

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, November 18, 2014, at 7 P.M., in the Council Chambers. The following people were present:

Mayor T. Chet Mann  
Council Member Byron Buckels  
Council Member Jimmy Haire  
Council Member Rebecca Wyhof  
City Manager Hal Hegwer

Mayor Pro Tem James Williams  
Council Member Sam Gaskins  
Council Member Norman Charles Post, III  
City Attorney Susan Patterson  
City Clerk Bonnie Davis

Absent: Council Member Charles Taylor

Mayor Mann called the meeting to order. Council Member Byron Buckels delivered the invocation. The Pledge of Allegiance was recited.

**PUBLIC COMMENT**

There was no public comment.

**APPROVAL OF AGENDA**

Mayor Mann requested the addition of an item to the Regular Agenda, Consider Extension of Audit Contract.

Council Member Wyhof made the motion to approve the agenda as amended. Seconded by Council Member Gaskins, the motion carried unanimously.

Mayor Mann requested the addition of an item to the Special Agenda, Presentation of Citizens Academy.

Council Member Wyhof made the motion to approve the agenda as amended. Seconded by Council Member Buckels, the motion carried unanimously.

**SPECIAL AGENDA**

**Presentation of Farm-City Week Proclamation – (Exhibit A)**

Mayor Mann read the proclamation and thanked the Cooperative Extension Center for their work. Extension Agent Bill Stone introduced two local youth, Layne Baker (President of Lee County High School Future Farmers of America, President of South-central Region) and Madison Faulk (current Vice-President of Lee County High School FFA), who shared ways in which agriculture has affected their lives. Their advisor, Wesley Faulk, was also recognized.

**Presentation of Citizens Academy Recognition Certificates**

Mayor Mann stated that the recently completed inaugural session of the Citizens Academy was a success and presented certificates to the graduates: Jean Bethea, Frank Lastowski, Brad Marin, Leslie Oldham, Donese Pulley, Irene Smith and Joann Thaxton.

**CASES FOR PUBLIC HEARINGS: Held with the Planning Board**

Zoning Administrator Althea Thompson explained that the five proposed amendments listed below (Exhibit B) are recommended by the Planning staff. They were presented to the Joint Planning Commission at its August 28 meeting, at which time the Board recommended they be forwarded to all three jurisdictions for public hearing and consideration of adoption.

Mayor Mann opened the public hearing.

**Consideration of a proposed Text Amendment to the UDO to remove all references to Cluster Subdivisions, specifically from Section 4.3.1 Purpose Statements in the R-20, R-14, R-12SF and R-10 General Use Zoning Districts**

Ms. Thompson explained that an amendment in 2007 removed Cluster Subdivisions in its entirety as a permitted use in the UDO but that references are still found, which can be misleading. The proposed amendment will remove all references from the UDO.

**Consideration of a proposed Text Amendment to Section 10.2, Subsection 10.2.8 (10.2.8.2.), Signage in Shopping Centers and Superstores to remove the color standard as a required element of a Common Signage Plan in Shopping Centers/Superstores in excess of 25,000 square feet**

Ms. Thompson informed Council that Planning staff recommends that the color standard be removed and that a requirement be added that a common signage plan be submitted for review and approval by the Planning Administrator. Staff is often asked by developers to allow one or two additional colors since some tenants want to include their trademark logo. Upon review, staff found that the color element is not included for shopping centers less than 25,000 square feet; therefore, for consistency, staff recommends the color element be deleted for shopping centers greater than 25,000 square feet.

**Consideration of a proposed Text Amendment to Section 5.37, Free Standing Ice Vending Units, of the UDO to clarify those Ice Machines 7'W x 10' D and smaller in size are considered Ice Vending Machines and shall be permitted as an Accessory use in the NC, C-1, C-2, HC, LI and HI Zoning Districts**

Ms. Thompson explained that due to industry changes, ice vending machines are becoming smaller than units previously produced, which were considered a structure due to the fact that a foundation was required to construct them. The smaller machines are more similar to a vending machine since they are self-supported, do not require a foundation and are UL rated similar to a drink machine. Planning staff recommends adding language to clarify that machines up to 7' wide by 10' deep in size shall be considered ice vending machines and shall be permitted as an accessory use in NC, C-1, C-2, HC, LI and HI districts. By allowing them as an accessory use, they will be placed on lots that have been developed according to an approved site plan.

**Consideration of a Proposed Text Amendment to Table 4.6-1 Permitted Use Matrix of the UDO to revise the Land Use "Day Care Facility, Adult", by placing an "S/D" in the RA, RR, R-2, R-14, R-12SF, R-12, R-10, R-6, and MF-12 Districts to indicate that the use will be permitted as a Special Use with development standards in all Residential Districts**

**Consideration of a Proposed Text Amendment to Article 5 of the UDO to create a new Section 5.38 in order to add Regulations and Design Standards for the Land Use "Day Care Facility, Adult"**

Consideration of a Proposed Text Amendment to Appendix A, Definitions of the UDO, to add Definitions for an Adult Day Care Center, Adult Day Care Home and Adult Day Care Program

Ms. Thompson explained that Items D, E and F shown above are grouped together since they are all related. She noted that adult day care facilities are permitted as a right in all residential districts except RA, while child day care facilities are allowed as a Special Use in all residential districts. Planning staff feels that the regulations should be consistent and recommends that all day care facilities be allowed as a Special Use with development regulations in the residential districts. Staff recommends the line item for Adult Day Care Facilities in Table 4.6-1, Permitted Use Matrix, be revised to an "S/D" (indicating special use with development regulations) in the RA, RR, R-20, R-14, R-12SF, S-12, R-10, R-6 and MF 12 districts and that definitions and supplemental development standards be considered as proposed.

Consideration of a Proposed Text Amendment to Table 4.6-1, Permitted Use Matrix of the UDO, to add a new use, "Solar Collector Facility", and further indicate that the use shall be permitted as a Special Use with Development Standards in the RA, RR, R-20, R-14, R-12SF, MF-12, NC, C-1, C-2, O&I, LI and HI Zoning Districts

Consideration of a Proposed Text Amendment to Article 5 of the UDO to create a new Section 5.39 in order to add Regulations and Design Standards for the Land Use, "Solar Collector Facility"

Design Review Coordinator Amy McNeill explained that an amendment is proposed to add commercial solar collector facilities (commonly referred to as "solar farms") to the list of permitted uses within the UDO. At this time, they are included within a larger land use grouping ("gas or electric generation distribution facilities, compressor stations or substations"); however this appears to be a unique use warranting a unique set of design standards. Therefore, staff proposes that solar farms be permitted in all zoning districts, with the exception of R-6, R-10 and CBD, as a Special Use Permit with specific design standards, which would be reviewed and approved by the Board of Adjustment. This would allow the subject property to retain the existing zoning, while permitting development of a solar farm on site, provided that the proposed design meets applicable criteria and is approved by the Board of Adjustment. The example was given by Ms. McNeill of an area leased for a solar farm on agricultural property zoned "RA", which would still be zoned "RA" once the components of the solar farm were removed and the property returned to farmland. This would allow the zoning to remain in harmony with the area and in conformance with the long-range land use plan; the property owner would not have to bear the burden of rezoning once the solar farm ceased to function. She also pointed out that most solar farms lease land as opposed to purchasing.

Ms. McNeill also noted that the information provided to the Board of Adjustment, along with the Special use Permit Application, must address each of the design standards and explain how the proposed project complies with each standard: the burden of proof is on the applicant. She also noted that a decommissioning plan is required as part of the Board of Adjustment review.

Ms. McNeill explained that "Residential Solar Collector" describes an area developed with ground mounted solar collection panels gathering solar radiation as a substitute for traditional energy for water heating, heating/cooling or generating electricity for residential property; it is basically an individually owned solar farm at a private residence. Solar roof panels are currently permitted as an accessory unit.

No one spoke in favor or in opposition. Mayor Mann closed the public hearing.

Application by Fred Thomas “Tommy” Smith III on behalf of Smith Residential Builder, LLC seeking a Subdivision Exception Pursuant to Section 6.3.6 of the Subdivision Ordinance to allow a Waiver of a portion of a buffer yard that is required when a residential subdivision abuts a thoroughfare. Concurrent with the subdivision exception request, the applicant is seeking approval of a preliminary plat for “McNeill Crossing”, a proposed 13-lot residential subdivision to be located on McNeill Road, beginning at the northwestern corner of McNeill Road and Hawkins Avenue. The parcel of land also abuts the US 421 Bypass; therefore, a Class D buffer yard is required to be planted along the perimeter of the subdivision where abutting the thoroughfare. The property is depicted on Lee County Tax Maps 9643.02 and 9644.04, Tax Parcel 9644-50-9042. It is also the same property depicted on a map for Railroad Town LLC, recorded in Plat Cabinet 2014, Slide 47, Lee County Registry of Deeds – (Exhibits C and D)

Ms. McNeill noted that a request of this nature does require a public hearing and information presented at the public hearing should also be considered regarding a final decision on the required subdivision exception.

Mayor Mann opened the public hearing.

Ms. McNeill informed Council that the developer, Tommy Smith, had photos of the site (Exhibit D). Mr. Smith showed the photos and explained that he is requesting an exception allowing him to create a 25 foot wide landscape buffer composed of existing vegetation. He explained this is due to the difference in elevation between the site and the Highway 42 Bypass of approximately 40 feet, as well as the narrow width of the existing lots and the existing natural vegetation which would have to be removed in order to create the berm and then would have to be replanted.

Ms. McNeill confirmed that Planning staff recommends and supports this request as it appears to be reasonable and in the public interest.

Mayor Mann asked if there was anyone who wanted to speak in favor or in opposition to the request. No one spoke in favor or in opposition. Mayor Mann closed the public hearing.

Application by Dennis Richter on behalf of Narenco Development, LLC and Soltera Partners, LLC to rezone 203.50 +/- acres, comprised of twelve adjoining vacant lots located south of W. Garden Street and east of Fire Tower Road to the Balsam, Elm, Sweetgum and Sandifer 4 Solar Farms Conditional Zoning District to allow for the development of a group of four solar farms. Nine of the lots are zoned Residential-Mixed (R-12) and are either landlocked or have frontage on W. Garden Street or Fire Tower Road. Three of the lots are zoned Residential Single-Family (R-20) and have frontage on W. Garden Street. The property is the same depicted on Lee County Tax Maps 9642.03, 9642.04, 9641.01 and 9641.02 as Tax Parcels 9642-82-0492, 9642-71-9782, 9642-40-9338, 9642-62-1683, 9642-41-8740, 9642-41-8090, 9642-61-2942, 9642-72-9338, 9642-40-4159 and 9642-62-0333, Lee County Land Records – (Exhibit E)

Ms. McNeill explained that a request had been made to rezone 12 adjacent vacant tracts of land totaling 203 acres +/- to a site plan specific conditional zoning district to allow for the development of a grouping of four solar farms. The subject request is to rezone this property to Balsam, Elm, Sweetgum and Sandifer 4 Solar Farms Conditional Zoning District, which is a Type 1 Conditional Zoning District, a stand-alone district with its own unique conditions. This type of zoning district is most suitable in situations where current zoning districts do not accommodate the desired use and the developer has a clear vision as to how the property is to be developed.

Ms. McNeill stated that the construction plans and design standards (included as part of Exhibit E) illustrate how the overall site (a group of four solar farms) is proposed to be developed. She also noted that the subject property is in close proximity to an electric substation, a major reason this location was selected.

Ms. McNeill informed Council that staff recommends that Council and Planning Board support this rezoning petition; it appears reasonable and in the public interest. A public information hearing was held on November 12 and approximately 15 people attended. Their main concern was visibility from the rear of Tower Ridge, the adjoining residential subdivision located off Fire Tower Road. After reviewing plans and speaking with the developer about customizing the landscaping to address specific concerns, the neighbors appeared to be agreeable.

Ms. McNeill noted that a request of this nature does require a public hearing and that information presented at the public hearing should also be considered regarding a final decision on the requested rezoning request.

Mayor Mann opened the public hearing.

Dennis Richter, a partner with Soltara Partners (the applicant and developer), made a Power Point presentation (Exhibit F), giving an overview of solar energy generation with photos of a similar project. He described the solar array and equipment which would be installed and summarized the construction process, explaining that no additional municipal services (water, sewer, schools) would be needed. He also informed Council that approximately \$30 million in equipment would be installed and after renewable energy tax credits, approximately 20% of this value would go toward increasing the local tax base.

Mr. Richter answered questions from Council regarding the energy generating process, buffers between the site and adjoining properties, along with other general questions. He explained that the operating life for a typical solar panel is 200 years but typical functional life is about 20-25 years. Once installed, there is very little maintenance required other than cleaning and truck traffic to the site should be required only about once per quarter. Construction is estimated to take approximately two to three months.

Mayor Mann asked if there were any comments in favor or in opposition to the project.

Barbara Powell, Pastor of the New Church of Deliverance (which adjoins the proposed site), stated that she had concerns about the energy generation process, whether any radiation or other harmful agents would be released in connection with the project and if there are any potential long-term use problems associated with this type of facility.

Mr. Richter explained that nothing is emitted from the panels, which will be removed during the decommissioning phase and recycled off site. The steel and concrete will also be removed from the site. He stated that he knew of no emergency situations with this type of project nor are they a known fire hazard.

Travis Hartman, who lives at 117 Tower Ridge, Sanford (in the subdivision adjacent to the proposed site), questioned the status of the tree line relative to the property and fence lines. Ms.

McNeill confirmed that, in order to meet neighbors' concerns, the perimeter buffer has been relocated and that, in an attempt to work with the Tower Ridge residents, they would honor their requests for the landscape buffer.

Mr. Hartman also requested that during the construction period, the developer attempt to schedule work around adjacent churches' schedules and school bus route times. He suggested that this site could be a reference point in the future as to the effect of solar farms on property values.

Mr. Richter explained that no direct connection would be required to the power station on West Garden Street (directly across the street from the proposed location); they will connect to lines already in place. Duke Energy may choose to upgrade lines coming from the solar project to the substation but the developer will not be running any new lines.

With no one else requesting to speak, the public hearing was closed by Mayor Mann.

The Planning Board retired to the West End Conference Room.

### **REGULAR AGENDA**

#### **Consider Resolution in Support of the Temporary Closure of Portions of Several Streets for the Central Carolina Jaycees 2014 Sanford Christmas Parade – (Exhibit G)**

Street Supervisor Magda Holloway explained that the Sanford Jaycees are proposing the same route for the parade as used in past years and that all necessary paperwork regarding permits and insurance have been completed.

Council Member Haire noted that other North Carolina municipalities include fireworks with their Christmas parade and questioned whether the City could do this. Fire Chief Wayne Barber explained this is due to lack of funds; local civic organizations and the City are no longer funding these events. Technically, having a licensed company carry the display out at a permitted site is not a problem. City Manager Hal Hegwer stated that he would investigate funding sources used in other municipalities staging these displays.

Council Member Post made the motion to approve the resolution. Seconded by Council Member Gaskins, the motion carried unanimously.

#### **Consider Waiver of the Bidding Procedure for a Street Sweeper – (Exhibit H)**

Street Crew Supervisor Sedric Dalrymple requested that Council waive the bidding procedure under NCGS 143-129(g) for purchasing a street sweeper. Funds have already been appropriated for the selected sweeper which can be purchased through the "piggyback" process.

Council Member Gaskins made the motion to waive the bidding procedure, which was seconded by Council Member Haire.

Street Supervisor Magda Holloway explained that after researching prices, it was determined that the piggyback method would result in the lowest price available. Manager Hegwer noted that bidding has already been done through this method. Attorney Patterson explained that the statute referenced above allows local governments to "piggyback" on a contract which had already followed North Carolina bidding procedures, as long as the vendor will enter into a contract on the

same or better terms than extended in the original contract. The Public Works Department found a contract which had been bid in the previous 12 months and after reviewing products and demonstrations, they want to contract with the same vendor, under the same terms, for the same piece of equipment so that they will not have to repeat the entire bid procedure. Manager Hegwer explained that the “piggyback” system is very efficient since prior bid awards can be reviewed to obtain the most favorable pricing.

Finance Director Beth Kelly stated that this piece of equipment was included in the budget amendment approved at the prior Council meeting and was also included in the “Rolling Stock” financing. Mayor Mann noted that the loan, which was closed today, was at 1.46% interest and included no closing fees, enabling the City to retain this lump sum rather than requiring a large cash outlay. Manager Hegwer confirmed that the old street sweeper will be sold as surplus.

The vote was unanimous to waive the bidding process.

#### Consider Extension of the Audit Contract

Finance Director Beth Kelly informed Council that the current audit contract must be submitted to the Local Government Commission by November 30. Due to late receipt of third party confirmations, there were some delays in the auditors’ preparation of the City’s financial report. This has resulted in the subject request which gives the Mayor authority to sign an amended Audit Contract for an extension of time if the report cannot be completed by November 30.

A motion for extension was made by Council Member Gaskins, which was seconded by Council Member Wyhof. The motion passed unanimously.

Mrs. Kelly also informed Council that she had received two press releases. The first, from the Government Finance Officers Association (Exhibit I), was a notification that the City has received the Government Finance Officers Association’s Distinguished Budget Presentation award for budget year 2014-2015. This will make the 29<sup>th</sup> straight year the City has received this award, tying Sanford with Cary for receiving this award the most times in North Carolina.

The second press release was from Fitch Ratings (Exhibit J). After being reviewed on the revenue bonds for the wastewater treatment plant expansion, they have affirmed our “AA” rating on the \$47 million in outstanding enterprise system revenue bonds, 2010 Series A and B. She summarized several key factors and ratings drivers which resulted in this award.

Mayor Mann stressed that this is a significant event which confirms the fiscal responsibility of the City. Mrs. Kelly recognized Cindy O’Quinn for the time and effort which goes into the budget document for this award.

#### **OTHER BUSINESS**

Council Member Gaskin expressed his concern regarding the recent announcement that coal ash will be disposed of in Lee County. He explained that 20 million tons (40 billion pounds) coming to Lee and Chatham counties is the equivalent of the weight of all 300 million people in the United States (using 135 pounds as the average weight) being dumped in Lee and Chatham Counties.

Council Member Wyhof congratulated all participants in the Citizens Academy and thanked staff members for their help. She noted that there will be a public hearing regarding the coal ash disposal and encouraged all to attend.

Council Member Post noted that our area is assuming all of the risk related to “fracking” (hydraulic fracturing) and coal ash dumping with no reward. He explained that local government is a creature of the state with no constitutional power to enact policy or rules on behalf of their own citizens; all authority is vested through General Statutes. The current General Assembly enacted legislation fast tracking fracking and prohibiting local government from collecting taxes or fees. Oil and gas companies can now drill and use our roads, paying nothing in return. There was also a change in the way coal ash is characterized, from “landfill” to “reclamation sites”, prohibiting cities and counties from collecting host fees or taxes. If it is imminent that they are coming, they should give back monetarily as a reward for the risk that we are assuming as the center of all this activity.

City Manager Hal Hegwer asked Marshall Downey to come forward to explain that we were contacted by DOT officials last week regarding the Broadway Road widening project. The State is re-ranking and prioritizing projects; the planning and construction design stages are nearing. DOT wants written confirmation of our fiscal commitment in providing the required 30% match, approximately \$40,000 based on preliminary estimates. When it was scoped in 2011, we requested upgrades (landscaping and sidewalks) to obtain a higher quality project. About 12,000 feet of sidewalk is proposed, extending from Horner Boulevard on the north side to Thornwood Mobile Home Park on the south end, along with landscaping in the medians (on the north side only).

Mr. Downey summarized that preliminary phasing shows right-of-way acquisition will occur in May 2016, construction will begin May 2018, with an anticipated one to two year window for construction. Mayor Mann noted that the Broadway exit is anticipated to be one of the busiest interchanges of the Bypass project. Mr. Downey agreed that the southern portion, up to Kelly Drive, will be a key retail opportunity with heavy traffic to and from Broadway Road, making it more of an urban boulevard. Mayor Mann also reminded Council of the Veterans Administration Clinic’s location at this interchange and urged for the commitment.

Manager Hegwer reminded everyone that City Hall will be closed November 26 and 27 for Thanksgiving. He also informed Council that he had received a Certificate of Appreciation from Alpha Company, Third Battalion, Special Warfare Training Group, Airborne at Fort Bragg.

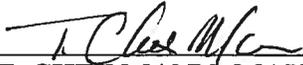
Mayor Mann thanked Council for their support of the Citizens Academy and hopes it continues. He also noted that Duke Energy and Cheraw Corporation owe the City of Sanford and Lee County something; we did not cause the issue with the coal ash and we are not the solution for that problem.

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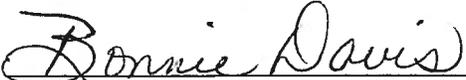
**ADJOURNMENT**

Council Member Post made the motion to adjourn the meeting; seconded by Council Member Gaskins, the motion carried unanimously.

Respectfully Submitted,

  
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T. CHET MANN, MAYOR

ATTEST:

  
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BONNIE DAVIS, CITY CLERK