



Legislation Text

File #: 18-048, Version: 1

TO: Mayor and Members of City Council

THRU: Douglas J. Hewett, City Manager, ICMA-CM

FROM: Kristoff Bauer, Deputy City Manager
Jay Reinstein, Assistant City Manager

DATE: February 5, 2018

RE:
Update on the Dams, Hazard Mitigation Grant Program (HMGP), Community Development Block Grant-Disaster Recovery (CDBG-DR) and Golden Leaf projects

COUNCIL DISTRICT(S):
All

Relationship To Strategic Plan:

Goal 1: Safe and Secure Community
Goal 3: High Quality Built Environment

Executive Summary:

The City has been working to gain access to various funding sources to assist the community in recovering from Hurricane Matthew including:

- Community Development Block Grant - Disaster Recover ("CDBG-DR"), \$198 million statewide, \$34,945,000 to Cumberland County;
- FEMA Hazard Mitigation ("HMGP"), \$4.7 million; and,
- Disaster Act of 2016 administered by Golden Leaf Foundation ("Golden Leaf"), \$3.8 million received to date.

Staff will update the Council on efforts to expend funds received and plan for funding yet to be allocated.

There are 55 dams in the City regulated by North Carolina Department of Environmental Quality ("NCDEQ"). To the best of the City's knowledge, 11 of these were damaged during Hurricane Matthew. The City has some degree of ownership and maintenance responsibility for six dams, two of which were damaged. The Council Policy in place at the time of the storm did not allow the City to spend any funds on the repair of these facilities. After much discussion, the Council revised its policy and staff will discuss actions to date in implementation of that new policy.

Background:

CDBG-DR: The State of North Carolina is receiving \$198 million dollars of CDBG-DR funds from the Department of Housing and Urban Development as a result of damage caused by Hurricane Matthew in October 2016. Cumberland County is expected to receive \$34,945,328 million of this amount over a three year period. Eligible Cumberland County residents who were directly impacted by the hurricane will have an opportunity to apply for assistance from a variety of Housing Recovery Programs.

This Housing Recovery Program provides assistance to low and moderate income homeowners and businesses who experienced major to severe damage to their homes and businesses and have remaining unmet needs, after subtracting benefits from FEMA, SBA and private insurance. This program includes reconstruction activities, acquisition and construction of new homes and insurance subsidies to eligible low and moderate income families. Affordable housing is the State's number one priority associated with the CDBG-DR program.

City staff worked with Cumberland County to develop a proposal to carry out a variety of housing and recovery programs. The proposal includes a Homeowner Recovery Program, Small Rental Repair Program, Multi-family Rental Housing, and a Community Recovery Program that will include a Day Center and a Homeless Shelter. Businesses will have to apply directly to the North Carolina Department of Commerce for available funding.

Cumberland County was awarded the CDBG-DR funds from the NC Department of Public Safety as a sub-recipient. The State is only releasing to Cumberland County two-thirds of the funding for a two year period in the amount of \$23,260,000. Of that amount, the City will receive \$15,325,000 during that period from Cumberland County as a sub-sub-recipient to carry out the various programs. The additional funding of the original \$34.9 million will be awarded to the County in the third year of the program. The remaining funds of \$11,685,328 will be made available in year three to Cumberland County, with the City receiving \$8,042,500 of that amount.

Applications are currently being accepted at the Cumberland County/Fayetteville Application Center located at the Department of Social Services, Monday through Friday from 7:30 a.m. to 5:00 p.m. The State has provided application specialists to meet with applicants to complete the intake of their application. The intake center has received approximately 210 applications to date. The City and County staff will be trained by the State to use its customized software designed for the program. The City and County will take on the responsibility for application intake later in early February 2018.

HMGP: The City of Fayetteville is receiving an HMGP allocation of \$4.7 million. Of the 210 applications received by residents in May 2017, 32 properties met the expedited criteria, cost effective criteria and could be accommodated under the cap of available funds. The following criteria were used by the North Carolina Emergency Management department (NCEM):

NCEM assessed six criteria to determine maximum impact to housing stock, and overlaid these against FEMA cost effectiveness requirements:

- Homeowner was displaced in Transitional Shelter Assistance Program (TSA) as of February 2017; and/or
- Homeowner is eligible for a FEMA Mobile Home Unit; and/or
- Homeowner reported to local officials or NCEM during intake they were displaced with

family/friend; and/or

- Local government designated properties for expedited criteria based on local conditions and/or;
- Property was deemed substantially damaged by a local floodplain administrator and/or
- Property's FEMA-Verified structural loss is greater than 50% of the Building Value (an NCEM criteria to determine any additional severely damaged structures)

FEMA's cost effectiveness criteria are:

- Property in 100 year floodplain that can be acquired and demolished for \$276,000 or less; or
- Property in 100 year floodplain that can be elevated or reconstructed for \$175,000 or less; or
- Properties outside of the 100 year floodplain can be found eligible if they are grouped with other properties with excess benefits.

The 32 qualified homeowners were mailed letters regarding the selection of their property under the program. The City received a favorable response from 28 of the homeowners. Funding for this program will be available in March/April of 2018.

Fayetteville is eligible to receive additional CDBG-DR funding that will be awarded to North Carolina in the amount of \$63 million dollars to repair additional storm-damaged homes or buyout or elevate homes in locations likely to flood again. It is anticipated that Fayetteville/Cumberland County will receive approximately \$6.1 million in additional funding in the coming months.

Golden Leaf: The City of Fayetteville has received \$3,872,000 in grants from the Golden Leaf Foundation to provide relief for projects related to Hurricane Matthew Recovery efforts. This funding will be applied to the following projects: Rayconda Connector (completed) - \$920,000, Cross Creek Tree and Debris Removal (completed)- \$300,000, Spruce Street Drainage- \$873,000, Multiple Creek Debris removal- \$993,000, and Beaver/Bones Creek Debris Removal- \$786,000.

Dam Policy: Four dams supporting City streets were damaged by Hurricane Matthew including Greenock Avenue (Arran Lake Dam), McFadyen Drive (Devonwood Lower Dam), Mirror Lake Drive (Mirror Lake Dam), and Siple Avenue (Rayconda Upper Dam). The Council Policy in effect at that time directed that the City's role in responding to this damage would be limited to reconstructing the roadway. The policy did allow the City to reconstruct a dam, but only if the property owners took responsibility for the majority of the costs in excess of that for repairing the roadway alone. No provision for FEMA reimbursements or other resources was included. To assist the community in raising the necessary funds to repair and maintain the dam, the policy required the formation of a Municipal Service District ("MSD") to put in place a supplemental tax rate to cover the capital cost of the dam repair and maintenance thereafter.

Staff presented information regarding and Council discussed the following topics during a January 3, 2017, Council Work Session:

Issues addressed in proposed revisions include:

- *Clarifying the process for forming an MSD,*
- *Addressing how potential supplemental funding should be utilized, and,*
- *Removing references to a loan program.*

Additional issues that Council may consider include:

- *How the policy may apply to dams that don't have a City street over them, and,*

- *Potential requirements regarding the conversion of private lakes to public amenities.*

Legislative History:

Oct. 18, 2016, Worksession	5.0 Hurricane Matthew Response and Recovery Updates
Jan. 3, 2017, Worksession	4.03 Hurricane Matthew Impact and City Dam Policy
Feb. 6, 2017, Worksession	4.02 City Dam Policy Revision
March 6, 2017, Worksession	4.01 Department of Environmental Quality's Dam Safety Program
April 3, 2017, Worksession	4.08 City Dam Policy Revision
April 10, 2017, Regular	9.01 City Dam Policy Revision
April 24, 2017, Regular	6.07 Adoption of Capital Project Ordinances 2017-51 (Mirror Lake Dam Reconstruction) and 2017-52 (Devonwood Lower Dam Reconstruction)
June 5, 2017, Worksession	4.03 Professional Service for Project Management and Construction oversight of Mirror Lake Dam and Devonwood Lower Dam Damaged During Hurricane Matthew
June 12, 2017, Regular	6.09 Professional Service for Project Management and Construction oversight of Mirror Lake Dam and Devonwood Lower Dam Damaged During Hurricane Matthew
June 26, 2017, Regular	6.014 Professional Services Contract for Design of Mirror Lake and Mirror Lake Drive, Damaged During Hurricane Matthew

Key information reviewed during the Council's deliberation of the Dam Policy included:

- Federal and State funding for repair is only available for assets maintained by the City prior to the storm;
- MSD regulations have changed making this tool unavailable to fund dam repair or maintenance;
- The City cannot legally incur debt or otherwise spend public funds on a private asset or a facility that doesn't have a public purpose;
- There is a key regulatory deadline that increases the cost and complexity of dam permitting if a repair is not completed 24 months after the storm; and,
- There is a significant difference in the design and operation of a private amenity lake versus a lake used as a public stormwater facility to retain water.

The Council adopted a revised Dam Policy on April 10, 2017. That policy directs the following:

- That the City could undertake the repair of a dam that was maintained by the City prior to the storm that created the damage and that is eligible for federal and state reimbursement; and,
- That private dams damaged during a significant storm could be considered for repair if:
 - It could be converted to a public asset with public access; and,
 - The cost of repair was paid by benefitted property owners in the area of the lake through an assessment.

Council directed staff to undertake a public education effort to identify private dams damaged by Hurricane Matthew and communities that are interested in being considered under the revised policy. Those dams identified would then receive an engineering evaluation to determine:

- The damage to the facility;
- The potential for the facility to be redesigned to function as a public stormwater facility;
- The benefitted properties and the level of special tax assessment to be applied to each.

Six communities with dams damaged during Hurricane Matthew have requested City assistance consistent with the new policy and are undergoing assessment including the following:

- Arran Lakes Dam
- Rayconda Upper Dam
- Rayconda Lower Dam
- Strickland Bridge Dam
- Lorraine Lake Dam
- Cottonade Dam

Issues/Analysis:

CDBG-DR: In accordance with the grant agreement with Cumberland County, the City will carry out the following CDBG-DR activities:

Activity #1. Housing Recovery: The CITY will undertake housing activities to include single family homeownership rehabilitation, single family homeownership reconstruction; mobile home repair; housing repair reimbursement; small rental repair; and provide affordable single family ownership in the Oakridge Estates Community in Fayetteville.

Activity #2. Multi-Family Rental Housing: The CITY and the COUNTY will jointly choose a consultant to guide the parties in selecting an experienced individual that demonstrates the capacity and ability to carry out the activities in accordance with HUD's guidelines and contractual obligations.

Activity #3. Economic Development (Small Business Recovery): The CITY will undertake this activity in accordance with the coordination and administration of the Department of Commerce.

Activity #4. Community Recovery: The CITY jointly with the COUNTY will collaborate as a part of the homelessness initiative in the development of a facility to provide supportive services and shelter to homeless individuals and families.

The larger projects such as the affordable housing developments and the homeless shelter/day will come back to City Council for further consideration.

HMGP: The projects (28 qualified residents) are unable to begin until the City receives the official award letter of \$4.7 million in March or April 2018. Additional dollars may be allocated by the General Assembly in the coming weeks.

Golden Leaf: There are no issues at the current time.

Dams:

With the revision to the Dam Policy, staff was authorized to move forward with the repair of the Mirror Lake and Devonwood Lower dams. Those repairs, however, are not as simple as putting back what was there before the storm. When making major repairs to dams, NCDEQ requires that the dam be brought up to current design standards. This results in a significant engineering effort, a design review process subject to State approval, and a significant cost increase beyond what it would take to simply rebuild the dam back to pre-Hurricane Matthew conditions.

Mirror Lake: The design of this facility was initiated in July, 2017, after the policy revision, budget appropriation, and consultant selection. The initial design, however, was determined to be incompatible with the neighborhood. Concerns regarding the impact of that design on downstream properties were also expressed. As a result, the design team has been directed to develop additional alternatives for consideration prior to moving into the permitting process. The project is scheduled to be completed before year end, but the permitting process represents significant uncertainty.

Devonwood Lower: After the storm, City staff performed some limited cleanup of this area. FEMA staff inspected the facility and determined that the facility was “repaired” and that no further storm damage existed. This created uncertainty regarding the availability of FEMA and state reimbursement funds should the City undertake further repairs of this facility. In order to clarify the availability of that funding, staff had to secure funding to perform an assessment of the facility to determine if it was damaged by Matthew, if it remained damaged, and what repairs would be required. That assessment has been concluded and NCDEQ has confirmed that the dam was damaged and does need to be reconstructed to meet current safety standards. Staff will confirm the findings with FEMA and move forward with the design, permitting, and repair process.

Budget Impact:

There is no impact to the General Fund as no local match is required for CDBG-DR, HMGP and Golden Leaf

Options:

Update is being provided as information requested by City Council.

Recommended Action:

Staff recommends that City Council move to accept the update on CDBG-DR, HMGP, Golden Leaf and Dam projects.

Attachments:

Hurricane Matthew PowerPoint Presentation