

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 Wednesday, February 19, 2013 at 7 P.M. in the Council Chambers. The following people were present:

Mayor Cornelia P. Olive
Mayor Pro Tem Sam Gaskins
Council Member James Williams
Council Member Rebecca Wyhof
City Manager Hal Hegwer
City Attorney Susan C. Patterson

Council Member L. I. (Poly) Cohen
Council Member Walter H. McNeil, Jr.
Council Member Jimmy Haire

Deputy City Clerk Janice Cox

Absent:

City Clerk Bonnie D. White
Council Member Charles Taylor (participated by telephone)

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

PUBLIC COMMENT – (Exhibit A)

Norma Yanez of 102 E. Sherwood St., Havelock, NC stated that she is a government contract employee for Waste Industries and has worked twenty-two years for them. If Waste Industries is selected, she would be on the team to facilitate that contract. She stated that their largest customer is Brunswick County with 78,000 customers, and they have smaller contracts, as well. She stated that if they are awarded the contract, they will fulfill all the promises made.

Frank Lorick of 5019 Woodfield Ln., Knightdale, NC stated that he is also an employee for Waste Industries and was disappointed that they were not awarded the bid last time, as theirs was the low bid. He stated they were the low bid again this time and that their intent is to establish a facility in Lee County and hire employees here. He would be glad to hire experienced workers here. There are properties available in Sanford where they may establish a branch facility including a transfer station.

Phil Carter of 3301 Benson Dr., Raleigh, NC stated that he is the government affairs manager for Waste Industries. He stated that their company services 280 government contracts and they are committed to the communities they live and work in. He gave examples of projects they fund in those areas including \$120,000 over four years to Sampson County Community College; \$40,000 annually to various projects in Sampson County; \$2,000 annually for the Snow Hill Baptist Church educational scholarship fund, and many others totaling \$268,000 in 2012.

City Attorney Susan Patterson called for a point of order. She stated that it is appropriate for Council to go into closed session at this time under NCGS 143.318.11(a)(3) in order to consult with an attorney employed by the public body in order to preserve the attorney-client

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privilege. Council Member Poly Cohen made the motion to go into closed session; seconded by Council Member James Williams, the motion passed unanimously. Council went into closed session.

Council returned to open session. Mayor Olive explained that there had been a request by Council Member Charles Taylor to participate in this meeting by speaker telephone and the Council does not have a policy to deal with this. City Attorney Patterson stated that on occasion, council members have had to miss council meetings, but we have not had participation in the meeting by absent members. The point of order for Council is whether council wants to determine how to allow participation remotely and whether or not they would allow a member who is participating electronically to vote on matters before the Council. It was determined that the city council needs to develop a policy in order to determine how to proceed with that.

Attorney Patterson stated that it is an open question in North Carolina whether people are allowed to participate in meetings electronically. The law allows state boards and commissions to have conference call meetings, but there is no authority under state law for local governments to do so, as it has not yet been decided. Attorney Patterson stated that it is not a problem if the person can hear the council and the council can hear the person to participate in a meeting by listening and discussing. The question is whether that person can be recorded on the recording device of the meeting. There are two aspects to having transparent meetings in the open. One is that the council members are supposed to be able to interact with each other as they conduct business and they are supposed to have the ability to face the constituents in the audience on whose matters they have to vote. The council needs to determine at least for tonight how to handle the issue of electronic participation and/or voting.

Mayor Olive asked for a motion based on the closed session. Mayor Pro Tem Gaskins made a motion that until there is a policy established, that voting not be allowed electronically or over the telephone. Seconded by Council Member Rebecca Wyhof, the motion passed unanimously by the vote of present members. Council Member Charles Taylor (by phone) requested that legal counsel draft a response to what has transpired in this meeting. Mr. Taylor stated that he had participated by phone at an earlier meeting where he actually voted on the Consent Agenda and the Agenda and the other motions that were called that night. He stated that had set precedence. His presence had not been a deciding factor for a quorum. He stated that other counties have policies in place and he is in favor of that.

Mayor Olive called for another vote. The vote was unanimous in favor of not allowing voting electronically by absent council members until a policy is established.

APPROVAL OF AGENDA

Council Member Walter McNeil made the motion to approve the Agenda; seconded by Council Member Poly Cohen, the motion passed unanimously.

CONSENT AGENDA

Approval of City Council Meeting Minutes Dated December 18, 2012 – (Filed in Minute Book 79)

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Approval of City Council Meeting Minutes Dated January 15, 2013 - (Filed in Minute Book 79)
Approval of Resolution Authorizing the Advertisement of an Electronic Auction to Sell Certain Personal Property of the City of Sanford – (Exhibit B)

Approval of Resolution Directing the Clerk to Investigate a Petition Received Under G. S. 160A-31 - (Exhibit C)

Approval of Joining the League’s Joint Action Program on Progress Energy/Duke Power Utility Rate Case - (Exhibit D)

Council Member Poly Cohen made the motion to approve the Consent Agenda; seconded by Council Member James Williams, the motion passed unanimously.

SPECIAL AGENDA

There were no items for the special agenda.

CASES FOR PUBLIC HEARING

There were no cases for public hearing.

DECISIONS ON PUBLIC HEARINGS

There were no decisions on public hearings.

REGULAR AGENDA

Consider Proposals for Solid Waste Collection Services – (Exhibit E)

- Award of Contract

Council Member Jimmy Haire state that he would like to know from both companies what in the history of their company, not owning property already, is the average time it takes to get a transfer station up and running.

Frank Lorick of 5019 Woodfield Lane, Knightdale, NC, representing Waste Industries, stated that it varied somewhat. They have had some ready to go in three to four months where a building did not have to be built. If construction is required to house the transfer station, the estimate would be six months, weather permitting.

Chip Dodd of 10411 Globe Road, Morrisville, NC, representing Waste Management, stated that in their experience, it would take some time to find the land and purchase it. Then it would have to get local approval from the county and the city (if built in the city). In each case, that would involve a public hearing. Each account could take a minimum of thirty days. Then it has to go to the state and a need for the transfer station has to be shown. It is impossible to say how long that would take—could take up to ninety days or more. Engineering plans have to be approved and the property graded. Construction follows. If everything went perfectly and there were no delays, Ms. Dodd stated that it would take at least a year, but more realistically, a year and a half.

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Council Member Haire suggested that council members who had never visited the transfer station should do so in order to understand what is being talked about.

Mayor Olive asked representatives from both companies to answer the question as to who instigated the robo calls that Mr. McNeil mentioned at the Law & Finance Committee meeting. The Waste Industries representative stated that to his knowledge his company did not instigate any calls. The representative from Waste Management stated that Waste Management had nothing to do with the robo calls. They do not know anything about them. Mayor Olive stated that she would like an inquiry into who did it. It tied up phones at City Hall for hours and the time of City employees who needed to be doing other things. Mayor Olive stated they were dirty tricks and inappropriate.

Mayor Pro Tem Gaskins stated that he has learned that there is the potential for an expense to the Lee County Government of over \$100,000 (for a transfer station). He stated that the city is involved with some interlocal agreements with the county, and he understands that the county manager is experienced in the waste removal industry and he might have some information that would be worthwhile to council. In the interest of having discussions with the county, gathering more information, and saving taxpayers' money, Mayor Pro Tem Gaskins made a motion to table the decision to award the contract for solid waste collection services until the next council meeting. Seconded by Council Member Rebecca Wyhof, the motion passed unanimously.

OTHER BUSINESS

No one had other business to discuss.

CLOSED SESSION

City Attorney Susan Patterson stated a motion was needed to go into closed session in accordance with NCGS 143-318.11(a)(3)(4) to give instructions to an attorney concerning the handling or settlement of a claim, judicial action, or administrative procedure and to discuss under the attorney-client privilege and to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

Council Member James Williams made the motion to go into closed session in accordance with NCGS 143-318.11(a)(3)(4). Seconded by Council Member Rebecca Wyhof, the motion carried unanimously.

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ADJOURNMENT

Having no further business to discuss following the closed session, Council Member Rebecca Wyhof made the motion to adjourn the council meeting; seconded by Council Member Jimmy Haire, the motion passed unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

ATTEST:

Janice Cox, Deputy City Clerk