

LAW AND FINANCE COMMITTEE MEETING

Wednesday, March 9, 2011

1:00 P.M.

Council Chambers

The Law and Finance Committee met on Wednesday, March 9, 2011, 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 Samuel Gaskins
Council Member L. I. (Poly) Cohen	Council Member James Williams
Council Member Walter McNeil, Jr.	Council Member Bob Brown
Council Member Linwood Mann, Sr.	City Clerk Bonnie White
City Manager Hal Hegwer	City Attorney Susan Patterson

Absent:

Council Member Charles Taylor

Mayor Cornelia Olive called the meeting to order.

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

City Manager Hal Hegwer explained that this ordinance amends the budget to appropriate revenue received from insurance proceeds for two police cruisers that were involved in accidents. The revenue budgeted is \$41,344 to replace those vehicles.

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

Assistant Financial Services Director Beth Kelly explained the ordinance amends the budget to appropriate \$1,122,872 of retained earnings for the first debt payment on our recently issued revenue bonds for our wastewater treatment plant upgrade and expansion. The actual first payment on the bonds will be due June 1 and that payment is actually going to be a little over \$2 million, but we do have a savings this year of around \$900,000 due to the installment purchases that we were required to pay off when we issued those bonds; so that gets you back to around \$1.1 million that will be coming from retained earnings. We also will be completing the federal forms closer to the due date of the debt payment to request the subsidy back for a portion of the interest payment. She will bring back a budget amendment for the subsidy that we will receive back from the federal government.

Mayor Olive asked how much is the City's annual payment. Mrs. Kelly replied that Fiscal Year ending June 30, 2012, it will be around \$5.5 million. The City will receive around \$900,000 subsidy back from the federal government, but we still have to budget and expend out the full amount of the payment and then we will show the subsidy as revenue. The subsidy will go back into the Utility Fund as a revenue.

Consider Capital Project Ordinance Amendment – Sewer Capital Project No. S0801 – (Exhibit C)

Assistant Financial Services Director Beth Kelly explained that this is capital project ordinance amendment for the wastewater treatment plant upgrade and expansion project. It cleans up and re-classes the bond premium and proceeds that we received with the bond issuance cost in the amount of \$276,253. When we originally recorded and set up the capital project for the bond proceeds, we recorded the net proceeds just to get the budget set up to be able to receive the cash and pay out the expenses of the capital project.

Consider Termination of Easement Agreement for Endor Iron Furnace Trail – (Exhibit D)

City Engineer Paul Weeks advised that back in May when staff walked the alignment for the Endor Iron Furnace Trail, they noticed a couple of areas where we felt it would be best to move the trail a little bit to put it in a better situation. The area he is talking about right now is between the north end of the bridge and the turn-around point, where the creek lies. The area is the property of The Pantry. Staff felt we wanted to be a little farther away from the creek and there is a manhole that we needed to negotiate around. At the time they talked to the people at The Pantry, they told staff to do the work and when we were done, tell them what the easement is going to be and they will take care of the paperwork. This is where we are today. The Pantry has granted us an easement for the area where the trail currently exists and they are asking us to terminate the old easement. This is the termination of the old easement.

Consider Award of Bid for Harkey Road Water Tank Painting Project – (Exhibit E & Exhibit F)

City Engineer Paul Weeks advised that bids were opened on February 15 for the Harkey Road Water Tank Painting Project. Five bids were received. Staff knew all the bidders. The low bidder was Municipal Tank Coating and Sandblasting. This company has worked for us before and staff liked their work. Staff recommends awarding the project to Municipal Tank Coating and Sandblasting.

Mr. Weeks said the second part of this project is to choose one of five options regarding the color to paint the tank. He said the reason staff wants to paint the tank is to maintain our asset. Once a water tank starts to rust and corroding, it starts affecting the steelwork in the tank and that is when it becomes a structural issue. You need to repaint the tank on a regular basis so you do not have to deal with corrosion issues. Rule of thumb is that you need to paint water tanks every ten years. He said that paint manufacturers have come a long way in ten years. It used to be that you did not want to put color on your water tank because it would fade within two to three years and you have to redo it. Technology has gotten to the point now that color paints last as long as the other paints; so you do not have to think about changing your logo or repainting your lettering until you paint the entire tank. You will see a number of color options presented to Council.

He presented Council with five different options (Exhibit F) that the Appearance Commission has put together for painting the tank. The Appearance Commission came up with three recommendations and they listed them and gave staff their number one recommendation. Staff did not put any constraints on the Appearance Commission. He presented the options to Council: 1) Option 1 - \$180,000 to paint the tank the way it is today; Option 2) \$185,000 – this is the second recommendation from the Appearance Commission with the wording Sanford Well

Centered; a blue lettering with a bi-colored “O” in the middle of Sanford; Option 3) \$186,000 – The logo is darker with a multi-colored option on the “O”; Option 4 - \$190,000 – it has multi-colored option in the “O” and it paints the top of the tank yellow and the bottom of the tank green. Up to this point, Public Works does not have a lot of comment on the four options because they will all work; however, Option 5 is different. Option 5 is the number one recommendation of the Appearance Commission. Option 5 paints the stem of the tank. Public Works does not support this option and the reason why is that back in 1999 when the tank was manufactured, we put in a concrete stem or riser. It went in as concrete because concrete is a lower maintenance material. You do not have to paint it. We spent over \$100,000 in 1999 to go with concrete so we would not have to paint the stem every ten years. Option 5 recommends painting the stem. He reiterated again that staff did not give this information to the Appearance Commission because staff did not want to steer them.

The Appearance Commission’s third recommendation was not presented in this packet. It was an aquarium design on the tank itself which had fish and ocean life on it and the stem was painted blue. Staff did get a price on Option 5 and it was \$224,000 to do this. The price was so high because of all the different colors involved in it.

Mayor Olive asked each Council Member to state the option they preferred so that staff can proceed with awarding the bid and painting the tank: Walter McNeil – Option 3; L. I. “Poly” Cohen – Option 4; Linwood Mann – Option 5; Bob Brown – Option 3; Sam Gaskins – Option 3 and James Williams – Option #4. After discussing the issue, Council Members Cohen, McNeil, Gaskins and Brown conceded to change their Option to #4. So, the Option to paint the tank would be #4 in the amount of \$190,000.

Consider Resolution Opposing the Forced Transfer of Additional Transportation Responsibilities to Local Governments - (Exhibit G)

City Manager Hegwer explained that the mayor brought this resolution from a Triangle J meeting for consideration. Mayor Olive said the general thought on this resolution is that if and when the Legislature decides to pass the cost of maintenance of state roads within cities and counties to the governing body, that we send this resolution asking that this not be done. The Department of Transportation should continue to cover the cost of road maintenance because the maintenance costs come out of our gas taxes.

Consider Guidance Concerning the Redistricting Process after the 2010 Census – (Exhibit H)

Strategic Services Administrator Director Don Kovasckitz advised that it is redistricting time again. He gave a broad overview of the process that we are going to go through during the next couple of months. Redistricting is changing the lines of the wards to take care of any inadequacies or major differences in population. It is normally done after the Decennial Census.

Mr. Kovasckitz said that there are three criteria associated with the redistricting and they are: 1) following the 10 percent rule; 2) following Section 5 and Section 2 of the Voting Rights Act of 1965; and 3) keeping incumbents in their district. The 10 percent rule is asking whether we should redistrict or not. When we are looking at the population to decide whether we should, the population has to be in balance. Constitutional voting rights refer to the concept of one

person, one vote, which means that for every representative, every person has to be somewhat equal. Somewhat equal means 10 percent.

Mr. Kovasckitz said that the 2010 Decennial Census Population numbers for the City of Sanford are 28,094. Our ideal population for each district would be a little over 5,600 and the 10 percent rule means that we have to be within 10 percent between the highest and lowest population for these districts. Ward 1 population is 6,568 – which is a little over 900 above the ideal population; this is a 17 percent deviation; Ward 2 population is 5,741 – which is a 2 percent plus deviation; Ward 3 population is 4,821 - which is a minus 14 percent deviation; Ward 4 population is 5,783 – which is a 3 percent deviation; and Ward 5 population is 5,181 – which is a 8 percent deviation. If we look at the difference between the lowest population which is Ward 3 with 4,821 and the highest population which is Ward 1 with 6,568, we have a 31 percent deviation. Following the 10 percent rule, we would not pass; so therefore, we have to redistrict. We are also bound to Section 2 and Section 5 of the Voting Rights Act. We not only look at population imbalances as a whole, but we need to look at minority populations. The Voting Rights Act, Section 5, states that a proposed redistricting plan neither has a purpose nor will have the effect of denying or bridging the right to vote on account of race or color. The City of Sanford is one of the municipalities in North Carolina that is required to be precleared by the Department of Justice (DOJ), that means any line that we change, it cannot be more difficult for minority voters to elect those of their choice than it was before we changed those lines. In essence, that means we need to keep Ward 3 and Ward 4 as minority districts. The third criteria is that we need to take into account the actual locations where our Council Members live that are not elected at large. Those elected by district, we need to make sure that their residence stays in the district.

Mr. Kovasckitz said the timeline he has proposed to redistrict is that by April 5 or before, Council will review the new district plans and we have to have them that soon so that we can have enough time to advertise for a public hearing and have them submitted to the Department of Justice by April 25. Once we submit them to the Department of Justice, they have a 60-day period where they will go through it and accept it or not. We are looking for their acceptance between June 25 and July 22, 2011. If accepted, the Election Day would be November 8, 2011. If the DOJ has a question and submits those questions to us, once we answer those questions, that 60-day period starts all over again. If that is the case, it may push elections to May 8, 2012. Mr. Kovasckitz referred to the timeline in Councils' packets. Staff will be doing what it can to get the plans to Council by April 5, so that we can submit those to DOJ by the end of April. Section 5 says that we have to use the 2010 Decennial numbers to create our districts.

Consider Ordinance to Amend the City of Sanford Code of Ordinances Chapter 4, Animals Section § 4 – 16 – (Exhibit I)

City Attorney Susan Patterson explained that this is a proposed ordinance to find out how Council feels about the subject of the ordinance. We have received a request to do an ordinance to prohibit animals in retail establishments; this basically is to prohibit dogs and other animals from entering and being in places where people shop. It would exclude and not apply to areas such as veterinary offices, pet stores, pet grooming establishments, and animal hospitals because they are retail establishments where animals are taken care of. It would make it unlawful for people to bring their animals into retail establishments in order to protect the health, safety, and

welfare of the citizens of Sanford. It is reported that animals quite often will enter a large store and walk around and sometimes relieve themselves on the floor, or become disruptive with other patrons or small children that might approach them. The penalty would be a debt owed to the City of Sanford that would be collected in a civil action. It would require someone to cite them and that is where the main concern might come from, whether the store has allowed people to enter or not. It is not proposed for a vote today. She wanted to see if this is a law Council is interested in having.

Mr. Cohen asked how does this compare with the new ordinance that the County is coming out with. She did not know if they have a section on retail establishments; they have parks and other public places, which is normally what your ordinance controls. Mr. Cohen asked why are we doing this. She replied to see if council is interested or not, since we had a request for the ordinance.

Mr. Gaskins asked Police Major Kevin Gray if we have ever had any type of problems with this in the past. Mr. Gray replied never; none that he can remember. Mr. Gaskins stated that we would have to look further into exceptions such as feed stores, etc. He said that he knows of a feed store that has a parrot and that is an animal. He felt that we have so many possibilities that we are biting off a big chunk of something that we may not wish to do so. He has also seen owners of moms' and pops' stores that have their own animals in their store lying behind the cash register which is a deterrent. He is not too keen in going in this direction. Mr. Brown reiterated Mr. Gaskins' remarks.

Mr. Williams felt the timing is bad because we have had trouble with getting animal control ordinances enforced in the past.

Consider Execution of Legally Binding Commitment Between the City of Sanford and Autumn Oaks Apartments, LP for the 2010 Housing Development CDBG Project – (Exhibit J)

Community Development Director Bob Bridwell advised that Council approved the Autumn Oaks Development on Woodland Avenue and with that project was a CDBG application we made in conjunction with their application for housing finance. We were successful in receiving that CDBG Block grant for the project and as part of that process, we are required to execute a legally binding commitment (LBC) with the company for the monies that are going to be lent to them from the CDBG grant. The City received a \$250,000 CDBG grant along with North Carolina Housing Finance Agency for the project. The legally binding commitment is required for a release of funds for the grant and establishes an agreement providing for repayment of infrastructure improvements. Those infrastructure improvements that we would be financing are water and sewer lines and sidewalks. The money would be lent to the developer by the City from those funds. The actual loan amount is for \$225,000; the remaining \$25,000 would be retained by the City for administration costs.

The loan pays for an 8-inch water line throughout the site (approximately 1,300 lf), a 6-inch fire line (75 lf), four new hydrants, and 700 lf of 4-foot sidewalks from the project to Main Street in downtown Jonesboro; this would be conforming to the Pedestrian Plan that Council recently adopted. The final LBC will be presented next Tuesday; we have some wording changes that relate to the trigger when that repayment schedule starts. He said that he is

currently preparing a promissory note and deed of trust for the project for the repayment of those funds. The repaid funds will be collected into a revolving pool for reinvestment into ongoing Community Development projects.

Consider the Status of the Wilrik Hotel

Community Development Director Bob Bridwell stated that recently there has been considerable discussion, including several media reports, about the status of the Wilrik Hotel in downtown Sanford. He believes we are all aware of the importance and stature of this historically and architecturally significant structure in the heart of our city.

Built in circa 1925, the Wilrik has served not only as the town's premiere residential hotel but also as the site of major social and political events throughout the years. Its beautiful lobby and ballroom has been the venue for numerous events over the past 85 plus years. As our downtown began experiencing the declines of the 1960s and 1970s, so did the Wilrik. Eventually, it became office space for local government, including Lee County. After Lee County left for its current location, the facility fell in disrepair and deterioration.

In the late 1990s, there was a nationwide movement to restore downtowns and historic central business districts as important commercial and cultural centers. This movement also touched Sanford and continues today. In early 1995, a private development group referred to as Affordable Housing Advisors, LLC, directed by Murray Gould, proposed acquiring and restoring the Wilrik as housing for the elderly. Our files indicate that organizations, institutions, and agencies throughout Sanford and Lee County offered their total and complete support for this project.

The major features of the proposal for acquisition and restoration initially involved the use of historic tax credits and elderly housing tax credits over an extended period of time. The NC Housing Finance Agency deemed the facility ineligible for the elderly credits and low income tax credits were applied instead. These credits would be the basis of securing financing and are part of this total package that still applies. The property was purchased in October of 1997 and included the following secured deeds of trust:

- First Bank with original principle amount of \$1,650,000 (April 15, 1998)
- Wachovia Bank with original principle amount of \$2,800,000 (December 21, 1998)
- Lee County and the City of Sanford with original principle balances of \$500,000, which was split evenly between the two entities (March 17, 1999)
- Historic Preservation of Foundation of NC and Lee County original principle amount of \$90,000 (November 6, 1997)

Recipient of the property was to Wilrik Hotel Apartments, LLC with the intent to create 42 residential units. Progress Energy served as guarantor for the loans. As part of the project, Sanford and Lee County agreed to subordinate their debt and defer payment of principle and interest on their part of the financing until the project demonstrated positive cash flow, or at the end of 30 years. This type of public debt deferment has been a customary tool used by local governments to encourage downtown redevelopment and to make them more attractive to investors.

Mr. Bridwell said that although he is not certain of all the facts, the Wilrik Hotel Apartments was almost immediately in trouble. The debt was not being serviced and the loans went into default. Since the loans had been declared non-performing and trouble assets by the banks, Progress Energy assumed ownership as guarantor. They also assumed management of the property, which continues until today.

Shortly after he arrived to become Planning Director, he received a request from City Manager Leonard Barefoot to talk with a representative of Progress Energy, Ms. Hortense Francis. At that meeting, Ms. Francis updated him on the project, reviewed financials and explained her firm's interest in disposing of this property. She indicated that Progress Energy would welcome an offer by the City to purchase the property. (Mr. Bridwell said that at this point he would like to note that Progress Energy has been a very responsible corporate citizen and have admirably performed in maintaining this property throughout all this period including today.) After reviewing the financials and researching the project, Mr. Bridwell recommended to Mr. Barefoot that we not pursue acquisition of a subsidized housing project. That recommendation was based on his opinion that the City had little experience operating subsidized housing (financially or administratively) and that it was in the best interests of Downtown Sanford for the Wilrik to eventually return as a market value residential property. The City Manager did ask him to render any assistance he could, including searching for potential investors.

Over the last several years, we have had several meetings on the Wilrik with Progress Energy and potential investors and developers. Mr. David Montgomery, DSI Executive Director, and Bob Bridwell have worked together on this project searching for opportunities. We determined that one of the major obstacles to returning for development as a market value property were the low income tax credits attached to the project. A few years ago, we met with executive and legal representatives of NCHFA to better understand this aspect of the project. The original tax credits were applied for a period of fifteen years. Assuming that the clock started ticking in 1997 when the property was purchased, then those credits remain in effect until the end of 2012. However, there was a provision for an extension of these credits for low income housing. He was not sure how long that extension was but we talked with them about the flexibility of forgiving or deferring on that extension. We were advised by HFA that there might be some flexibility if we came up with the right project, but that the 42 units were to be replaced in some manner with new subsidized housing. We took that as a good possibility to make the property available for market rent housing and possible redevelopment.

Over the years in meeting potential investors and developers, another obstacle repeatedly arose—the cost of servicing the debt. With the amount of debt, both private and public involved in this project, it became difficult to project a pro forma that demonstrates positive cash flow with market value rents. The most recent financials that he has seen, which was April 30, 2010, show a debt level of \$581,000 of public debt to Lee County and the City of Sanford, and \$1,296,552 to Progress Energy. Rents high enough to service that kind of debt, disregarding renovation and maintenance costs, would be difficult in this market. In order to make this project feasible, debt would have to be discounted and/or payment delayed.

Our repeated efforts to attract developers have not been productive. So in the summer of last year, we scheduled another meeting with Ms. Francis at Progress Energy in Raleigh. We were told early in the meeting that she had been in discussions with the Sanford Housing Authority and was expecting an offer. Given that information, we returned and reported on the meeting. Shortly thereafter, we met with the Sanford Housing Authority Executive Director Ken Armstrong and Attorney Bill Wilson. That meeting was informative, positive, and helpful. We understood that the Wilrik was being considered as a project of an independent unit of the Sanford Housing Authority with an interest in providing both market rent and subsidized residential, along with possible commercial and office use. We were encouraged by that meeting and were offered an opportunity to review the eventual project.

It is his impression that the project is still being pursued by that group, but he has not been privy to any further details. We completely understand the intense interest in the Wilrik and what could possibly happen. The Wilrik is very important to many people, including our downtown merchants. It continues to be a major contributing structure to our historic district and represents strategic focus for what is to become of Downtown Sanford.

Consider Development and Permits Issued Reports – (Exhibit K)

Community Development Director Bob Bridwell gave a summary of the development report and building permits issued as listed on Exhibit K.

Other Business

Council Member Walter McNeil, Jr. stated that recently Lee County sent over some information about the Sheriff's Department taking over animal control and in the information, there was a question about the City paying more money for animal control and he asked if the Council will have input on this matter. Mr. Hegwer advised that he was told by the County Manager that this is what they would be considering; however, they made that move to the Sheriff's office. This increase will be under consideration at budget time.

Mr. Gaskins stated that coming up on April 30 and May 1 weekend, we have a number of events being held such as the Pottery Festival, bike race, foot races, fun walks, the Deep River Sporting Clays, the grand opening for the Endor Iron Furnace Trail, and the run to the dam the county is putting on. He felt we need to consider what can be done for parking (there should be 10,000 to 15,000 people coming to Sanford that weekend) and whether or not we should be providing a shuttle service for downtown. It defeats the purpose to have a big event downtown in hopes of bringing people to our shops downtown, but yet not have any parking available. He felt we need to look into something to assure parking, shuttles to different events, as well as the possibility of having a brochure produced even if we authorize an outside agency to put together a brochure telling of those events and where the parking would be. The brochure could be paid for by selling ads to restaurants and other businesses that would hope to have something going on that weekend.

Mayor Olive agreed with Mr. Gaskins and she felt that Council should take a look at putting up signage so that people know where to go because it appears to be a continuing problem. People coming to Sanford need to know how to get to the Civic Center, etc.

Law & Finance Committee Meeting
March 9, 2011

Mayor Olive recognized Board of Elections Director Nancy Kimble in the audience.

Adjournment

The regular session was closed upon motion of Council Member James Williams; seconded by Council Member Walter McNeil, the motion carried unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

ATTEST:

Bonnie D. White, City Clerk