

**LAW AND FINANCE MEETING**  
**October 1, 2008**

The Law and Finance Committee met on Wednesday, October 1, 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.

Presentation by Judy Womack on Memory Walk for Alzheimer's

Judy Womack, Caregiver Advisor with the Enrichment Center and the 2008 Memory Walk Chairman, informed Council of the Sanford/Lee County Memory Walk for Alzheimer's to be held at the Kiwanis Park, on Saturday, October 4. Registration begins at 9 A.M. and the walk begins at 10 A.M. The theme this year is, "We're on the Move to End Alzheimer's." She stated that every 71 seconds someone is diagnosed with Alzheimer's Disease and it is rated number six in the leading cause of death in the United States. There are estimated 4.5 million people suffering from this disease with over 150,000 located in North Carolina. The money raised from the walk will be used for research, annual conference and seminars that are held, and for the caregivers that is very much needed. She invited everyone to participate in Memory Walk.

Consider New Taxicab Name and Color – (Exhibit A)

Police Detective Harold Layton explained that Lois Fleming, who currently owns American Yellow Cab and Service Cab, has requested to open a third company under the name of Pronto Cab. It would be located at 307 South Gulf Street, which is the same location for the other two businesses.

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

Police Major Kevin Gray advised that the ordinance appropriates \$5,600 received from our insurance company for a wrecked vehicle, Unit #121. This money will be used to purchase a used vehicle from the Highway Patrol to replace the wrecked vehicle. Council Member Stone asked if the used car will be a patrol car or for a detective. Mr. Gray replied they are hoping to replace an administrative car with a 6-cylinder car; it will not be a marked car. They have looked at the Malibu cars with about 80,000 miles.

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

Financial Services Director Melissa Cardinali advised that this ordinance creates a Public Works Administration Department within the Utility Fund and not the General Fund. It reduces the interfund reimbursement in the Utility Fund Administration Department. The net effect of this amendment is to move money within the Utility Fund in the amount of \$245,500.

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

Mr. Bridwell presented Council with pictures of the deteriorated, old Whitin Roberts building on an overhead screen. The old building faces Maple Street, Market Street, Second Street, and Hickory Avenue. He said this is a major piece of property that sits on the edge of our Downtown area and constitutes the most major place of blight on our surrounding neighborhoods. In February 2007, the code enforcement officer inspected one of the structures on this site and declared it to be condemned and subsequent to that, within days the walls of the building blew out on Maple Avenue. We directed a contractor to clean up the debris out of the street onto the lot. Shortly, thereafter, the property owner declared bankruptcy. Mr. Bridwell said this is a continuing problem for the Downtown area and the adjacent neighborhoods. We applied for and received funding for a Brownfield Assessment Grant and we included this property as one of the properties that we expected to analyze in this process. During this time, a number of things have happened to make this property even more significant in terms of what are the effects on the neighborhood and public health and safety. Mr. Bridwell asked that Fire Chief Wayne Barber and Code Enforcement Officer Carl Anglin speak about what has happened in the last year.

Fire Chief Wayne Barber advised that since February of this year, they have had two fires in this structure and they have to go in and search this structure because they know there are vagrants and homeless people that stay in it. There are many hazards such as open pits and chemical barrels and it puts the fire fighters and the public at danger. The Fire Department has spent at least three hours each time they have been called to the site, tied up 14 to 15 people plus four to five pieces of apparatus for three hours at a time. It is not a safe place to send anybody else in to search, and it is causing problems and blight in the neighborhood.

Code Enforcement Officer Carl Anglin explained that a portion of the structure has been severely vandalized – all the windows and doors are gone and there are barrels of chemicals in it. Scavengers have been taking items from the building. He said that there have been some brazen people to go in the building and cut a several-thousand-pound steam engine loose and ripped it through the wall to salvage it. Mr. Anglin said a contractor looked at the building, and the contractor estimates that approximately \$250,000 of copper wire has been stolen from the building. Mr. Anglin stated that the building is dangerous to walk into and it needs to be demolished quickly.

Mr. Bridwell showed pictures of barrels of chemicals found in the building. There is evidence of blow torches being used to take the copper out; this may be the cause of the fires. Mr. Anglin said people are actually driving trucks inside the warehouse and cutting bars out of the ceiling until they saw the roof was going to fall in.

Mr. Bridwell stated that our consultant – Duncklee and Dunham/Concurrent Technologies Inc., EPA, and the North Carolina Brownfield Program have been helpful to the City. We are assessing the chemicals that are in the barrels using EPA funds. Our consultant has been giving a lot of advice on how to proceed. Mr. Bridwell advised that he signed a Letter of Intent this morning to NCDENR with our intent to apply for a Brownfield agreement to help minimize the risks on anything we do; we have also notified the state where we are possibly proceeding based upon Council's decision in terms of cleaning up the property so we can continue with the environmental assessment. He said staff has talked with some potential investors who might be interested in the property long term in terms of redevelopment, so staff is trying to get all these things in motion so that we have a strategy to secure the property and demolish the building, including the environmental cleanup and assessment.

City Attorney Susan Patterson stated that this is still property that the City does not own, and we are proposing to exercise our police power to protect the public health and safety by eliminating the imminent hazard the building has become due to the vandalism, the fires that have occurred, the other instances of neglect and dilapidation, and the fact that it is open to the public. We need to be able to demolish this property and get a lien against the property for the costs incurred for demolition. As Council is aware, this property has been in bankruptcy. The bankruptcy trustee has abandoned this property; they lifted the stay so the bank could foreclose on it and the attorneys for the bank have told her that they do not intend to pursue foreclosure because they are not going to throw good money after bad having lost millions of dollars on the debtor in the bankruptcy case. Mrs. Patterson advised that she has spoken with the trustee again about the problems and has been trying to get someone to solve this problem; it looks like a blighted condition that will remain unless somebody steps up in order to correct the issue. We see the concern of the safety of the public health to be involved. The situation exists that if we exercise these options, the City would incur the costs to tear down the building and remove the debris basically to the concrete pad. It would be our intention, at that time, to proceed to foreclose for back taxes once our lien is attached, and then secure the Brownfield agreement at the time we are trying to retain ownership under the tax foreclosure, so that then we, or anybody who buys it out of the tax foreclosure sale, would have some protection from liability for redevelopment. The Brownfield agreement would let you remedy any subsoil conditions where the soil might be environmentally contaminated due to the processes that were involved with that manufacturing company on that site. We believe this is a way to utilize grant money hopefully to go after the Brownfield agreement; have the Brownfield agreement as the shield of liability, but the first step is whether the Council is committed enough to see this as an issue worthy to exercise our police power to demolish the building.

Mr. Bridwell stated that the only party that is going to remedy the existing threat to public health and safety is the City.

City Manager Hal Hegwer said that removal of this facility would not create any additional environmental problems and no one is going to write us a letter and say that we are not going to be liable for something, but we felt the reward outweighs the risk in this situation due to the threat to health, safety and welfare. Mr. Bridwell added that we have letters from our consultants and from the NC Brownfield Program advising us to that extent. Mayor Olive asked

if the City has to pay for the demolition and removal of the chemicals that are stored there. Mr. Bridwell replied that we will get some assistance on the chemicals from EPA.

Mr. Bridwell said that four contractors looked at this property and we had an asbestos study performed also. There are two items that need to be addressed – the demolition and asbestos removal. The four companies gave bids on the actual demolition and removal of debris and the first one came in at \$119,000; this does not include the removal of asbestos. The demolition contractor, who did the removal on the old Rescue Squad Building, gave an extremely good price of \$25,000, plus he will get to keep any money made from the salvaged materials. The asbestos removal will cost \$60,000; thus it will cost approximately \$90,000 to clean up this property. Most of the asbestos is in the floor. Council Member Stone suggested getting several quotes to remove the asbestos due to the slow economy.

Council Member Stone asked Attorney Patterson if the City will try to seize the building on back taxes to take control of the property. Attorney Patterson replied that would be the plan; we do want to have the Brownfield program in place first, if possible. Mr. Stone said his concern is that if the City does all this work, he does not want these guys to come in and pay the back taxes and take the land back. Attorney Patterson stated that she would be remiss not to tell Council that one of the risks involved in this whole project is that someone may come up and claim ownership of the site and say we went on their property and took their building, but right now we are having trouble with anyone claiming ownership,. However, at that point they are responsible for all the clean up costs and back taxes. Attorney Patterson stated that no one is willing to claim ownership because it is on the hazardous waste site list and they are all running from it. City Manager Hegwer commented that this property has been on the inactive hazardous waste site list, and this site is well known by the State of North Carolina. If you look at the file in essence, the site has been reviewed and the State feels it is warranted no further remedial action at this point; the State has not pushed for further work on the site so it is not one of the worst sites in the State. Mr. Bridwell added that the State likes the way the City is handling this site.

Council Member McNeil asked if someone gets hurt or killed on the property, what is our liability as a City? Attorney Patterson replied that at this point, the liability would be on the property owner.

Council Member Steve Brewer asked if we should rope the block off due to the condition of the site. Mr. Bridwell replied that a portion of the site was roped off where the theft took place. Attorney Patterson replied that within that site it is trespassing and she urged the public not to enter the building because it is dangerous. She said we do not have the ability to secure someone else's property. The property is not ours to fence off from anyone that is a true owner; however, we can put some type of warning tape on the street or sidewalk area, but we do not have ownership of the site. Mr. Brewer said regardless of who owns it or where we put the line, we need to rope the site off to let people know they do not need to be in here. Attorney Patterson advised that if you put a rope up and then someone enters and is hurt because the barrier is not substantial enough, then you may have assumed some liability.

Code Enforcement Officer Carl Anglin commented that the entire structure was secured by steel gates and steel plates over the windows until they got stolen. They stole the chains off the gate; they even stole the gate.

City Manager Hal Hegwer added that once we place the Order, the fire chief and the code enforcement officer places the order to summarily abate this nuisance, he felt we could handle this property in a different fashion. We will try to place the Order today. Mr. Hegwer stated that the ordinance appropriates \$90,000 from fund balance for the demolition of the building because the contingency budget is low. He will give a copy of the contingency budget to Council Members at the next Council meeting.

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

General Services Director Tim Shaw stated that this ordinance budgets the proceeds of \$9,723 received from our insurance company for a public works repeater radio that was struck by lighting. An additional \$500 will need to be transferred from Contingency to replace the repeater radio.

Consider Resolution Exempting the City of Sanford from the Mini Brooks Act for the Clear Well Rehabilitation and Upgrade Project - (Exhibit F)

Public Works Administrator Laura Spivey explained that we have an approved budgeted project for the rehab and upgrade of the existing clear well at the water treatment plant. This is a two-million gallon covered concrete tank that holds finished water before it is sent to the town. It has been there for over thirty years and the underside of the top part is needing to be replaced. Staff is requesting to be exempt from the Mini Brooks Act so we can begin negotiations with Hazen and Sawyer for the design of this project. Hazen and Sawyer is extremely familiar with the plant and this particular clear well. Hazen and Sawyer is a qualified firm and has worked with the City in the past and stayed within budget.

Council Member Mike Stone asked how much money is being requested. Mrs. Spivey replied she was not sure but they do have a budgeted amount. Public Works Director Vic Czar replied that the budgeted amount at this point for the project is \$1.5 million for the total project – design, permitting, and construction. The resolution exempts the City from the Mini Brooks Act which covers how you acquire engineering and architectural services. This will allow staff to start negotiations with Hazen and Sawyer on a design contract. Mr. Czar estimated the cost of the design to be ten percent of the total cost of the project. He said there is no firm any more qualified than Hazen and Sawyer to do the work and they are very familiar with the plant, so we feel this gives us an advantage on a reduced engineering fee. The contract will come back to Council for approval.

Consider Policies, Procedures, Plans and Resolutions for the Capacity Building Community Development Block Grant Project Grant #07-C-1743 – (Exhibit G)

Planner II Karen Kennedy explained that these policies, procedures, plans, and resolutions are necessary to implement the new Capacity Building Project in the amount of \$75,000. We are partnering with Brick Capital for training existing staff for project development. There are two resolutions within the package – one resolution for the entire package of

information and the second is a fair housing resolution. This is the same package with every Community Block Grant application that the City receives. We have to do this as part of the start up. It deals with the citizen participation plan and the procedures in place for filing complaints and who handles those throughout the City. There will also be forms for the mayor to sign and the city attorney and city clerk will witness. Mrs. Kennedy advised that we received a release of funds letter today.

There will be another change that does not require a public hearing for a program amendment. It is the scope of activities. Brick Capital owns some property behind the W. B. Wicker School which may be the site of their next development instead of developing the 27 acres at Garden Street and Washington Avenue due to the infrastructure that will be needed at Garden Street. It may be better to write the infrastructure application for the property behind the W. B. Wicker School. A letter will be prepared for the mayor to send to the State. The project at Garden Street will be delayed until there are more opportunities for infrastructure grants.

Consider Resolution to Temporarily Close a Portion of Chatham Street in Support of Artoberfest – (Exhibit H)

Downtown Executive Director David Montgomery stated that the resolution temporarily closes Chatham Street between Charlotte Avenue and McIver Street between the hours of 7 A.M. to 7 P.M., on Saturday, October 18, in support of the Second Annual Artoberfest. Artoberfest is a celebration of the arts in Lee County. It is sponsored by Downtown Sanford and the Lee County Arts Council. There will be stage events all day beginning at 9 A.M. until 6 P.M. Vendors will be on Chatham Street. Mr. Montgomery advised that there will be no need for Public Works to close off the street; he will be responsible for doing this. He will get the barricades and set it all up. There will be no police or public works staff required.

Consider Resolution Designating the City Manager as the Person to Hold a Hearing Under the Debt Setoff Program – (Exhibit I)

City Manager Hal Hegwer informed Council that the City currently participates in the State of North Carolina Debt Setoff Program. This program allows the City to collect past debts through the North Carolina Department of Revenue in terms of individuals' tax refunds or lottery prize winnings. This program has been in place for many years and the debtor affected by this can request a hearing. The resolution designates the city manager to hold a hearing with the debtor if requested.

Consider Resolution Authorizing the Lee County Ordinance Restricting the Use or Smoking of Tobacco Products in County Government Buildings and in County Owned Vehicles to be Applicable Within the City of Sanford – (Exhibit J)

City Manager Hal Hegwer stated that the Lee County Board of Commissioners recently adopted an ordinance to prohibit smoking in Lee County buildings and in their vehicles. The Lee County Board of Commissioners also passed a resolution requesting the City of Sanford and Town of Broadway adopt resolutions that would grant the County's ordinance to be applicable within the City limits. The County can only enforce their ordinance in unincorporated portions of the County so this ordinance would allow them to enforce no smoking within their buildings and vehicles only. The County has the court system and other agencies inside their buildings

not under the direction of the County Manager. They do have a non-smoking policy for the County employees; however, there are other individuals in the building that are not County employees. This would allow the Sheriff's Office to enforce and cite the violation. This would be an infraction.

Consider Ordinance Directing the Code Enforcement Officer to Demolish the Residential Structure Located at 329 School Street and Award of Contract to Elvis Faircloth Grading for Demolition and Removal – (Exhibit K)

Code Enforcement Officer Carl Anglin explained the ordinance directs the code enforcement officer to demolish the residential structure at 329 School Street. It is an approximately 1,000 square-foot structure that is severely dilapidated. The reason it has taken so long is because there were seven parties of interest. We have received relinquishment from all parties of interest – banks and loan officers. The house is beyond repair. Vagrants are hanging out in the house.

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

Other Business

Council Member Walter McNeil, Jr. asked General Services Director Tim Shaw if bark could be placed around the parking lot in the Police Department area. Mr. Shaw replied yes, but they are hoping within a month or so, Progress Energy will be starting the project on the street lighting around City Hall. If they do start the project, around the back of the sidewalk and down through the parking lots, areas would be cut up to bury cable.

Council Member Mike Stone stated that he had one item he wanted to bring attention to and that is the activity of the gangs. Mr. Stone stated that in the past, he has not been one to believe there was much of a gang issue in Sanford and in the last three months, he has seen it. He is seeing more of it and it has not escalated to a crazy level, but it does exist. He wants to make sure we have attention to it and that we and the community respond. He asked the public that if you have a problem with it or see it, please call the Police Department so we can stop this from happening.

Council Member Steve Brewer asked if we have altered our leaf and limb pickup due to fuel prices in the past month. General Services Director Tim Shaw replied that we have not changed our leaf and limb and bulk trash pickup. During the summer, there are more grass clippings and pine straw instead of leaves. Notification was run on our television channel and in the *Sanford Herald*, that for the months of July, August, September, and October, the City will run the first week of the month and try not to do it again until the first of the next month. The drivers inform each other if there is no bulk trash or grass clippings to be picked up in an area.

Council Member Charles Taylor gave committee updates on various committee meetings he attended. Mr. Taylor mentioned that the governor brought out a two percent cost reduction with state employees. He would like to hear in the near future talk about some cost reduction strategies that we may have whether it be trips or whatever and how we are managing our city on

a daily basis. Mr. Taylor said it would be nice to get an update on those types of projects if at all possible.

Mr. Taylor said he had received some feedback from the Rosemount-McIver District, as well as Steele Street, there have been a couple of accidents on Steele Street regarding four-way stop signs. He requested from the city manager this morning to see if we can get the mobile unit at Steele Street to collect data and make some assessments there. He has also requested information on how many tickets have been written on running stop signs as well as speeding on Vance Street so it will be brought up in the near future.

Mayor Olive announced that she received notification in the mail today that Sanford has been allocated \$831,724 for resurfacing streets, sidewalk, and drainage repairs.

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 Steve Brewer, the motion carried unanimously.

Respectfully submitted,

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Cornelia P. Olive, Mayor

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Bonnie D. White, City Clerk