

LAW AND FINANCE MEETING
August 27, 2008

The Law and Finance Committee met on Wednesday, August 27, 2008, at 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 Clerk Bonnie White
City Attorney Susan C. Patterson	City Staff

Mayor Olive called the meeting to order.

Consider Ordinance to Erect Stop Signs Within the City of Sanford Chapter 36, Traffic Code of Ordinances—(Exhibit A)

Operations Manager Tim Shaw explained that this ordinance is to install stop signs at the intersection of Winterlocken and Longview. There is an existing stop sign on Longview, and this ordinance would be to stop traffic both ways on Winterlocken at this intersection. He explained that this is being done now in response to residents' requests. Council Member Stone said it is to remedy a situation with speeders and school traffic.

Consider Lighting and Benches Around City Hall

Operations Manager Tim Shaw said the amount of lighting around City Hall for the amount of people walking is not adequate. He said the City could purchase a system and put it in or the City could have it contracted and installed by Progress Energy. He feels that having Progress Energy do this is the better choice. He believes they could start by late October/mid November. He estimates the cost at about \$1,000 per month to light City Hall parking lots and the entire walking space around City Hall, which would be thirty-eight, 16' shoebox lights and twelve lights shared in the automobile parking lots. There may be some costs related to boring and reseeding. City staff could do that work.

Regarding placement of benches around City Hall, Mr. Shaw said they had considered a bench (like the ones Downtown in Streetscape) and wastebasket at the back corner near the water fountain; others could be placed at the monument and flagpoles. The cost for the bench project would be about \$8,000 - \$10,000.

Council Member Stone said he wanted to see the lighting carried out in the neighborhoods and get this project done, too. Mr. Shaw said he expected the street lighting that Mr. Stone is referring to, to start in less than four weeks. He reminded Council that money was not set aside in the budget for lighting and benches around City Hall. Mr. Stone wanted to make sure that citizens would not be towed for parking on Third Street.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2008-2009—(Exhibit B)

City Manager Hal Hegwer explained that this ordinance is in the amount of \$17,000 which would be funds taken out of Contingency to offset expenditures for repair on Third Street in the area of a church.

Consider Capital Project Ordinance –North Carolina Department of Transportation Bicycle and Pedestrian Planning Project—(Exhibit C)

Downtown Development Manager David Montgomery explained that Items four and five are related to the same project—the Pedestrian Planning Grant. This ordinance is the capital project ordinance for the entire \$40,000 grant; \$28,000 will come from the state and there is a \$12,000 match equalling \$40,000.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2008-2009—(Exhibit D)

Downtown Development Manager David Montgomery explained that this ordinance amends the annual operating budget by transferring \$12,000 out of Contingency to the Capital Project. Mayor Pro Tem Martin remarked that he feels we are ahead of the curve with this project. Council Member Stone asked about having bicycles in the greenway. Mr. Montgomery replied that the state likes to keep pedestrian and bicycle projects separate.

Consider CDBG Capacity Building Grant Project Ordinance—(Exhibit E)

Director of Community Development Bob Bridwell explained that this ordinance is to set up the \$75,000 grant account. Brick Capital will use these funds to add staff and training. No City funds are involved, but City monitors the account.

Discussion of Jonesboro Streetscape Project

City Manager Hegwer updated Council on the Jonesboro Streetscape project. Mr. Hegwer and staff met with NCDOT to discuss this project. NCDOT has set aside \$75,000 to cover certain streetscape items that may be performed along the stretch of Main Street area to Lee Avenue area. Our responsibilities are to design and implement the project. We would need to be sure our design met DOT standards; after which, we would implement the plan. Mr. Hegwer is asking Council to consider a budget amendment to take funds out of Contingency to pay for hiring a consultant for these design services. There will be a municipal agreement between the City and DOT. A letter from DOT states that actual funding level will be determined after final plans have been developed and approved. Mr. Hegwer thinks that may possibly mean more funding becoming available. Right now, we are just appropriating the money. Mayor Pro Tem Martin pointed how the City's level of commitment to the project is helpful, as well. Council Member Mann says that he thinks DOT sees the honest need, and it is important to move with it now. Mr. Hegwer pointed out that the \$75,000 grant is reimbursable for qualifying expenditures for state funding. He emphasized having a ready plan for DOT.

Council Member Stone asked how long it would take to get a plan. Mr. Hegwer responded they were waiting to hear from the consultant. Mr. Stone thanked Ray Covington for his work. Mayor Olive asked Mr. Covington if he would like say something. Mr. Covington thanked the Council and Mayor for their hard work on this project. On behalf of the Jonesboro

people, Council Member Mann thanked City Manager Hal Hegwer for getting this project underway.

Consider Presentation and Discussion Regarding Possible Administrative Rezoning—Exhibit F)

Assistant Director of Community Development Marshall Downey said that Council had requested a more in-depth discussion on proposed possible administrative rezonings. Another part of that strategy was for a text amendment.

Part I of the strategy is to bring forth an amendment that would be more aggressive in how we regulate group homes, and they are going to do that. He pointed out that Family Care Homes (six or fewer residents) and Group Homes are separated. From a rezoning standpoint, Family Care Homes have to be treated as single family homes. In Group Homes (having more than six residents), there are four levels, with each level becoming progressively more intense and restrictive in terms of the occupants. A Level IV home is a sort of lock down facility. All group homes have been removed from residential districts. Level I and Level II homes would be allowed in the (MF) Multi-Family zoning, but Levels III and IV would not. In (O&I) Office and Institutional, (C) commercial districts and highway commercial, Level I and Level II homes would be permitted by right; this means that petitioners would come in and get permission from staff, but would not go through the public hearing process. Levels III and IV homes would be allowed in the commercial districts, but they would need to go through the special use permit process through the Board of Adjustment.

Council Member Williams asked if this was in conflict with state law because his understanding was that Level II group homes with six or fewer occupants could be located in residential zoning. Mr. Downey explained that group homes having six or fewer occupants (regardless of level) were classified as Family Care Homes and could be located anywhere single family homes could be. When more than six persons are involved, the leveling comes into consideration. City can only regulate placement when there are over six occupants in a group home. Community Development Director Bob Bridwell pointed out that Mr. Downey is using the statutory definition when he uses the family care home terminology, not human resources terminology. That is the only definition he can use in this regard. City Attorney Patterson clarified that even if it's considered a Level II group home, if there are less than six occupants, it will be permitted in residential zoning.

Part II of the rezoning strategy involved looking at properties that were different in that they had commercial surrounded by residential. Mr. Downey gave a Power Point presentation to further understanding the areas targeted for rezoning. Mr. Downey noted that staff sent out 124 letters to 13 different areas. The letters were sent via certified mail to ensure that property owners were notified. The results were: 43 recipients (35%) responded to the letters by contacting staff. Of those responding, 16 were undecided; 17 expressed opposition to the rezoning, and 10 indicated that they were okay with the rezoning of their property as proposed. Mr. Downey provided and reviewed maps (Exhibit G) that showed the parcels to be rezoned along with the numbers who opposed, were in support, were undecided, or provided no response. He explained the reasons for rezoning.

Council Member Mike Stone expressed the concern that home property values would drop with these rezonings; whereas, he believed the issues had been solved with the group home zoning changes. Mr. Downey says this is a broader attempt to take parcels and remove other possible land uses because if you down-zone them, you are not only affecting group homes, but you're also possibly taking other commercial land uses that might have a negative impact on residences.

City Manager Hegwer asked Mr. Downey to explain the situation about only approving rezonings where people are in favor. Mr. Downey explained, for example, if an entire area only had two property owners who were in favor, rezoning those two would not meet the spirit intent of taking the whole area and promote a singular zoning vision; the benefit would not be as substantial for the City.

Council Member James Williams asked if Council could approve Part I of the rezoning plan without doing Part II. Mr. Downey replied they could. Mr. Brewer said he thought that was a step in the right direction, but that Part II would take a lot of consideration. Mayor Pro Tem Martin agreed. Mr. Downey said that some of this would be coming back as part of a corridor plan—a master plan for different areas, and they will be making recommendations regarding land uses. Council Member Mann expressed that he thought Mr. Brewer's idea to get started with this is sound—to choose one or two areas and take them one at a time is a realistic approach.

Regarding placing Level IV group homes in the (NC) Neighborhood Commercial zoning district, Mr. Williams asked Mr. Downey to explain what getting a special use permit entails. Mr. Downey said the applicant would go before the City's Board of Adjustment. An application and site plan would have to be submitted, and they would have to show that they meet all the technical aspects of the zoning ordinance—design standards, etc. The Board looks at four criteria (relating to neighborhood character, technical aspects of design, and value of surrounding property, etc) before they can approve it. It is a fact-based review and approval process, not based on emotion. They do not have the freedom to vote by their hearts. Mr. Downey pointed out that Part I of the plan takes care of issues with group homes, but Part II would apply to other possible uses in the areas, as well. For example, used car lots are allowed in Commercial (C2) zoning, but are not allowed in Neighborhood Commercial zoning (NC). Mayor Pro Tem Martin asked about having aesthetic standards considered in commercial zonings.

City Attorney Patterson explained that one of our zoning standards that staff can look into is that there are requirements for certain types of commercial properties that do not allow outside storage. Merchandise incidental to a business and stored outside may already be addressed and staff may need to determine whether they have a prohibition of outside storage in that area. Mr. Downey said that you could come up with design standards specific to the type of business by updating the UDO. Mr. Hegwer added that we have looked at the residential minimum housing issues that some of the same logic could be used in minimum housing issues for residential structures. There is recent legislation that Mr. Bridwell has copies of. He said that the legislation deals mainly with minimum structural and safety issues.

Council Member Taylor asked about regulating paint colors used in commercial districts. Mr. Downey said the challenge is to use zoning powers—something must be in place to trigger a zoning action such as a building permit or a change of use. Mr. Downey said they would like to be more aggressive, but did not feel they had the legal authority to be. For new buildings or for a substantial change of use, they are able to deal with it.

Mr. Downey said that the amendment to the group homes will be on a public hearing in September. The Joint Planning Commission will give their recommendations, and it will come back to Council two weeks later.

Other Business

Council Member Stone said that he has had many calls regarding the fact that the price of gas is \$.10 - \$.15 higher all the way round our county than it is in nearby areas such as Cary, Fayetteville, and Lillington. Mr. Stone said we had one of the largest convenience store chains in the nation headquartered in our town. He said those executives live in Cary where the price of gas is cheaper--\$3.49 this morning. He does not believe any of what he has heard about why gas prices are higher; he cares about Sanford, North Carolina and our working class people are paying \$.10 - \$.15 more because we don't have enough competition because there's a monopoly here in Sanford. He said he didn't want to control gas prices, but he did think there should be some sort of fairness about it. He called on the *Sanford Herald* to do something with it.

Council Member Brewer said that Council Member Taylor had asked him about the issue of animal control. He said they had their meeting with Animal Control and the Board of Health. There is a new director for the Board of Health and they are making some changes in the animal control area. After a lengthy meeting, Mr. Brewer says he has come to the conclusion that the City will never get the level of service that it expects and its citizens deserve unless it takes back Animal Control under its control. The County will allow the City to use its kennels. Mr. Brewer said that Animal Control will not come get animals on weekends or pick up dogs after 5:00 P.M. Mr. Brewer does not feel that this is what the citizens of Sanford want and deserve. He says the County is not set up to provide that level of service and has no intention of providing that level of service. He says we are paying them and not getting their service. Mayor Pro Tem Martin said we were not paying them enough. He said their budget is \$350,000 and we are paying them \$50,000. Mr. Brewer pointed out that there is no leash law in the county. We are paying to enforce a leash law, and he says we will never get the county to do animal control the way you want it done in the city. Their form of government is totally different than our service-related form of government.

Mayor Olive expressed that the majority of the county is made up of city residents and we are already paying the County through our county taxes; so we are paying for it twice. Mr. Stone said he didn't have any problem with our taking animal control back, but he wanted the county to return the portion back to fund what we funded them to do that they are not doing. Mayor Pro Tem said he would like for City Manager Hegwer and County Manager Crumpton to sit down and discuss this matter to see what can be done. Mr. Hegwer explained that the county offers us a service by law to handle dangerous animals and rabies. Anything above and beyond that is what level of service they choose to provide. They are providing a service that they deem appropriate and that collides with what other people think their job should be. We have chosen a

level of service above that to have the leash law enforced; that is why we pay an extra \$50,000 a year. Mayor Olive said they were operating with a skeleton crew, not a full crew. We are not getting our money's worth. Mr. McNeil said that when we began contracting with the county for animal control services, we paid them \$25,000. He agreed that the only way to get the level of service we want is to take back animal control. He did not think having the two managers get together would solve the problem because a person sitting on the Health Board is saying that they are not going to do what we think they should be doing for the City. He pointed out that we have no control over their personnel who report responding to 100 percent of their calls. Mr. Martin said he didn't mind if we took over the man power part of our animal control, but he didn't want to have to build a shelter; so that is why he thinks we need a collaborative effort. Mr. Hegwer said we would look into it. He said we could look at the log of their calls and determine how many calls from the City pertained just to leash law and how many were other types of calls. Mr. McNeil says we have been working on this for ten years. He said we need to take the \$50,000 back and pay someone in the City to do the work. Mr. Brewer says no one mans the kennel on weekends.

Mr. Mann said that this problem goes back at least twenty years. Numerous boards have worked on this before us and tried every approach suggested. He suggested that Mr. Hegwer appoint a committee to determine what we have done in the past and find a new approach. Just talking about it will not help.

Mr. Williams advised that you could find cheaper gas in Lemon Springs.

Mr. Taylor said he wanted a designated time for Monday at 12:00 as a deadline for Law & Finance agenda items so that Council could receive the information to help the media and everyone to prepare for their meetings. He said he was also getting a lot of cable-related calls which he is referring to the City Clerk. He provided Council the response (Exhibit G) he received from the City's Charter Communications consultant, Bob Sepe, of Action Audits. Exhibit H refers to Charter's position in the area and its financial status.

Mayor Olive said that since Charter had moved its office to Lillington, she had been receiving calls and complaints about people who have gone down to Lillington and had to wait for a long time, and some went to pick up equipment that wasn't there. The population base is larger in Sanford than in Lillington, so it is curious as to why if they are going to have one office in this area, they would have it in Lillington. If you are going to inconvenience people, you might as well inconvenience fewer than more. Mr. Martin said that due to the reported financial status of Charter, he didn't think it was going to get any better. Mr. Stone said the number one complaint he gets is that there is no where here to pay your bill. Mr. Brewer said that it was not economically feasible for somebody to come into the City of Sanford to start a cablevision company from scratch. He says the only way they will improve on services is if people leave them, and they are downsizing in an effort to keep their business alive. He doesn't feel the City is in a position to tell Charter how to run their business, and people who are unhappy with them should try something else.

Attorney Patterson explained that the City has a non-exclusive franchise agreement with Charter; anybody else can come in and compete with them anytime, and we welcome all cable

providers to come and always have. There is no reason that Time-Warner couldn't start here tomorrow except that they would have to lay their physical lines throughout the system and that's expensive. There are 6,000-9,000 customers in the city limits. It's a small customer base to come in and put in a system. At one time the City looked at taking over cable television and becoming a provider. We'd have to have the expense of putting all the systems in place, as well. We do get franchise fees from Charter for the use of our rights-of-way. Anyone else could come in and sign an agreement with us and also pay us franchise fees. There are some levels of service requirements in our franchise agreement. The trouble is that with deregulation, most of the customer service standards are now handled by the state. We do have our own and they have posted with us a letter of credit that we can draw against as a punishment for not having fulfilled customer service standards, but those standards are set for things like not responding to calls on a timely basis. Those minimum standards are stated, and if they do those things, then they are running their business as they choose to.

Mr. Brewer said the cable service is much better today than it was two years ago. Mayor Olive says it is hard to accept "settling" when the City tries so hard to provide good service.

Mr. Taylor said he had attended his first meeting with the Parks and Recreation Commission. They gave an update on Tramway Park which is progressing nicely. Also, we are losing our outdoor education person at San Lee Park. There was no talk about a skate park, but research is being done. He was not able to attend the Historic Preservation meeting because it was the same night as Parks and Recreation met.

Mr. Brewer expressed the opinion that Law & Finance meetings are supposed to be for getting the agenda information cold and you discuss it for the next meeting. He says that if Council is to get agendas two days in advance and prepare for it like a regular meeting, Council might as well have four meetings a month. It defeats the purpose of having Law & Finance meetings. Mayor Pro Tem Martin expressed that staff members' time is committed to everything else they are doing in addition to agendas. Getting the agenda on the day of the meeting still gives time (from Wednesday's Law & Finance meeting to the following Tuesday night Council meeting) to gather information and if you need additional time, the matter can be tabled. Mayor Olive expressed that receiving it ahead of time would help them be better prepared. Mr. Brewer questioned why you would prepare for information you are supposed to be getting "cold turkey." There is nothing to prepare for. He gave examples. He says he gets the information on the day of the Law & Finance meeting and then prepares for it for the next Council meeting for voting. Mr. Stone said some members of the Board want to get their constituents involved. Mr. Mann said he is bothered by the implication that the people before us were smarter than we are. He says this format worked well for at least ten years. Mr. Taylor said that having the Law & Finance agenda ahead of time allows the public to have input in items that concern them.

City Manager Hegwer mentioned that we have four meetings a month, while the County has only one meeting a month. We have two Law & Finance meetings and two regular Council meetings and our meetings probably average about two hours in length. Law & Finance is a time to discuss things and most of the issues are solely driven by staff—basic items we deal with routinely such as budget amendments. If someone wants to put something on the agenda, it is possible. He said direction was needed to pin down when Council wants to have a public

comment period. Mr. Stone asked how hard it would be to have an agenda for the Law & Finance meeting prepared by Tuesday morning before Wednesday's meeting. Mayor Pro Tem Martin referred the question to City Clerk Bonnie White. Ms. White informed Council that the deadline for the Law & Finance agenda items to be submitted is Monday morning around 10:00-11:00 A.M. Responding to Mr. Stone's request if she could have the agenda ready by 5:00 on Monday, Ms. White said she could get them a one page document by 5:00 P.M. but there would probably be items to be added on. Mr. Taylor reiterated that he just wanted the one page document so that if they needed to get people to come to the meetings to have healthy discussions about decisions Council is making, they are given that opportunity.

City Manager Hegwer says this brings up the point about public comment periods. Mayor Pro Tem Martin expressed similar concern. He wondered if Council is going to allow input by the public at Law & Finance meetings and again at the Council meeting where decisions are made. Mr. Stone said it should not be an issue to get the public involved. Mr. Mann said that Council does not make a decision until its regular meeting, and there is time to make a decision. He said Council was elected to make some of these decisions. Mr. Martin reminded Council that the decision was to have Council meetings at night for the convenience of the public who wanted to come and speak. Mr. Brewer reminded Council that Public Comment had been added to both Council meeting agendas and had been moved up to before the Regular Agenda items. Mayor Olive said that at times Council had waived its rules to allow public comment at Law & Finance. Mr. Brewer said that if people want to address Council, they should be told the two official public comment times. He does understand that from time to time people will need to speak at Law & Finance.

City Clerk Bonnie White explained the procedure for putting items on the agenda. She asked for direction from Council. She said that she could have an agenda out on Monday afternoon or Tuesday morning for Law & Finance, but she has changes that need to be made sometimes at the last minute and items are being added. City Attorney Patterson reviews the agendas and City Manager Hegwer approves them. Mr. Hegwer noted that there will not be issues on the Law & Finance agenda for voting, only for discussion.

Council Member Mann reiterated that he saw no logical reason to change the way the Board operates. He says there is plenty of time after Law & Finance meetings to look into every issue and talk to staff. Mr. McNeil said he didn't see any need to get Law & Finance agendas out early; it is undermining the staff because we don't even know what the staff is going to present to us. It could lead to people in the public second guessing what is going on. Council would be listening to comments by the public when Council doesn't yet have the information from staff. Mr. McNeil says that everybody has an opinion about what is going on, but Council was elected as representative to make the decisions. If the public made every decision for the Council, it would not be representative form of government.

Mr. Stone said he feels this is asking for a bit of professionalism. On the other boards he is on, he can get an agenda two days ahead if he wants to. It is also asking for an opportunity for citizens to know more about what is going on in our community. He questioned whether asking staff to have the agenda prepared early was holding them to the highest professional standards. He said he was asking them to do what they do anyway—just a cut off time. He said it was a

simple request. Mr. Mann said that when the Board receives the agenda at meetings, the constituents can be at the meeting and get it at the same time; the main meeting is what they need to be concerned about. Mr. Brewer said it is just what you think this meeting is for; Law & Finance is a fact-finding session for Council to get information to share. Mr. Brewer said he did not mind getting it cold because he has a week to work on it.

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

Adjournment

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

Respectfully submitted,

Cornelia P. Olive, Mayor

Bonnie D. White, City Clerk