

LAW AND FINANCE MEETING
Wednesday, February 23, 2011
1:20 P.M. in Council Chambers

The Law and Finance Committee met on Wednesday, February 23, 2011 at 1:20 P.M. in the Council Chambers at City Hall. The following people were present:

Law and Finance Committee:

Mayor Cornelia P. Olive	Council Member James Williams
Council Member Bob Brown	Council Member Walter McNeil, Jr.
Council Member Samuel Gaskins	Council Member L.I. (Poly) Cohen
City Manager Hal Hegwer	Deputy City Clerk Janice Cox
City Attorney Susan Patterson	

Absent:

Council Member Charles Taylor
Council Member Linwood Mann
City Clerk Bonnie D. White

Mayor Olive called the meeting to order and apologized for the Law and Finance Committee meeting starting a little late. She explained that Council's informal luncheon meeting with recently elected U. S. Representative Renee Ellmers had run a little late. She stated that this meeting had allowed Council members to express some of the concerns we have here in Sanford and to get direction on where to go to get grant money, etc.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2010-2011 (Exhibit A)

Director of Financial Services Melissa Cardinali explained that this budget amendment affects the General Fund and the Utility Fund. In the first portion, the \$45,000 is for the feasibility study for the revenue bond sale and when it originally came before Council, it was taken out of the General Fund, but it should have been taken out of the Utility Fund. This ordinance corrects that and puts that expense in the correct place. Also, \$6,002 is being transferred from Contingency in the General Fund for City's Administration Contribution to EDC. City did not get the final number before the City's budget was adopted, so this is a correction.

In the second part of the ordinance, \$10,000 is being appropriated in Contingency for the Utility Fund Administration to cover increased bank service charges (resulting from increased volume of use of credit and debit cards) and unemployment insurance. The \$7,000 is for postage pertaining to second notices which have amounted to more than had been anticipated.

Mayor Olive asked if the second notices had made a serious difference in our collections. Mrs. Cardinali replied that is hard to answer with the cycle billing because we have not had the cycle billing without the second notices. With cycle billing, the "first-time-free" cutoff letter was dropped. Mrs. Cardinali stated that they liked being able to tell customers they had

received a second notice, but it may prompt some to wait for the second notice before they come in and pay. There are units that do not do that at all.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2010-2011 (Exhibit B)

General Services Manager Tim Shaw pointed out this ordinance transfers from Contingency \$30,000 to Street Department to offset the expenditures to restart the Streetlight Enhancement program.

Mayor Olive asked where the city would start with that. Mr. Shaw stated there is a list of five-six areas, but would probably start first with the Frazier Drive area and Carr Creek area and then Third Street in the East Sanford area and then Jenkins St. and Market St. in East Sanford and get Carbondon Road. He stated they were trying to spread it all throughout the City, but get the areas which we already have approval on from the state and already have drawn up.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2010-2011 (Exhibit C)

General Services Manager Tim Shaw stated that this is a request to transfer funds through a budget ordinance from the Wastewater Treatment Plant to the Public Works Administration budget for \$18,000. This money is to be utilized to move all of our communications' equipment from its existing location to the Harkey Road water tank, which would include shelter, pouring concrete pad, moving generator, and getting everything over there so that we would have backup resources for the backup equipment that Police and Fire have if they were to have a failure of their equipment out at the Viper tower. Because of elevation, Mr. Shaw believes it would give us a better level of service countywide.

City Manager Hegwer asked Mr. Shaw to mention we are now on an existing tower. Mr. Shaw stated we are currently on the Cablevision tower and have been on it since before 1977. Though it might be a problem down the road, right now we have access. Mr. Shaw explained that they felt the City would be better off if we had this equipment located on our own property and then access would be no question.

Mr. Hegwer stated that our Cablevision franchise ends in 2012 and the tower is not being maintained like the City would like to see it. He stated that the City had been slowly implementing moving all of our antennas off that tower, for that reason, and relocating those to the Viper tower and to the Harkey Road water tank.

Mr. Shaw stated that Police and Fire have moved their antennas to the Viper tower and have backup antennas at Harkey Road. With our moving out there, we would have a backup generator located there for all services, and it would be only our equipment there.

Consider Award of Harkey Road Water Tank Painting Project

This item was pulled from the agenda.

Consider Employee Benefits Insurance Broker and Consulting Services (Exhibit D)

Human Resources Director Christy Pickens explained that the City's current employee benefits insurance broker/consulting firm, Independent Benefit Advisors, has worked diligently over the last few years to provide outstanding services and savings to the City of Sanford and our employees. Nevertheless, in an effort to evaluate other brokerage and consulting services, the Human Resources Department issued requests for proposals back in December. The City received four responses to the request and the firms were rated on various factors including professional qualifications, related experience, expertise of the principal and key personnel, consulting approach, and fee. Three of the four firms have solid business experience in employee benefits. The fourth firm deals primarily in personal and commercial property and casualty products and is building its employee benefits business through partnership with EbenConcepts. Of these consulting firms, the Human Resources Department recommends that the Council award the employee benefits insurance broker and consulting services' contract to Mark III Employee Benefits for a term commencing July 1, 2011.

Council Member Williams asked why we needed a consulting firm. Mrs. Pickens stated that they work specifically to negotiate with Blue Cross currently as our health plan provider for both our stop-loss rates and administrative fees with them. They also work with our ancillary and voluntary products, our dental plans, our cancer policies, our accident and life insurance plans, etc. They negotiate with each of those firms and agencies to get the most reasonable rates for our employees, as well as the City.

Mr. Hegwer interjected that we would be staying with Blue Cross; we would just be changing brokers. The existing broker has been with us close to ten years. They also placed a bid and are shown on Exhibit D.

Consider Resolution to Temporarily Close Several Streets and Parking Spaces in Support of the Downtown Sanford Criterium, 5K & 10K Fun Runs (Exhibit E)

Street Superintendent Magda Holloway stated that a request has been received for a 5K Run, a bike race, and a 10K Run that will take place on May 1. The 5K Run and the bike race are the same routes they used in the past. The 10K Run will take place the same time as the 5K and will add on streets—an extended portion of Charlotte, Hawkins Avenue, Weatherspoon, Third, and Rose Street.

Council Member Williams asked what day that was on. Mrs. Holloway stated that it is a Sunday. Council Member Gaskins asked how this was working with the affected business people. Mrs. Holloway stated that Parker McConville is in charge and that he will be going around and speaking to everybody that is incorporated within this area, as well as one block out. He will notify them of what is going on. Mrs. Holloway expressed that to her information, the only places that would be open are two churches. Downtown Development Manager II David Montgomery added that the Shoppes of Steele Street and possibly Added Accents will be open as well as the Steele Street Café. The Antique Mall has indicated that they probably will not be open as they still have some concerns about the route. Mr. Montgomery stated that he had submitted an email thread to that effect. Parker McConville is trying to arrange some kind of promotion for the businesses that will be open that day.

Council Member Gaskins asked if the Antique Mall were closing because they are expecting to lose business if they tried to stay open, and so would still create a business problem for them. Mr. Montgomery responded, “Yes, according to them.” Mr. Hegwer stated that he wanted to make sure all council members had a copy of the concerns (email thread) that were being voiced, so they could review those. He noted that with the addition of the 10K Run this year, more streets are and resources are involved than in the past.

Council Member Williams asked if there would be things for the children to do. Mr. Montgomery stated they would continue to do that with such things as a bouncy house and a rock climbing wall. Mr. Williams asked about advertising so that parents with small children will know about it. Mr. Montgomery stated that they were doing a large emphasis with the school system, and hopefully, the word will get out to the kids and their parents.

Council Member Gaskins noted that according to the email they had been given, shifting the bike race route one block north would alleviate the interference. He asked if any efforts had been made to work through this. Mr. Montgomery stated they had looked at that in the past. If you move it up north to Buffalo Street, it is too narrow for that many bikers. Mayor Olive noted that when they looked at that before, it was considered a safety hazard, but it did seem like a logical recommendation at the time.

Consider Presentation of Draft Downtown Enhancement Plan (Exhibit F)

Downtown Development Manager II David Montgomery thanked Council for the opportunity to discuss the Downtown Enhancement Plan. It has been a long time in coming. They have done very successful projects in the past with Depot Park, Chatham Street, and Cole Street parking lots, but they have been piecemeal at best. Mr. Montgomery explained that Council had directed and funded an enhancement plan, focusing on both Downtown Sanford and Historic Jonesboro and that McGill Associates was chosen as the consultant to design a plan with emphasis on visible public improvements to help the environment for Downtown to be successful. For Downtown to be successful, Mr. Montgomery stated, it is those visible aspects that are not only aesthetically pleasing and improve safety, but are also a major economic engine for Downtown. The private investors are leery to invest in an area that looks old and decrepit where there are not the linkages that can be seen. He sees this as an economic issue. Today, McGill Associates will present the basis of the plan. Mr. Montgomery explained that, by no means, is it set in stone. There is flexibility built into the plan. He stated that this is a fifteen to twenty-year, long-range plan similar to the Pedestrian Plan and the Transportation Plan.

The plan began in earnest in the spring of 2009 through a large public participation project. Two workshops were held at the Depot with two major functions that were held there, so a crowd was present. A visual preference survey was completed there and online. The Appearance Commission and others filled out the survey. There was a steering committee to look at the issues and several of those members are present for the meeting today. The consultants looked at existing conditions now; where there are opportunities in the future; identifying or totaling or getting a price on what those improvements would cost—completed by block. Estimates are done by block areas.

Mr. Montgomery introduced the consultants --Mike Norris, the project manager, and Bill Cowan who has also been involved in this process.

Mr. Norris gave a Power Point presentation addressing the highlights of the Downtown Enhancement Master Plan. He explained that the purpose of the Downtown Master Plan is to provide a framework and vision for Downtown Sanford and Jonesboro, while maintaining an accessible, navigable, human scale environment. Following an analysis of existing conditions, design decisions highlighted the elements of downtown preservation and revitalization which characterize successful commercial districts. Typically they are:

- Prominent employment centers
- Reflection of the City's heritage, history and culture
- Significant portions of the community tax base
- Ideal locations for independent businesses and individual entrepreneurs
- Overnight tourist destination
- Concentrations of diverse development (reducing suburban sprawl)
- Protectors of surrounding property values
- Convenient venues for pleasant shopping experiences
- Host of governmental and/or private service centers
- Central areas for gatherings, events, and/or entertainment

With these features in mind, the master plan will include recommendations for revitalization of Downtown Sanford and Jonesboro—in terms of both aesthetics and economic opportunities. It will emphasize how such factors as accessibility, traffic flow, and safety are critical to the success of commercial districts in general.

The overall objective for this planning document is to guide Sanford and Jonesboro in the enhancement of the downtown areas by creating a vibrant atmosphere in an aesthetic environment, which will attract more people—both residents and tourists. The following items contribute to a more successful and attractive downtown:

- Increase the number of gathering places that would result in higher frequency of downtown utilization.
- Create a safer pedestrian environment.
- Create a more uniform and unique identity that will result in a “sense of place” for the community.
- Increase marketing effectiveness of the current and future downtown and community assets.
- Create more diversity in the fabric of the downtown in the categories of:
 - Retail Businesses
 - Residential Living Units
 - Professional Offices
 - Tourism
 - Overnight Lodging

- Community Events
- Government Facilities
- Conference/Meeting Facilities
- Relevant Support Services

The planning process included the following primary elements:

- Determination of the specific planning boundaries within Sanford and Jonesboro's downtowns
- A comprehensive assessment of existing conditions within and adjacent to the downtowns
- Development of several specific enhancements, improvements, and features to increase the attractiveness and aesthetic links between the two downtowns

In studying the current conditions in Downtown Sanford and Jonesboro and projecting the needed improvements, McGill Associates examined the presence/absence of eight important factors, which are characteristic of successful municipal districts:

- Mixed-Use Development
- Entertainment
- Public Centers
- Walk-ability
- Neighborhoods
- Investments
- Safety
- Pride

The goal for redeveloping Downtown Sanford and Jonesboro is to encourage reinvestment(s) in the places and facilities that are desirable to its citizens and visitors. McGill recommends that the leadership of Sanford and Jonesboro work closely with property owners, financial institutions, developers, realtors, builders, businesspersons, and investors to promote opportunities for beneficial redevelopment. According to McGill Associates, Downtown Sanford and Jonesboro should become areas that have unique restaurants and shops, historically recognized and preserved buildings, attractive public parks, and accessible and well-maintained downtown facilities. Redevelopment should include the renovation of existing homes and buildings and the construction of new residential facilities. Refer to Exhibit G for additional information and details of McGill Associates' study and recommendations.

Mr. Norris advised that this plan can be on a block by block implementation plan that's manageable rather than doing a whole street at a time. Improvements could be chosen based on street intersections or different street blocks, etc.

Mayor Olive thanked Mr. Norris, explaining this is something she had hoped to see for six years. She appreciated having the enhancements on a block by block basis so that they could see the costs, saying that it did not look so overwhelming when looking at what can be

accomplished in a block and take it on as a series of upgrades. Council Member Brown stated that he was glad to see Jonesboro being included in this development plan. Mr. Gaskins asked, over what time frame something like this could be reasonably implemented. Community Development Director Bob Bridwell responded that one of the things they are hoping to accomplish is to be able to come back to Council annually with a project. He stated that the City Manager would give them parameters, so they would like to come back yearly with a reasonable project to tackle. Downtown Sanford, Inc. (DSI) will come before Council soon and present their priorities. The whole plan could take ten to fifteen years, but Mr. Bridwell stated that he thought the City would always be involved in renovating Downtown. He believed that each project might have a different characteristic and way of being presented to Council for funding. Mr. Gaskins asked how aggressively Council should pursue this and asked if this could be a five year plan. Mr. Hegwer stated that staff could come back with some different options from incremental to several large projects. There are some benefits to large projects. Mr. Hegwer stated he would bring that information to Council. Mr. Bridwell stated that in a few years, DOT would be asked to prioritize Horner Boulevard for their improvements, and if we get them doing something, we need to do something.

Mr. Gaskins asked if this plan would be reasonably doable dealing with state roads. Mr. Bridwell stated they would start prioritizing TIP projects this year. Council needs to look at what the most important things are that not only will get the highway improved, but also impact Downtown or Carthage Street or the hospital. Mr. Hegwer stated it was much easier to get things done on city streets; that it is more complex with more red tape on state roads, but it could be done. Mr. Bridwell stated that it has to be done—that we have to work in combination with the Transportation Improvement Plan to get all the objectives done we want to get done. Mr. Gaskins asked if there are any areas Downtown where that will be a problem besides Horner Boulevard. Mr. Bridwell replied, “Main Street in Jonesboro.” Mr. Hegwer stated that having Horner Boulevard bridging both sides of Downtown Sanford, is an example of how the area catches your attention.

Mr. Bridwell stated that as City’s planners, they were very excited about this plan and what can be accomplished with it. He stated it is very exciting what DSI has been able to accomplish. He cited Depot Park as an example. Mayor Olive pointed out that there seems to be a contradiction here in that we have created a Downtown that is inviting that people want to come to, but some of the proposals would result in the loss of parking. Mr. Bridwell stated that they would start working through those details and have a look at how other cities handle that. Mayor Olive cited taking off parallel parking on Moore Street and putting in the curb extensions that would cost parking spaces.

Mayor Olive thanked McGill Associate Mike Norris for the presentation, stating she appreciated what he had done and that it was the answer to one of her great concerns over a long period. Mr. Norris stated it was a pleasure working with City staff.

Consider Follow Up on Final Pedestrian Plan (Exhibit G)

Downtown Development Director II David Montgomery stated due to the fact that McGill Associates was here for the Downtown Enhancement Plan, he felt it was an opportunity for Council to ask any questions about the citywide pedestrian plan as presented last fall to

Council. Since that time, the Planning Commission has recommended approval of that citywide pedestrian plan. He hopes to have it on the Council agenda for adoption soon. No questions were asked.

Consider Blue Cross Blue Shield Brokered Settlement Between North Carolina Department of Health and Human Services and City of Sanford for Medical Assistance Claims Paid by Medicaid from June 2004 through December 2007 (Exhibit G)

City Attorney Susan Patterson stated that Council has in their packets a settlement brokered by Blue Cross Blue Shield with the North Carolina Department of Health and Human Services relating to medical assistance claims that were paid by Medicaid.

The background on this, Attorney Patterson explained, is the Federal Deficit Reduction Act of 2005 required claims paid by Medicaid to be looked at to determine whether there were any third party payers who could be identified. In response to that, in 2006, the North Carolina Legislature passed a session law that required Health and Human Services to look into whether there were any third party payers who could be identified when people submitted claims to Medicaid. They looked for matches or people who had insurance, but went through Medicaid to have services rendered. Because the statute identified self-insured plans as a health insurer, there were six months that the City of Sanford met that definition—from July 2007 to December 2007. Thus, one of the things that happened is that they looked at claims' information for the City of Sanford. This was all happening without the knowledge of Blue Cross Blue Shield -- that people were submitting claims to Medicaid for which they actually had insurance. They hired a company to audit and to go through this, and they identified many claims that were directed to Blue Cross. Blue Cross looked at them and said that many of them were outside their claim period times for claims that would not qualify for coverage or things that they were not responsible for. So they entered into four years of negotiations trying to get a settlement. Once they finally reached a settlement for the millions of dollars that were claimed and arrived at a number, they used that sort of methodology to sort of apply for the other third party payers to end up extending to those third parties the same/similar settlement arrangement.

What is before council, Mrs. Patterson explained, is this settlement agreement for consideration for approval for a way for us to go through and settle claims without having to do all the negotiations for each claim as to whether it was applicable or not applicable. It would cost the City of Sanford \$16,575. That would put the matter behind us and would not make us have to negotiate on our own and dispute what were qualified or non-qualified events and cover the claims submitted during that time period for dependents who had coverage through the City of Sanford insurance as well. That amount was arrived at not by looking at exactly how much was owed, but by using the same methodology as Blue Cross arrived at and the same percentage of claims.

Attorney Patterson stated that she had looked over the document and she is currently talking to the State to determine whether one section can be modified slightly in City's favor. Right now, there is a section that would say City has the settlement arrangement for these claims and this is the amount City owed, but there is still an indemnification paragraph. In the event that the Federal Government makes the State responsible for more, we would indemnify them for that. Attorney Patterson asked the State if they would be willing to delete that in our contract.

They said no, but supplied some alternate language that she is looking at. She stated that what she needs to know is whether Council would be willing to give approval to the settlement arrangement with the current agreement plus or minus whether she is able to amend the section dealing with indemnification. It is a settlement -- meaning both sides have compromised to some extent. This was done on our behalf without our knowledge, but when it was presented to us, it is a way that many local governments across the state (counties and cities) are being looked at for this sort of thing. Many have already signed and many are looking at whether to sign. It would settle it and would put the matter behind us.

Council Member Williams asked if this is money we have to reimburse Medicaid. Mrs. Patterson stated that it is—that it goes to the Department of Health and Human Services, but it goes into the Medicaid pot. Mr. Hegwer stated that it is money we would have paid anyway—that the claims were paid incorrectly. Mrs. Patterson clarified that it is a percentage of the money they think we would have paid back then. Mr. Williams asked if they had sent us a printout to show what we owed. Mrs. Patterson stated that our current broker/agent for insurance, the Independent Medical Advisors, did check to make sure that this was not for the entire time, but just for the time that we were self-insured and it was for our claims. She stated that if we went line by line, item by item, there might be some that had fallen outside a time period or may not have been presented in time under our policy in order to meet our eligibility requirement, but part of the settlement is that you won't have to go and negotiate all of the numbers of claims and have to go through it, if you adopt this methodology that they approved for Blue Cross. She explained that it is to our advantage not to have to fight with them for four years like Blue Cross did. Staff did look to make sure that these were dependents under our plan, and we could have been identified as a payer of medical claims. This amount is a percentage of the total.

Council Member Gaskins asked how many people hours it would take to justify anything other than that. Human Resources Director Christy Pickens stated that in her opinion, it would be a good settlement and a number of man hours had already been extended on this to determine eligibility of dependents, as well as whether it was within the indicated time period. She had Blue Cross run a claims history report and there was over \$100,000 worth of claims submitted through Medicaid, of which they paid \$84,000. Therefore, she did not feel that \$16,000 was a bad deal. She did verify that there were patients covered under our group health plan as dependents for services during the indicated time period. She also did a brief audit to ensure that those claims had not been, indeed, submitted to Blue Cross and paid by us. From her audit, they had not been. She felt the problem was due to miscommunication at the doctor's office.

Council Member Cohen stated that \$16,000 might seem like a lot of money, but once we hire lawyers and start arbitrating, etc., we would spend more than \$16,000 and still probably have to pay. Council Member Brown asked what would happen if they come back later and say that we owe them more money. Attorney Patterson stated that is why she is working on the indemnification paragraph. She explained that what it now states is that if the State has to pay, if they meet certain conditions, then we would have to pay the State. She is working on even tighter conditions. She asked initially about saying that this is the settlement and that is all you get, but they refused to go along with that. It has been tightened down to there will not be any additional claims for this time period, but if she can get some tighter regulations, she would like

to put that paragraph in to replace the current paragraph. Other than that, Mrs. Patterson stated that this is the best deal offered to us at this time and she thinks it looks good. Mr. Gaskins stated that it is again one of those times when it is a pleasure to have the information he asks for at the tip of the tongues of the department heads.

OTHER BUSINESS

There was no other business.

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

ADJOURNMENT

Having no further business to come before the Law & Finance Committee, the meeting was adjourned upon the motion of Council Member James Williams; seconded by Council Member L. I. (Poly) Cohen, the motion passed unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

ATTEST:

Janice Cox, Deputy City Clerk