

LAW AND FINANCE MEETING
October 15, 2008

The Law and Finance Committee met on Wednesday, October 15, 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 Resolution Authorizing the City Council to Enter Into a Five-Year Lease with One Five-Year Renewal with SprintCom, Inc. – (Exhibit A)

City Attorney Susan Patterson explained that in 1998, Sprint contracted with Lee County to have an antenna system put on a water tank located on Colon Road. When the City purchased the water system from Lee County, we had that incorporated into the City. Their lease has expired and they would like to renew it. She said we are trying to make the contracts standard for all of our tower leases. They would like to enter into a lease with the City to put an antenna on the water tank at Colon Road and will pay the City \$2,300 per month for a total of \$27,600 yearly, and they would enter into one five-year extension of that lease or have the automatic right to that. Rent for each successive renewal term will increase by 15 percent over the rent in effect for the prior five-year term.

Council Member Taylor asked if that will be applicable to other carriers if they want to enter that same agreement. Attorney Patterson replied that they have been working with the Engineering Department to try and get the terms of our lease consistent throughout on all of the different tanks that we currently have leases on. If someone approaches staff, they will have to go through the Community Development Department as far as whether they would be co-located on our tanks or authorized for somewhere else. If they rent the space from the City, we are trying to get the terms consistent. Assistant Community Development Director Marshall Downey added that when a new cell tower is built, the ordinance requires space for additional carriers to co-locate on. When the third party review was adopted, that is one of things they look at. When a new cell tower is being placed, they make sure there is not space available on existing towers; that is a way staff tries to mitigate the number of new towers put throughout the city and the county.

Consider Resolution Adopting an Identity Theft Policy – (Exhibit B)

Financial Services Director Melissa Cardinali explained that the resolution adopts an identity theft policy. She said the Federal Trade Commission (FTC) has ruled that creditors must now have a policy in place to help identify circumstances that could be instances of identity

theft. The City of Sanford qualifies as a creditor because we provide a product in which we do not have people pay for it immediately; we sell them water and sewer. They use the water and sewer and then we get payment for that; this makes us a creditor. This policy needs to be adopted prior to November 1, 2008. After that date, any creditor who does not have a policy adopted is subject to FTC's fines and penalties. Mrs. Cardinali said the policy is just a beginning point for the City. We are always cognizant of this sensitive information that we have city-wide, but we need to get a policy in place and this is just a beginning point for staff. The policy will have to be modified as we go forward and start applying the policy in making sure that we are in compliance with everything.

Mayor Olive asked about the penalties and who will be penalized. Mrs. Cardinali replied that her understanding is that the FTC will be doing spot audits of different creditors and she is not sure of the penalties. Attorney Patterson stated that this is put into place in case someone's identity is stolen from your depository of information and should they file suit against you, the FTC can also come in and fine you for not having a policy in place. The fine for that would be \$10,000 against the City. Attorney Patterson explained that this policy is designed for us to identify and have steps to take when red flags come up. Red flags are identified under the law as things that would point out to someone that there could be a potential of identify theft. Mrs. Cardinali added that we want to ensure all the employees and everybody in the City is cognizant and aware of the potential; this policy helps bring it to the forefront. City Manager Hal Hegwer pointed out that it is a great program because it allows us to become more aggressive, and the red flags make you go the extra step to make sure things are matching before there is a security breach.

Attorney Patterson added that Council will get a more finalized policy on Tuesday night.

Consider Resolution Levying a Tax on Gross Receipts Derived from Retail Short-Term or Rental of Heavy Equipment – (Exhibit C)

Financial Services Director Melissa Cardinali advised that the General Assembly has repealed the ad valorem tax on heavy equipment that is subject to short-term lease or rental. In order to replace that potentially lost revenue, they have given cities the ability to tax the gross receipts that are derived from the lease or rental of the heavy equipment. In order for that tax to become effective January 1, 2009, we have to adopt this resolution approved before the end of October. She has been in touch with Lee County Tax Administrator Duane Brinson and it appears that this tax is for businesses whose primary business is the short-term lease and rental of heavy equipment, and the tax office is not even sure that we have anyone in the county or city that would even qualify. However, not knowing, we think it is prudent to have the ability to tax those receipts in place in case a business does move into town and we have that opportunity because we do not want to lose any more ad valorem taxes than we would have to.

Council Member Mike Stone wanted to clarify that the companies that rent heavy equipment for short-term or long-term are not paying taxes on the equipment. Mrs. Cardinali replied that short-term, they have been paying taxes on the equipment wherever that equipment sits on January 1. She said she did not know where the move is from the General Assembly; but, basically, if that equipment is used for short-term lease or rent, it is no longer subject to ad valorem taxes; now, we can actually tax the rental gross receipts. Mr. Stone said then we are

actually going to the companies and charging them a tax on their profits from the lease. Mrs. Cardinali replied yes. Mr. Stone said so it is pretty much like the privilege tax. Mrs. Cardinali replied that it would operate very much that way. Mr. Stone added that it would be a privilege tax against anyone that is leasing property. Mrs. Cardinali replied, but they would not be paying any personal property on that equipment which they are paying now. Mr. Stone said but the company that still owned it would still pay personal property tax. Mrs. Cardinali replied no; they have a total exemption from personal property tax and by doing so, that legislation took away a source of revenue for local governments and this is an attempt to try to replace part of that. Mrs. Cardinali said she felt there would be minimal revenue impact to the City; the important thing now is to get it in place that should a large company come to Sanford, we don't lose revenue. Mr. Stone said another important thing to remember is the Industrial Park, because you have a lot of companies out there that lease equipment that would fall under that category. Mrs. Cardinali stated that they have to lease it out to someone; it is not the person who enters the lease; it is the person who owns the equipment and gets money from leasing it to you or another company. Council Member Steve Brewer added that is says that the equipment has to be mobile so you are getting down to heavy equipment. Mrs. Cardinali replied that the Statute is very specific as to what that is. Attorney Patterson added that it caps the amount; it sets the rate at eight-tenths (.08%) of one percent.

Council Member Mike Stone wanted to add a comment. He said, "He cannot imagine why the General Assembly would exempt anyone to make all this additional headache when if they would have kept the policy that works and everyone got treated equal throughout the whole state, we would all be fine. It just goes to show you there are some leadership issues on the state level."

Consider Resolution Authorizing Investment in the Local Government Other Post-Employment Benefits Fund – (Exhibit D)

Financial Services Director Melissa Cardinali stated that in May of this year, Council adopted a budget amendment setting aside money from the General Fund and the Utility Fund to put into the State Treasurer's Trust Fund for other post-employment benefits. We determined this is the most efficient for us to make this contribution and set up our own trust fund; it is a lot less expensive and complicated if we go through the State Treasurer's office. At that time, Council Member Williams had a question about the safety of that money. Mrs. Cardinali stated that she has worked with the documents from the State Treasurer's office and talked with Attorney Patterson. She said Attorney Patterson has reviewed all of that information and staff believes the money is as safe as it can be. She said nothing is one-thousand percent guaranteed. In order to participate, the State requires the Council to pass a resolution authorizing the participation in the State Treasurer's Trust Fund and that is what this resolution is for. This fund is very explicit in its purpose and what the funds can be invested in, so you minimize a little bit more of the risk that way. She pointed out that the resolution authorizes the city manager and the finance director to execute any of the documents necessary to get those funds in place and get the trust fund up and running.

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

Financial Services Director Melissa Cardinali advised that an ordinance was adopted in May; at that time, the State Treasurer's Office did not have all the paperwork in place so we were not able to complete the transfer and get this resolution passed before June 30. This budget amendment brings the amounts that were approved in May out of Fund Balance and makes this available for appropriation.

Consider Extension of Banking Services Contract – (Exhibit F)

Financial Services Director Melissa Cardinali explained that three years ago, the Finance Department did a banking services request for proposals, and with Council's authorization, entered into a contract with RBC Centura for a three-year commitment with a one-year option to renew. She talked with RBC Centura about renewing that contract, and they have given the City a one-year option to renew and a two-year option to renew. The City pays \$2,000 per month for banking services. If the contract is extended for one year, that price will continue. If we extend the contract for two years, RBC will do it for \$1,800 per month. Staff's feelings are that with the turmoil in the financial markets and the uncertainty of the banking industry, this is not a particularly prudent time to switch banks if the RFP's came back and indicated that we needed to switch banks. Staff recommends, based on the information they have put together and the situation with the economy, to extend the current contract for two more years and at that time, do the request for proposals and bid the banking services.

Consider Ordinance Directing the Building Inspector/Code Enforcement Supervisor to Demolish the Property Herein Described as Unfit for Human Habitation and Directing that a Notice be Placed Thereon that the Same May Not be Occupied and Award of Contract to Johnny Faircloth Grading and Septic, Inc. - (Exhibit G)

Code Enforcement Officer Carl Anglin stated that this is regarding 304 Oakwood Avenue. It is a 107-year old structure and has been under minimum housing several times. The last time there was a problem was when there was a fire in it. Mr. Anglin said that the fire marshal and he visited the house and discovered that it had old knob and tube wiring tied to new wiring. It is a hazard. Mr. Anglin required the owner to get a letter from an engineer and the last statement the engineer said was, "My professional opinion at this time is that the cost of the renovation on the house in its present condition to bring it to current code requirements would be as much or significantly higher than to construct a new house. Think of your options to make the most out of the property or the land." Mr. Anglin said a tree has fallen on it now and he asked Council to allow him to demolish it.

Mayor Olive asked if Mr. Anglin has had any contact with the Housing Authority about taking that land over to build affordable housing on it. Mr. Anglin replied no, not this particular property, but he will let them know when the house has been demolished and cleaned up. Mr. Anglin said that Faircloth's Grading and Septic, Inc. submitted the low bid of \$3,685 to demolish and clean up the site.

Development Report – (Exhibit H)

Community Development Director Bob Bridwell gave a summary of the development requests as listed on Exhibit H.

Discussion of Financial Outlook

City Manager Hal Hegwer gave a brief update in response to the unprecedented financial market. He pointed out that the City is in a very strong financial position and the credit goes to the City Council and our Finance Department. We have a healthy fund balance and we lowered taxes this fiscal year. We funded few new positions. Staff is watching the financial picture very closely, and we do not believe at this time that it would require any quick, knee-jerk type reactions. Mr. Hegwer said we will make sure we do not do anything to interrupt our service delivery. He stated there have been some declines in our permit revenues, more on the residential side and less on the commercial side. There was about a \$28,000 drop for the quarter. We are concerned about debt issuance in the future, because we are on the heels of a wastewater treatment plant expansion. There could be a potential to move those projects ahead slightly depending on the credit situation. Mr. Hegwer said we are seeing limited access and very little capital available and you are seeing higher rates. Staff will be monitoring this situation daily. He said it does create some opportunities for the City. We are seeing a temporary decline in fuel charges; we budgeted \$3 per gallon for gas and \$3.50 for diesel. We just paid \$2.74 for gas a week ago. Mr. Hegwer said other opportunities are in the construction field as we are having contractors talk with us daily looking for work. It would be a good opportunity to have some construction projects completed during this time and we will monitor this as time as goes.

Mr. Hegwer said we are developing a contingency plan so if we feel things progress in a detrimental situation that we can act. He would update Council as things progress.

Council Member Mike Stone said it will affect us next year when the state starts cutting the city's money that is suppose to come back to us from sales tax reimbursement. They are expecting a \$2 billion shortfall on the state level and those numbers will pass to towns and municipalities.

Mayor Olive asked if there has been any update on the cities and counties taking over maintenance of county roads. City Manager Hal Hegwer said there is still talk about it and there could potentially be a tax in place on top of the current tax on fuel; it is a user fee in the sense of how many miles you drive and will be correlated with your registration every year. There is talk of cities taking over Department of Transportation streets and highways in the city. He said we will probably see something on this in the upcoming General Assembly Session. Mr. Hegwer said he did not know how they could do this without some type of revenue source available for cities and counties to take this burden.

Community Development Director Bob Bridwell stated that there is a concern that they are going to do a back door approach and say as new streets are approved in the county, that the county will take over those streets. He said, ironically, staff is looking at sub-standard private roads in the county right now. It would be great for the D.O.T. to take them over, but they have to be brought up to state standards.

Council Member James Williams said he spoke with Senator Bob Atwater a week ago and they talked about roads. Senator Atwater told him that North Carolina had the second largest highway system in the nation behind Texas, as far as state-owned roads. Senator

Atwater informed him that the General Assembly was talking about pay as you go, as far as how many miles you drive each year. They also spoke about toll roads.

Council Member Charles Taylor stated that he spent Monday in Raleigh with members of the General Assembly and the number one issue in the 2009 Session is transportation. They have made that clear on all aspects of transportation from the current infrastructure on our roads to the lack of revenues generated from our gas tax, which is going to affect as many as 60 percent of the D.O.T. projects that are currently being funded. He said we are the last line of defense for the citizens; it goes from federal to state to local, and we are on the receiving end of these shortfalls. He said there will be a shortfall in the budget and they do not know the severity of it, but they are assessing it now. Mr. Taylor said the governor just made mention of a 3 percent cut in the state's budget across the board; it went from a 2 percent cut to 3. Mr. Taylor said he would like to hear more opportunities where we have saved money. He said we have some of the best employees in city government, and it would be nice to have some of these things brought back to the table, saying here is where we are cutting and made refinements and cut costs. Mr. Taylor said he was glad to hear the report from our city manager, but we still need to continue to drive that down as much as possible and it would be nice for council to have the visibility of those budget cuts.

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

Other Business

Council Member Walter McNeil made mention of a card at his seat referring to the North Carolina Guide to Animal Control Law and if we get one of these. Mr. Hegwer replied yes.

Council Member Steve Brewer stated that he would like for Council to get more information on the Second Century project. He has done some reading on some of their goals and some things they are looking into. Mr. Brewer felt they are duplicating some things that the City is already working on. It sends a bad signal out to some of the citizens that these things are not being addressed such as the Unified Development Ordinance, ordinance codes, beautification, and green space. These are things that the Council is working on. He said we are just beginning to see the results on some of the things we started working on several years ago. Mr. Brewer said a lot of the things that Second Century is speaking of are not new. A lot of things were brought up by Quest such as appearance, overlays, greenspace, crime – we looked at all kinds of issues and they are echoing the same sentiment through Second Century. Mr. Brewer said it is important to get with the Second Century group and talk with them about where the city is going and where it has come from. Mr. Brewer applauded Second Century's efforts, but he did not feel they are aware of where, as a board, they think they are going to go.

Mayor Olive felt we should have some news releases about some of the good things the City is doing that could be published in the paper because their staff is limited right now and she was sure they would love to have some good news made available to them. Mr. Brewer brought up the greenway project that is being worked on and how it is a two-year project when you have to get easements and to do all the paperwork. It took forever to get Chatham Street going but

once it got going, it got rolling. The general public does not know about it. Mr. Brewer reiterated that he applauds the work the Second Century Group is doing.

Mayor Pro Tem Joseph Martin said that he saw a lot of positive that came out of the group saying that so many of the things are already being implemented including the UDO and others. Mr. Martin added that the group did refer to some things that he felt like are established that people do not know about. It takes a while to nurture issues and a while to get capital to do things. Mr. Martin said he was excited about the level of extent that the people, who did the leg work in collecting data and information, had to say that they were overwhelmed by the response they got from so many people saying that Sanford and Lee County have a lot of good things in place. He agreed with Mr. Brewer that the only way anyone is going to be successful is that everyone partners together. Mr. Brewer felt that the lines of communication need to be opened more and let the citizens know that we are working on some issues and can work with the Second Century Group on these issues.

Council Member Stone said if we want to get the information out, we have to find better ways to use our TV service. There is so much opportunity with having a local government channel, and there is so much we can do to inform our citizens and we need to better utilize it.

Other Business

Mayor Olive congratulated the Lions Club on a wonderful fair. She announced that on Saturday, October 18, Artoberfest will be Downtown, and the Hunger Walk will begin at 8:30 A.M., at the First Presbyterian Church, sponsored by the Joint Rotarians.

Mayor Olive gave an update on the Early Census. She said that it was an unfortunate set of circumstances that the federal money to finance the Early Census projects dried up. We had been so vocal about encouraging people to sign up as canvassers and they were promising substantial amounts, starting at \$11.50 per hour to participate in it. The reason they involved as many people as they did was because so many of our programs are based on our population so to have an accurate population count is crucial. Strategic Services Director Don Kovasckitz challenged the census several years ago and we won, which is unheard of. The first thing that happened was that the supplies they agreed to give the committee dried up and could not get any posters and materials for the schools.

Mayor Olive added that Curtis Ezzell, who is physically challenged, called her. He has been selling snacks and items at the Kiwanis Park. From what she understood, he has been told he cannot do that. He also has benefits he receives because of his condition and those benefits have been cut back \$300 a month. She said when he called her about his situation, she thought he was going to ask her what he could do to reinstate that money, but he asked if the City had a job he could do to help supplement his income. Since he has been told he cannot sell at Kiwanis Park, he does not have a place to sell. Mayor Olive asked everyone to be thinking about a place that he could set up his stand and sell his wares because he wants very much to be self sufficient and he is against many, many odds. She said this is something that should be applauded and encouraged and provide him help in any way possible.

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 Walter H. McNeil, Jr., the motion carried unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

Bonnie D. White, City Clerk