution Authorizing Sanford ABC Board’s Adoption of the Travel Policy of the City of Sanford as the Travel Policy of the Sanford ABC Board – (Exhibit G)

Approval of Resolution Declaring the Intention of the City Council to Consider the Closing of Imperial Drive – (Exhibit H)

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

SPECIAL AGENDA

Presentation of Plaque to Robert “Bob” Heuts in Recognition of His Service to Sanford/Lee County

Mayor Pro Tem Sam Gaskins praised Mr. Heuts for his past sixteen years as Lee County Economic Development Director. He has heard feedback from many people across the state and everything he has learned is that in Mr. Heuts, we have one of the most respected, if not the most respected Economic Development Director in the southeastern United States. Mr. Gaskins presented Mr. Heuts a plaque in appreciation of his outstanding service as Lee County Economic Development Director and as a dedicated member on the Sanford/Lee County Regional Airport Authority.

Mr. Heuts thanked Council for the support they have provided to the Lee County Economic Development Corporation and to him personally over the years he has worked in Sanford. He said that Council has been a fantastic board to visit and talk about economic development and various projects. He thanked all the staff on the City because there is not an office that he would walk into whereby he did not get the help he needed to do the best job for the public. It was easy to know you had a team working with you through the process. He said there are so many things to be thankful for in this community and a lot of which Council and other groups were proactive in. He encouraged Council to keep working together to see what can be done to be competitive to move this community ahead.

REGULAR AGENDA

Consider Discussion of Bids Regarding Jonesboro Parking Lot and Downtown Sanford Parking Lot - (Exhibit I)

City Engineer Paul Weeks stated that the Humber Street parking lot was discussed at the last Law and Finance Committee meeting. The bids came in under budget to do both parking bays. The low bidder was Eastern Services dba Raleigh Paving at a bid of \$148,497. We also asked them to bid out one parking bay. The cost of that was \$130,246; both included sidewalk down Humber Street to Lee Avenue. At the Law and Finance meeting, staff asked Council to give direction on which way to proceed such as with one or two parking bays. The two bay option is within the budgeted amount. Council asked for pricing information on the lighting of the lots.

Mr. Weeks advised that staff analyzed three different options. He placed a copy of the lighting options (Exhibit J) at Councils' seats. The first option is where we own the poles and the lights and we do the installation work. The second option is where Progress Energy owns the poles and the City owns the fixtures. The third option is where Progress Energy owns the system and the LEDs and we would lease it on a monthly basis. Doing the cost comparison, staff chose to use the Net Present Value (NPV). Net Present Value takes all your cash flows over a certain time period and brings it back to today's dollars, so it lets you compare what you expect to spend amongst all three options. Staff chose the NPV over a ten-year period because the Progress Energy contract would be for ten years. Out of the NPV analysis, the lower of the options would be Option #2 – Progress Energy owns the poles and the City owns the LEDs. CREE did not have an equal LED that met Progress Energy's specs.

Council Member Taylor made the motion to approve the two-parking bay option with the Number 2 Option for lighting that is recommended by staff. Council Member Haire seconded the motion.

City Attorney Patterson asked if this motion is to approve the type of work to be done or to award the bid to the contractor that was the lower bidder, because we do not have an action item on the board's agenda beyond discussion. She is just trying to understand whether we are giving the direction, to allow the two-bay and the number two lighting option, or whether Council is trying to award the bid to the contractors.

Mr. Taylor clarified that his motion is that we came in under budget so that is why he was supportive of the additional second parking bay with sixteen spaces. The form of the motion is to award the bid to Eastern Services dba Raleigh Paving and to opt for Option 2 for the lighting which is the Progress Energy owned poles with Sanford owning the LEDs at a capital cost of \$6,753.

Attorney Patterson asked, for clarification, if he is wanting to award the bids even though we did not have anything telling the bidders and the public that we would award bids tonight.

Mayor Pro Tem Gaskins stated that was the motion and was agreeable with the second. Mr. Hegwer said we may have to follow up with some further action. The vote was unanimous

to award the bid for the two parking bays to Eastern Services dba Raleigh Paving and to opt for Option 2 for the lighting.

City Engineer Paul Weeks explained there has been no change with the Chatham Street parking lot. The information was presented to Council at the last Law and Finance Committee meeting. Council wanted to review the info. Raleigh Paving is also the low bidder. We had to select an apparent low bidder because the bid amounts were over the budgeted amount. You select the low bidder and enter into negotiations with that contractor. We negotiated with Raleigh Paving and brought the cost down by removal of the bio retention pond and dumpster enclosure and go to a wood enclosure on the remaining one. It brought the amount to \$245,986.99. If Council chooses to go with the streetscape option, Greenway option, and lighting, the total would be \$322,969.91. The remaining funds from DSI appropriation is \$122,600.52, leaving a funding difference of \$200,369.39. Progressive Contractors has indicated that they would contribute \$51,995, which leaves a funding difference of \$148,374.39.

Council Member Taylor stated that we just awarded Raleigh Paving the bid on Humber Street parking lot. He asked if it was an option to bundle these together. Mr. Weeks replied no. Mr. Taylor asked if we opt to do the contracted price of \$327,862, can we go back and do the streetscape and greenway options and lighting later; can they build it with these options available later? Mr. Weeks replied that these options can be built at a later date. Lighting becomes more of an issue because you have to put underground conduit in. If we chose to go that route, it may be best to put the conduits in during the construction. Mr. Taylor asked if Council chose to do the paving and the lighting option, would Progressives' option of including the \$51,995 still be in the deal? Joni Martin, representing Progressive, replied "yes." Council Member Taylor said that he is grateful of what Progressive is doing and he understands that Council needs to proceed. Mr. Taylor stated that to look at our budget and not know what we have going on and the fact that there is a \$70,000 allocation for streetscape and greenway options, he can understand the lighting being included.

Mr. Weeks replied that if we do choose to do the greenway option or streetscape option at a later date, there may be an additional cost added to that because you will have done some work and put it in place. In order to get everything to mesh together especially the streetscape work with the parking lot, we may have to redo the entrance so the cost could go up some.

Council Member Taylor made the motion to award the bid to Raleigh Paving with the lighting option. Attorney Patterson stated that she did not believe there were enough funds to make an award at this point; we might have to come back with a budget amendment and then make the award. Mr. Taylor said there will be a shortfall but he is trying to minimize that gap between what we have currently on the table. Attorney Patterson stated that if Council would like to give the direction that the budget amendment be prepared and the funds come from general fund or wherever you choose to have the money come from, Council will need to tell staff to prepare it for the next meeting.

Mr. Cohen asked if we have enough money. Mr. Hegwer replied that you would have to take it out of contingency or fund balance. There is \$50,100 left in contingency funds.

Mr. Taylor said that we are looking at a revised bid of \$245,986.99 from Raleigh Paving; adding an additional \$6,837.92 for lighting; we have \$122,600.52 allocated in the budget, so we have \$251,000 and another additional 51,000 coming from that figure so you have about \$200,000. In essence, we are looking at an additional \$80,000 appropriation.

Council Member Taylor made the motion pending a budget amendment to take the funds out of contingency funds and general fund balance, that we would grant and go ahead and do the funding for Raleigh Paving bid as well as the lighting option; excluding the streetscape option and greenway option. Council Member Cohen seconded the motion.

Mr. Hegwer asked Mr. Weeks which option would be the best to come back and do later – the Greenway option or Streetscape option. Mr. Weeks replied the greenway option would be easier. The Streetscape would be more obtrusive because of where it is.

Attorney Patterson advised there is one legal issue with this project. There is a current entrance on McIver Street that is designated as Smith Street. It is an area where the owners who owned that property before had designated that to be a street; however, the deed says if it is no longer used for street purposes, it reverts to the owners and it is an automatic reversion. The design would need to have some recognition with regard to the Smith Street designation. Since reverse is automatic, it does not require anyone to do anything; to take possession away; the deed requires that there be a Smith Street remaining. It is probably within the City's purview to decide where it goes. It is an issue legally with regard to the deed to the property.

Mr. Cohen said that if Mr. Taylor will accept this, he would like for the City manager and the Finance Department get together to see if we can find enough money to do the entire project because it would be cheaper to do it now. Attorney Patterson asked if that is offered as a friendly amendment. Mr. Cohen replied yes. She asked Mr. Taylor if he would entertain that amendment. Mr. Taylor replied that he is really struggling with the streetscape option because during the budget process, we were trying to be very lean on what we spent and \$80,000 is a lot of money right now to allocate especially when you are talking about a project of a little over \$300,000. He said you are allocating an additional 25 percent in funds right now; he wants to see the functionality and that is the main thing - to get it functional and get the parking lot used. Mr. Cohen wants his motion to stand as it is right now. Mr. Gaskins asked if he wished to offer that as an amendment to the motion. Mr. Cohen withdrew his amendment to the motion.

Attorney Patterson asked if this is to follow up with the budget documents or do you want that passed now. Mr. Taylor replied we could pass it now too.

Mr. McNeil asked what is the time frame on getting this project completed? Mr. Weeks replied the contractor has 90 days to do the Chatham Street parking lot and on that note, we can hold the bids for 60 days. We opened bids on August 30 so as of September 30, 30 days are up. We have 30 days before the contractor has the option of pulling his bid.

Mr. Hegwer reiterated that it will still require a budget amendment on top of awarding these bids. We will have to follow up with some action to match that amount of money.

Attorney Patterson said that she understands this is the budget amendment plus the award but we need the paperwork to follow contingent upon a budget amendment, either way.

Mayor Pro Tem Gaskins said according to Council Member Taylor, this is the budget amendment with it.

The vote was unanimous on the motion made by Council Member Taylor previously: the motion is pending a budget amendment to take this out of contingency funds and general fund balance, that we would grant and go ahead and do the funding for Raleigh Paving bid as well as the lighting option; excluding the streetscape option and greenway option.

Closed Session

City Attorney Susan Patterson requested that Council go into closed session in accordance with N.C.G.S. 143-318.11(a) (3) to preserve the attorney-client privilege. Council Member James Williams made the motion to go into closed session. Seconded by Council Member Jimmy Haire, the motion carried unanimously.

Return to Regular Session and Consider Appointment to the Airport Authority – (Exhibit K)

In response to a question by Mayor Pro Tem Sam Gaskins, Attorney Patterson said that the question is whether this appointment had to be advertised, prior to making an appointment. Membership to boards and commissions are usually done for a three-year term and according to the code of ordinances, when there is an upcoming term to be filled for the three years, those are advertised. There is a section in the code of ordinances that deals with filling vacancies that happen in which Council may act in expedient or urgent conditions. It has been the pattern and practice of the City Council that when vacancies occur due to death, resignations, etc., that they often make appointments upon receipt of applications or upon Council's own prerogative. This is not something that would require advertisement prior to action by Council.

Council Member Taylor said that regarding the boards and commissions appointments, there are discrepancies on our website. Under the boards and commission appointments, you will see public notification is given for vacancies when they arise. We have had a long standing practice of publicizing vacancies on boards. We currently have a couple of vacancies publicized on our website as we speak. We had an appointment recently on the Appearance Commission that was advertised as well. He would like to offer a motion. It will be a motion in three parts. The first is to table the appointment tonight. The second is to publicize the position even if it is for 24 hours. The third is in two weeks, have a resolution in memory of Joe McDonald and his service. Mr. Taylor stated that he personally had a problem with the quickness and how hastily this appointment is being done. It has nothing to do with the candidate. The candidate who applied has an impeccable record and has done a great job with the Statewide Aeronautics Board. He said it is a problem with the timing, as Mr. McDonald passed away last Wednesday, and there was an application on the agenda Friday.

Mr. Taylor said that he would like to table the nomination until two weeks from today; have the city clerk publicize the position; and have a resolution honoring Joe McDonald two weeks from tonight and that is in the form of a motion. Council Member Jimmy Haire seconded the motion. The motion failed by a two to four vote. Council Members Taylor and Haire voted

in favor of the motion. Council Members Cohen, McNeil, Williams and Gaskins voted against the motion.

Mayor Pro Tem Gaskins asked if any council member wanted to divide the question or if they want to vote on parts of the motion at the same time. Mr. Taylor stated that out of respect for this board, he is appalled that the noes came in a barrage, after the motion was made and voted on. It is very disappointing.

Council Member Cohen made the motion to appoint William Carter Keller to the Airport Authority to fill the unexpired term of Joe McDonald. Council Member Williams seconded the motion. The motion carried six to one with Council Member Taylor casting the dissenting vote.

OTHER BUSINESS

Mr. Cohen made the motion to have a resolution at the next City Council meeting honoring Joe McDonald because he did a lot of work for the airport. Seconded by Council Member Williams, the motion carried unanimously.

City Manager Hal Hegwer advised that he has a copy of the Sanford ABC Board's audit. The audit was placed online about two weeks ago.

Mayor Pro Tem Gaskins stated that he has one comment and it has nothing to do with City business because the City has no authority or control whatsoever. He felt it was important for the City residents and Lee County that they be aware of a Section of Senate Bill 820 which is entitled, "Development of lands as a drilling unit by agreement or order of Commission (a) Integration of Interest and Shares in Drilling Unit – "When two or more separately owned tracts of land are embraced within an established drilling unit, the owners thereof, may agree validly to integrate their interests and to develop their lands as a drilling unit. Where, however, such owners have not agreed to integrate their interests, the Department shall, for the prevention of waste, or to avoid drilling of unnecessary wells, require such owners to do so and to develop their land as a drilling unit." Mr. Gaskins said that for those individuals who are not in favor of having your land drilled upon, the City of Sanford can do nothing; however, this forced pooling allows for them to come in and cut your trees, put in roads, install pipelines, storage tanks and drill wells on your land even though you do not approve. This is not something whereby you could easily be annexed to the City of Sanford because it would require your neighbors who wish to be annexed so there is nothing the City of Sanford can do. There is more information in that Bill that describes what you cannot do should they decide to put a well on your land or put in paved roads. He said Council Member Taylor is on the committee to consider these issues. It is part of the law of North Carolina and your only choice is to make your wishes known to the State legislators and to the committee.

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

ADJOURNMENT

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

Respectfully submitted,



CORNELIA P. OLIVE, MAYOR

ATTEST:



BONNIE D. WHITE, CITY CLERK