

MINUTES OF CLOSED SESSION
Law and Finance Committee Meeting
City of Sanford – March 13, 2013

Upon a motion duly made, seconded, and carried in the March 13, 2013, open session of the of the Law and Finance Committee meeting, the Council went 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 and give instructions regarding the handling or settling of a claim, judicial action or administrative procedure.

Mayor Cornelia P. Olive	Council Member Rebecca Wyhof
Mayor Pro Tem Sam Gaskins	Council Member Jimmy Haire
Council Member Charles Taylor	Council Member James G. Williams
Council Member L. I. (Poly) Cohen	Council Member Walter McNeil
City Attorney Susan C. Patterson	City Clerk Bonnie White
City Manager Hal Hegwer	

Mayor Olive called the meeting to order.

City Attorney Susan Patterson advised that she is required to tell the client if any offer is made to settle a case. Bay Breeze has made a second offer of \$6,200. She has spoken with Bay Breeze's attorney and he would challenge the City that there was a problem with the meter, the amount of water used, and there was a leak on our side of the line.

Mr. Taylor asked Attorney Patterson who was the attorney? She replied it was Chas Post and she advised Council Members that they should not talk directly with him.

Attorney Patterson explained that he is concerned about the issue of the litigation aspects both to his client and the taxpayers and if the Council wants to spend that much money. They feel the issue needs to be corrected. She said the City will have to spend money to collect the difference if Council pursues it.

She advised that Bay Breeze has made an offer of \$6,200. We have asked for \$8,400. Council has to weigh the time and expenses it will take to prove the amount owed. The owner claims that someone told him the City would reimburse him the plumber's fee.

Attorney Patterson stated that she has interviewed the employees who worked at the site; there are different employees who replaced the valve; checked out the meter, etc., and it has been a long time and nobody can remember.

Attorney Patterson asked Council if in order to avoid litigation, would they be interested in settling the case if Bay Breeze would pay \$6,200 upfront.

Mr. McNeil felt we should settle the case because if it goes to litigation, you will spend more money in attorney fees and costs to the taxpayers.

Ms. Wyhof stated that one of the things Attorney Patterson advised them of previously is that under the General Statutes you had to collect the money for the Enterprise Fund.

Attorney Patterson advised that a lawsuit has not been filed but we have a demand and a threat of a lawsuit. He has retained an attorney. She said that we could settle and there would be a release signed stating it was to avoid litigation costs and admitting no fault of either party.

Mr. Taylor stated that mistakes are made all the time by the public and you have to deal with the customer. He said we made a mistake and we need to settle it. He said if it had happened to certain people in the community, it would not have been an issue; it would have been taken care of.

Mayor Olive stated that we need a plan in place that this does not happen again. Mr. Hegwer advised that we are working on it and Council would not be setting a precedent.

Mr. Taylor said that we do not need another Harrison case that went on for years.

Mr. Gaskins commented that he does not have a problem with \$6,200 but he does have a problem with extortion. He said Bay Breeze is willing to go to court and spend more money and we are going to buckle under extortion; it is the principle.

Mr. Haire asked what was the first offer? Attorney Patterson replied \$4,500 and Attorney Post made it clear that this is the trial offer or the matter would go to court.

Ms. Wyhof commented that council members are stewards of the taxpayers' money. If we settle for the price offer, then wording would have to be stated that we are settling a lawsuit and not bargaining on a water bill.

Mr. Hegwer advised that we have another issue at Southern Lee School with the irrigation. If this gets out, that could affect it. He felt we could work it out with the schools and it is not this big of an amount.

Mr. Haire asked if Bay Breeze will pay the \$6,200 up front. Attorney Patterson replied that is the way she understood it.

Attorney Patterson asked for instructions on how to proceed.

Ms. Wyhof made the motion in favor of reaching a settlement and allow Attorney Patterson frame the wording that would be the simplest but thorough. Mr. Taylor asked to amend the motion to include the settlement amount of \$6,200. Ms. Wyhof accepted the amendment. Mr. Taylor seconded it. The vote was unanimous of reaching a settlement of \$6,200 and Attorney Patterson frame the wording to be thorough.

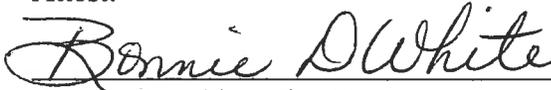
Law and Finance Committee Meeting
Closed Session
March 13, 2013

Council Member Poly Cohen made the motion to go out of closed session and return to regular session. Seconded by Council Member McNeil, the motion carried unanimously.



Mayor Cornelia P. Olive

Attest:



Bonnie D. White, City Clerk

In closed session on July 31, 2013, Council Member Walter McNeil, Jr. made the motion to approve and release these minutes. Seconded by Council Member Rebecca Wyhof, the motion carried unanimously.

Minutes were approved and released on August 6, 2013.