

## LAW AND FINANCE MEETING

Wednesday, July 29, 2009,  
1:00 P.M.

The Law and Finance Committee met on Wednesday, July 29, 2009, at 1:00 P.M., in the Council Chambers at City Hall. The following people were present:

### Law and Finance Committee:

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

### Absent:

Council Member Linwood Mann

### Consider Comments from Jimmy Haire

Jimmy Haire of 503 Sunset Drive stated that he possesses the book of original guidelines for the Historic District from 1997. The book contains 39 pages and he distributed copies of the cover sheet and Page 4 to the council. He pointed out that on Page 4, the text reads that a certificate of appropriateness is not necessary for routine maintenance which includes repair or replacement where there is no change in the design or materials or general appearance of the structure or the grounds. He showed samples of tiles that were around his house which he said was built in 1926 by contractor Link Boykin. He showed a worn out one. He said he had replacement tins in his basement. He said that he had removed the old, worn-out tins from his house and replaced them with the new tins and painted them. The fresh paint looks bright. Mr. Haire said he did not want to be stuck with a hundred-dollar, a day fine. He asked council to declare the fine null and void until February to give him time to get his ammunition together, and he will appear before the board with a full-blown presentation. He said he had not violated any rules. If the rules changed, he said he should have received a new handbook.

Community Development Director Bob Bridwell responded that someone observed that the roof is being painted, and that as a matter of procedure, a letter was issued saying it was in violation. The attempt was to simply notify the property owner. It is the painting of the roof rather than just the minor maintenance they were responding to. Mr. Bridwell said there was no fine being anticipated that they were just asking him to come by and fill out an application for a minor COA (Certificate of Appropriateness) and staff will approve it.

Mr. Hegwer pointed out that Page 4 says a COA is not necessary if it is routine maintenance. Mr. Bridwell replied that it was his understanding that it was the painting that requires a COA, not the replacement of the shingles. Painting is regulated under the guidelines. They want to confirm that the painting conforms with the standards of the district. Mr. Bridwell said these regulations were put into place since the 1997 booklet. Mr. Hegwer said perhaps staff could follow up with a phone call to some of these and it might help. Mayor Pro Tem Martin

said that after he met with Mr. Haire this morning, he realized that sometimes neighbors call about something they think is going on that they don't think is right, and perhaps staff could have looked at it and asked Mr. Haire to fill out the COA which would be a little bit of diplomacy—a courtesy call. Mr. Haire could have filled out the paperwork and it would have been a non-issue quickly.

Mayor Olive expressed that part of the guidelines had been changed for the Certificate of Appropriateness. Mr. Bridwell said he is not an expert on those guidelines, and only recently has he started attending their meetings. He said the Historic Preservation staff saw what was going on and interpreted it as a violation. Council Member Taylor, who is a representative on the Historic Preservation Board, said he has not been able to get from staff a date that the matrix was adopted. If it has not been adopted, then we are susceptible in making any rules until the adoption has taken place. Mr. Bridwell said he would get the date for Mr. Taylor.

Council Member Stone said that the letters sent out can be a little tough. Mr. Bridwell said that staff strives to be fair and consistent. Mr. Bridwell said the intent of the courtesy letter, not the official one that the citizen has to sign for, is to give citizens a heads up. Mr. Stone said that in the future there should be a more personal level between the city and the residents. He was glad to get the feedback from Mr. Haire. Council Member McNeil said that he thinks what Mr. Haire is here about is the document. Mr. Haire has a document that says he is not in violation, and we hear today that there is something else out there that he doesn't know anything about. Had he known anything about the other document, he would have taken care of it. Before we send letters out to people and get them upset about their property, we need to make sure they have a document in their hands so that they can see what is supposed to be going on instead of sending a letter out and backtracking on it and telling them that it is something they need to be doing. Mr. Bridwell said they would endeavor to do a better job of educating those residents by getting them the information from the ordinance they need to make a good decision. Mr. McNeil asked how Mr. Haire had gotten the document.

Mayor Pro Tem Martin asked Mr. Haire if he would have responded better if the letter he received had asked him to contact the city about changes he was making to his house and not mentioned the hundred dollar penalty. Mr. Haire responded favorably. He said he had read the book before he took the tiles off his house. He considered painting routine maintenance. Mayor Olive agreed. He said he had painted them once before after the rules went into effect. Mr. Haire said he had learned that members of the board, themselves, are in violation of the ordinance. He said the system was broken.

Council Member Williams thanked Mr. Haire for bringing this matter to the board's attention and they would do the best they could to fix it. He said the staff was doing the best they could to enforce the ordinances the board adopts. He said staff would fix it. Mr. Haire said he did not want to be charged one hundred dollars a day while it is being fixed. Mayor Olive said that it is her interpretation that he is not in violation.

Consider Grant Project Ordinance – North Carolina Housing Finance Agency – Urgent Repair Program – (Exhibit A)

Community Development Director Bob Bridwell explained that this grant is being closed out and some residual interest income is being recognized and reallocated.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009-2010 – (Exhibit B)

Finance Director Melissa Cardinali explained that this ordinance appropriates unspent paving money from the previous fiscal year. As asphalt rates have dropped significantly, engineering would like to take advantage of those rates and use the \$105,256 not spent in the previous fiscal year.

Council Member Stone asked if there was a list of new paving ideas. Ms. Cardinali responded that they have a constant list of projects to do; they want to be able to achieve as much as possible with the rates the lowest they have been in over five years. City Manager Hegwer explained that they have budgeted less for paving this year than last year and would like to be able to utilize all we can. Mr. Stone said he wanted to be sure we were sticking to the list and not taking on new projects. Mr. Hegwer said there are not new projects; they are all maintenance projects. We are constantly working on lists to prioritize work, but the money won't be spent on new infrastructure—only on rehabilitation of existing infrastructure.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2009 – 2010 – (Exhibit C)

Finance Director Melissa Cardinali stated that this ordinance is to re-appropriate money for projects that were not complete by June 30, 2009. In the General Fund, the ordinance re-appropriates \$414,476 for expenses in the street, fire, street capital, community development, and downtown/HPC areas. In the Utility Fund, the ordinance reappropriates \$152,971 of retained earnings to sewer capital and utility fund administration.

Council Member Stone questioned the amount of \$122,621 for street capital and the prior is \$105,000. Ms. Cardinali explained that the \$122,621 amount is already into a contract for paving that they could not get completed by June 30, 2009. The \$105,000 is money that was not spent, but they would like to spend to take advantage of the pricing.

Consider Resolution in Support of the Temporary Closure of Portions of Several Streets for the Purpose of a 5K Fun Run and Fundraiser – (Exhibit D)

Street Superintendent Magda Holloway explained that there is a proposed 5K Run being sponsored by CARA on Saturday, August 29. She referenced a map showing the proposed route which would include portions of Carbonton Road, Sunset, Gulf, Bracken, Vance, and Chisholm and going back on Carbonton to Kiwanis Park. They have received all appropriate paperwork including their request and certificate of insurance, and their special permits have been submitted to the Police Department this morning. DOT has given a verbal okay, and they are awaiting their official letter for acceptance of the street closure. The Safety Committee has met and found no problems with the race, itself. As of yesterday, a flier has been presented to all the affected parties that live in this area. Another flier will be given out a couple of days prior to the race to notify them again.

Council Member Williams asked if there were any objections from affected parties. Ms. Holloway replied that, as of right now, they had only had positive feedback.

Consider Granting an Easement to Progress Energy – (Exhibit E)

City Engineer Paul Weeks explained that one of the city's water projects, the Garden Street Water Booster Pump Station, is coming to completion. One of the last components is to get power to the site. The city needs an easement granted to Progress Energy before they can put their pole in place to run power to the site for them to run the station.

Council Member Williams asked if the booster pump station would increase the pressure in the Jonesboro area. Mr. Weeks said it would give some redundancy. Right now, we have one pump station that supplies the high pressure zone, the Garden Street Booster Pump Station acts as a back up and will allow us to switch which ones we use, so we are not running one 100 percent of the time, splitting the load between the two. Plus, it allows us to keep better pressure in that area, especially if the water tank goes down. Better water quality is anticipated because of better circulation. Mr. Williams confirmed with Mr. Weeks that if the pump is down, water can still be pumped to Jonesboro. Mr. Weeks stated that was correct. City Manager Hal Hegwer added that this is a great project as it gives us tremendous redundancy out there.

Discussion Regarding Options for Application of Proposed Residential Design Standards (Fencing) Overlay District - (Exhibit F)

Assistant Community Development Director Marshall Downey reminded council of the public hearing held last Tuesday at which a zoning overlay was proposed for fencing basically in West Sanford. The original proposal was for a boundary of Ward 1. There were some concerns in using an electoral ward as boundary. The Planning Board had the same discussion when the matter went back to them. They recommended the item be tabled for staff to look at additional options. Mr. Downey reviewed a series of maps. He explained that there are four main options, with two subsets within each one. He feels they are presenting to council the options that are most legally defensible or sound in terms of questions of fairness expressed at the public hearing.

Option 1A is the R-20 Zone as applied within the city, including the ETJ. The majority of Ward 1 is included and there are some pockets outside of that. This picks up a lot of land that is primarily ETJ. He also noted another map (Option 1B) omitting the ETJ. The purpose of having the two maps is to give council some options as to whether they want to include or exclude the ETJ in the consideration for these regulations.

Council Member Stone pointed out the problem with including people in the ETJ in the plan is that they cannot vote. He said that you would not want to impose our guidelines on a group of people who cannot vote up or down how they feel. Mr. Downey noted that was why there were two options for consideration. He also explained that part of the reason for having ETJ is that the idea of having development in those areas that you may at some point annex, you don't want something to be developed differently from what is in your current city limits. It is an option for them to consider.

City Attorney Patterson added that the way it currently works, the zoning rules apply in your ETJ; that's why the map on Page 9 shows just taking a zoning category of R-20 all the places where the zoning rules would apply. The map on Page 10 would be an exception from the general rules. Mr. Downey said that we would have to write something specifically different so that R-20 would only apply in the city limits.

Option 2A and 2B are similar to 1A and 1B. The R-14 zoning district is added. The majority of this zoning is in the west and to the north of the current boundaries. Option 2A includes the ETJ area and Option 2B excludes the ETJ. About 100 percent of the existing R-14 is in the city limits. Staff felt that council might want to include R-14 because most of it is in the area originally discussed in Ward 1. R-14 is traditionally a subdivision with smaller lots, similar to R-20 zoning. City Attorney Patterson stated that the options presented so far cover basically all the neighborhoods that council was trying to cover in the original proposal. It doesn't go after the areas that are developed in more of a grid-type development. It is those that were developed in neighborhood developments. The Option 2A would basically cover all of those council was trying to cover.

Options 3A and 3B provide for using a physical boundary. It basically takes everything west of US 1 and US 421. Map 3A shows all the properties in green color in the city limits and the pinkish color being the ETJ area. The fence overlay is being applied to everything west of Highway 1 (Jefferson Davis) and 421(Boone Trail). Option 3B is the same concept with the ETJ removed. It targets the same area, but using streets as boundaries, not Ward 1.

Options 4A and 4B target lots west of US1 (Jefferson Davis) and NC 421 (Boone Trail) that are not part of an established residential subdivision. Map 4A includes the ETJ, but there is only one development, Western Hills, off of Franklin Drive. Map 4B excludes the ETJ, taking Western Hills out of it. City Attorney Patterson stated that the difference between Options 1 and 2A and B and Options 3 and 4A and B is that Options 1 and 2 put rules in existing zoning categories, while Options 3 and 4 are applying the rules in an overlay for this zoning district.

Council Member Brewer asked if changing the zoning would grandfather in everything that is currently in effect. Ms. Patterson responded, yes. Council Member McNeil asked about placing a moratorium on fencing for six months and see if we could get something worked out. He stated that his concern about fencing is basically public safety and welfare with the barbed wire and electric. City Attorney Patterson responded that a moratorium is usually used when you have an enforcement mechanism that you want to hold off on for awhile in order to enact a new law or regulation. Right now, we have no current regulation on fencing that we enforce, so it would not make sense to have a moratorium on something you are not currently doing. You could, of course, take some more time to figure out what rules you want. Staff is bringing these forward because it has been brought up as a concern. The proposed regulations that these would apply to, do have the barbed wire and electric fences included. It doesn't stop putting up a fence; it just states certain materials and certain heights.

Council Member Brewer asked the general consensus of the people who had called Mr. Downey about this matter after it appeared in the paper. Mr. Downey stated that generally most folks who had an existing fence wanted to know how it would affect them. Mr. Downey said

they were grandfathered. Two individuals were concerned about how the regulations were being applied. The other individuals basically felt that it was a positive thing and some asked why it wasn't being applied citywide.

Council Member Brewer stated that he disagreed with the editorial in the paper today about how council has been slow on aesthetics and the value of our city. He stated that we had come a long way in a short amount of time. He said he took some pictures in East Sanford a couple of years ago, and there might have been fifteen fences at that time; most of them were four-foot chain link fences. There was a pretty wall down by the armory that had been built with wrought iron. There were a couple of tall fences that had barbed wire at the top. Mr. Brewer stated that there are sixty over there now. Some have concrete poured for poles with six-foot chain link fences with barbed wire; some have rolled barbed wire. Some have three-foot fences with barbed wire sticking out like should be on top of six-foot fences in a ball field. Mr. Brewer stated that he did not think the aesthetic value of East Sanford could be saved. He challenged everyone to ride there and cut down all the streets and tell him if you want that in the other parts of the city. He said he didn't want it in Ward 1, in West Sanford, or anywhere in Sanford at all. He said that if you want the aesthetic value of the city to be improved, then council needs to do something. Once the fences are up, it is what it is.

Mayor Pro Tem Martin asked if council could not have a moratorium, could council adopt something for six months or an indefinite amount of time to ban the barbed wire fencing until council had time to look at the fencing problem as a whole. Council Member Williams asked if this would be for commercial as well as residential property. Council Member Stone stated that the real issue is why they are putting up fences. The fences are going up for protection and to feel safer. He stated that the new police officers should be put to walk in those neighborhoods to see what is going on. He stated that while we are looking at how to fix West Sanford, council is turning their heads from East Sanford. Mr. Brewer said they needed to be multi-tasking and look at what needs to be done to help East Sanford. He stated that the crime rate is not growing; that the crime rate has dropped double digits each year. He said this issue of fencing was brought up to preserve the aesthetic value of West Sanford where there are not fences at this time. Mr. Brewer said the aesthetic value and property values are important. This fence ordinance protects that. He is asking council to help him figure out a way to protect the aesthetic value of all property in Sanford.

#### Update on Carr Creek Pocket Park

General Services Director Tim Shaw advised council that the property for the Carr Creek Pocket Park has been recorded at the Court House. Work began there this week. The clearing has been done. Some clay will probably have to be hauled in for the base of the parking lot. It will not be ready for National Night Out. Playground equipment will take a week or so to put together. He thanked Coty for the donation of the land. He thanked Mr. Williams for including information about the park in their neighborhood National Night Out plans. He said he hopes a representative from Coty will be able to attend the National Night Out event. Mr. Williams reported that the neighborhood is planning to present a large thank you card signed by the neighbors to the Coty representative at the National Night Out event.

Mr. Shaw added that regarding Martin Luther King Park, they have heard back from the Intellectual Properties Committee out of Atlanta and City Attorney Patterson will be reviewing the agreement. He believes that will be cleared up soon and some more activity can begin in that area.

City Manager Hegwer said that if council agrees, once we get the park in pretty good shape, we will try to have a ceremony at Carr Creek.

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

Other Business

Council Member Stone mentioned that the council had brought up the information on tethering dogs, and it has not been brought back. He said he did not know what the best long-term solution would be, but for the short term, it would be something ten to twelve feet; anything for them to have a better quality of life than the three feet chain some of these dogs are on. He asked council to please do something about the tethering.

Council Member Taylor shared with council (Exhibit G) an article from the Raleigh paper on parking in front yards which gives a good perspective from both sides. He said he would give an Historic Preservation Commission update at the next council meeting. He also called attention to problems with itinerant merchants starting to pop up in more and more places. Some disconnects between zoning and actually licensing have been identified. He says these merchants are starting to pop up on all the corners. He thanked staff and City Manager Hegwer for getting involved in a situation on the sidewalk between Stewart Manor and Kentucky Fried Chicken where the light poles are in the middle of the sidewalk and it is prohibiting those who are in scooters or wheelchairs to access the convenience stores and the different businesses there on the top of the hill. He understands we are working on getting a solution.

Mayor Olive thanked Mr. Taylor for bringing in the newspaper clipping about parking in the front yard, saying it is not just an aesthetic issue, but there are concerns about stormwater run off. She also mentioned that she had learned about grants to pay for police officers on a short-term basis. She mentioned it to the city manager; he applied for the grant, and now we have been approved for all four police officers. They will be hired after the end of their grant money. She said that the city had received many grants lately and more are being applied for.

City Attorney Patterson advised that she has been working on the dog tethering issue and has emailed a contact at CARA as council requested and asked for their input both on the idea of tethering and also on the need for a realistic step-by-step process to get to ultimate prohibition by starting with regulation. She has not received feedback from CARA.

City Manager Hegwer thanked council and mayor for supporting staff on their grant endeavors. He said we had received a grant from the American Recovery and Reinvestment Act in the amount of \$650,860 for four officers for three years. There were 7,272 agencies nationwide that applied and only 14 percent or 1,046 were funded in the country. Only fifty agencies in North Carolina were awarded this money. He thanked finance staff and the Police

Department and Darla Cole for their help. Mr. Hegwer points to our Community Policing efforts as a plus in being awarded this grant. The grant is specific as to how the officers can be utilized with the core intent of enhancing our community policing abilities. Other opportunities are still being pursued.

Mayor Olive reminded citizens that National Night Out is Tuesday night. The city council meeting will be held at 1:00 P.M. that day instead of the usual 7:00 P.M. She thanked the people who had agreed to participate.

Adjournment

Having no further business to come before the Law & 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,

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Cornelia P. Olive, Mayor

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Bonnie D. White, City Clerk