

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

Mayor Chet Mann	Council Member Rebecca Wyhof
Council Member Jimmy Haire	Council Member Norman Charles Post, III
Mayor Pro Tem James Williams	Council Member Charles Taylor
Council Member Walter H. McNeil, Jr.	City Attorney Susan Patterson
City Clerk Bonnie D. White	City Manager Hal Hegwer

Absent:
Council Member Sam Gaskins

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

PUBLIC COMMENT

No citizens signed up to speak.

APPROVAL OF AGENDA

Mayor Mann entertained a motion to approve the agenda. City Manager Hegwer requested that the agenda be amended by removing pages 82-83 from discussion of the consideration of Item B, Consolidated Community and Economic Development Plan under the Regular Agenda.

Council Member Post made the motion to approve the amended agenda; seconded by Council Member McNeil, the motion carried unanimously.

CONSENT AGENDA

Approval of City Council Meeting Minutes Dated November 19, 2013 – (Filed in Minute Book 80)

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2013-2014 - (E-911) – (Exhibit A)

Approval of 2014 Taxicab Operator's License Renewal – (Exhibit B)

Approval of Resolution to Authorize Economic Development Planning and Organizational Activity – (Exhibit C)

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

CASES FOR PUBLIC HEARINGS: held jointly with the Planning Board.

Consideration of Possible Text Amendments to Articles 2 and 3 of the Unified Development Ordinance (UDO) Regarding Changes in State Law Regarding Board of Adjustment Procedures. – (Exhibit D)

Community Development Director Marshall Downey gave an overview of the proposed text amendment. Mr. Downey said that this amendment would update the current local zoning ordinance to reflect the changes in State Law, which relates to two subjects: Board of Adjustment and Cell Towers. Mr. Downey said that this amendment directly affected the Board of Adjustment. Mr. Downey explained that the Board of Adjustment is a Quasi-Judicial Board and that they listen to testimony and are limited to certain criteria and factors that are specified by State Law. He explained that the Board of Adjustment reviews Variances, Special Use Permits and Appeals. Mr. Downey explained that State Law had changed the criteria of a Variance approval. Mr. Downey said that the changes in State Law include changes to the Board of Adjustment voting process for a Special Use Permit and Appeals. Mr. Downey explained that a Special Use Permit was required when a land use was permitted, but not allowed to be approved by staff, such as cell towers, mines, quarries, and uses that were allowed in certain zoning districts, but were not permitted without a public hearing process and meeting certain criteria that the Board of Adjustment would vote on. He said that the third type of hearing that the Board of Adjustment considered were hearings, which were based on appeals by contractors and developers who disagreed with staff decisions for land development permits.

Mr. Downey explained that the new laws changed the voting process for the Board of Adjustment. Mr. Downey explained that current Board of Adjustment law requires a four-fifths vote, which means that 80 percent of a seven-member board must vote in the affirmative for approval, when considering a Variance, Special Use, or an appeal. He said that the new State Law no longer requires the Board of Adjustment to render a four-fifths vote on a Special Use Permit or an Appeal, that only a Variance request would require the four-fifths ruling.

Mr. Downey explained that the other changes in the law related to procedural issues, such as notice of hearing. He said that the Planning staff had conducted training sessions with the Board of Adjustment concerning the changes in the State Law.

Mayor Mann opened the public hearing. With no citizen requesting to speak in favor or in opposition, Mayor Mann closed the public hearing.

Consideration of Possible Text Amendments to Article 5 of the Unified Development Ordinance (UDO) Regarding Changes in State Law to Regulations and Procedures for Wireless Telecommunications (cell) Towers – (Exhibit E)

Assistant Community Development Director Marshall Downey said that this issue was also based on changes to the State Law, and was a result of the wireless industry approaching legislature about making changes to the zoning rules related to modifications and additions to existing towers. Mr. Downey said that the new laws would set thresholds, and if the proposed tower met those thresholds, then Planning staff was bound to approve the applications.

Mr. Downey said that the new State Law prohibits local zoning staff to require an applicant to provide power output levels, maps and other location data, and financial information.

Mayor Mann opened the public hearing. With no citizen requesting to speak in favor or in opposition, Mayor Mann closed the public hearing.

The Planning Board retired to the West End Conference Room for consideration of the public hearing cases.

Public Hearing on Ordering the Closing of an Unopened Portion of Fourth Street Located Between Goldsboro Avenue and Newberne Avenue – (Exhibit F)

Community Development Director Bob Bridwell reviewed the details of the procedural accounts related to the street closing with Council.

Mayor Mann opened the public hearing. With no citizen requesting to speak in favor or in opposition, Mayor Mann closed the public hearing.

Council Member Taylor made the motion to approve the Resolution Ordering the Closing of an Unopened Portion of Fourth Street Located Between Goldsboro Avenue and Newberne Avenue. Seconded by Council Member Wyhof, the motion carried unanimously.

REGULAR AGENDA

Consider Taxpayer's Request for Tax Release of Late Listing Penalty According to NCGS 105-312(k) – (Exhibit G)

Attorney Patterson said that Magneti Marelli, Power Train USA, LLC, had made a request to be released from a late listing penalty of \$18,882.40, as discussed at the Law and Finance Committee Meeting.

Council Member Taylor commented that following the Law and Finance Meeting, he had discussions with several private and public manufacturers in the area, as well as City Manager Hal Hegwer. Council Member Taylor made a motion to charge a ten (10) percent penalty, which would be equivalent to \$1,888.24 as an assessed penalty and not a punishment against Magneti Marelli. Council Member Haire seconded the motion.

Council Member Haire asked Attorney Patterson if the incident with Central Carolina Hospital and with Dr. Nazzari was the same type penalty as Magneti Marelli. Attorney Patterson said that it was a late listing penalty with Dr. Nazzari, due to failing to list property. She said that the details with the hospital was discovery of personal property that should have been listed for taxes but was not, and was listed on the asset list as real property.

Attorney Patterson said that a failure to list, and incorrect listings were in the same category as late listings. She said that the Sanford Church of Christ had requested a release from listing penalty because they had not applied for their tax exemption, which they were granted the tax exemption because the property was used in a correct manner. She said that in the past Council had both released and denied requests for release of penalties.

Attorney Patterson said that the late list penalty was ten (10) percent. She said that she understood the motion on the floor was to reduce Magneti Marelli's calculated penalty of \$18,882.40 to \$1,888.24, which would be ten (10) percent of the original penalty.

Mayor Pro Tem Williams commented that about a year ago, Magneti Marelli approached Council and requested that they prepare an incentive package in an effort to gain a contract with Chrysler Corp. He said that Council did prepare the document, and that the City ended up with approximately fifty-percent more taxes than if the plant had gone elsewhere. Mayor Pro Tem Williams said that he was in favor of waiving the penalty, due to the recent turnover of a new plant manager.

Council Member Post said that he felt a penalty was the same thing as a punishment, and that he was in favor of waiving the penalty completely. He said that he did not want every business in Sanford to believe that they could file their paperwork late and expect Council to waive these penalties. He said that each situation was different and solutions were based on the facts of each case. He said that he believed it to be a contradiction of the Economic Development efforts to not forgive the penalty for a business that has been in Sanford for thirty-seven years, which employs approximately four-hundred people. He said that there is no knowledge of Magneti Marelli having filed tax documents late in the past. Council Member Post said that Magneti Marelli had appeared before the Law and Finance Committee and explained why the paperwork was filed late. He said that he was concerned about the message it would portray to other businesses who might wish to locate in Sanford, if the current businesses were not looked after, and the debt was not forgiven.

Council Member Taylor said that his proposal was a ninety-percent reduction in the penalty that was originally assessed. He commented that he understood what it took to operate a plant in Lee County, and that he did not believe that Magneti Marelli intentionally failed to file the tax documents; however, a penalty was put in place as a reminder that we cannot continue this practice.

Mayor Mann called for a vote to the motion on the floor. The motion was denied by a two to four vote, with Council Members Wyhof, Post, McNeil, and Mayor Pro Tem Williams casting the dissenting votes. Council Members Taylor and Haire voted in favor of the motion.

Council Member Post moved, seconded by Council Member McNeil, to waive the penalty in its entirety. The motion carried by a four to two vote, with Council Members Taylor and Haire casting the dissenting votes.

Consider Consolidated Community and Economic Development Plan – (Exhibit H)

City Manager Hal Hegwer recalled the discussion at the Law and Finance Committee Meeting concerning the consolidated Community and Economic Development Plan. He said that currently many City Departments were located in various buildings, and the City along with Lee County had considered ways to achieve better efficiency of operations. He said that there had been discussions of the new Economic Development merging with the Chamber of Commerce and those agencies joining the Community Planning and Development staff in a “one-stop-shop” that could take care of a tremendous amount of business. He said that this would be a newer relocated facility. Mr. Hegwer said that Lee County had considered this item at its December 16, 2013, meeting, and that Lee County took action last night to approve the concept of unifying all the City and County Community Development, Chamber and Partnership for Prosperity into a single space. Mr. Hegwer said that the Lee County Government suggested releasing RFIs for a thirty-day period of input to determine the options for locations that might be available. He said that Progressive Contractors were in attendance at the Lee County Commissioners Meeting last night, and are present tonight to discuss some options that were available, and to inform Council of some of the issues that had been discussed.

Brian Bystry and Joni Martin with Progressive Contractors gave a presentation of the consolidated Community and Economic Development concept. Joni Martin said that they felt that this was a very exciting and progressive-minded concept for Lee County and the City of Sanford. Mrs. Martin said that they had met with Lee County Manager John Crumpton and Community Development Director Bob Bridwell to discuss the Buggy Factory and what they could do with the building to make it a marketing agency for Sanford and Lee County, and a place where people could come to one place to access the Chamber of Commerce, EDC, GIS, Planning and Inspections, Environmental Health, Code Enforcement, and Downtown Sanford. She said that they had several meetings with Assistant Community Development Director Marshall Downey and Don Kavosckitz to put together the preliminary concept and floor plan.

Brain Bystry said that there would be shared amenities, which would benefit everyone. Mr. Bystry said that they intended to preserve as much of the integrity of the existing building as possible.

Joni Martin said that there would be efficient systems in this building that would run effectively and efficiently. She said that this project would have great historical value, yet state-of-the-art modern technology. She said that they planned to use a lot of glass to allow light to get to the middle of the structure. She said that the City had renovated the parking lot behind the facility and that it was only appropriate that the City should be able to use this facility.

Council Member Haire gave a history of the building, and commented that he loved the building, but was concerned about efficient parking for the people working there and people visiting the facility.

Joni Martin indicated that there would be approximately thirty-five people working there, and Brian Bystry said that there were ninety-two spaces in the back parking lot, and the side parking lot had another thirty-five spaces, and that there was street parking as well.

Council Member Wyhof said that this was a fundamental issue that came out of the Interlocal Agreement Group. She said that it was a unified agreement to create a merged place for the various departments. Council Member Wyhof made a motion to support the idea of unifying the Chamber of Commerce, EDC, GIS, Planning and Inspections, Environmental Health, Code Enforcement, and Downtown Sanford departments and co-locating them into the proposed facility, and authorize staff to move forward in reviewing the available options to make this a reality. Council Member Post seconded the motion.

Council Member Taylor asked that an assessment of the currently occupied square footage of these individual departments be done to compare with this proposal.

City Manager Hal Hegwer said Lee County Manager John Crumpton and he would look at this proposal in detail, but that they did not want to move forward until both entities had reasonable interest in moving forward.

Joni Martin said that a walk-through of the structure was scheduled for Monday with Lee County Commissioners and invited Council to participate as well.

Mayor Mann called for a vote on the motion on the floor. The motion carried unanimously.

OTHER BUSINESS

Council Member Taylor thanked the citizens for their notes, phone calls, and cards. He said it was a pleasure to come home and find them in his mail. He commented on one comment that he had received that had impacted him, which was the parable of the faithful servant, "To whom much is given, much is expected." He said that it had been his pleasure to serve on this council. He commented that there had been several challenges that staff had to work through this calendar year. Council Member Taylor praised the Sanford Fire Department for the attention that had been given to his neighbor's little boy, and said that this same type of approachability was in each department. He said that as a Council Member and as a citizen, he wanted to thank the City of Sanford staff, and wished the citizens of Sanford and Lee County a Merry Christmas and a Happy New Year.

Council Members Haire commented that he had followed with great interest the Prince Hotel in Fayetteville, and commented that he was grateful that the Carolina and the Wilrik Hotel in Sanford were run efficiently. He gave accolades to the business that occupied the stores on Steele Street and downtown Sanford.

Council Member Wyhof thanked Benjamin Moore, and she echoed Council Member Taylor's comments about the City Staff. She said that we have a great city because the employees put their heart out every day to perform an amazing job on behalf of all of the citizens who live here. She thanked City staff for their service and said that she was honored to be able to serve the citizens of Sanford. She wished everyone a wonderful holiday.

Council Member Post echoed comments made about City staff, and he also thanked Joni Martin and Brian Bystry for their presentation of the proposed occupancy of the interlocal agreement group in the Buggy Factory.

City Manager Hegwer noted that the next scheduled Law and Finance Committee Meeting would fall on January 1, 2014, and requested that this meeting be canceled. He said that if there were any problematic issues on the agenda of the regular scheduled Council meeting, they could be removed if need be.

Mayor Mann echoed the comments that had been made and he thanked the employees and staff for their warm welcome of him to the Council. Mayor Mann added that Sanford had always been a community of "builders and doers" and that Sanford could be anything that they wanted to be if enough citizens try. He said that he was very excited about the future and appreciated all the hard work that had been done prior to his coming on the Council.

City Attorney Susan Patterson asked that Council go into closed session, in accordance with North Carolina General Statutes 143-318.11 (a) (4) and (5) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body and to instruct the public body staff or negotiating agents concerning the position to be taken on the price or other material terms of the contract or proposed contract for the acquisition of real property.

Mayor Pro Tem Williams made the motion to go into closed session, seconded by Council Member Taylor, the motion carried unanimously.

City Council Meeting
December 17, 2013

RETURN TO REGULAR SESSION AND ADJOURNMENT

Council Member Taylor made the motion to adjourn. Seconded by Council Member Post, the motion carried unanimously.

Respectfully Submitted,

T. CHET MANN, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK