

LAW AND FINANCE MEETING
March 26, 2008

The Law and Finance Committee met on Wednesday, March 26, 2008, 1:00 P.M., in the Council Chambers at City Hall. The following people were present:

Present:

Law and Finance Committee:

Mayor Cornelia P. Olive	Council Member Mike Stone
Mayor Pro Tem Joseph E. Martin	Council Member James G. Williams
Council Member Charles Taylor	Council Member Walter H. McNeil, Jr.
Council Member Steve Brewer	Council Member Linwood S. Mann, Sr.
City Manager Hal Hegwer	
City Attorney Susan C. Patterson	
City Clerk Bonnie D. White	
City Staff	

Consider Comments from Alexandra Reid

Assistant Community Development Director Marshall Downey explained that Ms. Reid came to him a couple of weeks ago and spoke with him regarding a violation she had received from the city for having chickens on her property located off Lee Avenue. She would like to address Council regarding the possibility of amending the City code to allow chickens in the city limits. Chickens are prohibited from being in the city limits. Dan Campeau, area poultry extension agent for Sanford and a member of the faculty from N. C. State was present in the audience to answer any questions Council may have.

City Attorney Susan Patterson advised that Ordinance Section 4-5 states that, "No person shall keep or harbor within the city any pig, hog or other animal of the swine variety, chickens or other animal of the poultry variety, or any goats." Council Member Stone asked what was the reason for the ordinance. Attorney Patterson replied that when you live in the city, you live in an urban environment, so you want uses that are compatible with urban living. This ordinance has been on the books for many years and she did not know when it was put into place. As you become urban in character, agricultural uses such as keeping of pigs, goats, and chickens are not compatible with city living.

Alexandra Reid stated that she was requesting that Council remove its no policy regarding backyard chicken coops within the city limits and replace it with reasonable regulation; much like the reasonable codes in place for other domestic pets – noise, nuisance, etc. She said she was not sure if council had a chance to read the information she sent them. Ms. Reid added that Raleigh, Fayetteville, Charlotte, and Wilson are some examples of modern urban communities that do allow backyard chicken coops. She felt that council may have had the perception that she once did that chickens are livestock and may not be considered as pets. Ms. Reid explained that you use chickens for 4-H, Future Farmers of America, school science fair projects, and the Lee County and N. C. State Fair. These are things that her children have used their chickens for. Ms. Reid said they have chicken shows just like they have dog shows. She advised that in the packet she sent to council, there are examples of other ordinances that cities

are using. She said that Raleigh has a Tour De Coop once a year where people are allowed to take a walking tour through the neighborhoods. Ms. Reid explained that everyday when her children come home, they have to do their chicken chores and it gives them something to do and not just playing computer games. She stated there is a new word in the dictionary “local vore” which means people that want to eat things out of their local community. Backyard chickens are just this-they get eight to ten eggs a day.

Ms. Reid said some of her neighbors have lived there since the early 1920s, and they have said chickens have always been there. She stated that she had a petition of over 100 names that feel that chickens can be reasonably allowed in the city limits.

Ms. Reid said she wanted to address some possible fears; she is not talking about cock-fighting or other specific cultural traditions with chickens; she is not talking about slaughtering of chickens in the city limits; it is not about adding nuisance to neighbors; this does not add any additional health issues to the community and it does not supersede any covenants or restrictions that subdivisions may already have. It is simply about having a few hens in your backyard with reasonable regulations, much like dogs. Animal abuse occurs despite ordinance. Child abuse occurs despite law. Sanford cannot be afraid to allow reasonable regulations to citizens’ requests for fear of what may happen.

Ms. Reid stated that this issue is not on Council’s top ten of issues it needs to consider; it is, however, a priority to her family, to her supportive neighbors, and to the people that have signed the petition. She recognized Dan Campeau in the audience. Council Member Williams asked Ms. Reid how she felt about the rooster that wakes everybody up at 4 A.M. Ms. Reid replied that most of the codes that she has supplied stated there are no roosters. She said it does not apply to her situation because you do not want a barking dog tied up on a chain. They do not want to add nuisance. Council Member Taylor asked her what kind of parameters did she suggest that are reasonable. She replied that some of the examples she has seen have ranged from 25 feet from a dwelling and a cap on the amount of hens you can have. Some range from 20 to 25 hens. Charlotte has a restriction that is related to body weight and your acreage. They have a mathematical formula; the idea being you do not want to have animals that provide more waste than your yard can absorb. There are a lot of variations that you can come up; there are a lot of options. Ms. Reid said the reason she says reasonable is because she did not like the word no.

Consider Cable Broadband Consortium Service Agreement – (Exhibit A)

City Attorney Susan Patterson advised that for years, the city has been a member of Triangle J Cable Consortium, which provides us with a use of a cable consultant on issues that deal with broadband development, regulation, and use of our rights-of-way for cable and broadband needs. This is the annual contract and sometimes it is longer than annual; this contract has a term of April 1, 2008 and ends on March 31, 2010. They are asking us to renew our participation in the Triangle J Cable Consortium to continue to receive the expertise provided by the consultant employed by Triangle J. The city has been in the consortium since before 1996. It was very helpful in 1997 when we rewrote our local franchise. The contract is asking for the city manager’s signature.

Council Member Stone asked what it cost to be part of that. Attorney Patterson replied that they have a tiered rate of fees and are tiered by population. It cost us \$5,750 annually. Council Member Stone asked how much we received in revenues from the cable company. Mr. Stone said he is concerned that we do not have any competition and the state is going to be controlling it. Attorney Patterson replied that our current local franchise remains in place until there are some steps taken to put us entirely under the state franchise. Our franchise was a fifteen-year agreement so unless there are some changes that necessitate a change, it will be in place until 2012. We have some local rules. The federal government is changing some of the things we can regulate and the state franchise agreement is taking away other aspects of it including how the money is transferred through the state to us. Nevertheless, we still have some right-of-way control and some local fees that we receive due to our local franchise agreement. Mr. Stone asked if we have an option not to join if we do not want to. Attorney Patterson replied yes; it is a service provided by Triangle J. Although Charter has a non-exclusive agreement with us, no one else has tried to compete with them. This is a two-year annual contract and we can change it to a one-year contract. There is some automatic renewal language and we can get out anytime in thirty days. Attorney Patterson advised that we use the cable consultant all along throughout the year. Each year there are services that the cable consultant supplies to us and there are meetings three to four times each year with information regarding broadband and cable services. If Charter was bought out by another company, there would be FCC filings that would be required. Sanford would have to do a review of those to make sure they are correct and the city may have to provide some FCC filings to certify customer base. The consultant takes care of all this so we do not have to become an expert in the cable industry. They provide information to us fairly frequently of upcoming events and they speak with the state to make sure we are receiving the monies that we are suppose to under the current arrangement where the state provides the city fees due to cable. Attorney Patterson referred to the information in Council's packet that states the services the consultant provides.

City Manager Hegwer advised that staff recommends the city renew the contract because we are receiving revenue from Charter and the state. Financial Services Director Melissa Cardinali commented that the total the city receives from the cable company is between \$150,000 to \$160,000. She advised that the cable consultant has stayed on top of the changes in the law to make sure that we do not lose any money during the changes. Council Member McNeil stated that the consultant is an expert in the regulations and it keeps Charter honest.

Consider Resolution Declaring Cost and Ordering Preparation of Preliminary Assessment Roll, and Setting Time and Place for Public Hearing on Preliminary Assessment Roll – (Exhibit B)

City Engineer Vic Czar explained that a sewer project was done by petition assessment on portions of North Currie Drive and McLeod Drive. There were nine lots affected by the petition. Five of the owners signed the petition so it was successful. The project is complete and the final costs have been declared. The original estimate per lot was \$9,450; however, the actual cost is \$8,039.89. This resolution sets a date for the public hearing on May 6, 2008, at 7 P.M. A meeting will be held with the residents prior to the public hearing.

Consider Contract for Audit Services – (Exhibit C)

Financial Services Director Melissa Cardinali explained that this is a proposed amendment to our existing contract for audit services. Beginning with this fiscal year, the audit

profession has been required to conduct audits based on a new set of auditing standards. The new standards require the auditors to provide more documentation in the areas of risks and internal controls. This simply means that the audit firm and city staff are going to have to spend a great deal more time with the audit process. The city currently has one year left on its contract with McGladrey & Pullen and McGladrey has estimated that they can implement the new standards with a one time charge of \$5,000. However, they have offered that we can spread that \$5,000 over three years if we extend the current contract through 2010. This means we have two options: one is to continue with the current contract that we have with McGladrey and pay an additional \$5,000 for this fiscal year and then in the fall, we would do our requests for proposals and pay at least another \$5,000 next year if we went with another firm beginning in the 2009 fiscal year; or we can extend the current contract for two years and spread the \$5,000 out over those three years. Financial Services Director Melissa Cardinali stated that staff recommends going with the second option because these auditing standards are new for everybody and every firm will basically have a learning curve in trying to see how the standards are going to impact their audits. Mrs. Cardinali felt that if we go out for proposals and firms are not sure how much it is really costing, we could end up paying more than the proposed amounts on this contract. She recommended letting the auditing profession settle with these standards.

Mrs. Cardinali stated that the contract extension cost for 2008, if we extend and spread the \$5,000 every three years, would be \$34,700; for next year it would be \$36,350; and for the final year it would be \$38,080. Council Member Mike Stone asked had we planned to rebid this contract next year when it comes due again, or do we plan to renew with them all along. Mrs. Cardinali replied that in the fall we were going to do requests for proposals, and she can do that if that is what Council wishes. Mrs. Cardinali cautioned that if we change firms, every firm is going to have to do this assessment and it is going to cost additional money and she did not know how much that would be.

City Manager Hegwer commented that if we change firms, a whole new group is going to have to get up to speed with us, and with someone that knows our system and extends it one or two years, at least you can absorb some of that cost. This is a mandate to all the auditors. Mrs. Cardinali said that her recommendation is to extend the current contract for two more years and do the request for proposals in 2010 so that all the firms have an opportunity to see what these new auditing standards are going to mean. The second option is to do requests for proposals in the fall and going ahead and pay the flat \$5,000 in additional to the contract for the current year. Mrs. Cardinali informed council that the profession and requirements are changing constantly and this is probably one of the more sweeping changes that the auditing profession has had in a long time. The auditors look at our processes, reports in general and our policies and when they see anything that leads them to think they need to go further, they will. They obviously cannot check every single transaction. What we hope we have is strong internal controls, which is what this tries to address so we find those things and minimize the impact immediately. Mrs. Cardinali stated that they are very pleased with McGladrey & Pullen's work, and they have been very responsive to staff and to our questions. Mr. Hegwer added that after the two-year extension, we need to go to another firm. Mrs. Cardinali agreed with Mr. Hegwer.

Consider Participating in a Proposed Interlocal Agreement – (Exhibit D)

Public Works Director Larry Thomas informed council that the state is gauging water in the Deep River. A flow gauge is located at Moncure, one behind the Jordan Dam, and one at Lillington. The state has found that where the water is coming out of Jordan and Deep River, there is more water going down the river than is actually getting to Lillington. They do not know where the water is going to. There are about 50 million gallons of water that is lost; they do not know if the water is going in the ground or being used by someone. It will affect the discharge from the Jordan Lake. There is a project to study the river and determine where the water is going and see how it affects the communities above and below that area. It is the section of the river from the Jordan to Lillington on the Cape Fear.

Mr. Thomas said there is a project designed to look at this and put some additional gauges in, to look at the flow patterns and the temperature differentials to see if the water is going in the ground at different places and also looking at withdrawals. The cost of the project is \$543,000. The U. S. Geological Studies Service will pay \$170,000; Division of Water Quality would pay another \$170,000; Progress Energy would pay \$107,000 and the cities that are on the Cape Fear River would pay a total of \$205,000 total. Sanford's portion of that based upon our withdrawal permit, would be \$7,300 over a three-year period.

They have proposed an interlocal agreement. Triangle J would be involved and will be putting \$30,000 in it. Mr. Thomas said there are other cities that will be participating. The overall benefit would be that you would understand the river and its flow and how it reacts with the groundwater; it would affect the drought strategies and what you are going to do in a drought with the river water; and the discharge from the Jordan. Mr. Thomas said some cities would benefit more than others. The cities above stream and on the Jordan would definitely benefit because it would consider what is released from the Jordan. Sanford would be involved in the study; we would have a representative on the group that would be looking at it; we would be able to put our input into it; and also understand exactly what they looked at and what they did not look at. We would overall be cooperating and sometimes there are some benefits from that when you want to do another project that may involve these same people.

Mr. Thomas is recommending participation in the project and there will be no formal agreement at this time; we are just telling them we will participate so they can count to make sure the exact dollars it would cost and we will bring it back to council. Mr. Thomas said he needs a consensus from council that Sanford will participate. Mr. Thomas stated that they do not know what cities will participate. Mr. Thomas will tell them we will participate based on the figures the city has been given and if it changes, we will reconsider it. Mr. Thomas advised that staff will come back with a proposal. City Manager Hegwer said staff and he really feel we need to participate.

Conservation of Water

Public Works Director Larry Thomas stated that Sanford has been conserving water and has done a good job. The drought situation is improving and cities are relaxing their drought restrictions. Staff has spoken with the governor's office and we are need to do some things such as washing some vehicles; washing the building at the service center; irrigation for some plantings that need to be done; and water started up again at the Depot Park fountain. Mr.

Thomas said they want to start doing some of these things and if council approves this, they will start doing these things in the next two weeks. Council gave a consensus to allow these things to be done.

Discussion Regarding Curb Extensions for Steele Street – (Exhibit E)

City Engineer Vic Czar advised that on February 19, 2008, the City received some prices for a project that they were calling Steele Street Curb Extensions. It would have entailed the corner of Steele and Wicker Streets and the corner of Steele and Carthage Streets. They were going to take the curbs and extend them out into Steele Street some; wrap the curb back around, and redo the ramp for handicap accessibility. This creates an area for plantings, and they were going to plant a tree in each one the areas and have a tree grate and some brickwork with some associated drainage work to complete all the work. Mid-block on Steele Street, they were going to put in the same type of arrangement -- an extension out into the parking areas and placement of a tree in those extensions.

Mr. Czar added that the benefits of the project would be to improve pedestrian crossing; you would have the width that the pedestrian crosses the street minimized which is a safer situation. There are some drainage issues that would be handled with some basins and pipes and it would be an opportunity to beautify a portion of Downtown. Staff solicited prices from several contractors, but only received one bid. The bid received was for \$122,500 from Sandhills Contractors, Inc. The budget that was available for the project was \$75,000. Staff spoke with the contractor about the difference because the contractor helped established the original budget estimate. When the contractor looked at it harder than he did initially, there was more work to be done in the contractor's opinion and it was going to take extra time. The contractor was making sure he was covered in all contingencies. Staff talked with the contractor about what they could do to bring the project within the budget and basically it is a change in scope. One option would be to make the project smaller, maybe not redo the handicap ramps and place trees in the different corners and eliminate some of the drainage work. The other option would be to put in a larger project. The contractor said it was an odd size and if it was part of a bigger project, the city would get a better price based on the economies of scale. You could include it in the streetscape project and get more interest from bidders and probably see a reduced cost for the curb extensions.

Mr. Czar felt that reducing the scope of the project, you are not getting the benefits that you would by doing the project as originally designed. You are not addressing the pedestrian crossing or drainage issues. Staff feels that it should be included in a bigger project in the future. If it is included in a project that covers the whole street, it is less likely that something would have to be redone to what we are doing with this initial project to match a larger project.

Council Member Brewer said possibly when we come up with a sewer bond, have something like this included so the citizens can tell us what they would like to have and do. He stated that he has discussed this project with other council members and he would like to take the \$75,000 that is allocated for this project and jump start the park program that council discussed in retreat, starting with Third Street and the one behind the planning department. Council Member McNeil stated the park behind the planning department off Pineland Street belongs to

Lee County, and we would need to see if they will donate the land to the City *or have jurisdiction* before doing this park project.

It was the consensus of council to have the budget amendment on Tuesday night's agenda.

Consider Discussion Regarding Relationship Between Non-Residential Zoning Districts and Existing Neighborhoods – (Exhibit F)

Assistant Community Development Marshall Downey explained that this is a discussion staff would like to have regarding relationship between non-residential zoning districts and existing neighborhoods. Staff was directed to do an analysis of the city's current zoning patterns and look at situations where we may have non-residential zoning districts that may encroach or abut residential neighborhoods, and how they may negatively affect them now or in the future. He continued that this is where the city would initiate the rezoning of properties with or without the consent of the property owner, which is called the administrative zoning process.

Mr. Downey presented a slide presentation of the properties staff felt needed to be rezoned. He informed council members of the current existing zoning of the properties and what staff suggested to rezone the properties to. Mr. Downey said they would contact the property owners and start the process today based on the feedback from council. Once staff establishes the proposed zonings of the properties, they will notify the property owners and go through all the steps that are associated with the rezonings, such as public hearings, postings, and signs put on the properties.

Consider Development Report – (Exhibit G)

Community Development Director Bob Bridwell gave an updated report on new development requests.

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

Other Business

Council Member McNeil stated he is still interested in seeing what can be done about a stoplight being installed at Fields Drive and Washington Avenue. He said the State has said previously it did not warrant a stoplight; there are a lot of wrecks at that location. Mayor Pro Tem Martin said that the State did not want to do anything at Harkey Road and Courtland Drive; however, there have been very few wrecks, if any, at that location.

Council Member McNeil said he went to a North Carolina League of Municipalities Board of Directors meeting and they informed the attendees you can piggyback on leases throughout the country. Bob Shepherd, representative with the League, is the individual to contact. Mr. McNeil stated that we might be able to get vehicles cheaper this way. He said they talked about the Debt Setoff Program – a program to recoup monies from individuals that owe money to cities and towns through the State Department of Revenue.

Council Member Stone stated that he has noticed on Horner Boulevard that there needs to be more street lights. It would help with the safety of traffic traveling down Horner Boulevard.

Council Member Taylor thanked the staff with the professionalism they used with the Gracehouse project. He said he is attending a meeting with Triangle J tonight and if there are any issues council would like for him to ask about, to let him know.

City Manager Hegwer brought to council's attention a letter (Exhibit H) placed at their seats from the FBI thanking the Sanford Police Department for its assistance in locating specific persons of interest related to the WMD event which occurred in Raleigh, NC.

Adjournment

Having no further business to come before the Law and Finance Committee, the meeting was adjourned upon the motion of Council Member Steve Brewer; seconded by Council Member James Williams, the motion carried unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

Bonnie D. White, City Clerk