



## *City Of Raleigh*

NORTH CAROLINA

January 20, 2015

Environmental Review Commission of the North Carolina General Assembly  
NCGA Legislative Building  
16 West Jones Street  
Raleigh, North Carolina 27601

RE: City of Raleigh Response to Public Comment on the Report to the Environmental Review Commission of the North Carolina General Assembly on the Scope of Local Authority for Ordinances

Honorable Members of the Environmental Review Commission:

As part of the recent *Report to the Environmental Review Commission of the North Carolina General Assembly on the Scope of Local Authority for Ordinances* (Report or Report to ERC), public comments from an environmental consultant criticized the City of Raleigh's policy for balancing watershed protection for Falls Lake and the need for extension of water and sewer service into the watershed. The Report does not show how that Raleigh's watershed protection measures conflict with an area of Law or Administrative Code subject to regulation exclusively by DENR. In fact, the most recent Session Laws include a mandate that local governments develop a comprehensive plan for protection of their drinking water supplies. See S.L. 2014-41, as amended.

These comments appear as Comment 5 on page 4 of the Report. Specifically, the comments assert that the Falls Lake Watershed Protection Ordinance does not allow water or sewer lines to be installed within the Falls Lake protected area. The comments were submitted by a licensed geologist who owns a business that provides environmental consulting.

### **Raleigh's Response**

We respectfully note that the City has no such unilateral bar to extension of municipal water and sewer utilities into the Falls Lake Watershed or any water supply watershed. The City does impose restrictions on such extensions to limit development density and protect the water supply vital to over one half million residents of the City of Raleigh and the Towns of Garner, Wake Forest, Rolesville, Knightdale, Wendell and Zebulon. The City has exceptions to this policy design to protect public health for those using groundwater supplies in water supply watersheds. The situation presented on behalf of this property owner could be eligible for service under City policy because of the prior existing environmental contamination and the potential for risk to public health. Based upon our records, the owner or his representatives have not formally or informally approached the City to make use of the exception.

Based upon our records, City was also not asked for any information regarding this matter or a formal response before DENR submitted its report to the General Assembly. The City's more detailed history of the issue and its policy should clarify the situation and are provided below.

As noted in the DENR report, an environmental consultant, Mr. David Jerosé, President of Enrisko, PC, approached the City of Raleigh on September 3, 2013, on behalf of a client and property owner. The property in question, location is at 13600 Capital Boulevard, straddles the dividing line of the Falls Lake Watershed, is currently vacant and was previously the site of "Chuck's Mini Mart". The consultant explained that his client was required to take corrective action for soil and groundwater contamination through the Division of Waste Management in the Department of Environment and Natural Resources. Our records indicated that Mr. Jerosé inquired about the City's water and sewer extension policies. A web address was sent to the consultant with a link to the 2030 Comprehensive Plan for the City of Raleigh, which explains City policy for extensions of water and sewer utility services both in the Primary and Secondary Watershed Protection Area. As Mr. Jerosé noted in his comments to DENR, he was made aware of the exceptions his client might use to serve properties that were subject to groundwater contamination.

Long standing precedent allows the declaration of a public health risk by the Wake County Environmental Services Director, the Director of the NC-DENR, Division of Water Resources or the Underground Storage Tank Section of the Division of Waste Management to trigger the exception policy. Such declarations are recorded groundwater contamination incidents impacting wells providing potable water to residential development in several water supply watersheds. The example presented in the public input period appears to fall into this type of exception.

Policy AP-FL 8 on page 404 of the City of Raleigh 2030 Comprehensive Plan addresses Falls Lake Primary Watershed Emergency Utility Extensions. Public utilities may be extended on a case by case basis and are subject to join approval from the Wake County Board of Commissioners when the land is subject to Wake County development regulations.

Properties connecting to these facilities would be expected to bear the full cost of any capital facilities needed to provide the utility services and agree to the operating and maintenance fees normally applied to properties outside the City limits. In the past, impacted parties have turned to responsible parties (groundwater contamination sources) or Wake County and the State of North Carolina as sources of funding for utility extensions. Impacted properties would also be subject to the following:

1. Only existing development posing a specific threat to the public health, safety and welfare and to Raleigh's drinking water supply would be allowed to connect to emergency utility extensions;
2. Owners of existing development seeking to connect to emergency utility extensions shall file a petition of annexation to be considered by the Raleigh City Council;
3. No increase in the density of development will be allowed beyond the already approved by the governing jurisdiction at the time of the provision of the utility service;
4. The development would provide for adequate retention facilities to capture effluent in the event of sewer system failure in addition to any stormwater retention facilities that are necessary to protect the water quality in Falls Lake.

Page four of the Report to the ERC states,

"The Utility provider (City of Raleigh) thus far has not been amenable to extending water services to any customers west of US 1 due to a provision in the City of Raleigh's Comprehensive Plan that **allows the extension of City services** outside the City limits only **if the City Council makes a determination that there is an imminent threat to public health<sup>1</sup>, safety and welfare.** The allowance of some exceptions in cases such as this example would seem to be worth considering. The outcome of providing water services would benefit the residents by **removing the threat of their wells being contaminated from the petroleum release**".

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<sup>1</sup> Emphasis added



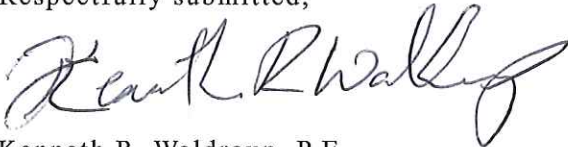
This is a contradictory statement and inaccurate finding for the Report. The statement explicitly notes that exception for imminent threat to public health is provided in City policy. The Report also affirms that "the Utility provider (City of Raleigh) thus far has not been amenable to extending water services." We have no records of contact by NC DENR staff to verify the comment, review the City's policies, ordinances and procedures or inquire about the nature of determining a "threat to public health", although the City has accepted such determinations from NC DENR in the past.

In support of this information, I have attached herein a letter dated August 9, 2010 from the North Carolina Division of Waste Management, Underground Storage Tank Section, seeking permission to connect properties to an existing water supply line in order to mitigate the risk to human health from a release of gasoline from a nearby UST site. Also attached are the City of Raleigh Council meeting minutes of September 7, 2010, authorizing connection under our public health risk mitigation exemption.

In closing, a request is made for this response to be made part of the record. We note that the Report does not show how that Raleigh's watershed protection measures conflict with subject area therein subject to regulation exclusively by DENR and that recent Session Laws include a mandate that local governments develop a comprehensive plan for protection of their drinking water supplies [See S.L. 2014-41]. Finally, we respectfully note the findings of the Report give an incomplete and misleading perspective on this matter. As such, we submit that the Report does not necessitate a drafting or revision of current administrative regulations or City ordinances.

I would like to thank the Commission for the opportunity to comment on this Report and will respectfully accept questions or inquiries at the pleasure of the Commission. I can be reached at 919-996-3489 or at [kenneth.waldroup@raleighnc.gov](mailto:kenneth.waldroup@raleighnc.gov).

Respectfully submitted,



Kenneth R. Waldroup, P.E.  
Assistant Public Utilities Director

CC: Tom Reeder, Assistant Secretary for Environment  
Daniel F. McLawhorn, Associate City Attorney  
John Robert Carman, Public Utilities Director  
Kenneth Bowers, Planning Director  
Tansy Hayward, Assistant City Manager  
Jim Greene, Assistant City Manager

ljr/krw



North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue, Governor  
Dee Freeman, Secretary

Division of Waste Management  
Dexter R. Matthews, Director

August 9, 2010

Mr. John Carmen, Public Utilities Director  
City of Raleigh  
P.O. Box 590  
Raleigh, North Carolina 27602

Subject: Broken Branch Court Waterline Extension Request

Mr. Carmen:

The North Carolina Division of Waste Management, Underground Storage Tank (UST) Section, Federal Trust Fund (FTF) would like to request permission to extend the existing water supply line on Poole Road to accommodate properties on Hickory Hollow Lane and Broken Branch Court (map enclosed). The waterline connection is necessitated by a release of gasoline from a nearby UST site.

Groundwater has been impacted and several drinking water wells have petroleum-related contaminants. Bottled water and/or whole-house, point-of-entry carbon treatment systems have been provided to several homes on Broken Branch Court since 1992. In order to mitigate the risk to human health by well water contamination, the FTF has agreed to fund the extension of the waterline to properties impacted and/or potentially impacted by groundwater contamination.

The FTF has received American Recovery and Reinvestment Act (ARRA) funds via a USEPA grant and money has been set aside for this project. An informal survey conducted by us indicates that eight people are willing to be connected.

If you have any requests or further requirements, please contact Candy Elliott at [Candy.Elliott@ncdenr.gov](mailto:Candy.Elliott@ncdenr.gov) or by telephone at 919-715-2014. Thank you for your assistance in this matter.

Sincerely,

Linda L. Blalock  
Environmental Engineer  
Federal Trust Fund

Enclosure

One  
North Carolina  
*Naturally*



## **COUNCIL MINUTES**

The City Council of the City of Raleigh met in regular session at 1:00 p.m. on Tuesday, September 7, 2010, in the City Council Chamber of the Raleigh Municipal Building, Avery C. Upchurch Government Complex, 222 W. Hargett Street, Raleigh, North Carolina, with the following present.

Mayor Charles C. Meeker, Presiding  
Mayor Pro-Tem James P. West  
Councilor Mary-Ann Baldwin  
Councilor Thomas G. Crowder  
Councilor Bonner Gaylord  
Councilor Nancy McFarlane  
Councilor John Odom  
Councilor Russ Stephenson

Mayor Meeker called the meeting to order and invocation was rendered by Pastor Jim Whitfield, Eagles Nest Christian Fellowship. The Pledge of Allegiance was led by Mayor Pro Tem James P. West. The following items were discussed with action taken as shown.

### **RECOGNITION OF SPECIAL AWARDS**

#### **SPARKCON – INVITATION ISSUED**

Aly Khalifa and Sarah Powers were at meeting explaining SPARKcon which started in 2006 and has grown in attendance from some 250 to over 10s of 1000s. Mr. Khalifa talked about this year's line up which will feature some 175 events and 1700 participants. They invited everyone to come and join in, check out how the creative community in our area is growing, talked about the leadership training which helps people get the needed tools to pursue their creative careers.

Ms. Powers expressed appreciation to the City Council which has been a great supporter of this event, Mary-Ann Baldwin and the Arts Commission for their support, talked about the unveiling of Art on City plaza, the number of corporate sponsors they have this year and called on everyone to come and join them September 16 through the 19.

#### **NORTH CAROLINA SYMPHONY – INFORMATION RECEIVED**

Mayor Meeker called on David Worters of the North Carolina Symphony and congratulated Mr. Worters on his new position. Mr. Worters expressed appreciation to the Council for the City's support of the North Carolina Symphony through the years. He talked about the free concert scheduled for September 12 at the Amphitheater and invited everyone to come down, bring a picnic and enjoy the event. He expressed appreciation to the City Council for all the work and support for arts in the City which he stated meant a lot to him and the City as a whole.

**PROCLAMATION – PAIN AWARENESS MONTH – PROCLAIMED**

Mayor Meeker read a proclamation proclaiming September, 2010 as Pain Awareness Month in the City of Raleigh. The proclamation was accepted by Candy Pitcher and members of the American Pain Association. In accepting the proclamation they told of regular events to help people deal with pain.

**PROCLAMATION – NEIGHBORHOODS MONTH - PROCLAIMED**

Mayor Meeker read a proclamation proclaiming as Neighborhoods Month in the City of Raleigh. The proclamation was accepted by Tsegga Medhin, Citizen Chairperson of the Planning Committee, who talked about the upcoming Neighborhood Exchange, inviting all to attend.

**ASA SOFT BALL – COUNCILOR BALDWIN RECOGNIZED**

Mayor Meeker recognized Jane Bailey and others of the Parks and Recreation Department. Ms. Bailey stated Parks and Recreation was pleased to host a Eastern National Girls fast pitch softball tournament recently who were at the meeting representing ASA Softball. Ms. Bailey presented the ceremonial first pitch ball to Councilor Mary-Ann Baldwin who threw out the first pitch and welcomed all to the City.

**PARKS AND RECREATION – OUTSTANDING INDIVIDUAL CITIZEN BOARD MEMBER – PRESENTED**

Mike Waters, Executive Director of the North Carolina Parks and Recreation Park Association was at the meeting and talked about the citizen board members which is the second largest group in their association. He pointed out one of Raleigh's own has been awarded the Outstanding Individual Citizen Board Member of North Carolina. He pointed out Parks and Recreation Director Diane Sauer nominated Eugene Weeks who has served on the City of Raleigh Parks, Recreation and Greenway Advisory Board for 3 ½ years, two of which he served as Chair. He stated in the nomination it was pointed out Mr. Weeks is a true community leader and advocate. He has voluntarily cleaned up and keeps an eye on Sanderford Road Park for a number of years, walking it daily, keep picking up trash, reporting needed maintenance items to the staff, etc. He has done this many years even before he started serving on the City's Parks, Recreation and Greenway Advisory Board. He stated Mr. Weeks was named Outstanding Individual Citizen Board Member of North Carolina as he has set an example and provided leadership and service to the Parks and Recreation Department and the City of Raleigh.

Mr. Weeks expressed appreciation to Mr. Waters for taking out time from his busy schedule to come to Raleigh to make the presentation. He expressed appreciation to the City Council of the City of Raleigh for appointing him to the Board. He pointed out the City of Raleigh has one of the best parks staff in the State of North Carolina and expressed appreciation to Parks and Recreation Director Sauer for nominating him. He stated he would continue to work on behalf of the City.



**PUBLIC UTILITIES – WASTEWATER TREATMENT DIVISION - RECOGNIZED**

Mayor Meeker recognized T. J. Lynch, Superintendent of the Wastewater Treatment, pointing out the Public Utilities Department, Wastewater Treatment Division was recently honored with a set of 2009 Platinum Award Certificates from the National Association of Clean Water Agencies for the Neuse River Wastewater Treatment Plant and the Smith Creek Wastewater Treatment Plant. It was pointed out this is the first year that the Swift Creek Wastewater Treatment Plant has been honored with the Platinum award, signifying 5 years of 100% compliance with the plants NPDES permits as of calendar year 2009. The City also received the Platinum Award for the Neuse River Wastewater Treatment Plant for that plant's excellent treatment performance for the past seven years. This is the third time the Neuse River Wastewater Treatment Plant has been presented the Platinum Award although there have been long periods of 100% compliance that span five years or more. Little Creek Wastewater Treatment Plant received its fourth Gold award for 100% compliance and for excellent treatment performances. The Little Creek Wastewater Treatment Plant was formerly owned and operated by the Town of Zebulon and was transferred to Raleigh on October 1, 2006. The Smith Creek Wastewater Treatment Plant was formerly owned and operated by the Town of Wake Forest and transferred to Raleigh on July 1, 2005 with the merger of the water and sewer plants. T. J. Lynch, Neuse River Wastewater Treatment Plant recognized: Smith Creek Wastewater Treatment Plant – John Gibson, Mike Loveless, John Dyer, John Silveri, Dan Hackney and Brian Gay of Little Creek Wastewater Treatment Plant were introduced and recognized for this accomplishment.

**MAYOR'S COMMENTS – RECEIVED**

Mayor Meeker talked about the success of the African American Festival which was held over the weekend pointing out it was a successful event and he feels it will grow as other such events held in downtown Raleigh have done. He thanked all involved.

Mayor Meeker pointed out Assistant City Manager Lawrence Wray announced his retirement effective December 1, 2010. He stated Mr. Wray has been with the City some 37 years and he knows we will have a big event at the appropriate time to express appreciation to Mr. Wray for all he has done for the City.

Mayor Meeker pointed out the City recently sold bonds for the remote Ops facilities and received a 2.93 percent interest rate which is simply unheard of during these times. He expressed appreciation to the financial staff for this accomplishment.

Mayor Meeker talked about the Moore Square Planning Workshop scheduled for September 9, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m. The workshop will be held at Cobblestone Hall, City Market, and 215 Worth Street.

**UNION STATION – NEXT STEPS – TO BE PLACED ON SEPTEMBER 21, 2010 AGENDA**

Mayor Meeker stated Council did receive the final report on the Union Station which is Raleigh's proposed multi-modal transportation center. He stated it was an outstanding report. He stated page 11 of the report outlines the next steps. He pointed out we want to make sure that we follow up on the next steps and questioned if there had been any thought given to how we move forward. City Manager Allen pointed out staff will follow up with the next steps. Mayor Meeker suggested that we place this item on the September 21 agenda as a special item and we could get everyone's questions at that point and ask the City Manager to present recommendations as to how to move ahead. Mr. Crowder questioned if we could get the recommendations from staff ahead of time in order for the Council members to give thought to the proposal with the Mayor asking that they be included in the agenda packet.

**CONSENT AGENDA****CONSENT AGENDA – APPROVED AS AMENDED**

Mayor Meeker presented the consent agenda indicating all items are considered to be routine and may be enacted by one motion. If a Councilor requests discussion on an item, the item will be removed from the consent agenda and considered separately. Mayor Meeker stated the vote on the Consent Agenda would be a roll call vote.

Mayor Meeker pointed out Council members received at the table information on four additional street closings which should be added to the consent agenda. He stated he had received the following requests to withdraw items from the Consent Agenda: Greater Raleigh Convention and Visitors Bureau - Business Development Fund (Meeker/Stephenson/Crowder); Traffic Calming Project Prioritization Update (Crowder); NCDOT Pedestrian Planning Grant (Gaylord); ERP Process Improvement and Change Management Services (McFarlane/Stephenson); Budget Amendment – Administrative Services – Green Square (Gaylord); Emergency Communications Center Budget Amendment (Gaylord); Neuse River Parallel Interceptor Sewer (McFarlane); Competitive Bidding Waiver (McFarlane). Without objection those items were withdrawn from the Consent Agenda and the four street closings added. Ms. Baldwin moved approval of the remaining items on the Consent Agenda. Her motion was seconded by Mr. West and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. The items on the Consent Agenda were as follows.

**COMMUNITY ALTERNATIVES FOR SUPPORTIVE OF ABODES – DISPOSITION OF CITY OWNED PROPERTY AT 1725 POOLE ROAD – RESOLUTION ADOPTED**

CASA proposes to develop nine one-bedroom apartments on the land located at 1725 Poole Road, with the assistance of a Section 811 grant program which provides funding to construct apartments and subsidize rents for the first ten years of the life of the building. The project will provide housing for persons who may be blind, have diabetes or be a disabled veteran. The site is adjacent to CASA's ten-unit Hope Crest project, for which City Council approved funding in



the form of a construction loan on July 25, 2006. City Council approved the sale of the land located at 1725 Poole Road to CASA at their meeting of June 17, 2008, after which CASA moved forward with their application for the HUD Section 811 grant. However, in order to have a competitive application, CASA was required to obtain site control prior to submission; according to statute each HUD 811 award must be made to an LLC created for the express purpose of holding the real estate. The fact that CASA was not the owner of the development added a layer of complexity to obtaining permits for the project as well as additional costs. CASA was required to seek an updated appraisal of the site; a reduced appraisal cost of \$108,500 was approved by City Council on April 7, 2009. The full HUD Section 811 grant has been approved.

**Recommendation:** Authorize the adoption of a resolution for the sale of the land located at 1725 Poole Road to CASA, pursuant to the stipulated guidelines of NC GS160A-267 and 279. Upheld on Consent Agenda Baldwin/West – 8 ayes. See Resolution 246.

#### **CERTIFICATIONS OF CONSISTENCY – ST. AUGUSTINE’S COLLEGE CDC, CONSUMER EDUCATION SERVICES HOUSING COUNSELING – INFORMATION RECEIVED**

##### **Saint Augustine’s College CDC**

Saint Augustine’s College submitted an application to HUD requesting Historically Black Colleges and Universities (HBCU) funding. Saint Augustine College CDC plans to use the funds for the construction of ten energy efficient affordable homes in the East College Park Neighborhood; the homes would be sold to low-to-moderate income first-time homebuyers, which is a first priority need in the City’s 2010-2015 Consolidated Plan.

##### **Consumer Education Services - Housing Counseling**

The Consumer Education Services Homeownership Center submitted an application to HUD requesting NOFA-Housing Counseling funding. The project, “Housing Counseling: Pre-purchase and Mortgage Modification,” would provide housing counseling services to low-to-moderate income renters and potential homebuyers and homeowners with the objective of increasing homeownership opportunities as well as mortgage delinquency resolution and foreclosure prevention.

Community Development Department staff reviewed the applications and determined that they were consistent with the City of Raleigh’s Five Year Consolidated Plan. The submittal deadlines for both applications preceded the City Council meeting. City Administration is reporting these actions to City Council. Upheld on Consent Agenda Baldwin/West – 8 ayes.

**CHARTER SQUARE – ASSIGNMENT AND AMENDMENT TO THE TRI-PARTY AGREEMENT – APPROVED**

A proposed assignment and amendment to the Tri-Party Agreement between Bank of America, Charter Square, LLC and the City has been proposed by the Developer in order to consolidate their financing and lower interest costs. A background memo and the proposed Agreement were in the agenda packet.

**Recommendation:** Approval. Upheld on Consent Agenda Baldwin/West – 8 ayes.

**VEHICLE FEE ORDINANCE – AMENDED EFFECTIVE DATE – APPROVED**

On June 28, 2010, Council adopted Ordinance 2010-752, which increases the Motor Vehicle fee effective October 1, 2010. Vehicles registered after July 1, receive their property tax notices beginning in October. Thus, noticing vehicle owners in October at the new rate requires an effective date of July 1, 2010. For FY11, 9 months (October 2010 - June 2011) of revenue have been budgeted for this rate change so the date modification is budget neutral.

**Recommendation:** Amend Ordinance 2010 - 752 to change the effective date to July 1, 2010. Upheld on Consent Agenda Baldwin/West – 8 ayes. See Ordinance 774.

**CLEAN WATER STATE REVOLVING FUND LOAN – RESTORATION AND WATER QUALITY IMPROVEMENTS TO UPPER LONGVIEW LAKE AND TO BERTIE CREEK – RESOLUTION ADOPTED**

The Public Works Department is applying for a Clean Water State Revolving Fund Loan at 0% interest. The CWSRF requires authorization from the City Council to submit the application and enter into an agreement that may result from the loan application.

This loan application is for funding of potential stream enhancement project construction costs along Bertie Creek and a lake/wetland preservation project at Upper Longview Lake. The design for these projects is underway and is jointly funded by the City and a Clean Water Management Trust Fund (CWMTF) grant. Improvements in this area have previously been funded in the Stormwater Capital Improvement Program (CIP).

These projects will improve water quality in the Bertie Creek watershed. It is estimated these projects will involve up to 5,000 linear feet of stream enhancement improvements and the lake/wetland preservation project. The improvements construction cost are estimated to be in the range of \$3,000,000 to \$4,000,000. Staff will request \$2,000,000 in the application submittal which is the maximum amount allowed under this program.

Bertie Creek drains into Crabtree Creek which is listed as an impaired stream by the State and EPA which will require the City to take steps to improve the water quality within this watershed.



**Recommendation:** Approve the resolution included in the agenda package and authorize the City Manager to execute the application and any agreements that may result from the loan application to the Clean Water State Revolving Fund (CWSRF). Upheld on Consent Agenda Baldwin/West – 8 ayes. See Resolution 247.

#### **WILDERS GROVE LANDFILL – SELECTED REMEDY ACTION – APPROVED**

The Wilders Grove Landfill, permitted and opened in 1972 (NCDENR Permit No. 92-01), is owned and operated by the City of Raleigh. The facility consists of approximately 120 acres of disposal area in three separate disposal units. The largest of the units is approximately 102 acres in area and contains roughly 2,000,000 cubic yards of Municipal Solid Waste (MSW). This unit was active until December 31, 1997, when disposal operations ceased in order to comply with state regulations. The facility is currently in the Post Closure phase.

The facility is under an Assessment Monitoring program since a number of organic constituents have been observed in groundwater, some of which exceed their respective protection standards in certain monitoring wells. The constituents observed at Wilders Grove are typical of those observed at older unlined sanitary landfills throughout North Carolina. The impacted groundwater identified during Assessment monitoring precipitated the ACM program to review potential remedial alternatives and select the most appropriate option to assure public health and regulatory compliance.

The City is required to develop a Corrective Action Plan (CAP) in accordance with 15A NCAC 13B .1636 and .1637. The strategy proposed for the CAP is based upon a logical progression from institutional controls, engineering controls, monitored natural attenuation, direct oxidation, accelerated bioremediation and hydrogeologic controls. The principal corrective actions at the Wilders Grove facility will consist of the institutional controls and engineering controls currently in place, and monitored natural attenuation in conjunction with direct oxidation.

Hazen and Sawyer, under contract to the City, prepared the Assessment of Corrective Measures (ACM) Report for the Wilders Grove Landfill and submitted it for review and approval by the State of North Carolina in accordance with 15A NCAC 13B .1634. The report was approved by the State in September 2007 pending a Public Hearing and formal approval of the selected remedy by the City.

A remedy of Monitored Natural Attenuation was first approved by City Council and the NCDENR was notified of this selection in a letter from the City Manager dated March 27, 2009. Since this time, additional site data are available that indicates that a remedy of Monitored Natural Attenuation alone will not meet NCDENR policy for Corrective Action. A new Application with modified selected remedy must be submitted to NCDENR. This remedy is a combination of Monitored Natural Attenuation and Direct Oxidation. Direct Oxidation (injection of an oxidizing agent into the groundwater upstream of the areas of concern) is already included in the ACM Report as a remedy to apply after Monitored Natural Attenuation. The NCDENR directive to use the combination of remedies only impacts the proposed

implementation schedule, not the overall approach or estimated cost of Corrective Action at this time.

The modified remedy will be presented in the Corrective Action Plan, which describes implementation of the selected remedy, including monitoring, testing and reporting. Formal approval of the selected remedy is required by State Solid Waste Management Regulations in order to commence Corrective Action.

**Recommendation:** The City of Raleigh formally approve Monitored Natural Attenuation in conjunction with Direct Oxidation as the selected remedy as recommended in the approved ACM Report; the City of Raleigh authorize the preparation and submittal of the Corrective Action Plan, which will outline in detail the steps to be taken by the City to implement and monitor the selected remedy; the City of Raleigh agrees to implement the selected remedy as outlined in the approved Corrective Action Plan and formal acceptance by the City of Raleigh of the Selected Remedy proposed for impacted groundwater at the City's closed Wilders Grove Landfill. Upheld on Consent Agenda Baldwin/West – 8 ayes.

#### **WATER SERVICE – EMERGENCY REQUEST - APPROVED**

The North Carolina Division of Waste Management, Underground Storage Tank Section, Federal Trust Fund, has requested permission to extend City water service to properties with wells impacted and/or potentially impacted by groundwater contamination from gasoline released by a nearby underground storage tank. The impacted properties are along Hickory Hollow Lane and Broken Branch Lane, located off Poole Road in east Raleigh. The properties are within the service area in the Raleigh ETJ.

**Recommendation:** Approve the emergency water service request and waive the requirement for petitioned annexation. Upheld on Consent Agenda Baldwin/West – 8 ayes.

#### **ANNEXATION PETITION – BRYARTON VILLAGE – REFERRED TO CITY CLERK TO CHECK SUFFICIENCY AND SCHEDULE HEARING**

The agenda presented the following petition for annexation.

<b>Area Name Contiguous</b>	<b>Petitioner</b>	<b>Acres</b>	<b>Proposed Use</b>
Bryarton Village, Phase II	Khalid Al-Zoubi/Nur Properties, LLC	2.03	Residential

**Recommendation:** That the above Bryarton Village, Phase II annexation petition be acknowledged and that Council requests the City Clerk to check its sufficiency pursuant to State statutes and if found sufficient, advertise for public hearing on Tuesday, November 16, 2010. Appropriate agencies should be notified of this request in accordance with our annexation agreement with Town of Cary. Upheld on Consent Agenda Baldwin/West – 8 ayes.