

MINUTES OF CITY COUNCIL RETREAT MEETING
SANFORD, NORTH CAROLINA
March 4, 2015 – 5:00 P.M.

The City Council held a retreat meeting on Wednesday, March 4, 2015, at 5:00 P.M., at the Sanford Municipal Center, 225 East Weatherspoon Street, in the West End Conference Room. The following people were present:

Mayor T. Chet Mann
Council Member Byron Buckels
Council Member Jimmy Haire
Council Member Rebecca Wyhof
City Attorney Susan Patterson

Mayor Pro Tem James Williams
Council Member Sam Gaskins
Council Member Norman Charles Post, III
City Manager Hal Hegwer
City Clerk Bonnie Davis

Absent:

Council Member Charles Taylor

Mayor Mann opened the retreat meeting.

Public Works Director Vic Czar informed Council that Duke Energy will begin installing LED street lights in the pilot project areas on April 13; work is expected to take four to six weeks. Work will proceed at other locations in the City in the next budget year. The Street Department will make a budget request for approximately \$65,000 to \$67,000, which is a one-time fee for switching out the light fixture heads.

City Manager Hegwer asked Council to pass along to staff any feedback received from the public as the lights are installed.

Continuation of Future Growth Philosophies (Wastewater Collection)

Public Works Director Vic Czar noted that this issue is an extension of what Community Development Director Marshall Downey explained at last week's retreat meeting. He noted that the Wastewater Master Plan, which looks at our existing collection system, is 95 percent complete. It does not review the entire system but does review some of the larger interceptor lines since a sewer system is designed to flow by gravity. When a pipe is installed, the size is determined by the size of the area it can serve by gravity. We are now beginning to see development in areas not located in that gravity basin.

Mr. Czar explained that the City Manager is considering how sewer service could be used as a tool for efficient growth and delivery of services: not only utilities, but also trash collection, fire, police and leaf/limb pickup. With this in mind, the City entered into a contract with W. K. Dickson. The study took longer to complete than anticipated since it was somewhat different than what is typically done with a wastewater master plan.

Mr. Czar displayed a map of the City limits and the existing sewer system (Exhibit A). He pointed out the location of the wastewater treatment plant and other annexed areas, including Deep River Forest. He noted that there are many open spaces and some areas developed with septic tanks and no sewer service, where there was never any intention of

providing city sewer. He explained how sewer service is extended by developers and that they are responsible for installing infrastructure (streets, water and sewer lines). The City's rule on lift stations is that they must serve a minimum area before the City accepts them for public maintenance; very few developers want to be in the wastewater business.

Public Works Director Vic Czar explained the petition assessment process used to extend sewer service and how the cost is assessed to owners. He suggested that we consider how City policy could become more proactive, to promote growth, rather than only being reactive. He acknowledged that even though there are some problems with the collection system, the City's Wastewater Treatment Plant capacity has been extended to handle growth. The downturn in the economy will give Council time to consider issues more related to urban growth – density and efficiency in delivering services. Sewer service is one area where we may consider revising what we do and maybe even providing some incentives for growth through extension of sewer service. The problem is partially the expense of extending lines; there is no money in the existing rate structure to change what we do. We must change several things to make those accommodations. He noted that lift stations are more costly to maintain than gravity line sewer systems.

Council discussed areas where sewer service is needed, including areas with large gaps in service inside the City limits. Mr. Czar stated that it is costly for owners to pay for line installation through petition assessment. Staff has reviewed this issue and suggested that Council revise the method of charging owners. Currently, we assess the total cost of an extension to the owners involved. There are many models, including establishing a maximum charge or cost sharing – a fixed cost per foot with a maximum. He stated that the only line work done in some areas is for petition assessments or industrial uses, areas where there is some real return on investment and a high probability of grant funding.

Mayor Mann informed Council that when he became mayor, he recognized the City's abundance of water and capacity of treating wastewater. He also recognized that we lag in housing, with no recent growth and no new neighborhoods. Council often hears that our executives do not live in Sanford. We have some areas which are wide open for development, if only the infrastructure were available. The Mayor wants Council to consider how we can use our assets – the abundance of water and sewer capacity - to entice the kind of growth we would like to see, in the areas where we want to see it. For ten years, we have been relatively flat in water customer growth. We have been terribly flat and lag behind our neighbors on new housing neighborhoods and higher density neighborhoods, so we discussed a Land Use Plan at the last retreat meeting. He told Council that he would like for them to incorporate what Mr. Czar is talking about with the Wastewater Master Plan, to identify issues and opportunities and determine how we can work towards a solution.

Mr. Czar discussed extending utilities in growth areas which will serve more customers, such as in the Tramway area, where the Veterans Affairs (VA) Clinic may be built. He displayed a map showing where gravity sewer would be extended, from the Carthage Colonies neighborhood area to the area in Tramway where the VA Clinic may be located. The estimated cost is \$1.4 million but once the system is installed, the vacant land nearby has access to it. Council agreed that if the VA Clinic is built in Tramway, it will attract business and growth.

City Manager Hal Hegwer advised that we could drive growth where we want. Staff developed a growth scoring matrix (displayed on a poster) to determine where growth should be driven. Extending sewer lines to the VA Clinic will take money but there are several ways to go about it. One option is for the City help fund it and then charge recovery fees; although he acknowledged we will likely never recoup the entire expense. He emphasized the need to change our philosophy and determine how to get sewer to the site of the VA Clinic.

Public Works Director Czar displayed a Capital Recovery Fee chart illustrating what other municipalities charge to recoup some of the funds used to extend sewer service, including connection charges, capacity replacement fees, utility development fees, acreage fees, impact fees, capacity fees, tap fees, availability fees and facility investment fees. He presented Council with a letter (Exhibit B) from Lex Warmath with Raftelis referring to Capital Recovery Fees.

The retreat was recessed at 6:15 P.M. and reconvened at 6:35 P.M.

Mr. Czar explained that another potential source of capital recovery fees is Wholesale or Contract Accounts. They are typically easier to manage than individual accounts, have fewer non-payment issues, do not consume as much of the collection system and often use only sewer distribution system service. The average cost to treat is about \$1.25 per 1,000 gallons; the additional cost to treat is about \$0.40 per 1,000 gallons, making for a good return on investment. We already have some water wholesale accounts but our first wastewater wholesale account is with the Town of Goldston. We previously had a wastewater account with Carolina Trace before they expanded their plant. We currently sell water to Chatham County, Carolina Trace and the Towns of Broadway and Goldston.

Discussion on Code Enforcement Regulations and Possible Changes to Code Enforcement Procedures - (Exhibit C)

Code Enforcement Supervisor Barbara McMillen gave a brief history of the department, which began in 1995 with one part-time inspector; they currently have three full-time positions. They were given additional enforcement authority in the past year for the Commercial Maintenance Code ("CMC") and have migrated to new code enforcement software. In order to manage this additional authority with fewer positions, they are reviewing processes including implementation of provisions in the CMC. One such provision is a fine of \$250 per day for nuisances which are not abated. A location at the Kendale Shopping Center was vandalized, leaving broken windows with jagged glass. Once informed of this potential fine, it was quickly repaired. A sinkhole at this location was also repaired; when it recurred, it was again quickly repaired.

Mrs. McMillen explained that the CMC allows them to address properties not subject to minimum housing standards or where they otherwise have no enforcement authority. She suggested that in addition to responding to complaints as received, certain areas could be identified and targeted proactively for maintenance and upkeep.

She also informed Council that the department's software has helped them manage the increased workload with fewer employees. Cases can be opened and reports generated in the field, allowing for increased efficiency and less clerical work. This is important since the department clerk's position was eliminated and those clerical duties were left to the three

remaining employees. The software gives them the ability to quickly search records and the potential to reduce or eliminate paper files. It also allows for customization by incorporating our CMC. There are some issues with conversion and support and upgrading to a newer version is an option.

Community Development Director Marshall Downey stated that the software upgrade issue affects not only Code Enforcement, but also the Inspections, Planning and Environmental Health Departments. In light of the fact that they will all be located together soon at the Buggy Factory, the goal is for everyone to go to a web-based version, rather than the desktop version currently being used. He noted the trend in software is toward web-based applications and away from hardware. City Manager Hegwer advised that discussions are ongoing with County representatives on future department integration at the Buggy Factory.

Code Enforcement Supervisor McMillen explained that improved software will further streamline enforcement since staff can stay in the field longer without having to return to the office as frequently. Internal policies and procedures are also being reviewed and revisions are being considered to existing ordinances.

She explained that two categories consume the overwhelming majority of their case load: overgrown lots and trash/junk, which together comprise about 80% of their cases. Both categories use provisions found in Ordinance 16-34(a) requiring a 15-day notice from receipt. There is potential to reduce time and effort involved with officers issuing notices. One suggestion she made is providing an alternative to the certified mail requirement in order to shorten compliance time to a specific date. We could refer to abatement after sending notice: we could go right in and abate the violation.

As explained by Mrs. McMillen, postal carriers are typically required to make three attempts to deliver certified mail. Since many people work during the day, recipients are often away when mail is delivered. Another issue is that delivery addresses are often vacant. Even though staff may be aware of this, it is often the only address available. Forwarding certified mail is not allowed, so if there is a more current address (such as when moving), it is not provided. Another major issue is the fact that there is no way to compel someone to pick up and accept certified mail; this is what happens approximately 25 to 30 percent of the time.

Mrs. McMillen informed Council that compliance is often achieved with regular mail. Internal policy currently allows for sending an initial "courtesy letter" giving the owner seven days to abate; this is not a formal violation notice. Costs are also lower with the courtesy letter. If compliance is not achieved, the 15-day Violation Notice is sent by certified mail, which can take 15 to 21 days for it to be delivered and accepted. The 15-day compliance period does not begin to run until the notice is received, which is the issue with certified mail. In the meantime, grass continues to grow or trash is deteriorating. She noted that the courtesy letter can also be confusing if compliance is not achieved and the 15-day Violation Notice becomes necessary, since owners often think they have an additional 15 days to abate.

Mrs. McMillen stated that Council recently adopted an ordinance giving the department authority to pursue chronic violators (those with three or more violations in the previous calendar year). We are required to notify them that if they are in violation this year, we will proceed directly to abatement. They may abate after receiving the seven-day letter,

but the potential problem is that they may just wait for a subsequent letter. Since this is a new policy connected to offenses from last year, there are no offenders who qualify at this time.

Code Enforcement Supervisor McMillen suggested that the ordinance be revised to give 15 days' notice from the date the letter is written and include a specific deadline for the nuisance to be abated. Their department frequently receives questions on deadlines, so this would provide clarity and potentially reduce overall compliance time from 30 to 45 days or even longer (depending on the certified mail time frame), down to 15 days.

Another suggestion offered by Mrs. McMillen is finding an alternative to certified mail. She showed a photo of certified mail returned in the last several months, mostly "unclaimed", and estimates that approximately \$250 to \$300 was spent last quarter on certified mail which was returned. Staff often knows that a property is vacant or an address is not accurate and that sending notices by certified mail will only be an expense that produces no results. She advised Council that other cities and Councils are sending notices through regular mail only. This change would shorten compliance time and save \$6.48 per certified letter. It would also save staff time, since sending notices by certified mail is very time consuming and there is no longer a clerk available to help.

She also suggested adding a provision for the City to abate violations. Other cities and towns have included provisions in their notices giving owners a specific number of days to abate the nuisance and if not resolved, the city may come in and abate. She cited the case opened in August on the "sweepstakes building" on North Horner Boulevard. Although there were valid addresses for the corporate owner and registered agent, the violation notice sent by certified mail was simply not accepted and was returned "unclaimed" after several weeks. Fortunately, Mrs. McMillen was able to personally serve the registered agent, but had he been unavailable, the additional expense of publishing in the newspaper would have been required before we could go in and cut the grass.

Mrs. McMillen confirmed that Code Enforcement officers do have computers in their vehicles, which allows them to generate and send notices through the network but they do not have printers. They work around this by using fillable forms to post on the property and print documents when they return to the office.

Mayor Mann questioned what was necessary to implement these changes. City Attorney Susan Patterson explained that the Code can be amended with Council approval. Mayor Mann stressed that changes would shorten the time period for abating nuisances and reminded Council that in the North Horner Boulevard case noted earlier, we ultimately cut the grass and weeds which had grown nearly chest high but it took almost four months under the current ordinance.

Council Member Post asked Mrs. Patterson about alternative mail service requirements. Mrs. Patterson stated that under Rule 4, there are certain ways to properly serve notice under due process; however, there are some towns using a statute allowing a city to abate nuisances. New legislation regarding Minimum Housing Code statutes now allow the option of sending certified and regular mail and posting notice. If certified mail is returned as unclaimed but regular mail is not returned, notice is considered to have been served. There is also specific authority for this regarding nuisances but there is a logical argument to be made

to apply this to nuisances, meaning that certified mail, in addition to regular mail and posting would be required. Mrs. Patterson noted that the proposal suggested by Code Enforcement Supervisor McMillen is to send notice only by regular mail and posting. There is currently a case in New Bern where the Court analyzed that if self-help is taken (in this case, a house was torn down) without proper notice, it is considered to be a taking of property and the owner should be compensated. The issue is whether nuisance abatement actually requires just compensation since it is not the same thing as tearing down a house. Basically, it is under NCGS 160(A)-193 where cities are granted authority to abate anything prejudicial to public health and safety.

Mrs. Patterson explained that the City already has a system to summarily abate imminent hazards without notice. The "Courtesy Letter" previously mentioned was developed by prior Code Enforcement staff in response to a request from local developer Albert Adcock, who owns many rental properties where issues would occasionally arise of which he was unaware. He suggested that any issue could be resolved once brought to his attention through regular mail without the unnecessary time and expense of certified mail. Once implemented, the courtesy letter proved a useful tool in achieving compliance.

Council Member Post noted his concern with regular mail not providing proof of service; Mrs. Patterson agreed. Council Member Haire suggested sending notice through United Parcel Service, which generates a confirmation of receipt. Mrs. McMillen agreed that there are other options for delivery but the issue with the current ordinance is that the required 15-day time period does not begin until notice is received and receipt is often delayed by repeated efforts to deliver certified mail and it is often unsuccessful. Mrs. Patterson explained that personal service is an option which has been used in the past along with personal service affidavits; however, this can be problematic since properties are often rented and the owner, not the tenant, must be served notice.

City Attorney Susan Patterson explained differences between posting and publishing requirements and noted that service must be by posting and publishing or by posting in addition to both regular and certified mail. There is no specific statutory authority given in the nuisance section, except in the case of chronically overgrown lots, which indicates that the legislature was contemplating this. She noted that our ordinances were drawn more than 20 years ago and followed what was the norm at that time for service. She explained that Code Enforcement Supervisor McMillen's proposal is based on research into methods used by other towns to update and modify their ordinances. She also noted that these municipalities are relying on the statutes allowing abatement and allowing you to define and abate nuisances by ordinance. The intent is to develop an arguable theory for why it is done a certain way and define it by ordinance, including notice requirements and abatement procedures, something that many larger municipalities have already done. She noted that although this is becoming more prevalent, it is riskier than our current ordinance, which is the safest method.

Council Member Gaskins questioned how much of the estimated \$3,000 annual postage expense would be saved by eliminating certified mail; Mrs. McMillen estimated approximately \$1,000 to \$1,200. He questioned the cost of a typical mowing abatement; she stated that it depends on lot size but a commercial property was about \$400 and residential properties would be less. She explained that other municipalities have a schedule based on bids which is incorporated into the ordinance so citizens know the charge if the city abates the

nuisance. Mr. Gaskins suggested that in the worst case scenario, approximately \$1,000 per year could be saved. Code Enforcement Supervisor McMillen suggested that if a lien for abatement costs were challenged, it could simply be released. Mr. Gaskins noted that the risk appears low compared to quicker abatement and saving approximately \$1,000 up front. Mrs. Patterson noted that there will still be costs with tenant-occupied properties, absentee owners and owners who are incarcerated or deceased.

City Manager Hegwer emphasized that the ultimate goal is to have nuisances abated. Mayor Mann stated his belief that “we must inspect what we expect”; we want to send the message that the process will not take 45 to 60 days to be resolved and that while we are tolerant, we are not going to simply ignore these issues. This is just one more component in the transition from a rural community to a more urban area.

Mayor Mann requested additional information on identifying potential target areas under the CMC. Mrs. McMillen explained that her department would seek feedback from the Mayor, Council and citizens on this. She also stated that they seek not only to respond to citizens’ requests, but to also be proactive in improving community appearance. Concentrating in specific areas is one strategy for attracting future business growth.

Community Development Director Marshall Downey explained that we should be aware of any potential issues in targeting areas such as those included in the revitalization project. He noted that this type of activity falls not only to Code Enforcement but to the Inspection Department as well as part of a long-range plan. The Corridor Plan for long-term planning and growth includes not only new areas but existing areas and infill. We must determine whether we want to focus on corridors, such as sites where “City of Sanford” signs are located, and whether we want to take a more proactive approach.

There was discussion among Council about locations where construction debris is a problem. Attorney Patterson confirmed that our ordinance already allows for debris removal enforcement but recent weather has caused many locations to remain wet and has created delays in removal. She noted that the Code Enforcement Department has typically been complaint driven (taking a complaint to open a case) but if the goal is to become more proactive and seek violators, we must be aware that owner-occupied properties have different standards: there will not be a complaining witness or tenant bringing the nuisance to someone’s attention and there is also the issue of individual property rights.

Regarding the proposed parking ordinance, Community Director Marshall Downey noted that a public hearing is scheduled for the March 17 Council meeting. Staff held a neighborhood meeting where few attendees opposed it. Staff researched and identified locations where there may be problems and attempted to contact residents. He explained that the challenge to police will be the fact that parking violations are easily remedied, then violated again. Mayor Mann expressed hope that violation fines will serve as a deterrent.

Discussion Regarding Park Upgrades

City Manager Hegwer reminded Council that \$75,000 had been budgeted this year for park upgrades which were not specifically defined. All park facilities have been considered, including updates to the Martin Luther King Jr. (MLK) Park and a bike/mountain bike track on property donated to the City at Riverbirch Shopping Center. Mr. Hegwer, Council Member

Buckels and Mayor Mann toured the MLK Park and the Riverbirch property to identify potential opportunities for upgrades. Council Member Taylor was consulted on the bike trail.

Several options were researched for MLK Park, including safety issues where Washington Avenue intersects with Horner Boulevard. Closing Washington Avenue at this location would allow for a cul-de-sac and parking area. Possible grant funding through the NC Department of Transportation (DOT) was researched but unfortunately, the project met none of their criteria. Federal funding for a sidewalk in this area was also researched but this was not considered practical at this time due to excessive federal requirements.

Council Member Buckels suggested that if no DOT funding were available, other options should be considered. He gave a Power Point presentation (shown on Exhibit D), noting that the park is a beautiful but underused attraction, partially due to its location alongside Horner Boulevard. He suggested that the bridge overpass would look much better if the side brick were painted and perhaps a welcome message could be stenciled on the bridge overpass, if allowed by DOT. The adjacent vacant land could also be used to enhance the park. If Washington Avenue were closed at the intersection with Horner Boulevard, a sidewalk could be added; he acknowledged this would be very expensive and is not really necessary now. If sidewalk were to be done in this area in the future, perhaps it could be extended to this tract and guard rails installed for additional safety to pedestrians. Another option would be for this area to be blocked off by police while in use or installing speed bumps. He also presented illustrations of a brick walkway to a courtyard area as options for future improvements.

Mr. Hegwer explained that there is a tract owned by the City adjacent to the park which is approximately nine-tenths (0.9) acre in size. Another tract approximately 90' x 50' (0.1 acre) is adjacent to that tract and is owned jointly by the City and County. We have requested that the County transfer this lot to the City since we maintain it. It was purchased with the intention of creating a parking area at some point. Council Member Haire noted that these projects often take on a life of their own after development. Since the Veterans Memorial was constructed in Broadway, many functions have been held there, including weddings and reunions.

Other potential upgrades offered by Council Member Buckels include a gazebo, walking trail, benches, and bridge at the creek, although he agreed that a bridge may be quite expensive. He advised Council that the overall cost is unknown but will be researched.

Mr. Buckels also stated that the most important contribution of the park would be its educational message. Dr. King, who helped pave the way during the Civil Rights movement, was followed by many others, including local citizens Walter McNeil, W.B. Wicker and B.T. Bullock. Council Member Williams reminded everyone that Mr. Wicker's house is across the street from the park. Plaques could help bring awareness of these individuals and their contributions to the community.

Mr. Hegwer noted that the high traffic volume on Horner Boulevard near the MLK Park will be an issue with any improvements to the overpass bridge. Mr. Buckels reminded every one of the community garden nearby (on the western side of Washington Avenue) and suggested that perhaps a garden could be incorporated into the park. Council Member Wyhof

commented that many communities have unique attractions which encourage visitors, especially nice gardens. Perhaps development could be made with this in mind.

City Manager Hegwer noted that the \$75,000 already budgeted would not be adequate to complete either the MLK Park or Bike Trail project, but could help move them forward by having some design work and cost estimations done. Perhaps a landscape architect or engineer could help guide the projects.

Mr. Hegwer stated that information on a potential project at the Riverbirch property could be presented at the next Law and Finance meeting.

Mayor Mann noted that there was no need for a closed session.

Council Member Wyhof acknowledged the great turnout by Council for the Sanford/Lee County Partnership for Prosperity (now "SAGA"- Sanford Area Growth Alliance) Banquet.

Council Member Haire commented on recent construction activity at the Buggy Factory. Mayor Mann confirmed that original floor boards are currently being removed and repaired and that subflooring is being installed for noise reduction.

Mayor Mann suggested that one more retreat session is needed. He stressed the importance of Council members' sharing priorities before budget work begins. Council Member Gaskins asked about the status of the current year's budget. Manager Hegwer informed him that year-end estimates have just been submitted and work is ongoing; Council will be updated.

Council Member Haire asked about status and cost of the mural project. Community Development Director Marshall Downey informed him that staff is working with DSI (Downtown Sanford, Inc.) and that the first mural is being funded with private funds. Mr. Haire asked about the possibility of having a mural done in Jonesboro. Council Member Wyhof suggested that representatives from Jonesboro go before the Appearance Commission, whose Mural Art sub-committee was handling this project. The Arts Council was also involved with the project, which is not specific to Downtown Sanford: it is for the whole city. The sub-committee focused on identifying specific locations since there are only certain types of walls where murals can be created. There are grants and other funding sources for these projects. Manager Hegwer noted that there are concerns which must be addressed when murals are being placed on private property and public funds are involved.

Mayor Mann informed Council that Secretary Klutz of the Department of Cultural Resources will be in Sanford on March 17 for a tour of the Buggy Factory. She is a champion of reinstating tax credits for historic building preservations. A video crew will be involved so we plan to do a presentation on the Buggy Factory renovation which will include Council Member Haire and SAGA Director Rodger Sauls. We plan to make this a publicity event for Sanford, to advertise and promote our revitalization.

He also explained that Council has partnered with the school system on the Bully Project, a message being promoted nationwide by the Conference of Mayors. A video is now

on our website and another will be produced at his upcoming appearance at Broadway Elementary School with Dr. Bryan.

Regarding the Latino Project, Mayor Mann informed Council that although the most recent meeting was not as well attended as he had hoped, the program was very informative. Approximately 16 percent of Sanford residents were not born in the United States; this number is expected to grow to 20 percent by 2020. He questioned whether our staff, departments or community reflected this statistic and suggested that until they do, we probably cannot fully integrate and make them a larger contributing part of the community. He noted that there are some major issues being tackled now and thanked everyone for their time.

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BY REFERENCE AND MADE A PART OF THESE MINUTES.**

ADJOURNMENT

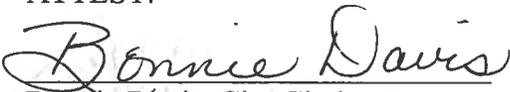
The meeting was recessed upon motion of Council Member Gaskins; seconded by Council Member Post, it was unanimously passed.

Respectfully submitted,



T. Chet Mann, Mayor

ATTEST:



Bonnie Davis, City Clerk