

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, September 17, 2013, at 7 P.M., in the Council Chambers. The following people were present:

Mayor Cornelia Olive	Council Member Rebecca Wyhof
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.	City Attorney Susan Patterson
City Manager Hal Hegwer	City Clerk Bonnie D. White

Absent:

Council Member Jimmy Haire

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

PUBLIC COMMENT

No citizens requested to speak.

APPROVAL OF AGENDA

Mayor Olive stated that we need to add two items to the regular agenda: Consider Budget Amendment Regarding Study of Possible Gift of a Building to the City of Sanford and Consider Budget Amendment Regarding HAVEN. Council Member Walter McNeil, Jr. made the motion to approve the amended agenda; seconded by Council Member Poly Cohen, the motion carried unanimously.

CONSENT AGENDA

Approval of Law and Finance Committee Meeting Minutes Dated August 14, 2013 – (Filed in Vault)

Approval of Council Meeting Minutes Dated August 20, 2013 – (Filed in Minute Book 80)

Approval of Grant Project Ordinance – North Carolina Housing Finance Agency – (Exhibit A)

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2013-2014 – (URP13) – Exhibit B)

Approval of Policies Related to the 2013 Urgent Repair Program with the NC Housing Finance Agency

- Assistance Policy – (Exhibit C)
- Procurement and Disbursement Policy – (Exhibit D)

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2013-2014 – (GovDeals) – (Exhibit E)

Approval of Entering into an Agreement with Withers and Ravenel for the Design of the Hawkins Avenue Waterline Project – (Exhibit F)

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

CASE FOR PUBLIC HEARING

Public Hearing on Petition Requesting Contiguous Annexation of Approximately 2.96 Acres of Property Owned by Solus Industrial Innovations, LLC, Located on McDonald Drive

Administrative Assistant Angela Baker explained that on July 25, 2013, the City of Sanford received a petition from Solus Industrial Innovations LLC to annex some property that already adjoins property they own. She stated that on August 20, 2013, the City Council adopted a resolution directing the City Clerk to investigate the sufficiency of the petition and on September 3, 2013, the Council received the Certificate of Sufficiency from the City Clerk and adopted a resolution setting the date for a public hearing for tonight.

A notice of the public hearing was published in the *Sanford Herald* on September 6, 2013.

The property consists of 2.96 acres located off McDonald Drive. City services will be extended to the new area if it is annexed, in the same manner and the same basis that they are provided to the rest of the City. The proposed annexation site is accessed by an existing road - McDonald Drive, and police protection is already being provided because it is located near the City limits.

The City's Fire Department will also serve the area and there will not be any additional cost because this is undeveloped land and unless there is a brush fire or some other activity that requires investigation.

Since the land is undeveloped at this time, the tax value is \$23,400. The City's anticipated revenue would be \$126.36.

Mayor Olive opened the public hearing.

Steve Malloy, commercial real estate broker with Adcock & Associates, residing at 2615 Bellaire Drive, spoke in favor. He said that the reason it all came up is because they have a prospect looking at the site. While being reviewed by the Technical Review Committee, it was mentioned by Commander Ken Cotten, that with the additional lot in the county and having the same address as the spec building on the other lot being in the City, if there was ever a fire – who would have to respond; so that is the reason for the annexation. Regardless of whether the prospect buys the property, if tonight there was a brush fire, the question still remains – which Fire Department responds because it is located right off of McDonald Drive. This annexation needs to be done for this reason.

No one spoke in opposition. Mayor Olive closed the public hearing.

- Consider Ordinance to Extend the Corporate Limits of the City of Sanford, North Carolina – (Exhibit G)

Mayor Pro Tem Sam Gaskins made the motion to adopt the Ordinance to Extend the Corporate Limits of the City of Sanford, North Carolina. Seconded by Council Member Poly Cohen, the motion carried unanimously.

REGULAR AGENDA

Consider Appointment to the Appearance Commission (Term will Expire June 30, 2014) – (Exhibit H)

Council Member Walter McNeil, Jr. made the motion to appoint Daniel Owens by acclamation. Seconded by Council Member James Williams, the motion carried unanimously.

Consider Request Regarding Modification of Annexation Agreements with Bost Distributing – and J & G Machinery – (Exhibit I)

City Attorney Susan Patterson explained that as discussed in the last Law and Finance meeting, Bost Distributing and J&G Machinery entered into an agreement in 2008 to defer annexation of property into the City limits for five years and to be able to receive water and sewer services to their properties. They have sent letters which are included in Council's packets requesting that the City consider modifications of those annexation agreements. They are requesting a delay until the primary corporate City limits are contiguous to their property boundaries. Information was provided to Council upon request after the last meeting with regard to their property, such as tax value and utility usage.

Council Member Taylor said he went back and looked at the meeting minutes from January 9, 2008 and read an excerpt from the minutes. He paraphrased the second paragraph saying the following: "City Manager Hal Hegwer explained that staff's position on this matter would be that annexation would be favorable to the City. We would not be in favor of the annexation being postpone indefinitely and request, if a delay is considered by this Council, that a specific time frame for subsequent petition into the City limits be considered as part of the delay. Mayor Olive stated that Mr. Hegwer said there was a savings to the City and asked what kind of savings was there and it would cost the City \$30,000 to \$35,000 per lift station per year to maintain. Mr. Hegwer added that from being involved in engineering over the years, this was a good project and it certainly benefited the City." Mr. Taylor said that back in 2008, there was a petition for a seven-year delay, and now after five years, we are back to another delay. His question is, are we going to continue to do this for all developers in the near future if they come to Council and want a delay in annexation. He said that based on the numbers, it would make sense for annexation because it would be cheaper than what is currently being paid. He would like clarity from the city manager and see if that stance has changed since 2008.

Mr. Hegwer stated that Council was sent information regarding the taxes paid on those properties and the other one was a confidential email in terms of the utility rates. Depending on which property you look at, you would have a different perspective for each one – in terms of what they are billed for water and sewer and if they were inside the City, the bill would go down. The other item referred to was the lift stations. There was significant infrastructure installed by Mr. Bost during that time. A lot of that sewer line is not being used, because there has been limited development - he did not believe a lot had been sold inside Mr. Adcock's proposed subdivision. It was a project where the City and the developer committed funds to it on the sewer side. Then, Bost Distributing and J&G Machinery had problems with water and also requested that water be extended; so they did have some significant costs with it. There was a delay of annexation for five years in 2008 and this is where we are now.

Mr. Taylor said that back then, Public Works Director Larry Thomas explained that City Council approved a policy that if you tie into water and sewer, you would be required to be annexed. He wants to make that if we do this, what is going to happen when another developer wants to have access to water and sewer and do not want to be annexed and how long are we going to give them. His concern is going forward as we start to develop on the outside of the City limits, are we going to have the same problems and how much is it going to cost the City based on the decision tonight.

Mr. Hegwer stated that in our ordinance, it requires a developer or citizen to petition for annexation. Basically, we asked that and we give a recommendation and forward it on to Council; not every individual who connects to water and sewer is annexed. In the County, there are some situations where it is not contiguous; you look at the growth, the contiguous areas and how the City grows in order to make those best decisions.

Mr. Taylor said that this was due to the sense of urgency because of the potential of not having enough capacity. Mr. Hegwer replied that at the time, you had a developer who was going to develop a large parcel of land to build homes in the area and Bost Distributing had some concerns over sewer issues and some water issues. It was a benefit to the City. The City did contribute towards the project because it was a benefit to us because you did not have to build a lift station.

Mr. Williams said that in light of the economy, Mr. Adcock has not been able to sell the first house. Mr. Bost did the City a favor by tying on and we ended up not putting in two lift stations and that saved the City money. It was a benefit to the City, as well as to Bost Distributing and J&G Machinery. He felt both companies have been good, corporate citizens and they understand the City's position in trying to move the City forward. He is not in favor of putting an undue burden on a good, corporate citizen. He requested that Mr. Bost be able to speak.

Mr. James Harrington Bost, Jr., residing at 971 Valley Road spoke and said that there were two issues. The sewer line came first. He said Albert Adcock and Leonard Barefoot called him and said it would be a great help if he contributed to the sewer line extension. Mr. Bost stated that he was in the process of obtaining the permit to upgrade his wastewater treatment facility. At the meeting which included, Hal Hegwer, Larry Thomas, Susan Patterson, Leonard Barefoot, the developer and himself, he said he could spend the money on his waste treatment plant or he could contribute to the City, but he asked that he not be annexed into the City. That was his request and he was granted that request. They started the sewer line and everything went great and a year later, his water wells went dry. He thanked the City for helping him out temporarily with a waterline run under US Highway 421, which he paid for.

Mr. Bost said that J&G uses very little water and he gave them water because it would require a permit from the State for him to sell water to them. He assumed from the meeting they had, they agreed not to annex him. When they were four months into the waterline, Vic Czar and Larry Thomas approached them and said we are not going to hook you up unless you agree to petition for annexation. He said that Mr. Johnson and he agreed under duress because they had to have water, and they paid for the line.

Mr. Bost said that when the City limits becomes contiguous with his property, he would come in. He would appreciate Council not annexing him at this time.

Mr. Taylor said he wants to know what we are going to do when this happens again and if Council is going to continue to defer this going forward. He asked Mr. Hegwer to respond.

Mr. Hegwer said that it is up to the City Council if they annex anyone. We can bring the information forth but it is still Council's decision. Staff does not have the authority to decide.

Mr. Williams felt that one size does not fit all. There are extenuating circumstances and that is when it goes to Council. They are to represent the people. Each problem stands on its own merit.

Mr. McNeil stated that we are getting more money from them now and they should not force them to come in.

Council Member Williams moved that the City leave Bost Distributing and J&G Machinery out of the City limits and look at it again in five years. Mayor Pro Tem Sam Gaskins seconded the motion. The motion carried five to one in favor with Council Member Charles Taylor casting the dissenting vote.

City Attorney Patterson asked for clarification and if Council would prefer for her to draw up a modification agreement to the current contract that says the time for action will be delayed until September 17, 2018. Mayor Olive replied that is the spirit of the motion.

Mr. Williams told Attorney Patterson that they said "look at it again in five years." Attorney Patterson asked what "look at it" means. Mayor Olive replied it means bring it up for consideration again in five years. Mr. Williams said that is correct.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2013-2014 – Exhibit J)

Mr. Hegwer stated that there has been discussion to study the potential use of some property and land that the City has an interest in. He received a call from the owners of the property and the owners are looking at potentially transferring it to the City. They would like to move rapidly and in order to provide Council due diligence, we need a budget amendment for \$10,000 to enter into a contract with an engineer/architect to look at the buildings. He is still working on proposals for the property. He would like to get Council the information very soon for its consideration.

Council Member Walter McNeil, Jr. made the motion to approve the ordinance amending the annual operating budget. Seconded by Council Member Poly Cohen, the motion carried unanimously.

Closed Session

City Attorney Susan Patterson stated that we need a motion to go into closed session in accordance with N.C.G.S. 143.318(11)(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege. So moved by Council Member Wyhof and seconded by Council Member Cohen, the motion carried unanimously.

Consider Discussion of Haven's Financial Status and Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2013-2014 Regarding HAVEN – (Exhibit K)

Council Member Charles Taylor made the motion to table the discussion and ordinance until we can hold a special City Council meeting immediately following the Law and Finance Committee

City Council Meeting
September 17, 2013

meeting scheduled for next Wednesday, September 25. Seconded by Council Member Rebecca Wyhof, the motion carried unanimously.

OTHER BUSINESS

Council Member Taylor congratulated Beth Kelly on being promoted to Financial Services Director.

Mr. Taylor stated that the RFQs have come in on the golf course. It was due on September 3 and he is already getting wind of information being out there and Council has not been briefed on it. He would like to see where that stands and when will they get the information because it is out in the public.

City Manager Hegwer advised that he received an email from the county manager this morning and wanted to relay to Council that the Lee County Commissioners approved for the City/County Interlocal Government Committees to meet. We have been working with them on some of our agreements and through the attorneys. They want to discuss the interlocal agreements, HAVEN, and how the City/County can work together to maximize the outcome of the bonds passing.

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

RETURN TO REGULAR SESSION AND ADJOURNMENT

Mayor Pro Tem Sam Gaskins made the motion to adjourn the meeting. Seconded by Council Member Walter McNeil, Jr., the motion carried unanimously.

Respectfully Submitted,

CORNELIA P. OLIVE, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK