



## Legislation Text

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**TO:** Mayor and Members of City Council

**THRU:** Kristoff Bauer, Deputy City Manager

**FROM:** Rob Stone, P.E., Public Services Director

**DATE:** May 7, 2018

**RE:**  
Update on Engineering Evaluations of Privately Owned Dams Damaged During Hurricane Matthew

**COUNCIL DISTRICT(S):**  
6,7

**Relationship To Strategic Plan:**

Goal 3: High Quality Built Environment

Goal 4: Desirable Place to Live, Work and Recreate

**Executive Summary:**

On October 30, 2017, Council provided consensus direction to move forward with engineering evaluations of four private dams damaged during Hurricane Matthew (Strickland Bridge Dam, Rayconda Upper Dam, Rayconda Lower Dam, and Arran Lakes Dam). Council also directed staff to conduct additional outreach to private dams to ensure all had an opportunity to receive assistance. Two additional petitions were received (Lorraine Lake Dam and Cottonade Dam) and evaluations for these dams were approved by Council on January 22, 2018. The firm performing the evaluations, Freese & Nichols, Inc., is providing an update and seeking additional direction going forward in light of their findings to date and the restrictions of state law.

**Background:**

In October, 2016, Hurricane Matthew floodwaters damaged dams throughout the City. The Federal Emergency Management Agency (FEMA) agreed to provide Public Assistance funding to repair City-maintained dams, however, privately owned dams were and are not eligible for FEMA funding.

In an effort to help rebuild the community following Hurricane Matthew, City staff researched state law for mechanisms to assist. City staff found that under North Carolina General Statute 160A-216, the City could potentially assist in the repair of private dams as long as there was a public benefit (as a stormwater management facility) provided by the dam and/or lake. In April 2017, City Council adopted Policy 125.1 which is consistent with both state law and federal reimbursement guidelines. Policy 125.1 enables the City to fund the design and construction of dam repairs and then eventually

recoup the funding through a special assessment levied on benefited property owners.

In July 2017, per Council's direction, the City held a series of meetings to reach out to the neighborhoods affected by dams damaged from Hurricane Matthew. The City explained that helping repair private dams would be a multi-step process, beginning with an engineering evaluation of the dam, a determination of the repair costs, and a determination of whether of whether a rebuilt dam would have (1) sufficient public benefit and (2) ascertainable benefitted residents who could be assessed. The City asked impacted HOA's to poll their members and see if there was support for moving forward with the process as delineated. If supported by their members, HOA's were instructed to submit a petition to the City by August 31, 2017.

The City received petitions from the owners of seven private dams and Council authorized the engineering evaluation of four of those dams on November 13, 2017 and two additional dams on January 22, 2018 after additional community outreach.

**Issues/Analysis:**

Engineering evaluations to date have revealed that there are at least three potential options for private dams impacted by Hurricane Matthew; each of the options presents considerable challenges within the framework of state law and federal policy. In order to move forward with the evaluation process, there needs to be an agreement on which property owners are benefited by replacement of the dam with a structure or feature that provides a public purpose. An assessment calculation could then be done to determine the potential cost per property owner for construction of the public purpose structure.

**Budget Impact:**

FEMA will not provide public assistance for the repair of private dams. The City's Policy 125.1 allows the Council to choose to repair a private dam at the City's expense and recoup the funds through a special assessment only if a public asset is created to serve a public purpose. The amount of the assessment must be tied to the benefit conferred.

**Options:**

1. Decide which property owners are benefited by potential public purpose drainage structures.
2. Provide additional direction to staff.

**Recommended Action:**

Staff recommends that Council provide direction as to Council's interest.

**Attachments:**