



## Legislation Details (With Text)

**File #:** 18-493      **Version:** 1      **Name:**  
**Type:** Other Items of Business      **Status:** Agenda Ready  
**File created:** 10/26/2018      **In control:** City Council Special Meeting  
**On agenda:** 10/30/2018      **Final action:**  
**Title:** Review Policy on Performance Guarantees for Stormwater Control Measures on Developments  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Sec. 23-41 Performance security

Date	Ver.	Action By	Action	Result
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**TO:** Mayor and Members of City Council  
**THRU:** Kristoff Bauer, Deputy City Manager  
**FROM:** Giselle Rodriguez, PE, CFM, City Engineer  
Alicia Young, Assistant City Attorney  
Sheila Thomas-Ambat, PE, Interim Public Services Director

**DATE:** October 30, 2018

**RE:**  
Review Policy on Performance Guarantees for Stormwater Control Measures on Developments

**COUNCIL DISTRICT(S):**  
All

**Relationship To Strategic Plan:**

Goal II: Diverse and Viable Economy  
Goal III: High Quality Built Environment

**Executive Summary:**

Council requested to review and discuss the policy on performance guarantees for stormwater control measure (SCM) on developments. The provision for this requirement is covered under Sec. 23-41 of the Code of Ordinances.

**Background:**

The requirement for performance guarantees for stormwater control measures was adopted on October 27, 2008. This requirement was relaxed on February 2012 and March 2013.

A performance guarantee is required for stormwater control measures (often referred as ponds). The original requirement for a bond was in the amount of 150% of the construction cost and was later reduced to 75% (February 2012). Later on the development community expressed concerns regarding the duration of single-family residential (SFR) projects which could take up to five years to be developed and tied up bonds for that long. In SFR the “pond” is used as an erosion control measure (as required by NCDENR) and then converted to an SCM once the subdivision is built. On March 2013 Council reduced the bond requirements for single-family residential to 100% of the conversion cost at the time of final plat; which is usually significantly less than the construction cost.

The bond requirements for BMP are currently as follows:

- Commercial Projects (includes multi-family): 75% of construction cost before a permit is issued.
- Single-family residential: 100% of conversion cost at the time of final plat. For example; An SCM construction cost for a large subdivision could be \$150,000 and the conversion cost from an erosion control measure to a permanent SCM could be \$30,000.

When the ordinance was amended developers were given the option to get their bonds reduced per the new amendment. Multiple of them elected to do so and the bonds were reduced.

In both cases (Commercial and residential) the bond is released 1-year after the pond/system is constructed which allows proper monitoring during the entire rainfall cycle to determine the performance of the pond/system. The bond is released upon request once documents are recorded, performance is documented, and record drawings are completed.

Bond types accepted are:

- Letter of credit,
- Surety Bond, and
- Cash bond.

The City allows substitution of one type of bond for another to try and be as flexible as possible for the developers.

The City is currently holding bonds that could be released if the owners would get the documentation in place and perform corrective measures as identified by punch list during inspection. The overall response has been very low.

#### **Issues/Analysis:**

The City is currently holding bonds that could be released if the owners would get the documentation in place and perform corrective measures as identified by punch list during inspection. The overall response has been very low.

#### **Budget Impact:**

None at this time.

**Options:**

N/A

**Recommended Action:**

Receive as information and discuss

**Attachments:**

Code of Ordinance Sec 23-41