

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 2, 2013 at 7 P.M. in the Council Chambers. The following people were present:

Mayor Cornelia Olive	Council Member Charles Taylor
Mayor Pro Tem Sam Gaskins	Council Member L.I. (Poly) Cohen
Council Member Jimmy Haire	Council Member James Williams
Council Member Rebecca Wyhof	City Manager Hal Hegwer
City Attorney Susan C. Patterson	Paralegal Sharon Martin, Acting Clerk

Absent:

Council Member Walter H. McNeil, Jr.
City Clerk Bonnie White
Deputy City Clerk Janice Cox

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

PUBLIC COMMENT – (Exhibit A)

Reverend Herman Morris, residing at 181 Wagon Trail Road, Sanford, and having a business at 201 E. Main Street, Sanford, spoke in favor of the City's plan to implement the use of vacant lots for community gardens. He was very pleased to learn at a meeting with the Mayor recently of the City's plan for community gardens. He asked if the vacant lot on McIver Street and Third Street could be used as a garden and to his surprise the street was mentioned in the newspaper this week. He was very pleased. He said using these vacant lots as places for gardening increases the health of the community and encourages people to eat fresh vegetables and fresh fruits. He has seen it work in New York and also in Baltimore and Washington DC.

APPROVAL OF AGENDA

Council Member Wyhof requested to add discussion of House Bill 490 as an item to the agenda. Mayor Olive stated that Item 10E Discussion of House Bill 490 would be added to the Regular Agenda.

The amended agenda was unanimously approved upon motion of Council Member Cohen and seconded by Council Member Wyhof.

CONSENT AGENDA

Approval of City Council Retreat Minutes Dated February 27, 2013. – (Filed in Minute Book 79)

Approval of Law and Finance Committee Meeting Minutes Dated February 27, 2013. (Filed in Vault)

Approval of Joint Meeting of the Sanford City Council Economic Growth Summit with Lee County and Town of Broadway Meeting Minutes Dated March 1, 2013. (Filed in Minute Book 79)

Approval of City Council Meeting Minutes Dated March 5, 2013. (Filed in Minute Book 79)

Approval of Law and Finance Committee Meeting Minutes Dated March 13, 2013. (Filed in Vault)

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

DECISIONS ON PUBLIC HEARINGS

Application by Sixto Alvarez Mendoza and Eunice F. Alvarez – (Exhibit B) to rezone three tracts of land totaling 1.07 acres +/- located in the southeastern corner of Dalrymple Street and Stone Street, with one lot addressed as 2215 Dalrymple Street and two adjoining vacant lots formally addressed as 2211 and 2213 Dalrymple Street, from Residential-Mixed (R-6) Zoning District to Neighborhood Commercial (NC) Zoning District. The property is the same as depicted on Lee County Tax Map 9652.15, as Tax Parcels 9652-52-5827-00, 9652-52-5841-00 and 9652-52-5776-00 Lee County Land Records.

Assistant Community Development Manager Marshall Downey reviewed the application and stated that this is a decision on a public hearing to rezone from current (R-6) Residential-Mixed to Neighborhood Commercial (NC) which was held in January 2013. The Planning Board decided to table this request at that time. As Council recalls, many people spoke with concerns about this rezoning. A neighborhood meeting was conducted in February. The results of that meeting were summarized and they are on Page 25 of your report. About 30 residents or concerned citizens attended the meeting, as well as the applicant. The concerns were based on the traffic, and the introduction of commercial activity in that particular location at the corner of Dalrymple and Stone. It was the encroachment of the commercial and the potential negative impact of commercial into that existing residential neighborhood. The planning board discussed these concerns with staff. They deliberated and ultimately they decided unanimously to recommend in favor of the rezoning as presented to Council tonight. There is an ordinance for Council's consideration. In making this decision, the 2020 Land Use Plan Map recommendation of the subject property as Mid-High Density Residential-Office was taken into consideration when making the recommendation. However, given the proximity of the site to S. Horner Blvd with the commercial activity there, as well as the volume of traffic that appears on this section of Dalrymple Street as "cut-through" from Main Street to S. Horner Blvd, it was decided that the Neighborhood Commercial District (NC), which is between the General Commercial (C2) District and the O&I District in terms of intensity, is appropriate.

Consider Ordinance Amending the Official Zoning Map of the City of Sanford, NC – (Exhibit C)

Council Member Wyhof asked if a conditional zoning use might be more appropriate? Mr. Downey replied that a conditional zoning use was discussed, but the applicant was not interested and the conditional zoning use has to be initiated by the applicant.

Council Member Taylor asked if there was an additional fee for a conditional zoning use. Mr. Downey replied, normally not, if a decision has not been made on the current application.

Mayor Olive stated that it is hard for residents who have lived there all their life to see these changes, but it would increase the value of their property.

Mayor Pro Tem Gaskins made the motion to approve the Ordinance Amending the Official Zoning Map of the City of Sanford from Residential (R-6) Zoning to Neighborhood Commercial (NC) Zoning; Council Member Haire seconded the motion. The vote was five to one in favor of approval of the Ordinance. Council Members Sam Gaskins, Jimmy Haire, Rebecca Wyhof, Charles Taylor and Poly Cohen voted in favor. Council Member James Williams cast the dissenting vote.

Application by Brian A. Parker of New Hope Baptist Church, Inc. – (Exhibit D) to rezone 1.53 acres +/- of land, being a portion of a 5.94 acre tract of land addressed as 3007 Beechtree Drive, from Highway Commercial – Conditional Use (HC-CU) Zoning District to General Commercial (C-2) Zoning District. The request is for the rear portion of the property ranging from approximately 153 feet to approximately 163 feet in depth by 424.13 feet in width and included the entire balance of the parcel located outside of the City of Sanford's Extraterritorial Zoning Jurisdiction. The property is the same as depicted on Lee County Tax Map 9644.01, as a portion of Tax Parcel 9644-45-7412-00 Lee County Land Records.

Assistant Community Development Manager Marshall Downey reviewed the application and stated that the Planning Board recommended, by a unanimous vote, to approve the request by Brian A. Parker of New Hope Baptist Church, Inc. to rezone the tract of land totaling 1.53 acres as stated above. In making this decision, the 2020 Land Use Plan Map recommendation of the subject property as an interchange highway node (which should be sited and designed as a Community gateway), that identifies a major mixed use area of retail/service center of over 200,000sf with additional major office and business park employment was taken into consideration; however, given the location of the site off of Beechtree Drive, which is a service road for US Highway #1/Jefferson Davis Highway and the existing development of the site, the board determined that the proposed rezoning was indeed reasonable.

Consider Ordinance Amending the Official Zoning Map of the City of Sanford, NC – (Exhibit E)

Council Member Williams made the motion to approve the Ordinance Amending the Official Zoning Map of the City of Sanford from Highway Commercial - Conditional Use (HC-CU) Zoning to General Commercial (C-2) Zoning; seconded by Council Member Cohen, the motion passed unanimously.

Application by Chris Killenburg of Sanford Solar, LLC – (Exhibit F) to rezone 12.59 acres +/- of land, being all of a 11.29 acre tract of land addressed as 1600 Washington Avenue and a 1.30 acre portion of an adjoining 8.01 acre tract of land, which is bisected by W. Garden Street, from Residential – Mixed (R-6) Zoning District to Sanford Solar Conditional Zoning District (CZ). The property is the same as depicted on Lee County Tax Map 9642.04, Tax Parcel 9642-62-1683-00 Lee County Land Records.

Assistant Community Development Manager Marshall Downey reviewed the application and stated that the Planning Board recommended, by a unanimous vote, to approve the request by Chris Killenburg of Sanford Solar, LLC to rezone the tract of land totaling 12.59 acres as stated above. In making this decision, the 2020 Land Use Plan Map recommendation of the subject property as Residential/Agricultural was taken in consideration; however, since the land does not appear to have been developed with either a residential or agricultural use in the past, there is no existing residential or agricultural land use in place to preserve.

Consider Ordinance Amending the Official Zoning Map of the City of Sanford, NC – (Exhibit G)

Council Member Taylor made the motion to approve the Ordinance Amending the Official Zoning Map of the City of Sanford from R-6 Zoning to Sanford Solar Conditional Zoning District (CZ); seconded by Council Member Wyhof, the motion passed unanimously.

REGULAR AGENDA

Consider Approval of Language Access Plan for the City of Sanford Relative to Community Development Block Grant Projects – (Exhibit H)

Karen Kennedy, Community Development Manager, stated that the Language Access Plan is actually a renewal of the previous plan, which expired in December 2012, and is a requirement of the Community Development Block Grant.

Council Member Cohen made the motion to approve the plan; seconded by Mayor Pro Tem Gaskins, the motion passed unanimously.

Consider Resolution to Temporarily Close Streets in Support of the East Sanford Cleanup and Block Party on Saturday April 13, 2013 – (Exhibit I)

Karen Kennedy, Community Development Manager, stated that she is really excited to be doing a third cleanup event. This year's event is on Maple Avenue between Third and Seventh Streets, on Fifth Street between McIver Street and Maple Avenue and on Fourth Street between Maple and Hickory Avenues. This event will be held on Saturday April 13, 2013 beginning at 8:00 A.M. for the cleanup. She invited everyone to come out and participate in the cleanup. It is a volunteer effort with lots of community people coming to work on yards and do some landscaping along Maple Avenue. The community has been working really hard. She had a meeting today with the local Rotary Club. They are hosting the event this year. A lot of work is going on behind the scenes for this event.

Council Member Taylor asked if the City debris truck could be available on that day to haul away the debris. Mrs. Kennedy said she would check with Larry Craig about the availability of the truck. Manager Hal Hegwer stated that in the past the debris has been hauled off on the Monday following the event. Normally the volunteers haul off any trash and the debris left to be hauled off on Monday is vegetation debris.

Council Member Wyhof made the motion to approve the resolution closing streets; seconded by Mayor Pro Tem Gaskins. The motion passed unanimously.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2012-2013 - (Exhibit J)

City Manager Hal Hegwer stated that this budget amendment will allow the City to appropriate revenue received from the insurance company for wrecked vehicles to budget funds for the replacement of an older vehicle.

Mayor Pro Tem Gaskins made the motion to approve the Ordinance; seconded by Council Member Williams, the motion passed unanimously.

Consider City of Sanford Community Garden Policy; Resolution Delegating Leasing Authority to City Manager; and Lease for Community Garden Lots - (Exhibit K)

Laura Spivey, Public Works Administrator, stated that the City owns a number of vacant lots that may be conducive to gardening. The policy has been prepared to offer these lots to communities who wish to have a garden, but have no access to a garden space. The lot at 110 N. Vance Street has been a community garden since 2010. Last year, we leased a lot on Hudson Avenue for a garden, which was a success and they wish to lease the lot again this year. A Resolution Delegating Leasing Authority to the City Manager has been prepared for consideration by Council. Staff has also prepared a lease for the Council to consider. This is a

one-year lease and pertains to lots to be used for gardening. A list of available lots is attached and some of these lots are available for sale. The policy allows the City to provide one pick-up truck load of compost and/or wood chips at no charge, since these are city-owned lots.

Council Member Haire asked how many lots were leased for gardens last year? Mrs. Spivey stated that there were only two community gardens last year; on Hudson Avenue and 110 N. Vance. Council Member Haire suggested putting a notice of the availability of the lots in with water bills. Council Member Taylor asked what precipitated the mulch agreement in this? In Ward 2, there was a very successful garden. Council Member Taylor asked that the issue of a tap fee be addressed. Mrs. Spivey stated that if there is a tap available, the Lessee can request to have the water turned on and the Lessee is responsible for paying the monthly water bill. Some of the lots do not have access to water. Council Member Taylor asked if that shouldn't be addressed so that there is no trouble down the road. Attorney Susan Patterson said that it is covered in the agreement in Number 5 in the Lease. It does not address the tap issue, because if there is not a tap, there won't be water available unless you get it from the next door lot or make other arrangements.

Mayor Pro Tem Gaskins made the motion to approve the Resolution; seconded by Council Member Cohen, the motion passed unanimously.

Discussion of House Bill 490, A Bill to be Entitled, An Act to Change the Manner of Election for the Lee County Board of Education and for the City of Sanford to Partisan

Council Member Wyhof stated that this is a local bill which was introduced by Representative Stone. It was not requested by our Council. House Bill 490 would make the City Council partisan and she does not think potholes are partisan issues and she would like to know what the other Council Members think about this bill. Attorney Patterson stated that only seven municipalities in North Carolina are partisan and the remaining municipalities, approximately 540, are non-partisan. If the City changes to partisan, it would require a primary election in September, possibly a second election in mid October, and then the final election in November. She spoke with the Board of Elections and the approximate cost of each election is between \$35,000 and \$40,000. Currently, we share the cost of our election with the Town of Broadway. If we change to partisan, we would no longer be able to share the cost with the Town of Broadway. This bill as introduced will change the City's charter. It will be heard tomorrow in the committee meeting at the Legislature. Mayor Olive asked if this was discussed at Town Hall Day with any of our Council Members? Mayor Pro Tem Gaskins stated that on Town Hall Day, they met with Representative Stone in his office for over an hour, and this was never discussed. Mayor Olive asked if there was any benefit to this change? Council Member Williams stated that if it isn't broke, don't fix it. He has never been approached by a citizen and asked what party he was with. He talks with all citizens. Council Member Cohen said Sanford has been non-partisan for years and years and he doesn't see why Sanford should become the eighth city to be a partisan municipality. Mayor Pro Tem Gaskins said that we are not here to represent

republican or democrat, but citizens of Sanford. He doesn't see a reason to spend the additional \$35,000-\$40,000 per election. It makes no sense that Council was not approached about this bill and since the redistricting, Representative Stone does not even represent all of Sanford. This is a local bill with no co-sponsors. Mayor Olive stated that she doesn't like the thought of spending the additional money. She asked if council should go to Raleigh tomorrow? If so, we need a resolution that states our opinion of House Bill 490.

Council Member Wyhof made a motion to prepare a resolution opposing House Bill 490 of changing our form of election in the City of Sanford from non-partisan to partisan because it would be a financial burden on the citizens of the City of Sanford, of potentially three elections, with an average cost of \$35,000 per election; in the opinion of council, it does not benefit the citizens of Sanford.

Mayor Pro Tem Gaskins added that we would certainly like the opportunity to discuss any other pros and cons regarding the matter before it is enacted upon us.

Council Member Williams asked if we should speak with Representative McManus. Attorney Patterson stated that Representative McManus does represent the City of Sanford and it would be appropriate to speak with her, if council chooses to express their opinion.

Attorney Patterson stated the resolution could request to amend House Bill 490 by removing Section 3 in its entirety.

Council Member Taylor stated that he is concerned that Council does not act too hastily without any conversations with Representative Stone or Representative McManus. After conversations with them, we might learn more that needs to be in the resolution. Mayor Olive stated that this Local Bill was prepared without any conversation with us. Council Member Wyhof asked how Council Member Taylor proposes that we address this. Council Member Taylor stated he has seen local bills go to the floor for a vote then back to the committee before the crossover. He has seen this happen time and time again. Attorney Patterson said Mr. Taylor is correct; this is a process that occurs. She also stated that she called Representative Stone twice, but he has not returned her call.

Mayor Pro Tem Gaskins agreed with Council Member Taylor that we should have had communication, but it not our decision to push a bill and not inform people. As recently as last Wednesday, we had four representatives sitting in Representative Stone's office, talking about anything that would affect the City of Sanford and he did not bring it up. Mayor Pro Tem Gaskins stated that he would like the opportunity to discuss the pros and cons of matters pertaining to the City before it is enacted upon us.

Council Member Williams seconded the motion. The motion passed by a five to one vote with Council Member Taylor casting the dissenting vote.

OTHER BUSINESS

Mayor Pro Tem Gaskins said on Town Hall Day they discussed the change from the Triangle to Charlotte with regard to economic development regions. Between that, and now with the municipal election situation, transparency does not seem to be something that is very forthcoming toward the City of Sanford. They also discussed the potential loss of excise tax revenue to the City of Sanford, primarily from utilities. The totals for the City of Sanford could amount to in excess of \$1.6 million in revenue. We asked to have some type “hold harmless” so that the City would not lose \$1.6 million additional dollars on top of the potential we stand to lose \$1.4 million with the redistribution of sales tax revenue to the County. So in addition to the potential cost of elections, we stand to lose close to \$3 million to the City of Sanford out of \$23 million revenue. So we could lose 13-14 percent of revenues coming in to the City of Sanford. We saw no indication of any kind of a hold harmless agreement forthcoming. As people contact state representatives, this is certainly something we need to emphasize that the City cannot afford to lose \$3 million per year out of a \$23 million budget.

Council Member Williams said also during the visit on Town Hall Day they spoke with Representative McManus and also Representative Stone, regarding the people that came before us asking for some relief from all the neighborhood shootings. They had discussions on structured sentencing and in talking with Representative Stone, he brought out that we may be able to get that done but the City would have to pay for it. The state would not pay for it. He thinks structured sentencing came about because the prisons were overcrowded. He told Mr. Stone that we would take it back to our board so that we would all be on the same page and know what needs to be done.

Council Member Taylor would like for Mr. Williams to clarify, is it structured sentencing or is it a gun bill, because those were two different things. Structured sentencing has been in place for over 10 years now. Mr. Williams understands that, but when you’ve got a bill that says three strikes, you’re out, that’s structured sentencing and what we were asking for was that if a person commits a crime using a gun then, he would automatically get jail time, first time around. Mrs. Patterson indicated that the discussion at Town Hall Day was a general discussion about the gun bill. She thinks Mr. Williams is talking in general terms about structured sentencing being one of the reasons why people serve the times that they do. Members talked to Representative Stone and a representative from Senator Rabin’s office about the gun bill Council had looked at, but did not make a decision on whether it should be after committing a crime with a gun the first time, or after the second time. It was not actually presented to the Representatives yet for any action. She thought the issue effects structured sentencing; it gives guidelines to require an incarceration if you commit a felony with a gun. It would be an additional expense to the state, so it would take a fiscal note. Mr. Taylor agreed that the fiscal note comes in on anything the

state would have to spend money on; it would have to come from some source, but not necessarily from the City of Sanford. Mrs. Patterson said that Representative Stone did say the cities would have to pay for it, meaning that he would need new funds from the city to cover that expense. If the legislature diverts funds from the cities and uses them for a different function, there is less revenue to the City. Many of the revenue sources for cities are being proposed to be taken away this legislative session.

Mr. Taylor said crime in the state is going down; three or four prisons are being closed this year so if we have crime in respective areas of our community, we need to be addressing that, in those perspective communities; one way is through community watch programs. He recommended addressing it at the local level with each Council Member working their neighborhood, to make sure that our neighborhoods are safe. Mr. Taylor encouraged everyone to continue to work the neighborhoods very hard. The communication coming back to police is going to resolve a lot of the crimes.

Mayor Olive said she would go to the committee meeting in Raleigh tomorrow. If any other member of the City Council would like to accompany her, she would appreciate it.

ADJOURNMENT

Having no further business to come before the council, the meeting was unanimously adjourned upon motion by Council Member Williams and second by Council Member Wyhof.

Respectfully Submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

Sharon Martin, Paralegal