

LAW AND FINANCE MEETING
Wednesday, December 11, 2013
1:00 P.M. in Council Chambers

The Law and Finance Committee met on Wednesday, December 11, 2013 at 1:00 P.M. in the Council Chambers at City Hall. The following people were present:

Law and Finance Committee:

Mayor T. Chet Mann
Council Member Rebecca Wyhof
Council Member Walter H. McNeil, Jr
Council Member Norman Chas. Post III
City Clerk Bonnie D. White
City Manager Hal Hegwer

Mayor Pro Tem James Williams
Council Member Charles Taylor
Council Member Sam Gaskins
City Attorney Susan Patterson

Absent:

Council Member Jimmy Haire

Mayor Chet Mann called the meeting to order.

Consider Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2013-2014 - (Exhibit A)

E-911 Supervisor Pat Garner explained that the budget amendment is for \$25,554; \$24,354 will come from the 911 surcharge and \$1,200 will come from the General Fund. These funds are necessary to cover the installation and lease of a fiber-optic cable to connect the Sanford Police Department and Lee County Sheriff's Department to link the two telephone systems together – the main 9-1-1 telephone system and the backup system. Also, it covers the installation of a firewall to protect the City's data from cyber leakage of confidential information.

Mr. Garner said that eight administrative telephone lines would be installed at the Sheriff's Department to mirror the City's existing administrative telephone lines at our main 9-1-1 site. Four of the lines can be paid with the 9-1-1 budget and four will be paid with the \$1,200 being requested from the General Fund. This is for a six-month period - January 2014 through June 2014.

Mr. Hegwer reminded council members that the 9-1-1 funds are collected at the state level and administered to Lee County and then forwarded to the City for expenditures related to 9-1-1. This would complete the backup system located at the Courthouse.

Consider 2014 Taxicab Operator's License Renewal – (Exhibit B)

City Attorney Susan Patterson stated that three taxicab companies have submitted applications to renew their operator's licenses for the upcoming year. Fleming Transportation has requested to operate three companies – Service Cab, American Yellow Cab and Pronto Taxi. All are owned and operated by Lois Fleming and the business is located at 307 South Gulf Street.

She said that under the franchise, Service Cab has requested to operate eight taxicabs but only one is in use and it has passed inspection. The colors are white with black lettering.

Pronto Taxi has requested to operate three taxicabs. One taxicab is in operation and it has passed inspection.

American Yellow Cab has requested to operate four taxicabs. Currently, no vehicles are in operation. The vehicle colors are yellow with black lettering.

Attorney Patterson stated that Detective Sergeant Vinnie Frazer has investigated and passed the inspection on two of the cabs and the company would like to renew its franchise this coming year.

Consider Taxpayer's Request for Tax Release of Late Listing Penalty According to NCGS 105-312(k) – (Exhibit C)

City Attorney Susan Patterson explained that Lee County has already acted on this request from Magneti-Marelli and now it has come to the City to release the late listing penalty for year 2013. The amount of the bill is \$44,058.94 for late listing penalty; \$25,176.54 is County and \$18,882.40 is the City's amount.

The Lee County Board of Commissioners, at its meeting on November 18 meeting, denied the request and then reviewed it again at its meeting on December 2 and reduced the county penalty to \$5,000. The City Council needs to decide if it is going to release the \$18,882.40, which is the City's portion of the late listing penalty.

Council Member Gaskins asked how frequently has Magneti-Marelli failed to file. Lee County Tax Administrator Mary Yow replied that they did a search on their ten-year history and they have not been late before. She added that they only keep returns for ten years.

Council Member Taylor asked what incentive dollars have been given to Magneti-Marelli during that ten-year period. Mr. Hegwer replied that staff will get that information together and submit it to council before the next meeting.

Council Member Post asked if the taxes have been paid. Ms. Yow replied no; they are not past due. Mr. Post asked if this is a late paper filing issue. Ms. Yow replied yes.

Council Member Taylor asked counsel what precedent has been set in the past in addressing these issues.

Attorney Patterson replied that each request would be considered independently and on its own merits, so they are not precedent setting; however, Council has entertained and relieved some penalties and kept some penalties in place for past requests.

Council Member Taylor asked Attorney Patterson to give Council some examples before Tuesday night for both scenarios.

Mayor Chet Mann asked how many employees Magneti-Marelli employs.

James Keegan, from Magneti-Marelli who was present in the audience, replied 400 to 450 employees.

Council Member Wyhof asked how late was the filing and was there any mention as to why this may have occurred? Ms. Yow replied said that they received the listing around March 15 or March 18.

Mr. Keegan responded that Magneti is going through a period of rapid growth. Magneti has been transforming being associated with Chrysler, so their growth is rapidly escalating. Part of the issue was change in the turnover of employees; there are a lot of new people and it was ultimately their responsibility. It was an employee mistake, but going forward the group is getting stronger in terms of communicating within the group and meeting deadlines.

Council Member Post clarified that they are going through some personnel changes. Mr. Keegan replied that he has been with the company for eight months; the two people who work for him are basically new in their roles and that is the transitioning they are going through right now.

Mr. Post asked was there some sort of implementation of a new IT system as well. Mr. Keegan replied there was an implementation of SAP in January of this year and they have struggled with that. This was also an issue as well.

Mr. Post verified that Mr. Keegan said they employ approximately 400 employees. Mr. Keegan said that was correct. Mr. Post verified that they have never been late filing. Mr. Keegan replied not as far as he knew.

Mr. Post verified that they have been in existence in Lee County and Sanford for 37 years. Mr. Keegan replied yes.

Consider Resolution to Authorize Economic Development Planning and Organizational Activity – (Exhibit D)

City Manager Hegwer stated that this resolution was approved by Broadway and Lee County. It starts setting up the entity that has been named and there is a steering committee which is organizing the Chamber and EDC merger. The City of Sanford, County of Lee, and Town of Broadway are involved. The County has agreed to a loan to start fund-raising activities and it sets up the hiring of a chief executive officer. He referred to Items 1 through 8 on Exhibit D which shows what the new organization will do in the temporary period until such time that the EDC and Chamber are completely merged. The time frame is laid out in the resolution and the time frame could change.

Mr. Gaskins stated that the importance that Attorney Patterson brought up in an earlier discussion regarding the tax status of the Chamber and EDC are different, and asked Attorney Patterson to reiterate those concerns.

Mr. Hegwer stated that the goal of this organization, in talking with the Chamber and EDC, is to hire to an attorney separate from the City and County attorneys, to stay away from any conflict.

City Attorney Patterson explained that the Chamber is or should be organized as a 501(C)(6), which is a lobbying organization because they lobby on behalf of the interests of their members for legislation to help assist small businesses. The current EDC is a 501(C)(3) organization, which would lose its status if it lobbies. However, she has discussed these matters with current interim Director Crystal Morphis. The way Ms. Morphis is approaching the issue, is all jurisdictions considered and adopted and signed onto the Memorandum Of Understanding (MOU) on May 15, 2013, and that was to buy into the idea of the organizations collaborating and operating together. The details of how that occurs, which Ms. Morphis assures her, can be worked out following the entering into the documents. Attorney Patterson said that she explained some of these things to Ms. Morphis that she felt would be helpful. Through an operating agreement, they can accomplish the goal, rather than the merger-type language, which has been suggested, which would allow each entity to retain its own tax-free status and not interfere with each other's type of status, as opposed to a merger, which would combine it into one organization. Then, each of the different boards that help govern the Chamber or EDC and the details of how it will be worked out, will be under the purview of the steering committee. The EDO structure will be developed in a manner that would be most advantageous to all of the collaborators. She said this resolution would be Council giving its authority to allow the steering committee to do certain activities, knowing full well that they cannot specifically do some of the things exactly the way it is written. In other words, they cannot hire or fire an executive director; but what they can do is have the search committee to find one to recommend and have it hired by an entity like the EDC, the Chamber or the County or City; that depends on the structure and whether the person coming in wants to be a certain type of employee and participate in some of the local government benefits. The Steering Committee cannot specifically hire; they are a group of people and do not have a Tax I.D. number.

Mayor Mann said that he felt what is trying to be accomplished is that we are resolving to collaborate and move forward as a group and there will be mechanisms in place and organizational documents that will allow us to be legal. He felt this could be one of the greatest things that the City and County could do together and hope it will be the will of the Council to push forward this service of the combined EDC and Chamber.

Other Business

Council Member Post stated that regarding Magneti-Marelli, this Council has adopted an "open for business" theme - we are business friendly. The gentleman from Magneti-Marelli said that they have been here for 37 years and in the 37 year history, they have never been late in filing their tax documents. They employ 400 employees in Sanford and he believes it would be a great injustice to not waive the penalty for filing late, given all the facts and circumstances surrounding them being here in Sanford and Lee County.

Council Member Wyhof extended congratulations and thank you to the employees who will be honored at the service awards luncheon. There are employees who range from five years to 45 years of service.

Mr. Gaskins reiterated Ms. Wyhof's comments and spoke highly of the banquets where employees can meet the elected officials. He said that it bothers him a little bit on what is being reported on Facebook and coming from the radio stations; he would like for us to investigate more of a public policy for the Police Department to be able to have somebody out front right away to have something to say for the news media. He realizes it may be simply that they cannot say anything until they have more information of their own and have the opportunity to speak with the families. To see what is being posted and written that say, we do not have any information from the Police Department, it is bothersome. With three murders, we certainly need to have someone out front to explain even if it is we cannot say anything right now. We do need immediate public response.

Mr. Taylor thanked the employees for their years of service to the City that will be honored at the banquet. Addressing the recent crime activity, he thanked the law enforcement officers for their time. He encouraged the public that if they know information, please talk. It would make law enforcement's job a lot easier for individuals to come forward and talk.

Mr. Taylor said that he hoped that when suspects are arrested, if they have a criminal background, he hopes the individual will be cited under the habitual felon law that is now in place and prosecuted accordingly.

Mr. Hegwer wanted to make Council aware that regarding the reorganization of the Chamber and EDC, this issue will be talked about by the County as it is on their agenda. The Old Buggy Factory is being looked at for co-locating the EDC, Chamber, GIS, Planning, Inspections, and Code Enforcement into one building; it is still preliminary.

Mayor Mann commented that our unemployment rate has dropped, while it may be temporary, it is nice to hear. He was at the Fire Department banquet and he looks forward to the service awards luncheon tomorrow.

Mayor Mann said that Council Member Jimmy Haire is not present tonight and asked that we remember him and his family with the passing of his uncle.

Closed Session

City Attorney Susan Patterson cited the reason for Council to enter into closed session in accordance with N.C.G.S. 143-318.11 (a) (4) and (5) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body and to instruct the public body staff or negotiating agents concerning the position to be taken on the price or other material terms of the contract or proposed contract for the acquisition of real property. So moved by Council Member Wyhof and seconded by Council Member McNeil, the motion carried unanimously.

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

Law and Finance Committee Meeting
December 11, 2013

Return to Regular Session and Adjournment

Council Member Taylor made the motion to adjourn. Seconded by Council Member Post, the motion carried unanimously.

Respectfully Submitted,

T. CHET MANN, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK