

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

The City Council met in the council chambers at the Sanford Municipal Center, 225 E. Weatherspoon Street, on Tuesday, February 5, 2013 at 7 P.M. The following people were present:

Mayor Cornelia Olive
Council Member Walter H. McNeil, Jr.
Council Member Jimmy Haire
Council Member Charles Taylor
City Manager Hal Hegwer

Mayor Pro Tem Sam Gaskins
Council Member L. I. (Poly) Cohen
Council Member James Williams
City Attorney Susan Patterson
Deputy City Clerk Janice Cox

Absent:

Council Member Rebecca Wyhof
City Clerk Bonnie D. White

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

PUBLIC COMMENT

No one appeared to make a public comment.

APPROVAL OF AGENDA

The agenda was unanimously approved upon motion of Council Member Poly Cohen and seconded by Mayor Pro Tem Gaskins.

CONSENT AGENDA

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2012-2013 – (Exhibit A)

Approval of Law and Finance Committee Minutes, Dated January 9, 2013 – (Filed in vault)

The consent agenda was unanimously approved upon motion of Council Member James Williams and seconded by Council Member Poly Cohen.

REGULAR AGENDA

Consider Taxpayer's Request for Tax Refund of Late Listing Penalty – (Exhibit B)

City Attorney Susan Patterson explained that Central Carolina Hospital has requested a refund of a late listing penalty in the amount of \$4,591.53 for the years 2008-2011. This request was discussed in the Law & Finance Committee meeting. The fine represents the discovery of personal property which should have been listed for taxes, but was not, as it was on the asset list as real property. The hospital has had several such occurrences.

Council Member Charles Taylor made a motion to deny the request to refund the late penalty. Seconded by Mayor Pro Tem Sam Gaskins, the motion carried unanimously.

Consider Autumn Oaks Subordination Agreement – (Exhibit C)

City Attorney Patterson explained that at the December 18, 2012 council meeting, Council approved a request to subordinate the city's loan to two new loans for Autumn Oaks with regards to their permanent financing coming after their construction financing. They have changed their financing into only one loan instead of two. That changes the amount. The city has been asked by the law firm that represents Autumn Oaks to approve a modified subordination agreement, basically subordinating the city's loan behind one loan, which puts us in second position behind a loan of \$1,282,090.

Mayor Pro Tem Sam Gaskins made the motion to approve the Autumn Oaks subordination request; seconded by Council Member Poly Cohen, the motion passed unanimously.

Consider Resolution Supporting and Seeking Legislation Authorizing a Mandatory Ten (10) Year Active Sentence Upon Conviction of a Felony Using a Firearm in the Commission of the Crime – (Exhibit D)

City Attorney Susan Patterson stated that she had been requested by Council at the Law & Finance meeting to make some changes in the proposed resolution. This is a resolution by which Council would be attempting to have legislation introduced at the North Carolina Legislature authorizing a mandatory ten-year sentence upon conviction of a felony using a firearm in the commission of the crime. Modifications were made taking out the need for a second felony and removing the information about it deterring crime

Council Member Taylor stated that this is not a local bill to be passed by our city council and have it sail through the legislature. He stated that there were sixty-five, gun-related bills filed last week. None deal with the actual criminal activity, but are more concerned with second amendment rights. He stated he had sought out all the voting members of this council and tried to answer all the questions. He wanted wording of the title changed to represent a mandatory ten-year active sentence for a second conviction using a firearm in the commission of a crime, using the terminology, "of a subsequent firearm-related felony." He asked for the word "second" to be inserted in the body of the resolution.

Mayor Olive asked Mr. Taylor why this was important. Mr. Taylor responded there is a fiscal note attached to any bill that deals with expenditures in the state legislature. There is the issue of prison overcrowding. There are different lobbying groups concerned—victim's rights groups and people who don't want anything gun-related touched. He stated that he had talked to the minority and majority leaders; the NC League of Municipalities; the County Commissioners' Association; the Sheriff's Association; the Police Chief's Association; and Metropolitan Mayors' Association. He stated that there are other municipalities that are going to take the language as he has presented it tonight. He thought this legislation would take care of 80-85 percent of the gun-related charges in Sanford. The last change he recommends is to use the terminology of "reduce recidivism" instead of "deter crime." He stated that this is not a partisan issue and there might be times when council members would need to go to Raleigh and work on this bill.

Mayor Pro Tem Gaskins stated that he agreed with changing the terminology from “deter crime” to “reduce recidivism.” Council Member Williams stated that he did not like the use of a second term and he did not think that, as lay people, they were expected to send a perfect bill to Raleigh. His recommendation is that Council should decide what they really want; adopt it; and have the city attorney to send it to the League to be circulated to other cities that feel the same as we do.

Council Member Taylor stated that we do not present bills to the legislature. The legislature has bill drafting that actually drafts bills. He stated that Ellis Hankins of the NC League of Municipalities is very interested and excited about this resolution, as are other associations. Currently, there is nothing on the books to prevent repeat offenders. The League does not represent county commissioners, so they are also approaching it from the NC Association of County Commissioners. He stated that the key is to get as much local support as possible. Mr. Taylor suggested that once we get the sponsorships of the bill, we could have the League lead the effort.

Council Member Taylor made a motion to pass the resolution as amended tonight and he called the question. Mayor Pro Tem Gaskins called for a point of order saying the resolution has not been amended. A second was called for on the amendment. Mr. Gaskins moved to divide the question on Mr. Taylor’s amendments—one for putting the second commission of a felony and the other on restoring Item 4 with reduced recidivism. City Attorney Patterson stated there were three changes, with the first being in the title.

Council Member Taylor stated that if council is going to change the resolution to their own language, he would prefer to table this until other municipalities take it up because he has other people who are going to take a vote on this resolution within a week. He stated that he would rather table it and not be a part of it than pick apart a resolution that is basically stating for us to do something to cut back on the violent criminals in our state.

Mayor Pro Tem Gaskins made a motion to divide the different amendments to the resolution. Because some council members needed copies of the resolution, council recessed for ten minutes to allow the city attorney to make copies to distribute.

The meeting resumed. Mayor Olive restated the motion made by Mayor Pro Tem Gaskins to vote on the three amendments to the resolution. Council Member James Williams seconded the motion. Those voting in favor were Council Members James Williams, Sam Gaskins, and Poly Cohen. Those voting against were Council Members Jimmy Haire and Charles Taylor. As Council Member McNeil was silent, his vote went with the majority, making the vote four in favor and two against.

Mayor Olive stated that the first change pertains to making the title, “Resolution Supporting and Seeking Legislation Authorizing a Mandatory Ten-Year Active Sentence upon Conviction of a Subsequent Firearm Related Felony.” Attorney Patterson read the original resolution for consideration, “Resolution Supporting and Seeking Legislation Authorizing a Mandatory Ten (10) Year Active Sentence upon Conviction of a Felony Using a Firearm in the Commission of the Crime.”

Mayor Pro Tem Gaskins stated that he, personally, did not believe in giving a person the second chance to kill someone. He believes in a stronger gun control law. Council Member Taylor stated that Council would have been better off tabling this whole issue because if everyone drafts a different document, the legislature may think it is too confusing with too many opinions and it will not be acted on, but become stuck in committee. He stated that they had effectively killed this bill, today.

Council Member Williams seconded the motion made by Council Member Taylor to amend the title to read, "Resolution Supporting and Seeking Legislation Authorizing a Mandatory Ten-Year Active Sentence upon Conviction of a Subsequent Firearm Related Felony." The motion passed with a vote of five in favor and one against. Voting in favor were Council Members Walter McNeil, Jimmy Haire, Charles Taylor, Poly Cohen, and James Williams. Mayor Pro Tem Gaskins voted against.

Council Member McNeil stated that he did not understand. There was confusion with some members about the wording of the title. Mayor Olive asked if council would like to consider tabling this in order to get more clarity. Attorney Patterson suggested it might be clearer if they have a copy with the changes to look at. Council Member Charles Taylor made a motion to table the resolution indefinitely. Mayor Pro Tem Gaskins seconded the motion. The motion passed unanimously.

OTHER BUSINESS

City Manager Hegwer stated that he had received a letter from County Manager John Crompton regarding the meeting held with the County Commissioners on January 30. He gave council members a copy of the letter. He reminded Council of the retreat scheduled for February 27 at 8:30 A.M. to about 1:00 P.M. The regular Law & Finance meeting will not be held if there are no items.

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

ADJOURNMENT

Council Member Walter McNeil made the motion to adjourn the meeting; seconded by Council Member Cohen, the motion carried unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

ATTEST:

Janice Cox, Deputy City Clerk