



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

June 27, 2014

TO: Ron Carlee, City Manager
Ron Kimble, Deputy City Manager

FROM: Dana Fenton, Intergovernmental Relations Manager

SUBJECT: Week 7 State Legislative Report

In an attempt to bring a quicker end to the short session and with the support of Governor McCrory, the House passed a FY 2015 budget bill (SB 3) that provides pay raises for state employees and teachers and enacts budget reductions agreed to by both chambers in the previously passed budget bill (SB 744) that is now in the House-Senate conference process. The Senate did not receive this proposal very warmly. The House completed action on two more regulatory reform measures, Health and Safety Regulatory Reform (SB 493) and Regulatory Reform Act of 2014 (SB 734), and sent them to the Senate. The Senate completed action on the Coal Ash Management Act of 2014 (SB 729) and sent it to the House.

High priority issues the City is following include:

Regulatory Reform Act of 2014: SB 734 includes many of the provisions that were previously included in SB 493. SB 734 passed the House and has been sent back to the Senate for concurrence. Sections of highest importance to the City include:

- **Section 3.2(b) DOT Condemnation Changes, Costs and Appeal:** This section awards attorney's fees where the final judgment is 35% or more above the initial deposit. Section 3.2(b) is at best marginally better than the provision reported on last week that was in SB 493, which set the threshold at 25%. This section would add very significant costs to the "quick take" condemnation process while providing no value in return to taxpayers. 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 35% 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.

- **Section 3.17 Clarify when a County or Municipality May Enact Zoning Ordinances Related to Design and Aesthetic Controls:** This section adds HB 150, 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 this section 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 NC League of Municipalities and City oppose this section.
- **Section 3.5 Repeal Supermajority Effect of 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. Two amendments were offered to raise the threshold of ownership of neighboring property, one in committee and one on the floor of the House, in order to preserve the protest petition. Ultimately, both attempts failed. The NC League of Municipalities opposes this section.
- **Section 3.9 Study Ethics Requirements for Certain City Officials:** This section calls for a study of the proposal to have local elected officials, both municipal and county, file the statement of economic interest annually by the State Ethics Commission and School of Government at UNC Chapel Hill. Previously it would have required governing board members of cities with populations of over 75,000 to file the statement annually and to abide by additional ethics requirements.

The City is following other sections of SB 734 including clarification of the professional engineer exemption, notice to property owners of right of way transfers, notice to chronic violators of public nuisance ordinances, planning and zoning requirements for fraternities and sororities, and various building code requirements. SB 734 also calls for studies of publication of post-arrest images and building codes.

Film Production Credit: At a press conference this week, Rep. Ted Davis (R-New Hanover) announced he is continuing efforts to extend the current film production credits for one year and cap disbursements at \$40 million in calendar year 2015 so that a study may be made as to how to

transition to a film production program that emphasizes permanent investments and employment while maintaining North Carolina's standing as a top tier State for film production. He was joined at the press conference by members of the New Hanover and Mecklenburg Delegations. These efforts are taking place while the House and Senate is conferencing over the budget (SB 744), which includes the proposed Film and Entertainment Grant Fund, which is widely considered to be an anemic response in the effort to retain North Carolina's standing as a top tier State for film production.

Public Transportation Division Budget: The House version of the budget (SB 744) maintains funding for the Public Transportation Division of the NC Department of Transportation at currently approved 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 budget bill passed this week (SB 3) appears to maintain funding for the Division at currently approved levels.

Other issues the City is following include:

2014 Amend Environmental Laws: SB 38 is a 2013 crossover bill that contains various environmental related measures including the recommendation from the Environmental Review Commission 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.

Health and Safety Regulatory Reform: SB 493 is a 2013 crossover bills that contains health and safety regulatory reform measures. Sections of interest to the City include health insurance coverage for autism and pharmacy benefits, and animal euthanasia requirements. SB 493 passed the House and has been sent back to the Senate for concurrence.

Coal Ash Management Act of 2014: SB 729 (Apodaca) is intended to begin the process of cleaning up coal ash ponds around the State. SB 729 creates a Coal Ash Management Commission to approve closure plans and study and make recommendations on the use of coal combustion residuals. SB 729 passed the Senate and has been sent to the House.

Tree Removal, Replacement and Preservation: There has been no action on the Agriculture and Forestry Awareness Commission requested legislation to prohibit local governments from regulating the "removal, replacement, and preservation of trees on private property within its jurisdiction" since HB 1191 (Dixon) was introduced early in the "short" session. 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.