Council-Manager Memo #26
Friday, March 30, 2012

CHARLOTTE.

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WEEK IN REVIEW:

Mon (April 2)	Tues (April 3)	Wed (April 4)	Thurs (April 5)	Friday (April 6)
3:00 PM Governmental Affairs Committee, Room 280		12:00 PM Economic Development Committee, Room 280		GOOD FRIDAY HOLIDAY

CALENDAR DETAILS:

Monday, April 2

3:00 pm Governmental Affairs Committee, Room 280
AGENDA: Federal legislative update; State legislative update;

Wednesday, April 4

12:00 pm Economic Development Committee, Room 280
AGENDA: Charlotte Knights stadium update; CRVA March barometer report (information only)

Friday, April 5

GOOD FRIDAY HOLIDAY

April and May calendars are attached (see "2. Calendar.pdf").

INFORMATION:

Applications for Selective Vegetation Removal at Billboards

Staff Resource: Don McSween, E&PM, 704-336-3459, dmcsween@charlottenc.gov

On Monday, February 13, staff briefed City Council regarding changes in North Carolina's billboard legislation which would allow increased selective vegetation removal, including tree removal, in the state's right of way around some billboards. The legislation and new NCDOT temporary administrative rules, which went into effect on March 1, give the City the right to comment on applications for vegetation removal. However, the City's ability to cite its local zoning rules and ordinances as a basis for the state to deny a vegetation removal request has been taken away.

On March 1, City Arborist Don McSween received copies of 21 applications for selective vegetation removal from Adams Outdoor Advertising. The applications relate to billboard locations along I-77, I-277 and I-485.

City staff reviewed the applications and today sent comments to NCDOT. NCDOT now has 30 days to review the applications, inclusive of the City's comments, and respond to Adams.

Staff recorded observations and comments, and requested NCDOT deny the removal requests at 16 locations. As rationale for denial, staff cited the 9 categories listed in the NCDOT temporary rules as reasons for permit issuance or denial. Staff also cited erosion control concerns as reason for denial. The City's response, including a cover letter and matrix summarizing the City's review of the 21 applications against NCDOT's 9 criteria and erosion control is **attached** below **(see "3. Cover letter.pdf" and "4. SVR Matrix.pdf").**

Staff did not cite local ordinance as a rationale for denial because the legislation does not recognize local ordinance as a valid rationale. However, staff explained that Council has approved a local ordinance which would prohibit tree removal in many comparable instances in City right-of-way.

City staff's comments on each application are available to Council upon request.

Earth Hour 2012

Staff Resource: Rob Phocas, City Manager's Office, 704-336-7558, rphocas@charlottenc.gov

On Saturday, March 31 at 8:30 p.m., the Charlotte Mecklenburg Government Center (CMGC) and Old City Hall (OCH) will join hundreds of millions of people across the globe by switching off the lights of the facilities for one hour. Earth Hour is the world's largest public action for the environment. By taking part in this global 'lights out' event, the City will be acknowledging its commitment to personal and operational actions that benefit the planet in the year ahead.

The City is asking all CMGC and OCH employees to contribute to the effort by switching off all non-essential office lights and unplugging non-essential equipment before leaving their desks on Friday, March 30. It is also encouraging employees to personally observe Earth Hour at their homes.

Information on Earth Hour is being transmitted to City employees via email, and through signs in the CMGC and OCH lobbies.

City Wins Lead Paint and Hazard Reduction Grants from HUD

Staff Resource: Diane Adams, N&BS, 704-336-2911, dadams@charlottenc.gov

The City of Charlotte's Neighborhood & Business Services Department (N&BS) was awarded $2,299,414 by the US Department of Housing and Urban Development (HUD) for the FY2012 Lead-Based Paint Hazard Control Grant Program. The City of Charlotte was the only municipality in North Carolina to receive this funding.

The grant funds will be used for the testing, risk evaluation, control and reduction of lead-based paint hazards in 230 low-income housing units in Charlotte. The funds will also be used to provide community awareness and education, contractor training, continuation of the LeadSafe Charlotte HOTLINE in English and Spanish, and to screen children under the age of six for the presence of elevated blood levels at enrolled units.

The City also received $180,000 in supplemental funding for Healthy Homes Hazard Reduction (HHHR). During some situations where extensive rehabilitation is taking place at a property through the City's Lead Hazard Control or Rehabilitation programs, the City will also address healthy homes hazards. Staff expects to integrate HHHR and repairs to 18 units using this funding.

These funds will be used in N&BS services areas throughout the City where homes meet HUD's eligibility criteria. Priority for these funds will be given to the City's Business Corridor Revitalization Geography Priority Corridors.

The City has operated this HUD funded program since 1998, has inspected 2,744 units, and completed lead hazard reduction and clearing in 1,955 units. The City provided training and information at 200 community events and estimates that it has reached over 20,000 people, with the goal of educating the community about the dangers of lead based paint.

Hunter Acres Pond Project

Staff Resources: Matthew Gustis, E&PM, 704-336-6183, mgustis@charlottenc.gov
Jude Starrett, City Attorney's Office, 704-336-5801, jstarrett@charlottenc.gov

The Hunter Acres Pond Project is a water quality enhancement project located in north Charlotte near Derita, between West Sugar Creek Road, Gibbon Road and Christenbury Road. The project includes the reconstruction of a failed high-hazard dam and road –Crestland Avenue.

Construction began on June 6, 2011 but worked has stopped due to difficulties with the contractor and bonding company. The bonding company, First Sealord Surety, Inc., is bankrupt effective March 9, 2012. State law requires bonds for the duration of the project. The City requested that its contractor, Harvest Environmental Services, Inc. (Harvest), submit replacement bonds prior to March 9, 2012. Harvest is a small business enterprise under the City's SBO Program. It was unable to obtain new bonds due to its own financial hardship. The construction contract was then terminated for cause.

Since the bond expired and the contract was terminated, the City will have to finish the work. Engineering & Property Management has evaluated options for the most cost-effective, timely and efficient way to complete the project. Staff looked at the next low bidder and at one of its existing unit price contracts. Staff determined that all of its goals can be achieved by using the services of On-Site Development under the Water Quality Incidental Contract that was approved by City Council in February 27, 2012. Staff expects to be able to issue a Notice to Proceed in early April with anticipated completion and reopening of Crestland Avenue this fall. Pending state regulatory approval, the pond will be ready to store water by spring 2013.

Based upon 2012 unit prices, the City anticipates it will spend approximately $273,731.00 more than the balance of Harvest's contract to complete the project for a total of $692,362.00. However, the original construction contract was estimated at $761,000.

Termination of Harvest for cause preserved the City's right to make a claim for the difference between its contract amount and the final completion costs, although its financial situation would obviously impact any ultimate recovery. In addition, the City can file a claim with the Pennsylvania Insurance Commissioner for the difference between the completion costs and the amount of the First Sealord performance bond. Staff has been told that the surety's liabilities

far exceed its assets, and that North Carolina is not one of the priority claim states, so the likelihood of any payout on a claim is minimal; however the City Attorney's Office will file a claim to preserve the City's rights and remedies.