



**CITY MANAGER'S OFFICE
M E M O R A N D U M**

June 20, 2014

TO: Ron Carlee, City Manager
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FROM: Dana Fenton, Intergovernmental Relations Manager

SUBJECT: Week 6 State Legislative Report

On Tuesday, June 17 the Charlotte Airport Commission Clarifications legislation (HB 133) was enacted into law. On Wednesday, the House unveiled its 2014 Regulatory Reform legislation (SB 493) with the intent of pushing it through two committees and floor debate that same day. By the end of the day, SB 493 was pulled from the floor and sent back to the House Regulatory Reform Committee due to reluctance of many majority members to consider so many controversial proposals in an omnibus bill. Also, both chambers named their budget conferees.

High priority issues the City is following include:

2014 Regulatory Reform Act: SB 493 is a 2013 crossover bill addressing headlights and airbags that has been amended by the House to include a wide variety of regulatory reform proposals. It is expected to be heard in the House Regulatory Reform Committee next week. The sections that are of the highest importance to the City are:

- **Section 2.2(b) DOT Condemnation Changes, Costs and Appeal:** If enacted this section would add very significant costs to the "quick take" condemnation process while providing no value in return to taxpayers. This section provides another avenue for the Court to award attorney's fees, in this case where the final judgment is 25% or more above the initial deposit. The initial deposit is the amount of money the City pays to the Court at the time the condemnation case is filed, which is based upon the City's property appraisal. Right now, over 95% of condemnation cases are settled short of trial. As the City negotiates with property owners, the parties are aware of the tendency of juries to "split the baby" somewhere between the City's and property owner's appraisals. This often results in settlements in an amount that approaches or exceeds 25% more than the initial deposit. The proposed attorney's fees provision will create a huge obstacle to

settling these cases. This will result in more trials and significantly increase the cost of land acquisition for capital projects thereby requiring additional funds to complete planned projects or a reduction in the number of projects that can be completed. The “quick take” process is used by the NC Department of Transportation, counties, cities and towns, sanitary districts, airport authorities, and private contemnors such as utilities, railroads and electric companies. The NC Department of Transportation and the NC League of Municipalities are opposed to this section and are leading efforts to remove this section.

- **Section 2.7 Repeal Protest Petitions:** This section repeals portions of the zoning law that have been in effect since 1923 allowing neighboring property owners or those with a minority stake in the ownership of the property to be rezoned to invoke the supermajority vote requirement of council for that rezoning. Proponents have cited private property rights as a reason for repeal. There has been some discussion about modifying the 5% neighboring owner requirement to require a higher threshold to trigger the supermajority vote requirement. The NC League of Municipalities is opposed to this section.
- **Section 2.14 Ethics Requirements for Certain City Officials:** This section requires members of governing boards in cities and consolidated city-counties of over 75,000 population to file the statement of economic interest forms before April 15 of each year and to abide by several other requirements. The NC League of Municipalities is working to have this section apply to all local governing board members regardless of population or form of government.

The City is following other sections of SB 493 including clarification of the professional engineer exemption, notice to property owners of right of way transfers, notice to chronic violators of public nuisance ordinances, publication of post-arrest images, animal euthanasia requirements, various health insurance changes, and various building code requirements.

Charlotte Airport Commission Clarifications: HB 133, the legislation intended to address issues surrounding whether the Charlotte Douglas International Airport Commission has the necessary legal authority from the State of North Carolina to operate the Charlotte Douglas International Airport, was concurred by the House on Tuesday, June 17. Since it had been previously approved by the Senate and is a local bill, the bill has become law (SL 2014-10).

Film Production Credit: The Film and Entertainment Grant Fund is incorporated into the House budget (SB 744), which is being conferenced with the Senate.

The Film and Entertainment Grant Fund has continued to receive a lukewarm reception from the film production industry as it widely viewed as not providing the framework necessary to maintain North Carolina’s standing as one of the top tier States for film production. Specifically, the General Assembly would have to make annual appropriations, which takes away the certainty needed by production companies that the credit will be available, and that the maximum payouts would be set at \$5 million for film and TV productions while the current maximum payout is \$20 million per production.

Public Transportation Division Budget: The House version of the budget maintains funding for the Public Transportation Division of the NC Department of Transportation at current funding levels, while the Senate budget would reduce Division recurring expenditures by 4%. The proposed Senate reduction would potentially affect funding directed to the Charlotte Area Transit System for the State Maintenance Assistance Program that underwrites a portion of operating expenses and the State share of construction of the LYNX Blue Line Extension. The House and Senate are conferencing the budget at this time.

When asked about how the LYNX Blue Line Extension would be treated if the proposed reduction to the Public Transportation Division were to be enacted, General Assembly Fiscal Research staff stated on June 3 to the House Appropriations Subcommittee on Transportation and reiterated on June 17 to the Senate Appropriations Subcommittee on the Department of Transportation that it was intended for NCDOT to determine where to allocate the proposed 4% reduction in the Public Transportation Division while meeting the LYNX Blue Line Extension commitment. The General Assembly agreed in 2012 to appropriate \$25 million annually for the project until its commitment to fund 25% of the project costs have been met. This commitment requires annual appropriations from the State to the project through at least FY 2023.

Other issues the City is following include:

2014 Amend Environmental Laws: SB 38 is a 2013 crossover bill that was gutted and replaced with various environmental related measures including the recommendation contained in the Environmental Review Commission legislation (SB 734) to repeal the unanimous vote requirement for certain local environmental ordinances. SB 38 also contains provisions related to agency review of engineering work, wetlands, and definition of gravel. SB 38 passed the House and has been sent back to the Senate for concurrence.

Coal Ash: SB 729 (Apodaca) / HB 1229 (Samuelson) is companion legislation for the Governor's Coal Ash Action Plan. A substitute version of SB 729 was reported favorably by the Senate Agriculture / Environment / Natural Resources on June 17 and later by the Senate Finance Committee. It is calendared for Senate debate on June 24. SB 729 creates a Coal Ash Management Commission to approve closure plans and study and make recommendations on the use of coal combustion residuals.

Tree Removal, Replacement and Preservation: There has been no action since HB 1191 (Dixon) was introduced early in the "short" session. This is the Agriculture and Forestry Awareness Commission requested legislation that would, among other things prohibit local governments from regulating the "removal, replacement, and preservation of trees on private property within its jurisdiction". Considerable opposition to this proposal has been generated from all over the State. It is expected that the tree related provisions in sections 2 and 3 will be removed if and when the bill is heard in the House Agriculture Committee. North Carolina local elected officials from towns and cities received assurances on Town Hall Day, June 4, that these sections would be removed from the bill. The City supports removal of sections 2 and 3 from HB 1191.

Zoning / Design and Aesthetics Controls: There has been no action on HB 150 (Dollar) since the Senate re-referred the bill back to the Senate Rules Committee on May 19. HB 150 is the design and aesthetics control legislation passed by the House in 2013 that would prohibit local governments from requiring certain building design elements (i.e. design standards) for one- and two-family dwellings. If HB 150 is enacted, Council would no longer be able to consider design standards when evaluating conditional zoning petitions. Oftentimes, incorporation of design standards into conditional zoning petitions enable neighboring property owners to support such petitions. The City opposes HB 150.