

LAW AND FINANCE MEETING

Wednesday, August 11, 2010

1:00 P.M.

The Law and Finance Committee met on Wednesday, August 11, 2010, 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 Linwood Mann, Sr.
Mayor Pro Tem Mike Stone	Council Member Charles Taylor
Council Member Samuel Gaskins	Council Member L.I. (Poly) Cohen
Council Member Walter McNeil, Jr.	City Attorney Susan Patterson
City Manager Hal Hegwer	City Clerk Bonnie D. White

Absent:

Council Member James Williams

Mayor Olive called the meeting to order.

Consider Resolution Directing the Application to the Local Government Commission for Approval of Enterprise Systems Revenue Bonds; Requesting Local Government Commission Approval of The City's Enterprise Systems Revenue Bonds, Series 2010 and Certain Related Matters – (Exhibit A)

Assistant Financial Services Director Beth Kelly explained that she has prepared a summary and it is Page 1 in the agenda that details the resolution. The resolution is a required step in the bond issuance process. It states that the issuance of the bonds will not exceed \$75 million in revenue bonds; details what the bond proceeds can be used for, and lists and approves the financing team. The Financing Team consists of Bond Counsel - Parker Poe Adams and Bernstein LLP (which council has already approved); Financial Advisor – First Southwest Company (already approved); and the Senior Managing Underwriter, which staff recommends Wells Fargo Bank. They sent out fifteen Requests for Proposals on our underwriting services; thirteen firms responded and based primarily on revenue bond experience with an emphasis on North Carolina Revenue Bond Issuance experience, five firms were selected for interviews. They interviewed BB&T, Morgan Keegan, Bank of America, Citigroup, and Wells Fargo. The interviews were conducted in Raleigh at Parker Poe Adams & Bernstein office on July 29 and 30.

Mrs. Kelly stated that Financial Services Director Melissa Cardinali and she, along with representatives from both First Southwest Company (financial advisor) and Parker Poe Adams & Bernstein were present during the interviews. A comprehensive and exhausting review of all responses, both written and oral, was undertaken. Mrs. Kelly explained that information requested in the Requests for Proposals included: Experience with first-time revenue bond issuers was a key; qualifications of the bankers assigned to work with the City; experience of the assigned bankers with North Carolina enterprise system revenue bonds; discussion of financing structure, credit considerations, alternative financings; the firm's bond distribution capabilities; and the management fee proposed (if any), and takedown expenses. Based on the responses to the RFP and the oral interviews, City staff and First Southwest recommend the selection of Wells

Fargo Securities as Senior Managing Underwriter for the proposed bond issue, with BB&T and Morgan Keegan as co-managing underwriters.

Mr. Stone stated that seeing the list of qualifications, one would assume that all of the top ten partners would have those qualifications; so to him, it would come down to the costs and management fees. When he looks at the final three firms, every one of them exceeds the qualifications that we would be looking for; so as a taxpayer, what would be the “bare-bone” fees of the ones assigned the project.

Janice Burke with First Southwest said that she wished it could be that simple. All of the firms they received responses from have varying degrees of experience; much different degrees of experience when you look at working with first-time revenue bond issuers. They really focused on - the experience of the firm and how much experience they have working with first-time issuers. When you are a first-time issuer, you have to spend more time with bond insurers, more time with the rating agencies, and more time in the documents meeting explaining the entire structure of the bond issue. They thought getting someone with experience with working with first-time issuers would be better and someone who has a lot of experience with Revenue Bonds in North Carolina was another one of the focuses. Between all the firms, there was a lot of difference when you look at experience.

City Manager Hegwer asked Ms. Burke to explain how the underwriter is compensated. She said that there were three different components basically of the payment to the firms. One is management fee, which is normally paid to the lead manager for the extra time that it takes for the due diligence meetings and putting together the entire package deciding about bond insurance, helping with the rating agency presentation, and things of this nature. She felt in this transaction, we would look at a very small management because First Southwest is going to be providing some of those services, particularly, the services dealing with the rating agencies. They have already started on the rating presentation. They will negotiate the management fee to a small fee. The second component is average takedown which is the fee that is paid to these companies for basically paying the traders for selling the bonds. The people you see from these different banks are the ones that are coordinating the issue; but behind them there are thousands of traders who will actually sell your bonds on the day of pricing, and that is where they get paid. This fee is based on per thousand dollars; so when they sell a bond, the average takedown is \$4.22 per thousand. On \$50 million revenue bond, you are talking about \$200,000; sounds like a lot of money but you have a lot of people working for you on the day of pricing to sell bonds. This is one of the costs of doing business; your real focus in this whole process should be on who can get the best interest rate. The third component is expenses; we did not even ask for expenses because expenses throughout this process are pretty much the same for any firm. They want to be sure that the takedown is reasonable; they do not want someone to come in with a \$6 or \$6.50 takedown when the average in this process is between \$4 to \$5. On the day of pricing these bonds, the First Southwest underwriting desk will be on the phone actually negotiating the process. First Southwest is going to negotiate with the underwriter and will look at all the fees that are paid and all the interest rates that are proposed to the City; First Southwest is working on the City's behalf.

Council Member Cohen asked about the legal fees. He said that he has done an industrial revenue bond before and the legal fees “ate him up.” Ms. Burke replied that she is not

sure; she knows that we have engaged a bond counsel and she was not sure what the arrangement was. The legal fees for transactions will be a little bit higher for revenue bond issue. She estimated between \$60,000 and \$85,000. Assistant Finance Director Beth Kelly replied that she could not recall the response from Parker Poe, who is our bond counsel. We selected bond counsel and then the next step within this resolution is the underwriter's counsel, which we selected them at the same time we selected the bond counsel because they did the RFP and interviews on those. She will get those fees for him.

Council Member Taylor asked Ms. Burke to explain what led to the selection of Wells Fargo, BB&T, and Morgan Keegan in particular. Why was Wells Fargo picked over Morgan Keegan and BB&T in that process, and how they will interact with one another during that process?

Ms. Burke replied that first they looked at experience of the bankers and first-time revenue bond experience. The Wells Fargo bankers had 12 first-time revenue bond issuers; no other firm came anywhere near that. They had the heaviest retail; the second largest in the nation. To place a bond retail probably gets you the lowest interest rate. A retail investor does not require or demand an interest rate quite as high as an insurance company or bank. We tried to place as many as we can retail and they have a very large retail distribution; they have over 15,000 registered representatives in the nation. Wells Fargo has 52 North Carolina offices which help in the distribution of bonds in our state where the individual can get a state tax exemption for their bonds. To date for 2009 and 2010, they rank 9th nationally in the nation for underwriting. We are looking for lead underwriting positions and not co-managers, because the lead underwriter has a greater role in this transaction than a co-manager. We also asked for the number of bond issues completed since January 1, 2007. The bankers at Wells Fargo were Bank of America, but if we looked at the number of bond issues they completed since January 1, 2007, they have completed 20 different utility bond issues in North Carolina and that is very strong.

In comparison, Ms. Burke said that BB&T has stated that they have two lead managers of a revenue bond issue; they have two first-time revenue bond issues. They were not lead underwriters. BB&T has senior managed three issues since January 1, 2007. They have 232 registered representatives and 14 North Carolina offices; you can see the difference in experience between the two firms.

Ms. Burke stated that Morgan-Keegan ranks eighth nationally in underwritings for 2009 and eighth in 2010. They are lead managers on a lot of utility revenue bonds but not so much in North Carolina. They have been lead manager for the City of Fayetteville. They are a regional firm and we thought they would be a compliment to the team.

Mrs. Kelly explained that McGuire Woods, LLP, is included in the resolution for underwriter's counsel. Regions Bank was selected for the Trustee Services through an RFP process. Staff sent out seven potential requests for proposals; six firms responded. Regions Bank proposal had the lowest cost for the City with an annual administration fee of \$325 per Series. Their proposal waived the acceptance fee as well as the investment transaction fees. Based on the comparison of fees, references, and a review of sample investment reports, City staff and First Southwest recommend the selection of Regions Bank as Trustee for the City's utility fixed-rate revenue bonds. Mr. Stone asked how many Series are we projecting? Mrs.

Kelly replied probably two at this time. Raftelis Financial Consultants, Inc. was selected to be the feasibility consultant since they have all the City's information.

Mrs. Kelly stated that the resolution directs the City Finance Director to file the application with the Local Government Commission (LGC) for approval of Enterprise System Revenue Bonds; lists the finding of the City Council and asks the Local Government Commission to make these findings which are required by statute; details the different types of bonds the City can use (in any combination) and authorizes the Finance Director and Assistant Finance Director to approve the final structure; and requests the LGC to sell the bonds through negotiation with the underwriter at an interest rate not to exceed 6 percent.

Consider Resolution of the City Declaring the Intent of the City to Reimburse Itself for Capital Expenditures Incurred in Connection with the Expansion of the City's Wastewater Treatment Plant from the Proceeds of Certain Tax-Exempt Obligations, Recovery Zone Economic Development Bonds or Build America Bonds – (Exhibit B)

Mrs. Kelly advised that this is a reimbursement resolution which assures that the City has the option to reimburse itself for any upfront costs associated with the wastewater treatment plant expansion in bond issuance.

- Consider Capital Project Ordinance Amendment – Sewer Capital Project – (Exhibit C)
This ordinance is an amendment to the current capital project ordinance for the design, upgrade, and expansion of the wastewater treatment facility. It appropriates \$45,000 for the cost of the feasibility study and it transfers that money as a contribution from the Utility Fund.
- Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2010-2011 – (Exhibit D)
This ordinance is an amendment to the annual operating budget transferring \$45,000 from Contingency to Capital Projects. Mr. Hegwer explained that the feasibility study has to be paid up front and the City will be reimbursed from the bond.

Consider Grant Project Ordinance – North Carolina Housing Finance Agency to Close Urgent Repair Program (URP0925) – (Exhibit E)

Community Development Manager Karen Kennedy gave an update on the HAVEN project. She advised that we originally received \$500,000 from Community Assistance Stimulus funds for the HAVEN project. Staff was given an opportunity in July to ask for an additional amount of money and we were notified Friday a week ago that we have received an additional \$100,000.

Mrs. Kennedy stated that the grant project ordinance is for the closeout of the Urgent Repair 2009 project and this \$23 will be added to the overall project ordinance for closeout.

Consider Conveyance of a Remainder Interest in Certain Lots Previously Conveyed to Get Smart, Inc., Block N, Lots 1, 3, 4, 5, 6, 7, and 8 as Shown on Disposal Plat-Section II, Washington Avenue and Hudson Avenue, Washington Park Redevelopment Area, Recorded in Plat Cabinet 4, Slide 183, Lee County Registry – (Exhibit F)

City Attorney Susan Patterson explained that in years past, the City had conveyed some land to Get Smart for their tutorial building site. As the law required in the redevelopment area, there was a caveat on the conveyance which meant that it could only be given to Get Smart for so long as they did what was necessary in their charter. Get Smart is seeking some additional financing and the bank was asking if that caveat could be released from the deed but the law required it; so they went to the Legislature and asked for a change to the law to allow the City to release that remainder interest to Get Smart, if Council so chooses. The Legislature did pass that law and gave us the authority to convey the remainder interest. Council must decide whether they want to do this or not. There is a process that has to be followed. If Council decides to convey the interest to them, we will have to publish in the newspaper a notice saying there is an intent to do that. We publish it ten days ahead of time and then Council would meet to vote to do the conveyance. A deed would be prepared to convey the remainder interest.

Consider Resolution Authorizing the City Council to Enter Into a Ten-Year Lease with the Brick Capital Community Development Corporation, Inc. - (Exhibit G)

City Attorney Susan Patterson advised that this request has come through Kate Rumley with Brick Capital and Cora McIver with the Berkley Place Neighborhood Park area. There was a program through Community Development several years ago to help promote these pocket parks that council has taken on and placed throughout the City. This was a neighborhood park idea for a vacant parcel of land. In 2000, a lease was entered into with Brick Capital as the conduit through which they have the residents of the Berkley Place area use a lot on Hooker Street as a neighborhood park. Brick Capital pays the utilities and the citizens provide the maintenance and they have requested to enter into another ten-year lease. If Council approves the request, a public notice has to be published in the newspaper ten days ahead; then we would have a resolution determining that this property is no longer necessary for the City's need during the term of this lease and enter into the lease with Brick Capital. The term of the lease is for ten years and the payment would be a nominal sum of \$1 per year and would allow them to have a passive park and they would be responsible for utilities. There is a right to terminate by either party at any time for any reason with a 30-day notice.

Consider Discussion of Jonesboro Parking – (Exhibit H)

General Services Manager Tim Shaw said that previously it has been discussed about parking in Jonesboro. He rehashed what has been talked about in the past. He spoke with a lot of the business owners and property owners in Jonesboro. There are properties down there that could be available for purchase if the City decides to do so. We already have a parking lot off of Trade Street. It is utilized some but not to its maximum. We are having employees of some of the businesses using private parking lots and still have some on the streets which is causing some parking issues at times for some of the businesses. There are a number of lots on Main Street and some between Humber and Main Street, such as the barbershop and O'Connells. We were asking about doing a parking study and Mr. Bridwell and his staff has completed it. We have not made any offers or asked for any pricing on any vacant properties. He is looking for direction as to what Council wants to do.

Mr. Bridwell stated that staff completed a window survey on Tuesday, June 8, and Friday, June 18. The data presented to Council is data from June 8. They found 41 two-hour restricted on parking spaces on Main Street between Lee Avenue and Dalrymple Street; five one-hour restricted on Watson Alley; 27 unrestricted on street parking spaces on Trade Street with two handicap; and a total of 73 on-street parking spaces. The highest percentage of usage was between 11 A.M. and 12 Noon at 52 percent and between 3 P.M. and 4 P.M. at 53 percent. The lowest percentage of usage was between 5 P.M. and 6 P.M. A total of 124 cars; they did a license plate check on all the cars for that study and found that four cars stayed in the restricted parking space more than seven hours. There is a lot of activity but staff did not find any severe issues as a consequence of the parking study.

Mayor Olive asked what is the main issue asked for by merchants and residents in that area. Mr. Bridwell replied there is not enough handicap parking. General Services Manager Shaw said that along Main Street there is nowhere to put handicap parking. There are a couple of options if the City does not build an additional parking lot. A lot of employees that work in some of the businesses are parking on Main Street where the customers would park. Mr. Hegwer added that we do have the existing lot on Trade Street and is probably not in an area that could be utilized as heavy if it were located somewhere else. We could possibly sell that lot and use the proceeds toward an additional lot that may be centrally located. He said that any ideas on how long-term parking could be accomplished, staff would like to hear them.

Mayor Pro Tem Stone said that he would like to shed some light for the council members. He does own a business in Jonesboro and has 22 parking spaces in his privately-owned parking lot for his business. We have been in a down economy and if it changes, it will be dramatic on new businesses coming. The biggest question is to ticket or to not ticket. You have seven store fronts on one side and the road that goes down through Jonesboro is Highway 78 and is in the top five of traffic counts in Lee County. We have no handicap parking in Jonesboro. The problem is if you crossover Highway 78, we have people who do not want to cross the road with wheelchairs, and he cannot imagine anyone in a wheelchair crossing that road. A crosswalk was talked about but the state said no to the crosswalk. There has been lots of opportunity. He has given many businesses the opportunity to park in his parking lot for free and have not charged them because their success depends on his success. When this economy turns, there is not going to be an opportunity. He is planning to expand his current business with gardening, so he does not know how much parking he is going to take away from his own situation. If you want the businesses in Jonesboro to have the success Downtown Sanford has had and grow, you have to give them the infrastructure in some form or fashion to help.

Mr. Bridwell stated that Mr. Shaw needs to know how Council would like for staff to proceed. Mr. Shaw stated that there are a couple of sites that would be better for putting in handicap parking and some that would make it a little more difficult.

Council Member McNeil added the people he has spoken with have had concerns with parking east of Watson Avenue. You cannot get out of the car without risking your life on Highway 78. The people who called him are interested in getting something away from the street between Watson and Lee Avenue. If we could sell the City parking lot and buy some land that Heins Telephone and Don Key own and put in a lot there, it would free up the front street for handicap parking.

Council Member Cohen stated that it was his understanding that we cannot put a handicap parking space in a parallel parking space. Where on Main Street could you put one? Mr. Shaw replied that he is correct; along Main Street there could not be a handicap parking space. He spoke with one property owner that at the time, would allow the City to lease enough space for one handicap space. Jimmy Haire is receptive to hearing offers for his entire property in Jonesboro on Main Street. Don and Ted Key are also willing to hear an offer also. Mr. Cohen said that you have Hallman Foundry working four days each week and if they run five days each week, they are going to put more people down there. Mr. Cohen said that we need to do something to help that section of town. Mr. Stone said that we need long-term handicap parking on both sides of the road. The one section where the beauty shop is located up to Lee Avenue is where handicap parking is needed.

Consider Discussion of Tethering

City Attorney Susan Patterson explained that the manager asked that she update Council on what is going on with the animal control ordinances and the tethering issue. The County Board of Health has been exploring rewriting the animal control ordinances for Lee County. They have a subcommittee that has been looking at many different things including tethering of animals. They have had several subcommittee meetings and are going to have another one towards the end of August and have distributed a draft of the proposed changes. She has talked with some of the people in the Health Department about some of the issues and CARA is involved with this action as well. At one time, the City looked at putting in place a tethering ordinance but the manager has led her to believe that it would be prudent to try and coordinate that with the Lee County rewrite so that the animal control officers who enforce both the leash law in the City limits and the animal control ordinances in the City limits and throughout the County would have the changes in the law occur at the same time. The draft is looking at things such as modifications of penalties; changing different issues including tethering of animals; dealing with wild and vicious animals to include reptiles; and dealing with other issues that have been an issue for Lee County. When the City was looking at it, we looked at the need to prohibit tethering except in certain circumstances; when they were conducting lawful activities, or when they were in the company of a person; or making sure they had access to food and water. We will be working with, if it is the permission of Council, the animal control ordinance rewrite for Lee County, so that the officers are dealing with similar laws in both places.

City Manager Hegwer stated that Mayor Pro Tem Mike Stone had talked with him about some concerns he had from property owners. Attorney Patterson advised that some citizens have expressed concerns such as riding bicycles in the county and having animals chase them. An important point that the health director has made is that the City has a leash law; so within the City limits, all animals are suppose to be restrained by a restraint of some sort when they are off the owner's property. On the owner's property an invisible fence is appropriate. The County does not have a leash law and being more rural in nature, it is dealt with in a different fashion. There are rules and regulations under State law already dealing with animals that tend to attack or are vicious/dangerous. There is a provision in the proposal dealing with both fixed tethering to a central point and having humane measures for the animal in that case and also a running tether line, which is a lead line with a runner that the animal could get more mobility or room to move.

Mayor Pro Tem Stone stated that there have been several articles in the paper on the dogs running. About a year ago, this came before Council and we do not have satisfaction from our County on our leash law because they do not have a leash law; therefore, by us contracting they do not come into the City and give us the same level of service that we need. This Council has talked about doing its own service for the City. He added that we have dogs that are being tethered less than 6 inches to a foot from a pole. It is inhumane or cruel to have a dog on a one-foot chain with a bowl of water in 100 degrees. He felt an ordinance should be done that makes it illegal to tether a dog with a one-foot chain because it is wrong; allow them to be put on a 10-foot or 12-foot chain. He asked that Tuesday night, Council look and discuss about passing an ordinance to put the dogs on a minimum of 10 to 12-foot chain. To wait on Lee County, it will be another year before anything is done.

Council Member Cohen agreed with Mr. Stone that tethering is cruel unless you tether your dog while you are outside with it. He said that the County came to him and his wife about the new ordinance. They went over the tethering part with the gentleman that came to see them. This ordinance will probably be ready next year. Mr. Cohen said that he would like to pass a no-tethering ordinance in the City.

Mr. Stone said that you have to use common sense. He does not want to tell them how to do it, but they have to have more than 10 to 12 feet.

Council Member Taylor said that he brought some examples of tethering ordinances from several cities and virtually all of them that were reviewed had provisions in them about the diameter of the chain. If you give a dog 12 feet, you also could not put a big bulky chain on them because it would inhibit them. If you are going down the tethering ordinance path, you need to spell stuff out because it will be left up to interpretation.

Attorney Patterson stated that she has two different drafts of prohibition against tethering except in certain circumstances. If you want it to say you can tether them but must have certain other conditions such as access to food and water, a certain length of chain, a chain made out of certain material, etc., she will be happy to put that together. She needs direction from council as to whether they want to prohibit tethering except in certain circumstances, or whether they want to have conditions or restrictions on tethering. She needs to know if there are at least four votes on this council interested in or leaning towards either prohibition or a condition on, so she can write what they want.

Council Member Linwood Mann stated that you can purchase a pen for \$75, put them in a shaded area, and give them food; that is all they need.

Council members discussed the issue at length. Mayor Olive asked for a show of hands from council members who agree that we should not have tethering of any sort. Council Members Sam Gaskins, Linwood Mann, L. I. "Poly" Cohen, and Charles Taylor raised their hands.

Council Member Taylor asked if it was possible that council members can have copies of the ordinances that have been proposed for council to review and take them into consideration and try to arrive at an answer by September. Attorney Patterson asked if he wants her to

distribute the drafts she has done and the county has done, or distribute the ones from Santa Fe, New Mexico, and other places. Mr. Taylor replied that he would like to see all of them. Attorney Patterson stated that she will distribute the copies the County and the City have and for the others, if there is certain interests, please let her know because there is an inch of paper of the documents. She presented council members with a draft ordinance.

Council Member Mann reiterated the idea of using a pen at a cost of about \$75. Council Member Gaskins stated that there are many options and a pen is one of them. One of the simplest things, depending on what people think is expensive, for a couple of hundreds of dollars there is a radio fence that is simple to use. If people properly take care of a dog, there are far more expensive things than a \$200 radio fence or a pen, with all the heartworm and flea medication and taking them to the veterinarian; if you are not willing to take care of your dog, then you should not be a dog owner.

Mayor Pro Tem Stone said that \$200 is a lot to some people; it could be a light bill and water bill. Most people that have the dogs live in East Sanford and probably Jonesboro; they have the dogs for security because you cannot put a police officer on every block. He is not trying to put \$200 on the taxpayer's back; you can justify a \$10 to \$15 chain.

Consider Update on Whitin Roberts and Grant Funding for Brownfield Grant

Community Development Director Bob Bridwell wanted to update Council on a success story. He had a conversation with a regional manager from EPA asking for information on this project so they can publicize the Whitin Roberts project. He also wanted to update Council on the Brownfield Assessment Program which we are currently getting ready to close out.

Prior to the receipt of the \$200,000 Brownfield grant for removal of hazardous materials and a \$200,000 grant for petroleum products contamination, we were working with the site as a deteriorating industrial property in a neighborhood adjacent to Downtown. We began the process approximately five years ago. The City received an EPA Brownfield Assessment Grant in 2007 and that grant's primary intention is to identify and assess properties throughout the City that had potential contamination. During that process, the Whitin Roberts property continued to deteriorate and when we started the assessment of the property in 2007, we found evidence of a lot of things including continuous fires that were taking place on the property. People were going in and using welding torches to remove material from the building to sell.

In 2007, a corner collapsed and debris exploded on an adjacent street and at that time, the City ordered demolition of that particular structure on the site. In 2008, the City pursued demolition of the entire site, and was determined that the owner was in bankruptcy. The initial assessment of the property was included in the Brownfield study and upon examination by our consultants, barrels of chemicals were located on the property and were determined that some of the barrels were leaking. EPA was contacted upon the findings and they instituted an immediate removal of the hazardous materials. The hazardous materials were loaded on trucks and taken away.

In 2009, the City applied for a NC Brownfield agreement for that property and we began the process that continues until today. Recently, we began the process of foreclosure procedures

as a consequence of our demolition of that site, which included removal of asbestos and a very deteriorating structure from a residential neighborhood adjacent to our Downtown.

In 2010, we completed the Phase II environmental study on the Whitin Roberts property and we have received a draft Brownfield agreement which we can execute with the state at an appropriate time which is coming up shortly. We are at the point of about to close on the grant project and last week, we had a foreclosure sale which Attorney Patterson may want to give you more information on of which we will finalize the entire project in terms of ownership and how we are going to go for a disposition. In addition to that for the Brownfield grant, we have surveyed over 120 properties and done Phase I studies on multiple properties in that survey. On the next Council meeting, we will have a request to do another assessment study for a grant application for \$200,000.

Attorney Patterson stated that the foreclosure sale occurred; the upset bid period ends on August 16. The County and the City were the purchasers so if anybody would like to upset that bid, they could. An upset bid would only be approximately \$130,000.

Council Member McNeil asked that after the 16th, can this property be processed as a skate park. Attorney Patterson replied that the Brownfield agreement that we are looking at is an agreement with the State to make sure there is no liability that would continue for the activities that were conducted on it by owners in the past that led to contamination. Those restrictions would not allow the property to be used for recreational purposes. The EPA and the NCDEHR would prefer that the uses be restricted to commercial and industrial activities. It has been used as an industrial site since well before 1930. Some of the activities that occurred on it were metal smelting and there were pits on the property where heavy metals were determined to be present at the site. There is not a concern because it does have public water to it so there would be nobody drinking from wells. It currently has a concrete cap on it. The Brownfield agreement would allow us to market it and put it back on the tax roles as a taxable property should someone choose to buy it or to continue with remediation activities in order to make it a cleaner area. It would restrict activities to commercial and industrial going forward. They did say they prefer that it not be used for a school, a park, or a recreational site.

Mr. Hegwer stated that staff's perspective is to sell the property so we could get back the amount of money we have in it in terms of the demolition lien and the taxes owed on the property. There are existing properties that we have which could be utilized for the skate park. We would be better to sell the property and the fact that the Brownfield agreement would be in place, it would give the new property owner the protection and makes it much more marketable. It would give them a tax incentive for five years. They pay 10 percent of the tax bill locally for the first year and it ramps up to 100 percent to year six. Mr. Bridwell added that what makes the Brownfield program attractive is the tax credits.

Mayor Olive asked how much money does the City have in it now. Mr. Bridwell replied he thought it was \$124,000. Attorney Patterson replied that is City and County.

Mayor Pro Tem Stone asked that if someones buys the property, can they do what they want with it. Attorney Patterson stated that there are covenants and restrictions on the property that would run with the land. If Council sees that this property is the premier site for a park and

chose not to enter into the Brownfield agreement, then we would have to remediate the site which means remove anything that is identified as contaminated soil and completely clean the site up; then you can redevelop it as you choose. She did not know if the surrounding area around it also has leachate in the soil or other issues, but if the Council is set on that site being used for recreational purposes, staff would need to know so we do not go down one road and you want another. Usually in those sorts of cleanup, you have to remove soil, you have to get down to a site that is pristine and then refill, etc.

Mr. Bridwell said that part of the deal with Phase II is to identify what is there and have a remediation plan or be prepared to do a remediation plan. If you want to go down another avenue, you have to go through the process of saying how you are going to clean it up. It is not that you cannot use it for recreation but these are the things you have to do for recreation. If you do the Brownfield agreement and an industrial or commercial property owner would buy it, then these covenants would stay on the property as part of that agreement.

Mayor Olive asked about the liens. Attorney Patterson replied that the tax foreclosure effectively wiped out all liens other than the City and County tax liens and our cleanup costs. Our demolition lien is on it and there are taxes owed; the total of those are less than \$125,000. A little over \$90,000 is demolition and the balance is the taxes owed to the City and the County. The tax foreclosure wiped out the liens of others except for superior governments. Mr. Bridwell added that one of the things they have done in the past week is that when EPA cleaned up those chemicals, they always have the potential of coming back and trying to recoup their costs for that. Because of the City's active participation and the assessment and our work with the Brownfield program with the State, we believe that they are not going to attach that lien for that cleanup costs.

Mr. McNeil stated that his concern is the revitalization of that property. To get something in that area to revitalize it, would be more beneficial than it just sitting there.

Mr. Hegwer added that we do not have to enter into the Brownfield agreement and could use it as a park. There is a possibility that we can do that and if Council wants staff to pursue that, we need to know before we enter into a Brownfield agreement and try to market and sell it. If there is a consensus, we will come back and look at it and give you a cost. Mr. Bridwell stated that the existing grant we are under now is helping pay some of the expenses for that agreement for the State. If you decide now to do that, after September when this grant runs out, that possibility for getting those funds is gone.

Mr. Cohen said that we need to be careful because whatever happens to be there is now capped and contained. If we start messing with it and uncap that situation, we do not know what we are going to get into. Mr. Stone said he is concerned that we are painting this as a contaminated site and kids are skateboarding over there. The real question is can they skateboard over there now. Attorney Patterson stated they never should have because there were signs posted on the site of the hazards that were there when the property was torn down. Before the foreclosure sale, we did not own it.

Mr. Bridwell advised that we know what the contaminants are and this is one of the reasons for doing the study. Mr. Hegwer stated that this site was on the State's inactive

hazardous waste site and it was their conclusion, from many years back, it did not warrant any further testing. The site is not in a position of being a danger to the public. We know more about the site with the testing that has been done.

Mr. Bridwell said that even with the Brownfield agreement, we always have the potential of moving forward; you just have to do certain things to protect everybody. Mayor Olive said that Council is interested in a skate park and that is a good location. Mr. Stone said on the street when the skateboarders say they are going to skateboard, they say they are going to the foundation; they have already named it. Mr. Stone added that he did not mean that to say that is where it needs to go.

A ten-minute recess was held.

Consider Request by Star of Hope Original Free Will Baptist Church – (Exhibit I)

Major Kevin Gray explained that on August 22, the Star of Hope Original Free Will Baptist Church is celebrating 100 years of service to the community. The original church was built at the intersection of Raleigh Street and Lee Avenue and later became Mann's Hardware. In the 40s, they moved the church to the end of Dalrymple Street. They are holding a 100-year celebration on August 22 and want to walk from the original location from Raleigh Street and Lee Avenue to Dalrymple Street and then to the dead end. They are asking permission to temporarily close the streets for about an hour from 8:30 A.M. to 9:30 A.M. An officer will be there to assist them. They have submitted a certificate of insurance and complied with all policies the City requires.

Consider Supplemental Agreement with the Department of Transportation for \$54,171.36 in Additional ARRA Funds for the Endor Iron Furnace Trail – (Exhibit J)

Public Works Administrator Laura Spivey explained that as of September 30, the Department of Transportation (D.O.T.) will start pulling back ARRA funding from entities that have not been able to start their projects. The D.O.T. would like to re-encumber these funds before the federal government pulls them back from them. The City is requesting some of these funds to help with the cost of the adjusted quantities of our contract for the Endor Iron Furnace Trail project. This is a supplemental agreement for an additional \$54,171.36 and on Tuesday night, there will be a budget ordinance amendment for these funds. Mr. Hegwer advised that staff is requesting more funds. Public Works Director Vic Czar said that we are looking at the possibility of building a turn-around at the end of the trail that is further to the north if we can get some additional funding.

Consider Update on Clearwell Rehabilitation with American Recovery and Reinvestment Act – (Exhibit K)

Water Treatment Plant Superintendent Scott Christiansen presented Council with a powerpoint presentation on the clearwell rehabilitation project as shown in Exhibit K.

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

Other Business

Council Member Walter McNeil, Jr. thanked the City Council for their help on National Night Out and City Clerk Bonnie White for her work with the campaign. This year's event is on the City's website.

Mayor Olive stated that Council Member Taylor wanted her to thank the staff and the communities who worked so hard to make NNO a success and he hoped there would be time for responses for the different comments that were made. He wanted to announce that former Mayor Tommy Mann and his wife, Sarah, are celebrating their 69th wedding anniversary this week.

Mayor Olive brought up the cards that were presented to Council on the elimination of human trafficking. She placed some of the cards in the library and they were very receptive to receive them.

Mayor Olive said that something that was mentioned to her was that there seems to be more foxes showing up in the Colonial Heights area between Wicker Street and Carbonton Road and there is a pack of five that tend to run together. She was told that when they contacted animal control, they encouraged them not to try to pet the foxes. The bottom line is nobody came out to look at capturing the foxes and citizens should not be expected to corral foxes.

Mayor Olive said she has received a couple of calls with questions about the limitations or if there are any types of restrictions that we place on fences in front yards. She would like to get a report back on that. She has heard that there are some unsightly fences that have been erected.

Mr. Hegwer informed council that we have tentatively planned to hold the ethics training class before our next Law and Finance meeting on Wednesday, September 1. A memo will be sent to Council. It is a two-hour class that will be held. Mayor Olive added that lunch will be provided after the training.

Adjournment

Having no further business to come before the Law & Finance Committee, the meeting was adjourned upon the motion of Mayor Pro Tem Mike Stone; seconded by Council Member James Williams, the motion carried unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

Bonnie D. White, City Clerk

