

LAW AND FINANCE MEETING
Wednesday, February 1, 2012
1:00 P.M.
Council Chambers

The Law and Finance Committee met on Wednesday, February 1, 2012, at 1:00 P.M., in the Council Chambers at City Hall. The following people were present:

Law and Finance Committee:

Mayor Cornelia Olive	Council Member Rebecca Wyhof
Mayor Pro Tem Sam Gaskins	Council Member Walter McNeil, Jr.
Council Member L.I. (Poly) Cohen	Council Member Charles Taylor
Council Member Jimmy Haire	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 Selection of Design Firm for Downtown Streetscape and Parking Lot - (Exhibit A)

City Engineer Paul Weeks informed Council that on November 30, the City announced its intent to accept proposals for selecting a design firm for the design of Downtown Streetscape and street improvements, as well as, for the design of a Downtown parking lot and construction administration services. On December 21, staff received the proposals and a team of three people evaluated the firms - Community Development Director Bob Bridwell, Downtown Development Manager II David Montgomery and City Engineer Paul Weeks. Five proposals were received and all five were well qualified.

Mr. Weeks reminded Council that this is a qualification-based selection process and it is not based on the lowest bid. They select the firm they feel is best qualified. Once they select the best qualified firm, then they negotiate a contract with them. If the prices are not acceptable to staff, then they move on.

Mr. Weeks said they had eight criteria to evaluate them by. They scored each applicant one through five based on each criteria, and added those scores together. Based upon the information they received and the spread sheet, staff feels the best selection for the work is McGill and Associates. They have a large amount of experience and have worked for the City before. They presented a good proposal and staff has checked all the references and they came back very good. Staff asked that Council consider McGill and Associates as the design firm for these projects contingent on successful negotiation of the contracts.

Mayor Olive inquired about the number three qualification on the list which is having experience working in and permitting environmentally sensitive areas. This is one of the concerns she has had in the beginning because of all the iron scrap that has been on that site for years and is this what it is referring to. Mr. Weeks replied no; it refers more towards floodplains,

floodways, and wetlands because it is close to a creek. Staff wanted to know how much experience each of these firms had working in those particular type of areas.

Mayor Olive asked about the incidence of flooding in that area. Her memory is that when there are sudden downpours that lasted a while, that is an area that flooded. Mr. Hegwer said that there has been some flooding there in the past. Community Development Director Bob Bridwell added that we have floodplain regulations in the UDO and Assistant Community Development Director Marshall Downey is the administrator of the regulations. Staff does not anticipate any problems in terms of meeting requirements for this parking lot. Mayor Olive asked if there will have to be any elevation of the bank level of the creek. Mr. Bridwell replied no.

Council Member Haire advised that he rode to Dunn and Clinton where they received a grant from the U. S. Department of Agriculture and the streets are dug up where they put utility lines underground. He asked if streetscape is another word for burying utility lines or is there more involved. Mr. Weeks replied that is part of it and there is more involved. He said the engineers and the architects will be working with Progress Energy, Windstream and other utilities to get these things buried and out of sight. We have a separate contract with Progress Energy now to design all the electrical utilities that are in this area to be underground.

Mr. Weeks said that as part of this process, they will come up with an engineer's estimate. When they are done, they will hand us the plans and specifications to go out to bid and give us an estimate of the costs we are looking at when the project is bid.

Mr. Haire stated for clarification that the area proposed for the parking lot is the area between old City Hall and Yarborough's Ice Cream. Community Development Director Bob Bridwell replied yes. Mr. Haire asked if it involves two property owners. Mr. Bridwell replied yes – the City of Sanford and Progressive Contractors. Mr. Haire asked if the cost to pave it would be \$200,000. Mr. Bridwell replied yes and probably some more. Mr. Haire asked if the City of Sanford would be better off if we just deeded the part the City owns to Progressive and let them pave it themselves. Mr. Bridwell replied that they were more than prepared to pave their own parking lot and serve their own needs. Mr. Bridwell said that we felt it was in the best interest of the City to have a municipal parking lot serving that section of the City. Mr. Haire asked who is "we that felt that way." Mr. Bridwell replied the city planners, Downtown Sanford and a number of other people that were involved in this work.

Mayor Pro Tem Sam Gaskins added that the City has applied for a \$200,000 grant.

Council Member Taylor said if we do not get the grant and enter into a design agreement with McGill & Associates, how do they take into consideration the plan with the grant and the plan without a grant. Are we paying extra because they have to take into consideration both scenarios so far as how much work is done? Mr. Weeks replied yes; we would have to pay them extra to design in the best management practices for the stormwater treatment which is required as part of the grant. When we bid the project, we would bid it such that we would break out the component, so that if we did not get the grant, we would not have to pay the contractor to put in those best management practices. The way the contract is set up now, the answer is yes; we

would have to pay the engineer to go ahead and design those best management practices. We have to pay the design work so that we stay eligible for the grant; however, when we bid it, we can bid it such that we can break that out of the bid documents after we receive the bids and not have the contractor do that work if we do not get the grant.

Mr. Taylor said it is not clear to him. Public Works Director explained that the original idea was to build a parking lot with minimal, if any, best management practices for stormwater. Basically, we would build the parking lot and pave it and the runoff would go right to the creek. The grant opportunity is available because you could do a higher level of treatment to your stormwater. You can put in what is called "Best Management Practices." There was a \$9,000 add-on from McGill and Associates to design those best management practices; so the design fees for those best management practices is \$9,000. When you bid the project, you will bid it with those included in the construction bid and without. Depending on how you proceed with the grant, may affect what you want to do; however, when you get the prices on those best management practices, that may be something you want to do anyway. If it is not significantly different in terms of construction money, you may want to do it and treat the stormwater that runs off from the parking lot.

Consider Entering into Contract for Design of Downtown Streetscape – (Exhibit B)

City Engineer Paul Weeks explained that when staff entered into discussions with McGill & Associates, we asked them to break the Downtown Streetscape into two separate contracts – one for the Downtown Streetscape and the other for the parking lot and street improvements (Exhibit B). This contract is for the design of Downtown Streetscape which includes the intersection improvements/streetscape on Horner Boulevard and Steele Street, signage on Wicker Street and Carthage Street, and putting utilities underground. In talking to McGill and Associates they would take this project up to the finish design so we have bid documents as well as an engineer's estimate of what the work would cost. They would also incorporate into their plans the underground work – which includes getting the electrical and Windstream lines underground. Staff recommends entering into this contract in the amount of \$159,300.

Mayor Olive said that she did not recall Council approving the Wicker Street/Carthage Street improvements proposed by DSI. Mr. Hegwer replied that it was in the overall plan that Council received. Downtown Development Manager II David Montgomery replied that looking at the intersection of Carthage Street/Wicker Street across from the Elks Lodge, DSI sees that as a gateway for that side of Downtown. We recommended improvements at the intersection which would include crosswalks and a monument sign letting people know this is Downtown. Mr. Montgomery stated that this was on the original list Council approved. Mayor Olive said that she did not recall approval for that particular phase of the project and asked for clarification. Mr. Hegwer replied that he will clarify that between now and Tuesday night's meeting.

Mayor Pro Tem Gaskins said he did not remember having approved that section; however, if it was included in the \$400,000 Council approved, he has no problem with it, but certainly it would be number four out of the high-lighted sections on the map. Mr. Hegwer stated that once all of this is approved, if we move forward with some of this design work from the parking area and other streetscape improvements, there is still not enough funds left to accomplish all this. We would be coming back to Council for funding if we proceed. It would

get us to the point where we would know what we are talking about and have it as close as we could before spending money. Mayor Olive added that before we spend any money on that particular area, half of it is going towards a parking lot that is not in the specified Downtown area that is regarded as Downtown. Horner Boulevard is the most traveled road and speaks more highly of what Sanford is and what it looks like to a passerby. She hopes they will consider the most highly visible areas and areas that need work. Mr. Haire agreed that Horner Boulevard is what most people see passing through Sanford. Mayor Olive stated that we need to impress people where the signs are to encourage them to make that turn.

Council Member Taylor asked what is the time frame on this project as far as the design. Mr. Weeks replied the design for the streetscape which includes the street improvements, is eighteen weeks and the parking lot is eight weeks.

Consider Entering into Contract for Design Services for Downtown Parking Lot and Street Improvements – (Exhibit C)

City Engineer Paul Weeks explained that this contract is for the design and construction services of a multiple-function parking lot between McIver Street and Charlotte Avenue with streetscape on the McIver side. It will be designed to take into account the best management practices for stormwater treatment for the trail between McIver and Charlotte to parallel the creek. Upon review and discussion with McGill & Associates, they feel they can have the design in eight weeks and then it can go out for bid. Staff recommends Council entering into a contract with McGill and Associates in the amount of \$51,300, which will cover the design and the construction administration services during construction.

Council Member Cohen said that what we are trying to do is excellent because the best way to protect everybody on the parking lot is cap and contain. It will work for everybody's benefit to do it this way.

Consider Audit Presentation by Martin–Starnes for Fiscal Year Ended June 30, 2011 – (Exhibit D)

Assistant Financial Services Director Beth Kelly introduced Crystal Waddell – audit manager on our job and Bryan Starnes – partner with Martin-Starnes, who will be presenting the presentation for Fiscal Year June 30, 2011, financial statements. Mrs. Kelly presented Council members with a presentation of the 2011 Audited Financial Statements by Martin-Starnes.

Mr. Starnes presented Council with highlights of the audit. He said the opinion on the report is unqualified, which means there are no qualifying paragraphs in the report. The best news to the City is that as part of the audit, they study the City's internal control system and they did not detect any significant deficiencies or material weaknesses. This means that everywhere they looked, primarily where money is collected or spent, they did not find weaknesses in the internal control system that would require management to take action. The good news about not having those weaknesses is that there are no questions on costs as it relates to how the City spends federal or state grant dollars. The largest state grant is the Powell Bill Fund.

Mr. Starnes spoke on the fund balance. He explained that it is a measure of how many dollars are in fund balance that are available to run the City on next year if it does not collect a

dollar. It is talked about in percentages and measured in 8 percent increments. He said the available fund balance is \$9,386,394; this is a 38 percent fund balance. The City has a four to five month ready supply of cash in its reserves to run the City on in case of disasters, etc.

If the fund balance were to drop eight percent, you would start getting unit letters from the Local Government Commission if the fund balance dropped into the 16 percent range from the 38 percent we have now. If you had a debt issue before the debt council and see a negative trend, they will start reacting differently. Regarding fund balance, it is tough to talk about how much is enough. He said his answer is for Council is to decide who you want to be like and compare yourself to them. If you look for units in size and population, you may find them that are not progressive cities; you can find cities that are not doing streetscape, etc. Look for units that you would like to mirror and see what they are doing and compare yourself. He said that from their experience, 38 percent for a municipality our size is a healthy fund balance. Times like we have experienced in the last four years has taught them a lesson as to why you need fund balance.

Mr. Taylor asked if he sees fund balances in the range of 30, 35, 40 percent range. Mr. Starnes misspoke and replied that they have looked and our population group is at 38 percent for the last two to three years, which means we are somewhere in the range of our population group. They have seen fund balance declining at 3 to 4 percent a year for three to four years in a row now. Ms. Waddell clarified that she did some research on this issue. The population group for our population statewide in 2009 was 41 percent and in 2010 was 44 percent. The average fund balance across the state has been that fund balance has been declining in the 3 to 4 percent range. The City is below the average.

Mr. Starnes said that they encourage units to adopt fund balance policies with minimum and maximum ranges. They are not legislative but management tools to help guide what is a good idea for taking out of fund balance and what is not a good idea. This recession we have been through has taught us a lot of financial management lessons.

Mr. Starnes gave an overview of the General Fund and Utility Fund revenues and expenditures; ad valorem taxes; intergovernmental revenues; etc. He said that out of every dollar collected, 48 cents is spent on public safety and this is typical of municipalities. Mr. Starnes added that when looking at the water and sewer fund, it is a very capital-intensive fund and it needs to make a healthy profit because it takes a lot of debt and capital to run them. The City's return is an appropriate return.

Mayor Olive stated that it makes us proud of our city government for judiciously handling our money.

Assistant Financial Services Director Beth Kelly stated that she has placed a copy of the Comprehensive Annual Financial Statement at Council Members' seats and it will be online before the end of the business day today.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2011-2012 - (Exhibit E)

Fire Chief Wayne Barber explained that back in August of 2011, he came to Council requesting to be allowed to apply for an Assistance to Firefighter Grant from the Department of Homeland Security. With the assistance of a consultant, we applied for the grant and last week we were awarded a grant but we have not officially accepted it until the City can provide the matching funds. This ordinance amendment is to appropriate the 10 percent matching funds. The grant was for \$260,778 and it was for self-contained breathing apparatus (SCBA) to replace the ones they have now in the department. The 10 percent match will be \$26,077 and the consultant's fee was 2 percent on the federal amount that was awarded that was \$4,694, making a total of \$30,771 cost for the City to obtain the \$260,778 worth of product.

He said that we replaced our SCBAs in 1997 so we have been maintaining them and they still meet the requirements. These SCBAs have the latest qualifications built in past devices that automatically operate if you turn the air cylinder on.

Mr. Hegwer asked Mr. Barber to explain what we can do with these old SBCAs. Mr. Barber explained that there are several companies that sell used breathing apparatuses and they can be put on Govdeals.com. Mr. Hegwer said that we could look and see if another department can use the old ones. Mr. Barber said that are some companies called The Red Team out of Garner that go to Dominican Republic and places like that annually and help train those people and they are in great need of equipment. Mr. Haire asked how many there are of the old units. Mr. Barber replied 43 complete units and they are divided among the fire stations. We will receive 43 new units with the grant.

Mr. Barber said that he has not accepted the grant and needs a consensus from Council so that he can respond to the Department of Homeland Security. Mayor Olive asked for a consensus of Council Members by a show of hands to accept this grant and plan to award the matching funds for the grant. There was a consensus.

Consider Development Report and Permits Issued Report – (Exhibit F)

Community Development Director Bob Bridwell gave an update of new development and permits issued for the month of December 2011 as listed on Exhibit F.

Closed Session

City Attorney Susan Patterson read the motion to go into closed session in accordance with N.C.G.S. 143-318.11(a) (4) and (3) to discuss matters relating to the location or expansion of industries or other business in the areas served by the public body and to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege. So moved by Council Member Walter McNeil, Jr. and seconded by Council Member L. I. "Poly" Cohen, the motion carried unanimously.

RETURN TO REGULAR SESSION

Mayor Olive announced that on Friday, February 3, there is a luncheon planned with a dutch treat at 11:45 A.M., at Davison's Steakhouse on U.S. Highway #1 south for 8th District Department of Transportation Engineer Tim Johnson.

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 Mayor Pro Tem Sam Gaskins; seconded by Council Member L. I. "Poly" Cohen, the motion passed unanimously.

Respectfully submitted,

Cornelia P. Olive, Mayor

ATTEST:

Bonnie D. White, City Clerk